PLANNING COMMISSION MEETING AGENDA

7:00 PM - Thursday, March 21, 2024

Community Meeting Chambers, Los Altos City Hall 1
North San Antonio Road, Los Altos, CA

PARTICIPATION: Members of the public may participate by being present at the Los Altos Community Meeting Chambers at Los Altos City Hall located at 1 N. San Antonio Rd, Los Altos, CA during the meeting. Public comment is accepted in person at the physical meeting location, or via email to **PCPublicComment@losaltosca.gov**.

REMOTE MEETING OBSERVATION: Members of the public may view the meeting via the link below, but will not be permitted to provide public comment via Zoom or telephone. Public comment will be taken in-person, and members of the public may provide written public comment by following the instructions below.

http://tinyurl.com/3r9cwupr

Telephone: 1-253-215-8782 / Webinar ID: 889 2644 7782 / Passcode: 703414

SUBMIT WRITTEN COMMENTS: Verbal comments can be made in-person at the public hearing or submitted in writing prior to the meeting. Written comments can be mailed or delivered in person to the Development Services Department or emailed to **PCPublicComment@losaltosca.gov**.

Correspondence must be received by 2:00 p.m. on the day of the meeting to ensure distribution prior to the meeting. Comments provided after 2:00 p.m. will be distributed the following day and included with public comment in the Planning Commission packet.

AGENDA

ESTABLISH QUORUM

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA
Members of the audience may bring to the Commission's attention any item that is not on the agenda. The Commission Chair will announce the time speakers will be granted before comments begin. Please be advised that, by law, the Planning Commission is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "The Brown Act") items must first be noted on the agenda before any discussion or action.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR
These items will be considered by one motion unless any member of the Commission or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Chair.

1. **Planning Commission Meeting Minutes**
   Approval of the DRAFT minutes of the regular meeting of January 4, 2024.

PUBLIC HEARING

2. **Zone Text Amendments Implementing the 6th Cycle Housing Element and Recent Changes in State law by Modification of the City's Accessory Dwelling Unit Regulations Municipal Code Chapter 14.14-Accessory Dwelling Units**
   Consideration of Zoning Ordinance Text Amendments implementing programs identified in the adopted housing element, Program 2.D Encourage and streamline Accessory Dwelling Units (ADUs), and Program 6.G Housing Mobility and Recent Changes in State law as it relates to Accessory Dwelling Unit regulations. The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment. *Project Manager: Director Zornes*

DISCUSSION

3. **Meeting Time Discussion**

COMMISSIONERS' REPORTS AND COMMENTS

POTENTIAL FUTURE AGENDA ITEMS

ADJOURNMENT

SPECIAL NOTICES TO PUBLIC

In compliance with the Americans with Disabilities Act and California Law, it is the policy of the City of Los Altos to offer its programs, services and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact department staff. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Agendas, Staff Reports and some associated documents for the Planning Commission items may be viewed on the Internet at *http://losaltosca.gov/meetings*.

Decisions of the Planning Commission are final unless appealed by filing an appeal with the City Clerk within 14 calendar days of the decision. No building permits shall be issued during this 14-day period.

PLANNING COMMISSION
MEETING MINUTES

7:00 PM - Thursday, January 04, 2024

Telephone/Video Conference and In-Person

Community Meeting Chambers, Los Altos City Hall

1 North San Antonio Road, Los Altos, CA

CALL MEETING TO ORDER

At 7:00 p.m. Chair Steinle called the meeting to order.

ESTABLISH QUORUM

PRESENT:	Chair Steinle, Vice-Chair Beninato, Commissioners Roche, Mensinger, Disney, and Ahi
ABSENT:	Commissioner Doran
STAFF:	Development Services Director Zornes, Development Services Deputy Director Williams, and City Attorney Houston.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. **Planning Commission Minutes**
   Approve the minutes of the Regular Planning Commission meeting of October 19, 2023.

Action: Upon motion by Commissioner Mensinger, seconded by Commissioner Roche, the Commission recommended approval of the minutes of the Regular Planning Commission meeting of October 19, 2023, as written.
The motion was approved (6-0) by the following vote:
AYES: Steinle, Beninato, Roche, Mensinger, Disney, Ahi
NOES: None
ABSENT: Doran

PUBLIC HEARING

2. **Zone Text Amendments Implementing the 6th Cycle Housing Element by Modification of the City's Parking Standards and a Comprehensive Municipal Code Amendment to Chapter 14.74 Off-Street Parking and Loading**
   Consideration of Zoning Ordinance Text Amendments implementing programs identified in the adopted housing element, Program 3.A, and Program 3.M.

The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment. *Project Manager: Director Zornes*

Development Services Director Zornes gave a presentation.

Commissioners asked Director Zornes questions.

Chair Steinle opened the public comment period.

PUBLIC COMMENT
Angela Adams provided public comment.

Chair Steinle closed the public comment period.

Action: Upon a motion by Commissioner Roche, seconded by Commissioner Mensinger, the Commission recommended approval of agenda Item #2. Zoning Ordinance Text Amendments implementing programs identified in the adopted housing element, Program 3.A, and Program 3.M. The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment.

The motion was approved (6-0) by the following vote:
AYES: Steinle, Beninato, Roche, Mensinger, Disney, Ahi
NOES: None
ABSENT: Doran

COMMISSIONERS' REPORTS AND COMMENTS

POTENTIAL FUTURE AGENDA ITEMS

ADJOURNMENT

Chair Steinle adjourned the meeting at 9:20 PM.

Stephanie Williams
Deputy Director

AGENDA REPORT SUMMARY

Meeting Date: March 21, 2024

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

Prepared by: Nick Zornes, Development Services Director

Attachment(s):
1. Draft Ordinance
2. Appendix A
3. Existing Accessory Dwelling Unit (ADU) Ordinance
4. Accessory Dwelling Unit Handbook – California Department of Housing and Community Development (HCD)
5. HCD Letter of Technical Assistance – City of Palo Alto Accessory Dwelling Unit (ADU) Ordinance

Initiated by:
City of Los Altos adopted 6th Cycle Housing Element, Program 2.D, and 6.G.

Fiscal Impact:
No fiscal impacts are associated with the adoption of these implementing regulations.

Environmental Review:
This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Staff Recommendation:
The Planning Commission provide recommendation to the City Council to introduce and adopt the Draft Ordinance as presented tonight.

Background:
On January 24, 2023, the Los Altos City Council adopted the City's 6th Cycle Housing Element 2023-2031. As required by law, the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives. Programs must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

agencies or officials responsible for implementation, describe the city's specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

In November 2022, the City of Los Altos was informed by the California Department of Housing and Community Development (HCD) that the existing Accessory Dwelling Unit (ADU) Ordinance was out of compliance and not consistent with State law; the existing ordinance was last updated on October 27, 2020. Additionally, HCD informed the Development Services Director during the Housing Element Update process that the Proactive Enforcement Unit had received complaints regarding existing regulations not being consistent with law. The draft ordinance is to bring the Accessory Dwelling Unit ordinance into compliance.

Analysis:

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 2.D. The housing program requires the proposed ordinance amendments to *Encourage and streamline Accessory Dwelling Units (ADUs).*

> ***Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).***
> *The city will continue to promote ADU production through streamlined review and clear informational resources, including handouts and other materials. To increase the number of ADU's constructed, the city will:*
>
> - *Prepare permit ready standard ADU plans with a variety of unit sizes, bedroom count, and architectural styles.*
> - *Publicize and promote the standard ADU plans through multiple outreach methods and languages, targeting single-family households and neighborhoods. Outreach material will also include fair housing information (e.g., source of income protection).*
> - *Remove any barriers in the review process of an ADU (a preliminary planning review was previously required; the city has eliminated this requirement and will continue to no longer require the preliminary planning review).*
> - *Ensure ministerial processing of all ADUs.*
> - *Hire one additional planning staff position to review ministerial applications which includes ADUs.*
> - *Promote the availability of funding for ADUs, including the CalHFA ADU Grant Program that currently provides up to $40,000 to reimburse homeowners for predevelopment costs necessary to build and occupy an ADU.*
> - *With completion of a comprehensive fee study (see Program 3.D), the city will adopt a zero cost ($) permit fee for ADUs to incentivize the creation of ADUs.*
> - *Amend the ADU ordinance to comply with State law, pending formal comment from HCD.*

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

- *Annually review ADU ordinance for compliance with State law and process any necessary amendments within six months.*

The city will also monitor ADU production and affordability throughout the planning period and implement additional action if target ADU numbers are not being met.

Responsible Body: *Development Services Department*
Funding Source: *General Fund*
Time Frame: *Ongoing; if ADU targets are not being met by January 2027, the city will review and revise efforts to increase ADU construction (e.g., fee waivers, local financing program for ADUs, etc.) no later than July 2027. Outreach will occur annually, targeting single-family households and neighborhoods. The City's action shall be commensurate with the level of shortfall from construction targets (i.e., if shortfall is significant, a rezoning action may be required, if shortfall is slight, additional incentives may be appropriate). Additional planning staff position will be budgeted and hired by the end of 2022. The city will release an RFQ by July 2023 for permit ready standard ADU plans; by the end of year 2024 the city will have adopted standard ADU design plans. The City will adopt amendments to the ADU ordinance six months from receipt of HCD's formal comment letter.*
Objective: *Adopt and provide City Standard Permit Ready ADU Plans (2024). 322 ADUs by the end of the planning period with at least 80 percent of ADUs (260 ADUs) located in the highest resource areas of the city.*
Geographic Targeting: *Highest resource, single-family neighborhoods throughout Los Altos.*

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 6.G. The housing program requires the proposed ordinance amendments to create *Housing Mobility*.

Program 6.G: Housing Mobility
Housing mobility strategies consist of removing barriers to housing in areas of opportunity and strategically enhancing access (Los Altos is entirely highest resource in terms of access to opportunity and a concentrated area of affluence). To improve housing mobility and promote more housing choices and affordability throughout Los Altos, including in lower-density neighborhoods, the city will employ a suite of actions to expand housing opportunities affordable to extremely low, very low, low, and moderate income households. Actions and strategies include:

- *Accessory Dwelling Units (ADUs) – Encourage and streamline ADUs in single-family neighborhoods by preparing standardized ADU plans with a variety of unit sizes and by affirmatively marketing and outreach to increase awareness and the diversity of individuals residing in Los Altos. See Program 2.D.*

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

- *Junior ADUs – Develop and adopt objective standards to allow more than one (at minimum two) Junior ADU per structure by July 2025. The objective is to achieve at least 10 JADUs in lower-density neighborhoods by January 2031.*

Responsible Body: *Development Services Department*
Funding Source: *General Fund*
Time Frame: *Annually review overall progress and effectiveness in April and include information in the annual report to HCD. If the City is not on track to meet its 150 affordable housing unit goal for the 8-year RHNA cycle by 2027 (i.e., 75 affordable units built or in process by 2027), the City will consider alternative land use strategies and make necessary amendments to zoning or other land use documents to facilitate a variety of housing choices, including but not limited to, strategies that encourage missing middle zoning (small-scale multi-unit projects), adaptive reuse, and allowing additional ADUs and/or JADUs, within six months, if sufficient progress toward this quantified objective is not being met.*
Objective: *Provide 150 housing opportunities affordable to lower income households by January 2031.*
Geographic Targeting: *Citywide, but especially lower-density neighborhoods.*

Discussion:
The actions included within the attached draft ordinance are requirements pursuant to the City's adopted 6th Cycle Housing Element. The existing Accessory Dwelling Unit Ordinance is out of compliance with State law which necessitates several revisions to the ordinance. The proposed ordinance incorporates all necessary changes to the city's local ADU regulations based on State law, and guidance documents published by the Housing and Community Development Department.

Daylight Plane-Removed
Daylight Plane means an inclined plane beginning at a stated height above grade at each side property line and extending perpendicularly from the side property line into the site at a stated upward angle relative to the horizontal.

The City's daylight plane provision is unenforceable as it is impossible to "protect" a daylight plane with a structure that is allowed four feet from the rear and side property lines. The provision of the daylight plane has been unenforceable since codified within the Los Altos Municipal Code and provides a false sense of hope to opposing parties for enforcement of such regulations.

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

Attachment #5 to the Agenda Report helps to explain the viewpoint of HCD and conflict of daylight plane regulations for any jurisdiction. The City of Palo Alto's Accessory Dwelling Unit (ADU) Ordinance is also out of compliance with State law as reflected in the Letter of Technical Assistance dated December 21, 2022. HCD accepts requests for technical assistance from local jurisdictions and requests for review of potential violations from any party through our online Housing Accountability Unit Portal. HCD makes enforcement letters and actions available to the public. A report of all letters issued is organized by jurisdiction, date, and subject matter (e.g., housing element, fair housing, Housing Accountability Act, etc.). Letters of Technical Assistance issued can be found here:
https://www.hcd.ca.gov/planning-and-community-development/accountability-and-enforcement

Voluntary Additional Setback-Removed

The voluntary additional setback is intended to reduce the privacy impacts to abutting property owners, and applicants are encouraged to voluntarily increase the setbacks. Although this section is not in conflict with any State laws, the inclusion of such language within the ordinance creates a false sense of hope of opposing parties, and results in City staff playing mediator of residents. As with any proposed development no proposal must build to the "minimum" setbacks, it is the choice of the property owner to do such, the "Voluntary Additional Setback" is problematic and does not result in a best practice for ADU regulations within the City of Los Altos.

Public Notice of Proposed ADUs-Not Allowed

Pursuant to Government Code Section 65852.2(a)(6) "(6) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that **includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units,** except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section. "As articulated in the Government Code cited above a jurisdiction cannot require any provision or process that is discretionary in nature. Ministerial permits do not include notification to the public of a proposed permit.

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

Housing Element Noncompliance:

The draft ordinance is a component and implementing ordinance of the city's adopted housing element. Should the City of Los Altos not proceed with the implementing actions discussed in this report the City will be vulnerable to penalties and consequences of housing element noncompliance. HCD is authorized to review any action or failure to act by a local government that determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local government's actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:

- General Plan Inadequacy: the housing element is a mandatory element of the General Plan. When a jurisdiction's housing element is found to be out of compliance, its General Plan could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.
- Legal Action and Attorney Fees: local governments with noncompliant housing elements are vulnerable to litigation from housing rights' organization, developers, and HCD. If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff's attorneys in addition to the fees paid by its own attorneys. Potential consequences of lawsuits include mandatory compliance within 120 days, suspension of local control on building matters, and court approval of housing developments.
- Loss of Permitting Authority: courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction's General Plan and housing element into substantial compliance with State law. The court may suspend the locality's authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring its housing element into compliance.
- Financial Penalties: court-issued judgement directing the jurisdiction to bring its housing element into substantial compliance with state housing element law. If a jurisdiction's housing element continues to be found out of compliance, courts can multiply financial penalties by a factor of six.
- Court Receivership: courts may appoint an agent with all powers necessary to remedy identified housing element deficiencies and bring the jurisdiction's housing element into substantial compliance with housing element law.

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

Petition for Writ of Mandate – California Housing Defense Fund, Yes In My Back Yard v. City of Cupertino.

So that the City Council and public are well-informed the City of Los Altos has included this information with this agenda item so that all circumstances are understood as housing law is rapidly evolving.

Early this year Californians for Homeownership, California Housing Defense Fund, and YIMBY Law had filed 12 lawsuits in Contra Costa, Santa Clara, Marin, and San Mateo County Superior Courts with the intention to file more in the coming weeks. The cities and counties sued include Belvedere, Burlingame, Cupertino, Daly City, Fairfax, Martinez, Novato, Palo Alto, Pinole, Pleasant Hill, Richmond, and Santa Clara County. Each municipality has been sued by one or two of the non-profits.

With the Bay Area's 109 cities and counties at widely varied stages in the process of Housing Element adoption and compliance, these twelve lawsuits mark the first round of what will likely be many rounds of judicial review for noncompliance with state housing law in the Bay Area. The initial lawsuits focus on cities with a long history of exclusionary housing practices, cities that adopted housing elements unlawfully, and localities that have made little progress in developing their draft housing elements. The organizations will continue to file suits in the coming weeks, prioritizing cities with the most egregious violations in each organization's judgment.

A Petition for Writ of Mandate in the State of California is used by superior courts, courts of appeal and the Supreme Court to command lower bodies (such as lower level of government agencies, in this case a city) to do or not do specific actions. In this case, a Writ of Mandate can result in the city being directed to adopt a compliant housing element or other associated actions to comply with State law. A Writ of Mandate could also be petitioned for and direct a city to specifically implement programs that were included in their adopted housing element.

Given the current and ongoing legal climate around housing element law it is vital for the City of Los Altos to expeditiously implement the adopted 6th Cycle Housing Element 2023-2031. As noted above the potential legal risks associated with housing element noncompliance could be further enforced by similar legal actions.

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

December 21, 2023 – HCD Letter of Inquiry

On December 21, 2023, the Development Services Director received written correspondence from the Department of Housing and Community Development (HCD) Proactive Enforcement Unit of HCD. The Letter of Inquiry was regarding the Rezone Requirements of the City of Los Altos, and the status of the City's progress to complete such actions by January 31, 2024. As of November 28, 2023, the City of Los Altos has completed all necessary rezoning actions.

The Letter of Inquiry should serve as a cautionary warning to the City of Los Altos that all adopted programs must be implemented timely and completed with strict adherence to the strong commitments contained within the adopted Housing Element.

Countywide Compliance Report:

Of the sixteen (16) jurisdictions in Santa Clara County at the time of this report only seven (9) jurisdictions are in compliance with Housing Element Law as of March 14, 2024. The following table shows the status of all jurisdictions within Santa Clara County:

Jurisdiction:	Compliance Status:	Date:
Campbell	IN	5/30/2023
Cupertino	IN REVIEW	2/27/2024
Gilroy	IN	8/21/2023
Los Altos	IN	9/5/2023
Los Altos Hills	IN	5/30/2023
Los Gatos	OUT	12/1/2023
Milpitas	IN	5/17/2023
Monte Sereno	IN REVIEW	2/22/2024
Morgan Hill	IN	11/29/2023
Mountain View	IN	5/26/2023
Palo Alto	OUT	8/3/2023
San Jose	IN	11/30/2023
Santa Clara (City)	OUT	10/20/2023
Santa Clara (County)	OUT	12/18/2023
Saratoga	OUT	1/25/2024
Sunnyvale	IN	3/6/2024

ORDINANCE NO. 2024-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 14.14 ACCESSORY DWELLING UNITS OF THE LOS ALTOS MUNICIPAL CODE TO IMPLEMENT PROGRAM 2.D AND PROGRAM 6.G OF THE SIXTH CYCLE HOUSING ELEMENT

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances, and regulations not in conflict with general laws; and

WHEREAS, on January 24, 2023, the City Council approved the City's Sixth Cycle Housing Element Update; and

WHEREAS, the City Council held a duly noticed public hearing on April 9, 2024, and April 23, 2024; and

WHEREAS, Program 2.D of the Housing Element Update calls for encouragement and streamlining accessory dwelling units within the City of Los Altos; and

WHEREAS, Program 2.D of the Housing Element Update requires the City of Los Altos to make any necessary amendments to be consistent with State law; and

WHEREAS, Program 6.G of the Housing Element Update calls for the support of housing mobility which includes the local support for the creation of all housing types; and

WHEREAS, Program 6.G of the Housing Element Update requires the City of Los Altos to allow more than one (at minimum two) Junior Accessory Dwelling Units (JADU); and

WHEREAS, having committed itself to implement Housing Element Update in its entirety, the City Council now desires to adopt this Ordinance; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. **AMENDMENT OF CHAPTER 14.14 OF THE MUNICIPAL CODE**. Chapter 14.14 of the Los Altos Municipal Code is hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Development Services Director, in their reasonable discretion, after consulting the City Attorney.

SECTION 3. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on __, 2024, and was thereafter, at a regular meeting held on ___, 2024, passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Jonathan D. Weinberg, MAYOR

Attest:

_____
Melissa Thurman, MMC, CITY CLERK

APPENDIX A
AMENDMENTS TO CHAPTER 14.74

APPENDIX A

Chapter 14.14 ACCESSORY DWELLING UNITS

14.14.010 Purpose and Intent.

The intent of this chapter is to provide for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) regulations, collectively known as an accessory dwelling, on parcels zoned to allow single-family or multifamily dwelling residential use that include a proposed or existing dwelling. ADUs contribute needed housing to the City of Los Altos housing stock, enhance housing opportunities, and contribute to achieving the goals of the RHNA. An ADU is considered a residential use that is consistent with the existing general plan and zoning designations for the parcel. The ADU is not included in calculation of residential density for the purposes of determining general plan conformance. The ADU is not included in calculation of residential floor area ratio or lot coverage.

14.14.020 Definitions.

"Accessory dwelling unit" (or "ADU") means an attached or a detached residential dwelling unit that provides complete independent living facilities and is located on a parcel with a proposed or existing residential dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:

A. An efficiency unit (minimum size unit shall be 150 square feet), as defined in Section 17958.1 of the Health and Safety Code.
B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Accessory dwelling unit, attached" means a residential dwelling unit that is created as a result of internal conversion, addition, or combination thereof made to the primary dwelling, including attached garages, storage areas or similar uses.

"Accessory dwelling unit, detached." A detached accessory dwelling unit means an ADU that is not attached to the primary dwelling. Generally, a detached ADU is constructed as an independent structure that is located on the same parcel as the primary dwelling. However, a detached ADU may also include the conversion of an existing accessory structure that is located on the same parcel as the primary dwelling, but that is detached from the primary dwelling. In such a case, the detached ADU may be attached to another existing accessory structure.

"Existing," when referring to an existing principal dwelling, accessory structure, or other building or structure, means a building or structure erected prior to the date of adoption of the appropriate building code, or one for which a legal building permit has been issued. An unpermitted building or structure shall not be considered "existing" for the purposes of this chapter.

"Multi-family dwelling" means a group of dwelling units on one site that contains separate living units for two or more families that may have joined services or facilities or both.

"Junior accessory dwelling unit" (or "junior ADU" or "JADU") means a unit that is no more than five hundred (500) square feet in size, includes an efficiency kitchen consistent with building code

standards, is contained entirely within the walls of a single-family residence and may include separate sanitation facilities or may share sanitation facilities with the existing structure or unit.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, if defined as habitable by the California Residential Code (CRC) but does not include a garage or any accessory structure.

"Multi-family residential ADU" means an ADU designed for one family and allowed under Government Code Section 65852.2(e)(1)(C).

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

"Primary dwelling" means, (i) in the case of a parcel occupied by an existing or proposed single-family residential use, the existing or proposed primary dwelling in connection with which an ADU is proposed to be constructed, or (ii) in the case of multi-family housing, the existing or proposed multi-family use in connection with which one or more ADUs allowed under this chapter are proposed to be constructed. As used in this definition, a "single-family residential use" means a single-family residential dwelling unit that is not attached to any other dwelling unit except for an ADU, and which is designed for one family and is surrounded by open space or yards.

"Passageway". The term passageway has the meaning defined by Government Code Section 65852.2, which states: "A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit."

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and/or are available to the public.

"Single family residential ADU" means an ADU designed for one family per 65852.2(a) of Government Code.

"Tandem parking" means that two or more automobiles are parked in any location on a parcel and lined up behind one another.

14.14.030 Review Procedures.

An application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review, processes, or provisions. The review of any accessory dwelling application shall be approved or denied in 60 days or less. In the event of conflict within this code or within State law the more permissive regulation shall prevail.

14.14.040 Location Permitted.

A. ADUs may be permitted in the following zones: on parcels zoned for single-family, multi-family and mixed-use.

B. Nothing in this chapter shall be construed to authorize construction of new single-family residences in multi-family or mixed-use zones where such single-family residential use is not otherwise allowed.

14.14.050 Maximum Number of Units.

For a parcel with a proposed or existing residential dwelling or use, the following regulations shall establish the maximum number of accessory dwellings allowed:

A. One (1) attached accessory dwelling unit and one (1) detached accessory dwelling unit and two (2) junior accessory dwelling units per lot with a proposed or existing single-family dwelling.
B. At least one (1) accessory dwelling unit within an existing multi-family dwelling is allowed, or up to twenty-five (25) percent of the existing multi-family dwelling units are allowed. Multiple accessory dwelling units are allowed within the portions of existing multi-family dwelling structures 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 the applicable California Building Codes.
C. Not more than two (2) detached accessory dwelling units are allowed on a lot that has an existing or proposed multifamily dwelling.

14.14.060 Development Standards.

The following table summarizes design standards for all accessory dwellings allowed by this code.

	JADU	**Attached ADU**	**Detached ADU**
Maximum Size	500 sq. ft. created from the existing or proposed square footage of the primary dwelling.	1,200 sq. ft. but no more than 50% of the floor area of an existing or proposed primary dwelling (excluding basement area).	1,200 sq. ft. including basement area).
Maximum Height	NA	The greater of 16 feet or the height of the underlying zoning district whichever is greater	18 feet
Minimum Front Setback	NA	Setback of underlying zoning district. (Footnote 1.)	Setback of underlying zoning district. (Footnote 1.)
Minimum Side Setback	NA	4 feet	4 feet
Minimum Rear Setback	NA	4 feet	4 feet
Maximum Floor Area Ratio	NA (Footnote 2.)	NA (Footnote 2.)	NA (Footnote 2.)
Maximum Lot Coverage	NA (Footnote 3.)	NA (Footnote 3.)	NA (Footnote 3.)
Building Separation	5 feet	5 feet	5 feet
Bathroom Facilities	Bathroom facilities shall be provided	Bathroom facilities shall be provided	Bathroom facilities shall be provided

	independently for the JADU or can have shared bathroom facilities with primary dwelling.	independently within the ADU.	independently within the ADU.
Entrance	Exterior; optional interior. (Footnote 4 and 5.)	Exterior. (Footnote 5.)	Exterior. (Footnote 5.)
Kitchen	Cooking appliances can include a hot plate, or counter-top cooking. A wall installed oven is not required.	Must include at least a sink, a refrigerator, and either a cooktop and an oven, or a range. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the ADU are also required.	
Owner Occupancy	Required.	Not required.	

Footnotes:

1. Any proposed accessory dwelling shall conform to the front setback of the underlying zone unless it is demonstrated through a site plan that a physical preclusion exists and hinders the development of an accessory dwelling as allowed by this code.
2. The square footage of any accessory dwelling shall not be included in the maximum floor area ratio of the parcel.
3. The building area of any accessory dwelling shall not be included in the maximum lot coverage of the parcel.
4. A junior accessory dwelling unit must have a separate entrance from the primary dwelling unit. An interior entry is required if the junior accessory dwelling unit does not include a bathroom.
5. Shall have a separate entrance from the primary dwelling unit provided as a side-hinged door per Section R311 of the California Residential Code.

14.14.070 Square Footage Allowance.

The following table provides the square footage allowances for all accessory dwelling unit types:

Unit Type	**Square Footage Limitations**
Efficiency Unit	The minimum size of an efficiency unit as defined by the Health and Safety Code shall be 150 square feet.
JADU	The maximum size of a JADU shall be five hundred (500) square feet created by the conversion of existing or proposed square footage of the principal dwelling unit including attached garages. Up to one hundred fifty (150) square feet can be added to the existing structure for purposes of ingress and egress to the JADU. The additional square footage created for the purposes of the JADU shall count towards the five hundred (500) square foot maximum.
Attached accessory dwelling unit	An attached single family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit or one thousand two hundred (1,200) square feet with more than one bedroom. The total floor area for an attached ADU shall include any basement area and shall not be more than fifty (50) percent of the floor

	area of the existing or proposed principal residence. Notwithstanding this fifty (50) percent threshold requirement, an attached ADU of eight hundred fifty (850) square feet or smaller cannot be denied.
Detached accessory dwelling unit	A detached single-family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit, or one thousand two hundred (1,200) square feet with more than one bedroom. For detached accessory dwelling units, any basement area is included in the square footage calculation for the ADU.

14.14.080 Allowed Projections.

A. Eaves. Roof eaves associated with an accessory dwelling shall be permitted to project into any required setback a maximum of two (2) feet.
B. Exterior Stairs. Exterior stairs associated with an accessory dwelling shall comply with accessory dwelling minimum setbacks. Any exterior stairs associated with an accessory dwelling shall be architecturally integrated into the exterior facade of the existing or proposed building.
C. Porches. Porches associated with an accessory dwelling shall comply with accessory dwelling minimum setbacks. Any porch associated with an accessory dwelling shall be architecturally integrated into the exterior facade of the existing or proposed building and allowed a maximum twenty (20) square feet.

14.14.090 General Provisions.

A. Short Term Rental. An ADU shall not be rented for periods less than thirty (30) days. Short term rentals are prohibited pursuant to Chapter 14.30 of the Los Altos Municipal Code.
B. Fire Sprinklers. The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
C. Building Codes. Accessory dwellings shall conform to all applicable building code standards at the time of application.
D. Impact Fees. Any applicable fees established by the City of Los Altos shall be proportional based on unit size.
E. Connection Fees and Capacity Charges. Any connection fees and capacity charges that may be required must be assessed in compliance with the provisions of State Government Code Section 65852.2 and 65852.22, as amended from time to time.
F. Utilities. The accessory dwelling must provide water, sewer and electric utility connections that are in working condition upon its occupancy. The accessory dwelling may be served by the primary dwelling or may have separate utility meters. The accessory dwelling will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.
G. Nonconforming Conditions. Ministerial approval of a permit for creation of an accessory dwelling shall not be conditioned on the correction of pre-existing nonconforming zoning conditions.

H. Certificate of Occupancy. A certificate of occupancy for any accessory dwelling or junior accessory dwelling unit shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling.
I. Tolling. If the applicant requests a delay in processing in writing, the 60-day review time shall be tolled for the period of the delay.
J. Historic Properties. A new accessory dwelling located on a historic property will be subject to ministerial review for compliance with the design review criteria set forth in Chapter 12.44 of the Los Altos Municipal Code and must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties. No review by the Historic Commission shall be required.
K. Exterior Lighting. Exterior lighting associated with an accessory dwelling shall not be permitted on the sides of the structure facing adjacent properties.
L. Addressing. Each accessory dwelling shall be assigned its own address, consistent with the requirements of the postal service and fire authority.
M. Deed Restriction. Prior to issuance of a building permit for a junior accessory dwelling unit, a deed restriction, in a form satisfactory to the city attorney, shall be recorded at the Santa Clara County Recorder s office and filed with the city. The deed restriction shall prohibit the sale of the junior accessory dwelling unit separate from the sale of the single-family dwelling, and one (1) of the dwellings on the lot must be occupied by at least one (1) legal owner of the property, unless the property is owned by a governmental agency, land trust or housing organization.

14.14.100 Parking Requirements.

One additional uncovered parking space of nine feet by eighteen feet (9 X 18) shall be required for a newly constructed single-family residential accessory dwelling, which may be located within the front setback, in tandem and in an existing driveway including within an interior side yard setback area, unless the Development Services Director determines such parking is not feasible due to specific site, topographical or fire and life safety. Notwithstanding the above, a parking stall will not be required for a residential accessory dwelling that meets any of the following criteria:

1. The single-family residential accessory dwelling is created as a result of the conversion of existing area of the single-family residence or existing permitted residential accessory structure.
2. An existing garage, carport or parking structure is converted or demolished to accommodate a single-family residential accessory dwelling in the same location.
3. The single-family residential accessory dwelling is within one-half mile walking distance of a public transit station, such as a bus stop or train station.
4. The parcel is within an architecturally and historically significant historic district.
5. On-street parking permits are required in the area but not offered to the occupant of the residential accessory dwelling.
6. A vehicle share site is located within one block of the single-family residential accessory dwelling.

14.14.110 Mechanical Equipment for Accessory Dwellings.

Accessory dwellings shall conform to all provisions of Chapter 11.14 of the Los Altos Municipal Code unless otherwise specified. The following mechanical equipment regulations are specific to accessory dwellings:

A. Any mechanical equipment associated with an accessory dwelling shall locate proposed equipment on the interior sides of the accessory dwelling away from all property lines and outside of any required setback.
B. No roof mounted mechanical equipment shall be permitted.

14.14.120 ADU Rental Income Survey.

Each year the city will send out an annual ADU rental income survey to be released no later than September 1st of every calendar year. The property owner can voluntarily share the rental income for the unit. Pursuant to California Constitution Article I, Section 1 and Government Code Sections 6254(k) and 6255, to protect the privacy of property owners and renters and to encourage voluntary responsiveness, the aggregated data will be for the exclusive use of the city to meet its regional housing needs allocation (RHNA). The unredacted data will not be shared with outside agencies, persons or corporations unless specifically mandated by state or federal law.

Chapter 14.14 ACCESSORY DWELLING UNITS[1]

Sections:

14.14.010 Purpose and Intent.

The intent of this chapter is to provide for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), collectively known as an accessory dwelling, on parcels zoned to allow single-family or multifamily dwelling residential use that include a proposed or existing dwelling. ADUs contribute needed housing to the City of Los Altos housing stock, enhance housing opportunities, and contribute to achieving the goals of the RHNA. An ADU is considered a residential use that is consistent with the existing general plan and zoning designations for the parcel. The ADU is not included in calculation of residential density for the purposes of determining general plan conformance.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.020 Definitions.

As used in this section, the following terms mean:

"Accessory dwelling unit" (or "ADU") means an attached or a detached residential dwelling unit that provides complete independent living facilities and is located on a parcel with a proposed or existing residential dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Accessory dwelling unit, attached" means a residential dwelling unit that is created as a result of internal conversion, addition, or combination thereof made to the primary dwelling, including attached garages, storage areas or similar uses.

"Accessory dwelling unit, detached." A detached accessory dwelling unit means an ADU that is not attached to the primary dwelling. Generally, a detached ADU is constructed as an independent structure that is surrounded by open space and located on the same parcel as the primary dwelling. However, a detached ADU may also include the conversion of an existing accessory structure that is located on the same parcel as the primary dwelling, but that is detached from the primary dwelling. In such a case, the detached ADU may be attached to another existing accessory structure.

"Existing," when referring to an existing principal dwelling, accessory structure, or other building or structure, means a building or structure erected prior to the date of adoption of the appropriate building code, or

[1]Ord. No. 2020-473 , § 1, adopted Oct. 27, 2020, amended Ch. 14.14 by repealing and reenacting a new Ch. 14.14 to read as set out herein. Former Ch. 14.14, §§ 14.14.010—14.14.060 ppertained to second living units in R1 districts, and derived from prior code §§ 10-2.6301, 10-2.6303, 10-6304, 10-6305, 10-6306, 10-6307; and Ord. 03-253, § 1(part); and Ord. No. 2018-448 , § 4, adopted July 10, 2018.

one for which a legal building permit has been issued, as defined in Section 202 of the 2019 California Building Code. An unpermitted building or structure shall not be considered "existing" for purposes of this chapter.

"Multi-family housing" means a group of dwelling units on one site that contains separate living units for two or more families that may have joined services or facilities or both.

"Junior accessory dwelling unit" (or "junior ADU" or "JADU") means a unit that is no more than five hundred (500) square feet in size, includes an efficiency kitchen consistent with building code standards, is contained entirely within the walls of a single-family residence and may include separate sanitation facilities or may share sanitation facilities with the existing structure or unit.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, if defined as habitable by the California Residential Code (CRC) but does not include a garage or any accessory structure.

"Multi-family residential ADU" means an ADU designed for one family and allowed under Government Code Section 65852.2(e)(1)(C), as referenced in Section 14.14.070 of this chapter.

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

"Primary dwelling" means, (i) in the case of a parcel occupied by an existing or proposed single-family residential use, the existing or proposed primary dwelling in connection with which an ADU is proposed to be constructed, or (ii) in the case of multi-family housing, the existing or proposed multi-family use in connection with which one or more ADUs allowed under this chapter are proposed to be constructed. As used in this definition, a "single-family residential use" means a single-family residential dwelling unit that is not attached to any other dwelling unit except for an ADU, and which is designed for one family and is surrounded by open space or yards.

"Passageway". The term passageway has the meaning defined by Government Code Section 65852.2, which states: "A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit."

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and/or are available to the public.

"Single family residential ADU" means an ADU designed for one family per 65852.2(a) of Government Code as referenced in Section 14.14.050 of this chapter.

"Tandem parking" means that two or more automobiles are parked in any location on a parcel and lined up behind one another.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.021 Standards for categories of single family residential ADUs.

The following table summarizes design standards for single family residential ADUs. If this summary of information conflicts with other sections of this chapter, those sections shall be binding. See Section 14.14.070 for design standards that apply to multi-family ADUs.

Design Standards	JADU	Attached ADU (single-family)	Detached ADU (single-family)
Maximum Size (see 14.14.025 for additional details)	500 sq. ft. created from the existing or proposed square footage of the primary dwelling.	1,200 sq. ft. but no more than 50% of the floor area of an existing or proposed primary	1,200 sq. ft. including basement area).

		dwelling (excluding basement area).	
Maximum Height	NA	The greater of 16 feet or the height of the underlying zoning district	16 feet
Minimum Side Setback	NA	4 feet (see exception identified within 14.14.050(f)(2))	4 feet
Minimum Rear Setback	NA	4 feet (see exception identified within 14.14.050(f)(2))	4 feet
Kitchen	Cooking appliances can include a hot plate, or counter-top cooking. A wall installed oven is not required.	Must include at least a sink, a refrigerator of no less than 10 cubic feet, and either a cooktop and an oven, or a range. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the ADU are also required.	
Parking Requirement	None	1 uncovered parking space required. See Section 14.14.050(i)(1-6) for the exceptions to this requirement.	
Owner Occupancy	Required	Not required	
Short Term Rentals	Prohibited	Prohibited	
Impact Fees	None	750 sq. ft. or less-no impact fees 751 sq. ft or more-impact fees are proportionate to principal dwelling.	
Utility Fees and Connections	None required.	The accessory dwelling may be served by the primary dwelling or may have separate utility meters.	

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.025 Square footage chart.

For clarity the following chart provides the square footage thresholds for the various forms of accessory dwelling units:

Unit Type	Square Footage Limitations
Efficiency Unit	The minimum size of an efficiency unit as defined by the Health and Safety Code shall be 150 square feet.
JADU	The maximum size of a JADU shall be five hundred (500) square feet created by the conversion of existing square footage of the principal dwelling unit. However, up to one hundred fifty (150) square feet can be added to the existing structure for purposes of ingress and egress to the JADU. The additional square footage shall count towards the five hundred (500) square foot maximum.
Attached accessory dwelling unit	An attached single family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit or one thousand two hundred (1,200) square feet with more than one bedroom. The total floor area for an attached ADU shall exclude the basement areas, and shall

	not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this fifty (50) percent threshold requirement, an attached ADU of eight hundred fifty (850) square feet or smaller cannot be denied. Additional square footage above eight hundred fifty (850) square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district.
Detached accessory dwelling unit	(1) A detached single-family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit, or one thousand two hundred (1,200) square feet with more than one bedroom. Additional square footage above eight hundred fifty (850) square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district. For detached accessory dwelling units, garage area is excluded but basement areas are included in the square footage calculation for the ADU.
Accessory dwelling unit subject to objective design standards	An ADU between 851-1,200 square feet is subject to a zoning clearance review for objective design standards as identified in Chapter 14.06-Chapter 14.16-24. An ADU may exceed eight hundred fifty (850) square feet only if the parcel has not exceeded the floor area ratio allowed for the parcel per Chapter 14.06 of the Los Altos Municipal Code.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.030 Location permitted.

A. ADUs may be permitted in the following zones: on parcels zoned for multifamily or single-family dwellings.

B. Nothing in this chapter shall be construed to authorize construction of new single-family residences in multiple-family districts where such single-family residential use is not otherwise allowed.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.040 General requirements.

Notwithstanding any local ordinance regulating the issuance of variances or special use permits, or regulations adopted herein to the contrary, an application to construct an ADU shall be approved or denied ministerially, without discretionary review or hearing, within sixty (60) days from the date the city receives a completed planning application if there is an existing single-family or multifamily structure on the parcel. The following requirements apply to all accessory dwellings:

(a) An ADU shall not be rented for periods less than thirty (30) days. Short term rentals are prohibited pursuant to Chapter 14.30 of the Los Altos Municipal Code.

(b) Except as allowed by State law, an ADU shall not be sold or have its title transferred separately from the primary dwelling.

(c) Deed restriction. Prior to the issuance of the building permit for the ADU, the owner must record a deed restriction stating that the ADU may not be rented for periods less than thirty (30) days, and that it may not be transferred or sold separate from the primary dwelling.

(d) The installation of fire sprinklers shall not be required for an ADU if sprinklers are not required for the primary dwelling.

(e) ADUs are subject to the design standards and other zoning requirements of the zoning district in which the existing primary dwelling is located and must be built in accordance with the building code set forth in Title 12 of the Los Altos Municipal Code, except for those design, zoning, and building standards inconsistent with this chapter or with state requirements under California Government Code Section 65852.2.

(f) An ADU is not subject to residential accessory structure regulations.

(g) An ADU will not be subject to any charges and fees other than planning and building permit fees generally applicable to residential construction in the zone in which the parcel is located, except as otherwise provided herein.

(h) Any connection fees and capacity charges that may be required must be assessed in compliance with the provisions of State Government Code Section 65852.2 and 65852.22, as amended from time to time.

(i) The ADU must contain water, sewer and gas and/or electric utility connections that are in working condition upon its occupancy. The ADU may be served by the primary dwelling or may have separate utility meters. The accessory dwelling will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.

(j) An ADU must have an independent electrical sub-panel, water heating and space heating equipment within the unit or be readily accessible to the occupant on the exterior of the unit.

(k) Ministerial approval of a permit for creation of an ADU shall not be conditioned on the correction of pre-existing nonconforming zoning conditions.

(l) A certificate of occupancy for any ADU shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling.

(m) If the applicant requests a delay in processing in writing, the 60-day review time shall be tolled for the period of the delay.

(n) A kitchen shall be provided for an ADU. A full kitchen requires habitable space used for preparation of food that contains at least a sink, a refrigerator of no less than ten (10) cubic feet, and either a cooktop and an oven, or a range. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the ADU are also required.

(o) A minimum sill height of five feet for windows on the second story within fifteen (15) feet of the property line that face out to the neighbors to mitigate privacy concerns shall be required.

(p). Except as otherwise required by state law, a single-family residential ADU either attached or detached from the main house must not encroach upon the required front yard area and shall have at least a four-foot setback from the side yard property line.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.050 Single-family residential ADU standards in single family residential zoning districts.

Notwithstanding any other provisions of this chapter to the contrary, a single-family residential ADU shall be permitted as a single-family residential use that shall comply with the following:

(a) Zoning. A single-family residential ADU shall be located on a parcel in a residential zoning district with an existing or proposed single-family residential dwelling unit.

(b) Number. For a parcel with a proposed or existing single-family dwelling, one attached or detached, new construction ADU shall be permitted. In the case of a detached ADU that does not exceed eight hundred fifty (850) square feet in size nor sixteen (16) feet in height, and that provides at least four foot side and rear setbacks, the detached ADU may be established in addition to a JADU, as set forth in Section 14.14.060.

(c) Relationship to primary dwelling. A single-family residential ADU may be within, attached to, or detached from the primary dwelling, provided that a single-family residential ADU contained within or attached to an existing primary dwelling shall have independent exterior access from the existing residence. A detached single-family residential ADU must be located at least five feet from the proposed or existing primary dwelling per Section 14.14.050(f)(3).

(d) Size.

(1) A detached single-family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit, or one thousand two-hundred (1,200) square feet with more than one bedroom. Additional square footage above 850 square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district. For detached accessory dwelling units, garage area is excluded but basement areas are included in the square footage calculation for the ADU. The garage area counts towards the floor area ratio for the property.

(2) An attached single family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit or one thousand two hundred (1,200) square feet with more than one bedroom. The total floor area for an attached ADU shall exclude the basement areas and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this fifty (50) percent threshold requirement, an attached ADU of eight hundred fifty (850) square feet or smaller cannot be denied. Additional square footage above eight hundred fifty (850) square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district.

(3) Internal attached ADU conversion. There is no size limitation on an ADU that is created exclusively by converting space within the existing primary dwelling or accessory structure. If a homeowner converts a portion of the primary dwelling for an attached ADU, nothing herein shall prevent the homeowner from replacing the square footage lost, up to eight hundred fifty (850) square feet above FAR limits, subject to the applicable design rules for the specific zoning district.

(e) Height.

(1) The maximum height for a detached single-family residential ADU shall be one-story and sixteen (16) feet.

(2) Attached single-family residential ADUs shall have a maximum height equal to the greater of (i) sixteen (16) feet, or (ii) the height limit established for the primary dwelling pursuant to applicable zoning.

(f) Setbacks. A single-family residential ADU is subject to the design criteria and zoning requirements of the district in which the existing single-family dwelling is located and as follows:

(1) An attached or detached single-family residential ADU must not encroach upon the required front yard area and shall have at least four foot setbacks at the rear and side yards per state law. Applicants are encouraged to comply voluntarily with the setbacks identified within Section 14.14.080 of ten (10) feet from the side and rear property lines to reduce privacy impacts. An ADU that provides such ten (10) foot setback shall be removed from daylight plane restrictions.

(2) A setback of four feet from the interior side and rear property lines shall be required for a newly constructed, detached or attached single-family residential ADU. No setback shall be required for converting an existing living area or accessory structure or a structure constructed in the same location, to the same dimensions and within the same footprint as an existing structure that is converted to an ADU or to a portion of an ADU. If the existing structure to be converted is four feet or less from the property line, a record of survey must be provided to the City for proof of location, setbacks, footprint, and property lines.

(3) The separation from the principal dwelling and any other accessory structure on the parcel shall be at least five feet unless implementation of this requirement would prohibit the construction of an eight hundred fifty (850) square foot detached ADU, in which case this requirement shall be waived provided the ADU complies with California Building Code (CBC) requirements for separation.

(g) Detached ADU daylight plane.

(1) No portion of an attached or detached ADU shall extend above or beyond a daylight plane as follows:

(2) The daylight plane starts at a height of eight feet at the property line and proceeds inward at a 6:12 slope. At ten (10) feet from the property line the structure can increase in height to sixteen (16) feet. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane. The daylight plane is not applied to a side or rear property line when it abuts a public alley or public street. However, the ADU daylight plane shall not be enforced if it prohibits the development of an eight hundred fifty (850) square foot ADU which is required by state law. If an applicant provides the voluntary setbacks identified in 14.14.080 of ten (10) feet for the side and rear property lines, the daylight plane provisions will not apply to the structural elements of the ADU.

(3) Daylight plane shall not be enforced for an ADU if the structure abuts a city street or alleyway in the rear of the parcel.

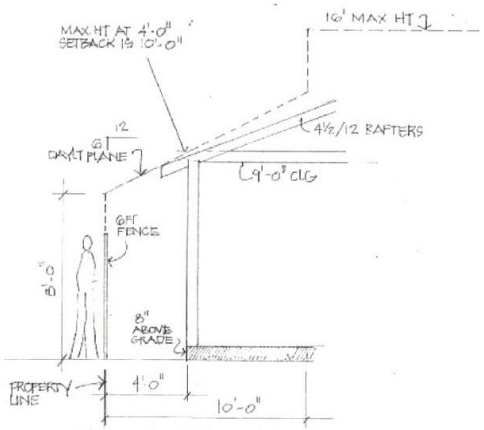

Figure 1-Standard Daylight Plane Diagram

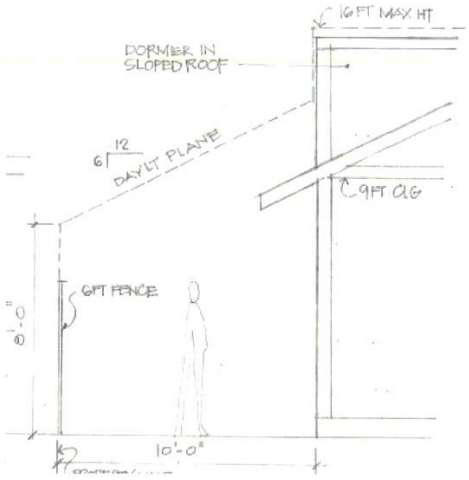

Figure 2-Voluntary Daylight Plane Diagram

(h) A single-family residential ADU must be built in accordance with the building code set forth in Title 12, except that any design, zoning, and building standards inconsistent with state requirements under California Government Code Section 65852.2 shall not apply.

(i) Parking. One additional uncovered parking space of nine feet by eighteen feet (9 X 18) shall be required for a newly constructed single-family residential ADU, which may be located within the front setback, in tandem and in an existing driveway including within an interior side yard setback area, unless a specific finding is made that such parking is not feasible due to specific site, topographical or fire and life safety. Notwithstanding the above, a parking stall will not be required for a residential ADU that meets any of the following criteria:

(1) The single-family residential ADU is created as a result of the conversion of existing area of the single-family residence or existing permitted residential accessory structure.

(2) An existing garage, carport or parking structure is converted or demolished to accommodate a single-family residential ADU in the same location.

(3) The single-family residential ADU is within one-half mile walking distance of a public transit station, such as a bus stop or train station.

(4) The parcel is within an architecturally and historically significant historic district.

(5) On-street parking permits are required in the area but not offered to the occupant of the residential ADU.

(6) A vehicle share site is located within one block of the single-family residential ADU.

(j) Design standards. Architectural review of attached or detached single-family residential ADUs over eight hundred fifty (850) square feet or greater will be limited to the following:

(1) Notwithstanding any other provision of this Code, a zoning clearance letter shall be issued for ADUs and shall be reviewed by the director of community development or their designee for compliance with objective design standards as identified within Chapter 14.06 (Single Family Zoning Districts) or Chapters 14.16-14.24 (Multi-Family Zoning Districts). The permit shall be considered ministerial without discretionary review within the time frames required by Section 65852.2 of the Government Code;

(2) In those instances where an applicant seeks permission to deviate from the standards, a variance shall be filed in accordance with Section 14.76.070.

(3) If the permit application to create an ADU or a JADU is submitted with a permit application to create a new single-family dwelling on the parcel, the city may delay acting on the permit application for the ADU or the JADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or hearing. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.

(4) The architectural features, window styles, roof slopes, exterior materials, colors, appearance, and design of the single-family residential ADU must be compatible with the existing single-family dwelling.

(5) Minimum sill height of five feet for windows on the second story within fifteen (15) feet of the property line that face out to the neighbors to try to mitigate privacy concerns shall be required.

(6) A new single-family residential ADU located within a historic site or neighborhood combining district will be subject to ministerial review for compliance with the design review criteria set forth in Chapter 12.44 of the Los Altos Municipal Code and must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.

(7) Outside stairways serving a second story single-family residential ADU shall not be constructed on any building elevation facing a public street.

(8) No passageway will be required in conjunction with the construction of any single-family residential ADU.

(k) Streamlined approval of accessory dwelling units. Notwithstanding the restrictions above, a building permit application for a detached, single-family residential ADU within a residential or mixed-use zone must be approved ministerially if it is:

(1) Setback at least four feet from the interior side and rear property lines. Four feet setbacks are the maximum the City can recommend per state law, but applicants are encouraged to voluntarily comply with the setbacks identified within Section 14.14.080 of ten (10) feet from the side and rear property lines so as to reduce privacy impacts.

(2) No larger than eight hundred and fifty (850) square feet in floor area; and

(3) No taller than sixteen (16) feet in height.

(l) Annual rental data. On an annual basis property owner shall be requested to submit voluntarily rental data for use by the city for the Regional Housing Needs Allocation process.

(m) Mechanical equipment and air conditioning units for accessory dwelling units shall comply with the noise thresholds identified within Chapter 6.16 of the Noise Control Ordinance.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.060 JADU or efficiency unit standards.

Notwithstanding any other provisions in this article or of this chapter to the contrary, a JADU shall be permitted and comply with the following:

(a) The owner shall reside in the primary dwelling or the JADU

(b) One JADU may be permitted per residential parcel zoned for a single-family residential use, provided that the parcel has not more than one existing or proposed single-family residence. A single-family residential parcel may have both one JADU and one detached accessory dwelling unit.

(c) The unit must be constructed within the existing walls of a single-family dwelling except that an expansion of one hundred fifty (150) square feet beyond the existing physical dimensions of the primary dwelling may be permitted to accommodate required ingress and egress.

(d) The square footage of the unit shall be at least the minimum size (one hundred fifty (150) square feet) required for an efficiency unit, up to a maximum size of five hundred (500) square feet in floor area, and must include one Bedroom or studio sleeping area pursuant to Section 17958.1 of the Health and Safety Code.

(e) A separate entrance from the unit to the exterior of the residence, and an interior connection to the main living area may be provided. A second interior doorway for sound attenuation may also be permitted.

(g) At least an efficiency kitchen must be provided in the unit which shall include all the following:

(1) A cooking facility with appliances. Appliances can include hot plate, or counter-top cooking. A property owner does not need to have a wall installed oven or stove to qualify for a cooking appliance.

(2) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

(h) The unit may include separate bathroom facilities or may share bathroom facilities contained within the primary dwelling.

(i) No separate utility connection, connection fee or capacity charge, or parking space shall be required for a JADU.

(j) A deed restriction shall be required for JADU and must include the following stipulations:

(1) prohibition on the sale of the JADU separate from the sale of the primary dwelling.

(2) If a JADU is rented, the unit shall not be rented for a period of less than thirty (30) consecutive days.

(3) Owner occupancy is required for the JADU or the main house, unless the owner is another government agency, land trust or housing organization as allowed by State Law.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.070 Multi-family ADU standards in multi-family zoning districts.

Notwithstanding any other provisions of this chapter to the contrary, multi-family ADUs shall be permitted and comply with the following:

(a) In addition to the types of ADUs allowed by this Section, one Single-Family Residential ADU may be constructed on a parcel with a multi-family housing development project.

(b) Portions of existing multi-family dwelling structures that are not used as livable space (including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages), may be converted for use as ADUs provided that total number of units must not exceed twenty-five (25) percent of the existing multi-family dwelling units or one unit, whichever is greater.

(c) An owner may also construct up to a maximum of two detached ADUs on a parcel that has an existing multifamily dwelling, subject to a height limit of sixteen (16) feet and at least four foot rear yard and side setbacks. If there are inconsistencies between this Chapter and other provisions of the Los Altos municipal code, this Chapter shall prevail over those other provisions.

(d) ADUs in multi-family zone districts shall comply with Government Code Section 65852.2.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.080 Voluntary Additional Setback.

For a detached accessory dwelling unit, the minimum setbacks shall be five feet from the primary dwelling, and four feet from the side and rear property lines. However, to reduce the privacy impacts to abutting property owners, applicants are encouraged to voluntarily increase the setbacks to be ten (10) feet from the rear and interior property lines. If an applicant provides the ten (10) foot rear and side property line setbacks, the daylight plane provisions will not be enforced for detached accessory dwelling units.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.090 ADU rental income survey.

Each year the city will send out an annual ADU rental income survey to be released no later than September 1st of every calendar year. The property owner can voluntarily share the rental income for the unit. Pursuant to California Constitution Article I, Section 1 and Government Code Sections 6254(k) and 6255, to protect the privacy of property owners and renters and to encourage voluntary responsiveness, the aggregated data will be for the exclusive use of the city to meet its regional housing needs allocation (RHNA). The unredacted data will not be shared with outside agencies, persons or corporations unless specifically mandated by state or federal law.

(Ord. No. 2020-473 , § 1, 10-27-2020)




CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

ACCESSORY DWELLING UNIT HANDBOOK

UPDATED JULY 2022

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Understanding Accessory Dwelling Units (ADUs) and Their Importance

California's housing production is not keeping pace with demand. In the last decade, fewer than half of the homes needed to keep up with the population growth were built. Additionally, new homes are often constructed away from job-rich areas. This lack of housing that meets people's needs is impacting affordability and causing average housing costs, particularly for renters in California, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between housing they can afford and their workplace or pack themselves into smaller shared spaces, both of which reduce quality of life and produce negative environmental impacts.

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Beyond traditional construction, widening the range of housing types can increase the housing supply and help more low-income Californians thrive. Examples of some of these housing types are accessory dwelling units (ADUs – also referred to as second units, in-law units, casitas, or granny flats) and junior accessory dwelling units (JADUs).

What is an ADU?

An ADU is accessory to a primary residence and has complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similaruse, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.
- JADU: A specific type of conversion of existing space that iscontained entirely within an existing or proposed single-family residence.

ADUs tend to be significantly less expensive to build than new detached single-family homes and offer benefits that address common development barriers, such as environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land or other costly infrastructure often required to build a new single-family home. Because they are contained inside existing or proposed single-family homes, JADUs require relatively modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one- or two-story wood frames, which are also less expensive than other construction types. Additionally, prefabricated ADUs (e.g., manufactured housing and factory-built housing) can be directly purchased and can further reduce construction time and cost. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

Much of California's housing crisis comes from job-rich, high-opportunity areas where the total housing stock is insufficient to meet demand and exclusionary practices have limited housing choice and inclusion. Professionals and students often prefer living closer to jobs and amenities rather than spending hours commuting. Parents oftenwant better access to schools and do not necessarily require single-family homes to meet their housing needs. There is a shortage of affordable units, and the units that are available can be out of reach for many people. Homeowners can construct an ADU on their lot or convert an underutilized part of their home into a JADU. This flexibility benefits both renters and homeowners, who can receive extra monthly rental income while also contributing to meeting state housing production goals.

ADUs also give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place, even if they require more care, thus helping extended families stay together while maintaining privacy. ADUs provide housing for family members, students, the elderly, in-home health care providers, individuals with disabilities, and others at below market prices within existing neighborhoods.

New policies are making ADUs even more affordable to build, in part by limiting the development impact fees that local jurisdictions may charge for ADU construction and relaxing local zoning requirements. ADUs and JADUs can often be built at a fraction of the price of a new single-family home, and homeowners may use their existing lot to create additional housing. Often the rent generated from the ADU can pay for the entire project in a matter of years.

ADUs and JADUs are a flexible form of housing that can help Californians more easily access job-rich, high-opportunity areas. By design, ADUs are more affordable to renters and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education, and services for many Californians.

Summary of Recent Changes to ADU Laws

In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing ADUs in zones that allow single-family and multifamily uses provides additional rental housing and is an essential component in addressing California's housing needs. Over the years, State ADU Law has been revised to improve its effectiveness at creating more housing units. Changes to State ADU Law effective January 1, 2021, further reduce barriers, streamline approval processes, and expand capacity to accommodate the development of ADUs and JADUs. Within this context, the California Department of Housing and Community Development (HCD) developed – and continues to update – this handbook to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. Below is a summary of recent legislation that amended State ADU Law. Please see Attachment 1 for the complete statutory changes.

AB 345 (Chapter 343, Statutes of 2021)

AB 345 (Chapter 343, Statutes of 2021) builds upon recent changes to State ADU Law, particularly Government Code sections 65852.2 and 65852.26, to require the allowance of the separate conveyance of ADUs from the primary dwelling in certain circumstances, provided they meet certain conditions, including those listed below, found in Government Code section 65852.26, subdivisions (a)(1-5):

- The ADU or primary dwelling was built or developed by a qualified nonprofit. (Gov. Code, § 65852.26, subd. (a).)
- There is an enforceable restriction on the use of the property between the low-income buyer and nonprofit that satisfies the requirements of Section 402.1 of the Revenue and Taxation Code. (Gov. Code, § 65852.26, subd. (a)(2).)
- The entire property is subject to the affordability restrictions to assure that the ADU and primary dwelling are preserved for owner-occupied, low-income housing for 45 years and are sold or resold only to a qualified buyer. (Gov. Code, § 65852.26, subd. (a)(3)(D).)
- The property is held in a recorded tenancy in common agreement that meets certain requirements. (Gov. Code, § 65852.26, subd. (a)(3).)

AB 345 does not apply to JADUs, and local ordinances must continue to prohibit JADUs from being sold separately from the primary residence.

AB 3182 (Chapter 198, Statutes of 2020)

AB 3182 (Chapter 198, Statutes of 2020) builds upon recent changes to State ADU Law, specifically Government Code section 65852.2 and Civil Code Sections 4740 and 4741, to further address barriers to the development and use of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- States that an application for the creation of an ADU or JADU shall be *deemed approved* (not just subject to ministerial approval) if the local agency has not acted on the completed application within 60 days. (Gov. Code, § 65852.2, subd. (a)(3).)
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU *and* one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met. (Gov. Code, § 65852.2, subd. (e)(1)(A).)
- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, and without regard to the date of the governing documents. (Civ. Code, § 4740, subd. (a), and Civ. Code, § 4741, subd. (a).)
- Provides that not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units. (Civ. Code, § 4740, subd. (b).)

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019)

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019) build upon recent changes to ADU and JADU Law, specifically Government Code sections 65852.2 and 65852.22, and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).)
- Clarifies that areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services, as well as on impacts on traffic flow and public safety. (Gov. Code, § 65852.2, subd. (a)(1)(A).)
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020, and January 1, 2025. (Gov. Code, § 65852.2, subd. (a)(6).)
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and

requires approval of a permit to build an ADU of up to 800 square feet. (Gov. Code, § 65852.2, subds. (c)(2)(B) and (C).)

- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of off-street parking spaces cannot be required by the local agency. (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi).)
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days. (Gov. Code, § 65852.2, subd. (a)(3) and (b).)
- Clarifies that "public transit" includes various means of transportation that charge set fees, run on fixed routes, and are available to the public. (Gov. Code, § 65852.2, subd. (j)(9).)
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees, and ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit. (Gov. Code, § 65852.2, subd. (f)(3).)
- Defines an "accessory structure" to mean a structure that is accessory and incidental to a dwelling on the same lot. (Gov. Code, § 65852.2, subd. (j)(2).)
- Authorizes HCD to notify the local agency if HCD finds that the local ADU ordinance is not in compliance with state law. (Gov. Code, § 65852.2, subd. (h)(2).)
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy its Regional Housing Needs Allocation (RHNA). (Gov. Code, §§ 65583.1, subd. (a), and 65852.2, subd. (m).)
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them. (Gov. Code, § 65852.2, subds. (b) and (e).)
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom and an interior entry into the single-family residence. (Gov. Code, § 65852.22, subd. (a)(4-5).)
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency. (Gov. Code, § 65852.2, subd. (n); Health & Safety Code, § 17980.12).)

AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019)

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutesof 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an

impact on State ADU Law, particularly through Health and Safety Code Section 17980.12. These pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households. (Gov. Code, § 65852.26).)
- AB 670 provides that covenants, conditions and restrictions that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable. (Civ. Code, § 4751).)
- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs. (Gov. Code, § 65583; Health & Safety Code, § 50504.5).)

Frequently Asked Questions

1. Legislative Intent

- **Should a local ordinance encourage the development of ADUs?**

Yes. Pursuant to Government Code section 65852.150, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities, and others. Therefore, ADUs are an essential component of California's housing supply.

State ADU Law and recent changes intend to address barriers, streamline approval, and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistent with Government Code section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

ADU Law is the statutory minimum requirement. Local governments may elect to go beyond this statutory minimum and further the creation of ADUs. (Gov. Code, § 65852.2, subd. (g).) Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies.

Government Code section 65852.150:

(a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

2. Zoning, Development and Other Standards

A) Zoning and Development Standards

- **Are ADUs required jurisdiction-wide?**

  No. ADUs proposed pursuant to subdivision (e) of Government Code section 65852.2 must be permitted in any residential or mixed-use zone, which should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use. For other ADUs, local governments may, by ordinance, designate areas in zones where residential uses are permitted that will also permit ADUs. However, any limits on where ADUs are permitted may only be based on the adequacy of water and sewer service and on the impacts on traffic flow and public safety.

  Further, local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors. If a lot with a residence has been rezoned to a use that does not allow for residential uses, that lot is no longer eligible to create an ADU. (Gov. Code § 65852.2 subd. (a)(1) and (e)(1).)

  Impacts on traffic flow should consider factors like lower car ownership rates for ADUs. Finally, local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns.

- **Can ADUs exceed general plan and zoning densities?**

  Yes. An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning and does not count toward the allowable density. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Further, local governments could elect to allow more than one ADU on a lot, and ADUs are automatically a residential use deemed consistent with the general plan and zoning. (Gov. Code, § 65852.2, subd. (a)(1)(C).)

- **Can a local government apply design and development standards?**

  Yes. With an adopted ADU ordinance in compliance with State ADU Law, a local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. **However, these standards should be objective to allow ministerial review of an ADU**. (Gov. Code, § 65852.2, subds. (a)(1)(B)(i) and (a)(4).)

  ADUs created under subdivision (e) of Government Code section 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.

ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to pursue this route. In this scenario, the applicant assumes time and monetary costs associated with a discretionary approval process. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with State ADU Law.

- **Are ADUs permitted ministerially?**

  Yes. ADUs subject to State ADU Law must be considered, approved, and permitted ministerially, without discretionary action. Development and other decision-making standards must be sufficiently objective to allow for ministerial review. Examples include numeric and fixed standards such as heights or setbacks, or design standards such as colors or materials. Subjective standards require judgement and can be interpreted in multiple ways, such as privacy, compatibility with neighboring properties, or promoting harmony and balance in the community; subjective standards must not be imposed on ADU development. Further, ADUs must not be subject to hearing requirements or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. (Gov. Code § 65852.2, subds. (a)(3) and (a)(4).)

- **Is there a streamlined permitting process for ADU and JADU applications?**

  Yes. Whether or not a local agency has adopted an ordinance, applications to create an ADU or JADU shall be considered and approved ministerially within 60 days from the date the local agency receives a completed application. Although the allowed 60-day review period may be interrupted due to an applicant addressing comments generated by a local agency during the permitting process, additional 60-day time periods may not be required by the local agency for minor revisions to the application. (Gov. Code § 65852.2, subds. (a)(3) and (b).)

- **Can I create an ADU if I have multiple detached dwellings on a lot?**

  Yes. A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure and by building a new detached ADU subject to certain development standards. (Gov. Code § 65852.2, subds. (e)(1)(A) and (B).)

- **What is considered a multifamily dwelling under ADU Law?**

  For the purposes of State ADU Law, a structure with two or more attached dwellings on

a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of State ADU Law.

- **Can I build an ADU in a historic district or if the primary residence is subject to historic preservation?**

  Yes. ADUs are allowed within a historic district and on lots where the primary residence is subject to historic preservation. State ADU Law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. However, these standards do not apply to ADUs proposed pursuant to Government Code section 65852.2, subdivision (e).

  As with non-historic resources, a jurisdiction may impose objective and ministerial standards that are sufficiently objective to be reviewed ministerially and do not unduly burden the creation of ADUs. Jurisdictions are encouraged to incorporate these standards into their ordinances and to submit these standards along with their ordinances to HCD. (Gov. Code, § 65852.2, subds. (a)(1)(B)(i) and (a)(5).)

B) Size Requirements

- **Can minimum lot size requirements be imposed on ADUs? What about lot coverage, floor area ratio, or open space requirements?**

  No. While local governments may impose certain development standards on ADUs, these standards shall not include minimum lot size requirements. Further, lot coverage requirements cannot preclude the creation of a statewide exemption ADU (see below). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area, or open space requirements. Local governments may continue to enforce building and health and safety standards and may consider design, landscape, and other standards to facilitate compatibility. (Gov. Code, § 65852.2, subds. (c)(2)(C).)

What is a statewide exemption ADU?

A statewide exemption ADU, found in Government Code section 65852, subdivision (e), is an ADU of up to 800 square feet, 16 feet in height, as potentially limited by a local agency, and with four-foot side and rear yard setbacks. State ADU Law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, State ADU Law allows the construction of a detached new construction statewide exemption ADU to be combined on the same lot with a JADU in a single-family residential zone. In addition, ADUs are allowed in any residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

- **Can minimum and maximum unit sizes be established for ADUs?**

  Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs; however, maximum unit size requirements must allow an ADU of at least 850 square feet, or 1,000 square feet for ADUs with more than one bedroom. For local agencies without an ADU ordinance, maximum unit sizes are 1,200 square feet for a new detached ADU and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits the development of an efficiency unit as defined in Health and Safety Code section 17958.1.

  The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to unit size requirements. For example, an existing 3,000 square-foot barn converted to an ADU would not be subject to the local unit size requirements, regardless of whether a local government has an adopted ADU ordinance. Should an applicant want to expand an accessory structure to create an ADU beyond 150 square feet, this ADU would be subject to the size maximums outlined in State ADU Law or in the local agency's adopted ordinance.

- **Can a percentage of the primary dwelling be used to limit the maximum size of an ADU?**

  Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unitsize for attached ADUs, but only if it does not restrict an ADU's size to less than the standard of at least 850 square feet (or at least 1,000 square feet for ADUs with more than one bedroom). Local agencies shall not, by ordinance, establish any other minimum or maximum unit sizes, including limits based on a percentage of the area of the primary dwelling, that precludes an 800 square-foot ADU. (Gov. Code, § 65852.2, subd. (c)(2)(C).) Local agencies utilizing percentages of the primary dwelling as maximum unit sizes can consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

- **Can maximum unit sizes exceed 1,200 square feet for ADUs?**

  Yes. Maximum unit sizes can exceed 1,200 square feet for ADUs through the adoption of a local ADU ordinance. State ADU Law does not limit the authority of local agencies to adopt *less* restrictive requirements for the creation of ADUs. (Gov. Code, § 65852.2, subd. (g).)

C) Parking Requirements

- **Are certain ADUs exempt from parking requirements?**

  Yes. A local agency shall not impose ADU parking standards for any of the following ADUs, pursuant to Government Code section 65852.2, subdivisions (d)(1-5) and (j)(10):

  (1) ADUs located within one-half mile walking distance of public transit.
  (2) ADUs located within an architecturally and historically significant historic district.
  (3) ADUs that are part of the proposed or existing primary residence or an accessory structure.
  (4) When on-street parking permits are required but not offered to the occupant of the ADU.
  (5) When there is a car share vehicle located within one block of the ADU.

  Note: For the purposes of State ADU Law, a jurisdiction may use the designated areas where a car share vehicle may be accessed. Public transit is any location where an individual may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the general public. Walking distance is defined as the pedestrian shed to reach public transit. Additional parking requirements to avoid impacts to public access may be required in the Coastal Zone.

- **Can ADU parking requirements exceed one space per unit or bedroom?**

  No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever isless. These spaces may be provided as tandem parking on a driveway. Guest parking spaces shall not berequired for ADUs under any circumstances. For certain ADUs, pursuant to Government Code section 65852.2, subdivisions (d)(1-5) and (j)(10), a local agency may not impose any ADU parking standards (see above question).

  What is Tandem Parking?

  Tandem parking means two or more automobiles that are parked on a driveway or in any other location ona lot, lined up behind one another. (Gov. Code, § 65852.2, subds. (a)(1)(D)(x)(I) and (j)(11).)

  Local agencies may choose to eliminate or reduce parking requirements for ADUs, such as requiring zero or half a parking space per each ADU, to remove barriers to ADU construction and to facilitate development.

- **Is flexibility for siting ADU parking recommended?**

  Yes. Local agencies should be flexible when siting parking for ADUs. Off-street parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking unless specific findings are made. Specific findings must be based on specific site or regional topographical or fire and life safety conditions.

  When a garage, carport, or covered parking structure is demolished in conjunction with the construction ofan ADU, or converted to an ADU, the local agency shall not require that those off-street parking spaces for the primary unit be replaced. (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi).)

D) Setbacks

- **Can setbacks be required for ADUs?**

  Yes. A local agency may impose development standards, such as setbacks, for the creation of ADUs. However, setbacks should not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii).) Additional setback requirements may be required in the Coastal Zone if required by a local Coastal Program. Setback requirements must also comply with any recorded utility easements or other previously recorded setback restrictions.

  No setback shall be required for an ADU created within an existing living area or accessory structure or an ADU created in a new structure in the same location as an existing structure, while not exceeding the existing dimensions, including height. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii).)

  A local agency may also allow the expansion of a detached structure being converted into an ADU when the existing structure does not have four-foot rear and side setbacks. A local agency may also allow the expansion area of a detached structure being converted into an ADU to have no setbacks, or setbacks ofless than four feet, if the existing structure has no setbacks, or has setbacks of less than four feet, respectively. A local agency shall not require setbacks of more than four feet for the expanded area of a detached structure being converted into an ADU.

  A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude an ADU of at least 800 square feet and must not unduly constrain the creation of all types of ADUs. (Gov. Code, §65852.2, subd. (c) and (e).)

- **Is there a distance requirement between an ADU and other structures on the lot?**

  State ADU Law does not address the distance between an ADU and other structures on a lot. A local agency may impose development standards for the creation of ADUs, and ADUs shall comply with local building codes. However, development standards should not unduly constrain the creation of ADUs, cannot preclude a statewide exemption ADU (an ADU of up to 800 square feet, 16 feet in height, as potentially limited by a local agency, and with four-foot side and rear yard setbacks), and should not unduly constrain the creation of all types of ADUs, where feasible. (Gov. Code, § 65852.2, subd. (c).)

E) Height Requirements

- **Is there a limit on the height or number of stories of an ADU?**

  There is no height limit contained in State ADU Law, but local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).) For a local agency to impose a height limit, it must do so through the adoption of a compliant ADU ordinance.

F) Bedrooms

- **Can a limit on the number of bedrooms in an ADU be imposed?**

  A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs. Building code standards for minimum bedroom size still apply.

G) Impact Fees

- **Can impact fees be charged for an ADU less than 750 square feet?**

  No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. If an ADU is 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.

  What is "Proportionately"?

  "Proportionately" is some amount in relation to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square-foot primary dwelling with a proposed 1,000 square-foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. In all cases, the impact fee for the ADU must be less than the primary dwelling. Otherwise, the fee is not calculated proportionately. When utilizing proportions, careful consideration should be given to the impacts on costs, feasibility, and, ultimately, the creation of ADUs. In the case of the example above,anything greater than 50 percent of the primary dwelling could be considered a constraint on the development of ADUs. A proportional fee shall not be greater than 100 percent, as when a proposed ADU exceeds the size of the existing primary dwelling.

  For purposes of calculating the fees for an ADU on a lot with a multifamily dwelling, the proportionality shall be based on the average square footage of the units within that multifamily dwelling structure. For ADUs converting existing space with a 150 square-foot expansion, a total ADU square footage over 750square feet could trigger the proportionate fee requirement. (Gov. Code, § 65852.2, subd. (f)(3)(A).)

- **Can local agencies, special districts, or water corporations waive impact fees?**

  Yes. Agencies can waive impact and any other fees for ADUs. Also, local agencies may use fee deferrals for applicants.

- **Can school districts charge impact fees?**

  Yes. School districts are authorized to, but do not have to, levy impact fees for ADUs greater than 500 square feet pursuant to Section 17620 of the Education Code. ADUs less than 500 square feet are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs, ensuring appropriate nexus studies and appropriate fees to facilitate construction or reconstruction of adequate school facilities.

- **What types of fees are considered impact fees?**

  Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district, or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home. (Gov. Code, §§ 65852.2, subd. (f), and 66000.)

- **Can I still be charged water and sewer connection fees?**

  ADUs converted from existing space and JADUs shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family dwelling. The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or plumbing fixtures as compared to the primary dwelling. ADU Law does not cover monthly charge fees. (Gov. Code, § 65852.2, subd. (f)(2).)

H) Ministerially Approved ADUs and Junior ADUs (JADUs) Not Subject to Local Standards

- **Are local agencies required to comply with Government Code section 65852.2, subdivision (e)?**

  Yes. All local agencies must comply with subdivision (e). This subdivision requires the ministerial approval of ADUs within a residential or mixed-use zone. The subdivision creates four categories of ADUs that should not be subject to other specified areas of State ADU Law, most notably zoning and development standards. For example, ADUs under this subdivision should not have to comply with lot coverage, setbacks, heights, and unit sizes. However, ADUs under this subdivision must meet the building code and health and safety requirements. The four categories of ADUs under subdivision (e)(1) are:

  (A) One ADU and one JADU are permitted per lot within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure that meets specified requirements such as exterior access and setbacks for fire and safety.

  (B) 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 may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.

(C) Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.

(D) Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and four-foot rear and side yard setbacks.

The above four categories may be combined. For example, local governments must allow (A) and (B) together or (C) and (D) together.

The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards.This would enable the conversion of an accessory structure, such as a 2,000 square-foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings.

These types of ADUs are also eligible for a 150 square-foot expansion (see discussion below).

ADUs created under subdivision (e) shall not be required to provide parking if the ADU qualifies for one of the five exemptions listed under subdivision (d). Moreover, these units shall not, as a condition for ministerial approval, be required to correct any existing or created nonconformity. Subdivision (e) ADUs shall be required to be rented for terms longer than 30 days and only require fire sprinklers if fire sprinklers are required for the primary residence. These ADUs shall not be counted as units when calculating density for the general plan and are not subject to owner occupancy.

- **How many ADUs are allowed on a multifamily site under subdivision (e)?**

Under subdivision (e), an applicant may apply to build up to two detached ADUs and at least one interior ADU up to 25 percent of the number of units in the proposed or existing multifamily dwelling. All interior ADUs, however, must be converted from non-livable space, which is not a requirement under subdivision (a) for ADUs associated with single-family sites. It should also be noted that if there is no existing non-livable space within a multifamily structure, an applicant would not be able to build an interior ADU under subdivision (e). Attached ADUs are also prohibited under this subdivision.

By contrast, under subdivision (a), an applicant may choose to build one attached, detached, or conversion ADU on a site with a proposed or existing multifamily dwelling, with local objective development standards applied in the same manner as they would be applied to an ADU proposed on a single-family site under subdivision (a). JADUs can only be constructed on a site with a proposed or existing single-family dwelling; however, a JADU cannot be constructed on a multifamily site concurrently with an ADU under subdivision (a).

- **Can I convert my accessory structure into an ADU?**

  Yes. The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through State ADU Law.

  These conversions of accessory structures are not subject to any additional development standards, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under building and safety codes. A local agency should not set limits based on when the structure was created, and the structure must meet standards for health and safety.

  Additionally, the two ADUs allowed on each multifamily site under subdivision (e) may be converted from existing detached structures on the site. Existing, detached accessory structures on a lot with an existing multifamily dwelling that are converted to ADUs cannot be required to be modified to correct for a non-conforming use. Both structures must be accessory structures detached from the primary residence, and because they are conversions of existing structures, these ADUs would not have to comply with the four-foot setback requirements under subdivision (e) if the existing structures are closer than four feet to the property line. This would also mean that the 16-foot height limitation would not apply if the existing structure were taller than 16 feet. Conversion ADUs in this scenario would not be subject to any square footage restrictions as long as they are built within the footprint of the previous structure.

- **Can an ADU created by converting existing space be expanded?**

  Yes. An ADU created within the existing or proposed space of a single-family dwelling or accessory structure can be expanded beyond the physical dimensions of the structure. Per State ADU Law, only an ADU created within an existing accessory structure may be expanded up to 150 square feet without application of local development standards, but this expansion shall be limited to accommodating ingress and egress. An ADU created within the space of an existing or proposed single-family dwelling is subject to local development standards. 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 shall conform to setbacks sufficient for fire and safety.

  A local agency may allow for an expansion beyond 150 square feet, though the ADU would have to comply with the size maximums as per State ADU Law or per a local agency's adopted ordinance. (Gov. Code, § 65852.2, subd. (e)(1)(i).)

  As a JADU is limited to being created within the walls of a primary residence and not an accessory structure, this expansion of up to 150 square feet does not pertain to JADUs.

- **Can an ADU be constructed in the non-livable spaces of the non-residential portions of a mixed-use development?**

  No. The non-livable space used to create an ADU or ADUs under Government Code section 65852.2, subdivision (e)(1)(C), should be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses would also be excluded from potential ADU development.

I) Nonconforming Zoning Standards

- **Does the creation of an ADU require the applicant to carry out public improvements?**

  No physical improvements shall be required for the creation or conversion of an ADU. Any requirement to carry out public improvements is beyond what is required for the creation of an ADU, as per State ADU Law. For example, an applicant shall not be required to improve sidewalks or carry out street or access improvements to create an ADU. Additionally, as a condition for ministerial approval of an ADU, anapplicant shall not be required to correct nonconforming zoning conditions. (Gov. Code, § 65852.2, subd. (e)(2).)

J) Renter- and Owner-Occupancy

- **Are rental terms allowed?**

  Yes. Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, §65852.2, subds. (a)(6) and (e)(4).)

- **Are there any owner-occupancy requirements for ADUs?**

  No. Prior to recent legislation, ADU laws allowed local agencies to elect whether the primary dwelling orADU was required to be occupied by an owner. The updates to State ADU Law removed the owner-occupancy requirement for newly created ADUs effective January 1, 2020. The new owner-occupancy exclusion is set to expire on December 31, 2024; however, local agencies may not retroactively require owner-occupancy for ADUs permitted between January 1, 2020, and December 31, 2024.

  However, should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. (Gov. Code, § 65852.22, subd. (a)(2).)

K) Fire Sprinkler Requirements

- **Can fire sprinklers be required for ADUs?**

  Installation of fire sprinklers may not be required in ADUs (attached, detached, or conversion) where sprinklers were not required by building codes for the existing primary residence. For example, a detached single-family home designed and constructed decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. However, if the same primary dwelling recently underwent significant alteration and is now required to have fire sprinklers, any ADU created after that alteration must be provided with fire sprinklers. (Gov. Code, § 65852.2, subds. (a)(1)(D)(xii) and (e)(3).)

  Please note, for ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the "primary residence" for the purposes of this analysis. Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers.

  For additional guidance on ADUs and fire sprinkler system requirements, please consult the Office of the State Fire Marshal.

L) Solar System Requirements

- **Are solar systems required for newly constructed ADUs?**

  Yes, newly constructed ADUs are subject to the California Energy Code requirement (excluding manufactured homes) to provide solar systems if the unit(s) is a newly constructed, non-manufactured, detached ADU (though some exceptions apply). Per the California Energy Commission (CEC), the solar systems 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 systems.

  Please refer to the CEC on this matter. For more information, see the CEC's website at www.energy.ca.gov. You may email your questions to title24@energy.ca.gov, or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD's website at https://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml.

  See HCD's Information Bulletin 2020-10 for information on the applicability of California solar requirements to manufactured housing.

3. JADUs – Government Code Section 65852.22

- **What is a JADU?**

  A "junior accessory dwelling unit" or JADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. (Gov. Code, § 65852.22, subd. (h)(1).)

- **Are two JADUs allowed on a lot?**

  No. A JADU may be created on a lot zoned for single-family residences with one primary dwelling. The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages, as attached garages are considered within the walls of the existing single-family residence. Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.

  JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family dwellings are not eligible to have JADUs. (Gov. Code, § 65852.22, subd. (a)(1).)

- **Are JADUs required to have an interior connection to the primary dwelling?**

  No. Although JADUs are required to be within the walls of the primary dwelling, they are not required to have an interior connection to the primary dwelling. That said, JADUs may share a significant interior connection to the primary dwelling, as they are allowed to share bathroom facilities with the primary dwelling.

- **Are JADUs allowed in detached accessory structures?**

  No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single- family residence. As noted above, attached garages are eligible for JADU creation. (Gov. Code, § 65852.22, subds. (a)(1) and (a)(4).)

- **Are JADUs allowed to be increased up to 150 square feet when created within an existingstructure?**

  No. Only ADUs are allowed to add up to 150 square feet "beyond the physical dimensions of the existing accessory structure" to provide for ingress. (Gov. Code, § 65852.2, subd. (e)(1)(A)(i).)

  This provision extends only to ADUs and excludes JADUs. A JADU is required to be created within the single-family residence.

- **Are there any owner-occupancy requirements for JADUs?**

  Yes. The owner must reside in either the remaining portion of the primary residence or in the newly created JADU. (Gov. Code, § 65852.22, subd. (a)(2).)

4. Manufactured Homes

- **Are manufactured homes considered to be an ADU?**

  Yes. An ADU is any residential dwelling unit with independent living facilities and permanent provisions for living,sleeping, eating, cooking and sanitation. An ADU includes a manufactured home. (Health & Saf. Code, § 18007.)

> Health and Safety Code section 18007, subdivision (a): **"Manufactured home,"** for the purposesof this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

5. Regional Housing Needs Allocation (RHNA) and the Housing Element

- **Do ADUs and JADUs count toward a local agency's RHNA?**

  Yes. Pursuant to Government Code section 65852.2 subdivision (m), and section 65583.1, ADUs and JADUs may be utilized towards the RHNA and Housing Element Annual Progress Report (APR) pursuant to Government Code section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are

counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other local applications. For more information, please contact HousingElements@hcd.ca.gov.

- **What analysis is required to count ADUs toward the RHNA in the housing element?**

  To count ADUs towards the RHNA in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability, and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR pursuant to Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures, and affordability monitoring programs.

- **Are ADUs required to be addressed in the housing element?**

  Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs. (Gov. Code, § 65583 and Health & Saf. Code, § 50504.5.) This list is available on HCD's ADU webpage.

6. Homeowners Associations

- **Can my local Homeowners Association (HOA) prohibit the construction of an ADU orJADU?**

  No. Assembly Bill 670 (2019) and AB 3182 (2020) amended Section 4751, 4740, and 4741 of the Civil Code to preclude common interest developments from prohibiting or unreasonably restricting the construction or use, including the renting or leasing of, an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable or may be liable for actual damages and payment of a civil penalty. Applicants who encounter issues with creating ADUs or JADUs within CC&Rs are encouraged to reach out to HCD for additional guidance. Refer to Section 4100 of the Civil Code for the meaning of a common interest development.

7. ADU Ordinances and Local Agencies

- **Are ADU ordinances existing prior to new 2020 laws null and void?**

  Maybe. ADU ordinances existing prior to the new 2020 laws, as well as newly adopted ordinances, are null and void when they conflict with State ADU Law. Subdivision (a)(4) of Government Code section 65852.2 states that an ordinance that fails to meet the requirements of subdivision (a) shall be null and void, and the local agency shall apply the state standards until a compliant ordinance is adopted. See the question on Enforcement below for more detail.

- **Do local agencies have to adopt an ADU ordinance?**

  No. Local governments may choose not to adopt an ADU ordinance. Should a local government choose not to adopt an ADU ordinance, any proposed ADU development would be subject only to standards set in State ADU Law. If a local agency adopts an ADU ordinance, it may impose zoning, development, design, and other standards in compliance with State ADU Law.

- **Is a local government required to send an ADU ordinance to HCD?**

  Yes. A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to HCD within 60 days after adoption. After the adoption of an ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with State ADU Law. (Gov. Code, § 65852.2, subd. (h)(1).)

  Local governments may also submit a draft ADU ordinance for preliminary review by HCD. HCD recommends that local agencies do so, as this provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with State ADU Law prior to adoption.

- **Are charter cities and counties subject to the new ADU laws?**

  Yes. State ADU Law applies to a local agency, which is defined as a city, county, or city and county, whether general law or chartered. (Gov. Code, § 65852.2, subd. (j)(5)).

  Further, pursuant to Chapter 659, Statutes of 2019 (AB 881), the Legislature found and declared State ADU Law addresses *"…a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution*" and concluded that State ADU Law applies to all cities, including charter cities.

- **Do the new ADU laws apply to jurisdictions located in the California Coastal Zone?**

  Yes. ADU laws apply to jurisdictions in the California Coastal Zone, but do not

necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (l).) Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws. For more information, see the California Coastal Commission 2020 Memo and reach out to thelocality's local Coastal Commission district office.

- **Do the new ADU laws apply to areas governed by the Tahoe Regional Planning Agency (TRPA)?**

  Possibly. The TRPA was formed through a bistate compact between California and Nevada. Under the compact, TRPA has authority to adopt ordinances, rules, and regulations, and those ordinances, rules, and regulations are considered federal law. Under this authority, TRPA has adopted certain restrictions that effectively limit lot coverage on developed land. State ADU Law may conflict to a degree with the TRPA standards, and to the extent that it does, the TRPA law likely preempts or overrides State ADU Law.

8. Enforcement

- **Does HCD have enforcement authority over ADU ordinances?**

  Yes. Pursuant to Government Code section 65852.2, subdivision (h), local agencies are required to submit a copy of newly adopted ADU ordinances within 60 days of adoption. HCD may thereafter provide written findings to the local agency as to whether the ordinance complies with State ADU Law. If HCD finds that the local agency's ADU ordinance does not comply with State ADU Law, HCD must provide a reasonable time, no longer than 30 days, for the local agency to respond. The local agency shall either amend its ordinance in accordance with HCD's written findings or adopt the ordinance without changes but include findings in its resolution explaining why the ordinance complies with State ADU Law despite HCD's findings. If the local agency does not amend its ordinance in accordance with HCD's findings or adopt a resolution explaining why the ordinance is compliant, HCD shall notify the local agency that it is in violation of State ADU Law. HCD may also notify the Attorney General of the local agency's violation. While an ordinance is non-compliant, the local agency shall apply state standards.

  In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify State ADU Law.

9. Senate Bill (SB) 9 (2021)

- **Does SB 9 have any impact on ADUs?**

  SB 9 (Gov. Code Sections 66452.6, 65852.21 and 66411.7) contains some overlaps with State ADU Law, but only on a relatively small number of topics. Please note that although HCD does not administer or enforce SB 9, violations of SB 9 may concurrently violate other housing laws that HCD does enforce, including, but not limited to, State ADU Law and State Housing Element Law. As local jurisdictions implement SB 9, including adopting local

ordinances, it is important to keep these and other housing laws in mind. For details regarding SB 9, please see HCD's SB 9 Factsheet.

10. Funding

- **Is there financial assistance or funding available for ADUs?**
  Effective September 20, 2021, the California Housing Finance Agency's (CalHFA) ADU Grant Program provides up to $40,000 in assistance to reimburse qualifying homeowners for predevelopment costs necessary to build and occupy an ADU or JADU on a lot with a single-family dwelling unit. The ADU Grant Program is intended to create more housing units in California by providing a grant to reimburse qualifying homeowners for predevelopment costs. Predevelopment costs include, but are not limited to, architectural designs, permits, soil tests, impact fees, property surveys, and energy reports. For additional information or questions, please see CalHFA's ADU Grant Program at https://www.calhfa.ca.gov/adu or contact the CalHFA Single Family Lending Division at (916) 326-8033 or SFLending@calhfa.ca.gov.

Resources

Attachment 1: Statutory Changes (Strikeout/Italics and Underline)

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

Combined changes from AB 345, AB 3182, AB 881, AB 68, and SB 13 (Changes noted in strikeout, underline/italics)

Effective January 1, 2022, Section 65852.2 of the Government Code is amended to read:

65852.2.

(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of ~~Historic~~ *Historical* Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) ~~The~~ *Except as provided in Section 65852.26, the* accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is

converted to an accessory dwelling unitor to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasiblebased upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of anaccessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primaryresidence.

(1) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limitresidential growth.

(2) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on theapplication to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date thelocal agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. *If the local agency hasnot acted upon the completed application within 60 days, the application shall be deemed approved.* A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(3) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an

ordinance that complies with this section.
(4) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.
(5) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.
(6) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.
(7) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.
(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.
(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:
(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.
(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:
(i) 850 square feet.
(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.
(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local

development standards.
(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:
(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.
(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
(5) When there is a car share vehicle located within one block of the accessory dwelling unit.
(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:
(A) One accessory dwelling unit ~~or~~ *and* one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
(ii) The space has exterior access from the proposed or existing single-family dwelling.
(iii) The side and rear setbacks are sufficient for fire and safety.
(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:
(i) A total floor area limitation of not more than 800 square feet.
(ii) A height limitation of 16 feet.
(C) (i) Multiple accessory dwelling units within the 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, if each unit complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.
(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
(5) A local agency may require, as part of the application for a permit to create an accessory

dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, ifthe percolation test has been recertified, within the last 10 years.
(6)Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
(f)(1) Fees charged for the construction of accessory dwelling units shall be determined in accordance withChapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2)An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to bea new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
(3)(A) A local agency, special district, or water corporation shall not impose any impact fee upon the developmentof an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision
(b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include anyconnection fee or capacity charge charged by a local agency, special district, or water corporation.
(4)For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a localagency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee orcapacity charge, unless the accessory dwelling unit was constructed with a new single-family home.
(5)For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwellingunit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
(g)This section does not limit the authority of local agencies to adopt less restrictive requirements for the creationof an accessory dwelling unit.
(h)(1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
(2)(A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other

action authorized by this section.
(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shalldo one of the following:
(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despitethe findings of the department.
(3)(A) If the local agency does not amend its ordinance in response to the department's findings or does not adopta resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017,and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3of Title 2.
(j) As used in this section, the following terms mean:
(1)"Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes thefollowing:
(A)An efficiency unit.
(B)A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2)"Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
(3)"Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
(4)"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does notinclude a garage or any accessory structure.
(5)"Local agency" means a city, county, or city and county, whether general law or chartered.
(6)"Nonconforming zoning condition" means a physical improvement on a property that does not conform withcurrent zoning standards.
(7)"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entranceof the accessory dwelling unit.
(8)"Proposed dwelling" means a dwelling that is the subject of a permit application and that meets therequirements for permitting.
(9)"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and areavailable to the public.
(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on alot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the

effect or application ofthe California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code),except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
(m)A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, asspecified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with thisdivision.
(n)In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1)The accessory dwelling unit was built before January 1, 2020.
(2)The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time theaccessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o)This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
(Becomes operative on January 1, 2025)

Section 65852.2 of the Government Code is amended to read (changes from January 1, 2021 statute noted inunderline/italic):

65852.2.
(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned toallow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
(A)Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback,landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any realproperty that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
(C)Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
(D)Require the accessory dwelling units to comply with all of the following:
(i)The accessory dwelling unit may be rented separate from the primary residence, but may not be sold orotherwise conveyed separate from the primary residence.
(ii)The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
(iii)The accessory dwelling unit is either attached to, or located within, the proposed or

existing primary dwelling,including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in thesame location and to the same dimensions as an existing structure that is converted to an accessory dwelling unitor to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
(viii) Local building code requirements that apply to detached dwellings, as appropriate.
(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasiblebased upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of anaccessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primaryresidence.
(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limitresidential growth.
(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on theapplication to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date thelocal agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. *If the local agency hasnot acted upon the completed application within 60 days, the application shall be deemed approved.* A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs

of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) *(A)* This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or ~~imposed, including any owner-occupant requirement, except that~~ *imposed except that, subject to subparagraph (B),* a local agency may require *an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or* that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If

the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c)(1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements forboth attached and detached accessory dwelling units.

(2)Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A)A minimum square footage requirement for either an attached or detached accessory dwelling unit thatprohibits an efficiency unit.

(B)A maximum square footage requirement for either an attached or detached accessory dwelling unit that is lessthan either of the following:

(i)850 square feet.

(ii)1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C)Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size,for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d)Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessorydwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1)The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2)The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3)The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4)When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5)When there is a car share vehicle located within one block of the accessory dwelling unit.

(e)(1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an applicationfor a building permit within a residential or mixed-use zone to create any of the following:

(A)One accessory dwelling unit ~~or~~ *and* one junior accessory dwelling unit per lot with a proposed or existingsingle-family dwelling if all of the following apply:

(i)The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii)The space has exterior access from the proposed or existing single-family dwelling.

(iii)The side and rear setbacks are sufficient for fire and safety.

(iv)The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B)One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combinedwith a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i)A total floor area limitation of not more than 800 square feet.

(ii)A height limitation of 16 feet.

(C)(i) Multiple accessory dwelling units within the 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, if each unit complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shallallow up to 25 percent of the existing multifamily dwelling units.
(D)Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
(2)A local agency shall not require, as a condition for ministerial approval of a permit application for the creation ofan accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
(3)The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not requiredfor the primary residence.
(4)A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on asingle-family lot, subject to the requirements of paragraph (6) of subdivision (a).
~~(4)~~ *(5)* A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivisionbe for a term longer than 30 days.
~~(5)~~ *(6)* A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, ifthe percolation test has been recertified, within the last 10 years.
~~(6)~~ *(7)* Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1,2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
(f)(1) Fees charged for the construction of accessory dwelling units shall be determined in accordance withChapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2)An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to bea new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
(3)(A) A local agency, special district, or water corporation shall not impose any impact fee upon the developmentof an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision
(b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include anyconnection fee or capacity charge charged by a local agency, special district, or water corporation.
(4)For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory

dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~home.~~ *dwelling*.
(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:
(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
(j) As used in this section, the following terms mean:
(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located

on the same lot.
(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
(4) "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.
(5) "Local agency" means a city, county, or city and county, whether general law or chartered.
(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
(7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1) The accessory dwelling unit was built before January 1, 2020.
(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed.~~ *become operative on January 1, 2025.*

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 345 (Accessory Dwelling Units)

Effective January 1, 2022, Section 65852.26 is amended to read:

65852.26.

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency ~~may, by ordinance~~, *shall* allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The ~~property~~ *accessory dwelling unit or the primary dwelling* was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each *that* qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the~~property~~ *accessory dwelling unit or primary dwelling* if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the ~~property~~ *accessory dwelling unit or primary dwelling* as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the ~~property~~ *accessory dwelling unit or primary dwelling* that ensure the ~~property~~ *accessory dwelling unit and primary dwelling* will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(E) *If the tenancy in common agreement is recorded after December 31, 2021, it shall also include all of the following*

(i) Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

(ii) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviated the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

(iii) Procedures for dispute resolution among the parties before resorting to legal action.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

Effective January 1, 2021, Section 4740 of the Civil Code is amended to read (changes noted in strikeout, underline/italics) (AB 3182 (Ting)):

4740.

(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to ~~his or her~~ *their* separate interest.

(b) ~~Notwithstanding the provisions of this section, an owner of a separate interest in a common interest development may expressly consent to be subject to a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant.~~

(c) *(b)* For purposes of this section, the right to rent or lease the separate interest of an owner shall not be deemed to have terminated if the transfer by the owner of all or part of the separate interest meets at least one of the following conditions:

(1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the transfer is exempt, for purposes of reassessment by the county tax assessor.

(2) Pursuant to subdivision (b) of, solely with respect to probate transfers, or subdivision (e), (f), or (g) of, Section 1102.2, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement, as set forth in Section 1102.6.

(d) *(c)* Prior to renting or leasing ~~his or her~~ *their* separate interest as provided by this section, an owner shall provide the association verification of the date the owner acquired title to the separate interest and the name and contact information of the prospective tenant or lessee or the prospective tenant's or lessee's representative.

(e) *(d)* Nothing in this section shall be deemed to revise, alter, or otherwise affect the voting process by which a common interest development adopts or amends its governing documents.

(f) ~~This section shall apply only to a provision in a governing document or a provision in an amendment to a governing document that becomes effective on or after January 1, 2012.~~

Effective January 1, 2021 of the Section 4741 was added to the Civil Code, to read:

4741.
(a)An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.
(b)A common interest development shall not adopt or enforce a provision in a governing document or amendment to a governing document that restricts the rental or lease of separate interests within a common interest to less than 25 percent of the separate interests. Nothing in this subdivision prohibits a common interest development from adopting or enforcing a provision authorizing a higher percentage of separate interests to be rented or leased.(c) This section does not prohibit a common interest development from adopting and enforcing a provision in a governing document that prohibits transient or short-term rental of a separate property interest for a period of 30 days or less.
(d)For purposes of this section, an accessory dwelling unit or junior accessory dwelling unit shall not be construed as a separate interest.
(e)For purposes of this section, a separate interest shall not be counted as occupied by a renter if the separate interest, or the accessory dwelling unit or junior accessory dwelling unit of the separate interest, is occupied by the owner.
(f)A common interest development shall comply with the prohibition on rental restrictions specified in this section on and after January 1, 2021, regardless of whether the common interest development has revised their governingdocuments to comply with this section. However, a common interest development shall amend their governing documents to conform to the requirements of this section no later than December 31, 2021.
(g)A common interest development that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars ($1,000).
(h)In accordance with Section 4740, this section does not change the right of an owner of a separate interest who acquired title to their separate interest before the effective date of this section to rent or lease their property.

Effective January 1, 2020, Section 65852.22 of the Government Code was amended to read:

65852.22.
(a)Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:
(1)Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residenceswith a single-family residence built, or proposed to be built, on the lot.
(2)Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the

structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, landtrust, or housing organization.
(3)Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permittingagency, and shall include both of the following:
(A)A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-familyresidence, including a statement that the deed restriction may be enforced against future purchasers.
(B)A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
(4)Require a permitted junior accessory dwelling unit to be constructed within the walls of proposed or existing single-family residence.
(5)Require a permitted junior accessory dwelling to include a separate entrance from the main entrance tothe proposed or existing single-family residence.
(6)Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:
(A) A cooking facility with appliances.
(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
(b)(1) An ordinance shall not require additional parking as a condition to grant a permit.
(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.
(c)An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted witha permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.
(d)For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not beconsidered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city andcounty, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether thesingle-family residence includes a junior accessory dwelling unit or not.
(e)For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessorydwelling unit shall not be considered a separate or new dwelling unit.
(f)This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as

that ordinance or regulation applies uniformly to all single- family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.
(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.
(h) For purposes of this section, the following terms have the following meanings:
(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 was added to the Health and Safety Code, immediately following Section 17980.11, to read:

17980.12.
(a)(1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:
(A) The accessory dwelling unit was built before January 1, 2020.
(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.
(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.
(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).
(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.
(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units

Effective January 1, 2020, Section 4751 was added to the Civil Code, to read (AB 670 (Friedman)):

4751.
(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.
(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6
AB 671 Accessory Dwelling Units

Effective January 1, 2020, Section 65583(c)(7) of the Government Code was added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).
Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 was added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.
(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.
(b) The list shall be posted on the department's internet website by December 31, 2020.
(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2 & TITLE 7, DIVISION 2, CHAPTER 1, ARTICLE 1
SB 9 Housing development: approvals

Effective January 1, 2022, Section 65852.21 was added to the Government Code, to read:

65852.21. *(a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:*
(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.
(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:
(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
(C) Housing that has been occupied by a tenant in the last three years.
(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application. 94 — 3 — Ch. 162
(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:
(A) If a local ordinance so allows.
(B) The site has not been occupied by a tenant in the last three years.
(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
(b)(1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.
(2)(A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. (B)(i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:
(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:
(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
(B) There is a car share vehicle located within one block of the parcel. (2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.
(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is 94 Ch. 162 — 4 — no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.
(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.
(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.
(i) For purposes of this section, all of the following apply:
(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.
(2) The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
(3) "Local agency" means a city, county, or city and county, whether general law or chartered.
(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.
(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

Section 66411.7 is added to the Government Code, to read:

66411.7. *(a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:*
(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet. (B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.
(3) The parcel being subdivided meets all the following requirements:
(A) The parcel is located within a single-family residential zone.
(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.
(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing: (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. (iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
(iv) Housing that has been occupied by a tenant in the last three years.
(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section. (G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.
(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:
(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.
(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.
(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.
(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.
(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.
(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:
(1) Easements required for the provision of public services and facilities.
(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way. (3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:
(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.
(B) There is a car share vehicle located within one block of the parcel.
(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses. (g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.
(2) This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.
(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.
(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.
(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.
(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.
(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.
(m) For purposes of this section, both of the following shall apply:
(1) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
(2) "Local agency" means a city, county, or city and county, whether general law or chartered.
(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.
(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

Attachment 2: ADU Resources

ACCESSORY DWELLING UNITS: CASE STUDY

By the United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats— are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

ADU UPDATE: EARLY LESSONS AND IMPACTS OF CALIFORNIA'S STATE AND LOCAL POLICY CHANGES

By David Garcia (2017)
Terner Center for Housing and Innovation, UC Berkeley

As California's housing crisis deepens, innovative strategies for creating new housing units for all income levels are needed. One such strategy is building Accessory Dwelling Units (ADUs) by private homeowners. While large scale construction of new market rate and affordable homes is needed to alleviate demand-driven rent increases and displacement pressures, ADUs present a unique opportunity for individual homeowners to create more housing as well. In particular, ADUs can increase the supply of housing in areas where there are fewer opportunities for larger-scale developments, such as neighborhoods that are predominantly zoned for and occupied by single-family homes.

In two of California's major metropolitan areas -- Los Angeles and San Francisco -- well over three quarters of the total land area is comprised of neighborhoods where single-family homes make up at least 60 percent of the community's housing stock. Across the state, single-family detached units make up 56.4 percent of the overall housing stock. Given their prevalence in the state's residential land use patterns, increasing the number of single- family homes that have an ADU could contribute meaningfully to California's housing shortage.

ACCESSORY DWELLING UNITS AS LOW-INCOME HOUSING: CALIFORNIA' FAUSTIAN BARGAIN

By Darrel Ramsey-Musolf (2018)
University of Massachusetts Amherst, ScholarWorks@UMass Amherst

In 2003, California allowed cities to count accessory dwelling units (ADU) towards low-income housing needs. Unless a city's zoning code regulates the ADU's maximum rent, occupancy income, and/or effective period, then the city may be unable to enforce low-income occupancy. After examining a stratified random sample of 57 low-, moderate-, and high-income cities, the high-income cities must proportionately accommodate more low-income needs than low-income cities. By contrast, low-income cities must quantitatively accommodate three times the low- income needs of high-income cities. The sample counted 750 potential ADUs as low-income housing. Even though 759 were constructed, no units were identified as available low-income housing. In addition, none of the cities' zoning codes enforced low-income occupancy. Inferential tests determined that cities with colleges and high incomes were more probable to count ADUs towards overall and low-income housing needs. Furthermore, a city's count of potential ADUs and cities with high proportions of renters maintained positive associations with ADU production, whereas a city's density and prior compliance with state housing laws maintained negative associations. In summary, ADUs did increase local housing inventory and potential ADUs were positively associated with ADU production, but ADUs as low-income housing remained a paper calculation.

IMPLEMENTING THE BACKYARD REVOLUTION: PERSPECTIVES OF CALIFORNIA'S ADU OWNERS (2022)

By Karen Chapple, Dori Ganetsos, and Emmanuel Lopez (2022)
UC Berkeley Center for Community Innovation

The report presents the findings from the first-ever statewide ADU owner survey in California.

JUMPSTARTING THE MARKET FOR ACCESSORY DWELLING UNITS: LESSONS LEARNED FROM PORTLAND, SEATTLE AND VANCOUVER

By Karen Chapple et al (2017)
Terner Center for Housing and Innovation, UC Berkeley

Despite government attempts to reduce barriers, a widespread surge of ADU construction has not materialized. The ADU market remains stalled. To find out why, this study looks at three cities in the Pacific Northwest of the United States and Canada that have seen a spike in construction in recent years: Portland, Seattle, and Vancouver. Each city has adopted a set of zoning reforms, sometimes in combination with financial incentives and outreach programs, to spur ADU construction. Due to these changes, as well as the acceleration of the housing crisis in each city, ADUs have begun blossoming.

THE MACRO VIEW ON MICRO UNITS

By Bill Whitlow, et al. – Urban Land Institute
(2014)Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

REACHING CALIFORNIA'S ADU POTENTIAL: PROGRESS TO DATE AND THE NEED FOR ADU FINANCE

Karen Chapple, et al. – Terner Center (2020)

To build upon the early success of ADU legislation, the study argues that more financial tools are needed to facilitate greater ADU development amongst low to moderate income homeowners who do not have access to cash saving and cannot leverage home equity. The study recommends that the federal government create ADU-specific construction lending programs. In addition, California could lead this effort by creating a program to assist homeowners in qualifying for ADU construction loans.

RETHINKING PRIVATE ACCESSORY DWELLINGS

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

One of the large impacts of single-use, single-family detached zoning has been to severely shrink the supply of accessory dwellings, which often were created in or near primary houses. Detached single-family dwelling zones—the largest housing zoning category—typically preclude more than one dwelling per lot except under stringent regulation, and then only in some jurisdictions. Bureaucratically termed "accessory dwelling units" that are allowed by some jurisdictions may encompass market-derived names such as granny flats, granny cottages, mother-in-lawsuites, secondary suites, backyard cottages, casitas, carriage flats, sidekick houses, basement apartments, attic apartments, laneway houses, multigenerational homes, or home-within-a-home.

REGULATION ADUS IN CALIFORNIA: LOCAL APPROACHES & OUTCOMES

By Deidra Pfeiffer (May 16, 2019)
Terner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation's housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting— contribute to these goals. This research helps to fill this gap by using data from the Terner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2)

a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging inplace. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to helpalign formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

SECONDARY UNITS AND URBAN INFILL: A LITERATURE REVIEW

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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December 21, 2022

Jonathan Lait, Director
Planning and Development Services
City of Palo Alto
250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301

Dear Jonathan Lait:

RE: City of Palo Alto Accessory Dwelling Unit (ADU) Ordinance – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) thanks the City of Palo Alto (City) for submitting accessory dwelling unit (ADU) Ordinance Number 5507 (Ordinance) and for its response to HCD's December 23, 2021, written findings of non-compliance. HCD appreciates the time and effort the City took in crafting its February 3, 2022, response, and for the conversation between City staff and HCD Analyst Lauren Lajoie on February 2, 2022. Nevertheless, HCD has concerns with the City's response as it fails to address identified inconsistencies between the City's ADU ordinance and State ADU Law, as outlined in this letter.

HCD requests that the City respond to this letter no later than January 20, 2023, with a detailed plan of action and timeline, to bring its Ordinance into compliance pursuant to Government Code section 65852.2, subdivision (h)(2)(B).

Background and Summary of Issues
In its December 23, 2021, findings, HCD detailed where it found the Ordinance violates Government Code section 65852.2. In its February 3, 2022, letter, the City responded point by point to the findings as they were presented in the HCD letter. While the responses indicate a willingness to come into compliance with state law, HCD remains concerned that the proposed changes to the City's Ordinance are insufficient. This letter will address HCD's findings for which the City's response and/or commitment to correct was not satisfactory and where HCD still considers an inconsistency between the Ordinance and State ADU Law.

1) **HCD's Original Finding**
Daylight Plane - Section 18.09.040(b): Table 2 states that "daylight plane" acts as a limit on the height of ADUs. In many instances, this may not be a problem; however, daylight plane concerns cannot be used to unduly limit the height of an ADU. ADUs

are permitted up to 16 feet high. (Gov. Code, § 65852.2, subds. (c)(2)(C), (e)(1)(B)(ii).) Therefore, in considering restrictions that the City is imposing on ADUs for daylight planes, the ordinance should note the 16-foot height allowable for ADUs. This Table must be amended to clarify this point.

Palo Alto's Response
"Please note that the City's daylight plane regulations do not apply to subdivision (e) ADUs, which are governed by PAMC Section 18.09.030. The City will add a clarifying sentence at the top of Section 18.09.040 explaining that none of the regulations in PAMC 18.09.040 apply to subdivision (e) ADUs. In addition, the City will add a clarifying statement that the regulations in PAMC 18.09.040 are not intended to limit the conversion of existing structures to ADUs or JADUs. For all other ADUs; however, the City has requested clarity on HCD's position on daylight plane on numerous occasions, most recently by email dated August 8, 2021. Please see this email, which is attached, for an explanation of the City's position. The City looks forward to continued discussion of this topic."

HCD's Follow-up Response
On February 23, 2022, HCD received a copy of an email from Assistant City Attorney (ACA) Albert Yang dated August 30, 2021. ACA Yang sought clarification on behalf of the City on whether local government could enforce a development standard that would require that any portion of an ADU fall below 16 feet in height. The email states: "Subdivision (c)(2)(C) provides that a local agency may not establish "[1] any other minimum or maximum size for an accessory dwelling unit, [2] size based upon a percentage of the proposed or existing primary dwelling, or [3] limits on lot coverage, [4] floor area ratio, [5] open space, and [6] minimum lot size [. . .] that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." ACA Yang argues that the law is very specific regarding the development standards addressed and it (*the subdivision)* specifically recognizes that the list does not encompass all development standards. ACA Yang states, "The specific development standards addressed in subdivision (c)(2)(C) do not include daylight plane standards." ACA Yang impliedly concludes that because the development standards, which ACA Yang numbered from [1] through [6], do not list daylight plane standards, the City may impose daylight plane standards over the minimum 16-foot height requirement.

However, the City incorrectly cited subdivision (c)(2)(C) above; thereby, creating a list of "development standards" from portions of (c)(2)(A) and (c)(2)(B)(i) and (ii) and conflated these with "other local development standards" found in subdivision (c)(2)(C). Accurately cited, subdivision (c)(2)(C) states:

> (C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot

coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

State ADU Law authorizes a local agency to establish the minimum and maximum size requirements for ADUs in subdivision (c)(1), but any such size requirement must allow for a minimum height of 16 feet while being constructed in compliance with all other local development standards. This height requirement is meant to be in harmony with local development standards. Because the subdivision has set the minimum height, authorized by statute, local design standards set in the ordinance cannot invalidate this provision, pursuant to Government Code section 65852.2 (a)(5). Therefore, **the minimum height of all proposed ADUs is 16 feet and cannot be limited by Daylight Plane restrictions**. Table 2 must be amended to clarify this point. Please note that SB 897 (2022), effective January 1, 2023, amends this subdivision, and adds provisions regarding the minimum height for detached and attached ADUs.

2) **HCD's Original Finding**
Floor Area & JADUs - Section 18.09.040(b): Development standards can account for ADUs in their measurement of the floor area restrictions or ratio (FAR). But these standards may not account for or consider JADUs. A JADU may not be included in this calculation, because a JADU is a unit that is contained entirely within a single-family residence. (Gov. Code § 65852.22, subd. (h)(1).) Footnote 4 of Table 2 impermissibly includes JADUs as part of the FAR calculations. This footnote must be amended to clarify this point.

Palo Alto's Response
"Footnote 4 of Table 2 provides additional FAR on a site for ADUs and JADUs. This is an incentive to promote production of such units without limiting the development potential of a primary unit. Because a JADU is contained entirely within the space of a single-family residence, it would normally be included in the floor area of the primary unit. Footnote 4 provides an opportunity for a property owner to exempt all JADU square footage from the calculation of floor area for the primary unit. The removal of JADUs from footnote 4 would only serve to restrict the development of JADUs. The City will attempt to clarify the language of this footnote."

HCD's Follow-up Response
HCD supports the City's attempt to add clarifying language. Converting an area within an existing home should not be counted. To clarify footnote 4 in Table 2, the City could include, for example, "This provision applies to JADUs in **proposed** single-family dwellings, or remodels that increase the square footage of a single-family dwelling."

3) **HCD's Original Finding**
Noise-Producing Equipment - Section 18.09.040(h): Local agencies may impose development standards on ADUs; however, these standards shall not exceed state standards. Section 18.09.040(h) states that noise-producing equipment "shall be located outside of the setbacks." This section must be revised to only refer to ADUs since setbacks are not required for JADUs. In addition, this setback for noise-producing equipment for ADUs must be revised to make clear that this setback requirement will not impede the minimum state standards of four-foot setbacks. (Gov. Code, § 65852.2, subd. (c)(2)(C)).

Palo Alto's Response
"As noted above, the City will add a clarifying statement that the regulations in PAMC 18.09.040 are not intended to limit the conversion of existing structures to ADUs or JADUs. For new construction; however, the City permits JADUs to build at a lesser setback than a single-family home normally would. Therefore, the removal of JADUs from this section will only serve to restrict the development of JADUs.

"Additionally, the City's ordinance states that noise producing equipment needs to be placed outside the setback for an ADU or JADU. This means that the noise producing equipment itself cannot be placed closer than four feet to a property line for either type of structure; not that the ADU or JADU cannot be placed at those locations. This is consistent with the state setback requirements for an ADU."

HCD's Follow-up Response
JADUs are entirely within the walls of a proposed or existing single-family dwelling and as such not subject to any setback requirements. Therefore, the City should remove the reference to JADU from *Section 18.09.040(h).* The City writes, "For new construction; however, the City permits JADUs to be built at a lesser setback than a single-family home normally would." Please clarify this statement for us. HCD applauds the City's intention to promote JADUs by relaxing setback requirements. However, since setbacks do not apply to JADUs, the City would have to relax the setback requirements for the primary single-family dwelling to achieve the desired effect.

4) **HCD's Original Finding**
Corner Lots - Section 18.09.040(j) Design: This section states, "Except on corner lots, the unit shall not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit unless the entranceway to the accessory unit is located in the rear half of the lot. Exterior staircases to second floor units shall be located towards the interior side or rear yard of the property." These standards appear to apply only to the creation of ADUs and may unduly restrict the placement of an ADU on some lots. Local development standards provided by ordinance pursuant to subdivisions (a) through (d) of Government Code section 65852.2 do not apply to ADUs created under subdivision (e). Please consider eliminating this restriction or modifying it such that it applies "when feasible."

Palo Alto's Response
"As noted above, the City will add a clarifying sentence at the top of Section 18.09.040 explaining that none of the regulations in PAMC 18.09.040 apply to subdivision (e) ADUs. The City will clarify this is not applicable for subsection (e) ADUs. We are not aware of any evidence that this simple design requirement creates an excessive constraint on ADU production and that has not been our experience."

HCD's Follow-Up Response
Requirements such as stipulating the facing of entranceways or the location of stairways may unduly restrict the creation of ADUs on some lots. Statute for both ADUs (Gov. Code, § 65852.2, subd. (e)(1)(A)(ii)) and JADUs (Gov. Code, § 65852.22, subd. (a)(5)) require independent entry into the unit, and a constraint on the location of an entry door may prohibit the creation of an additional housing unit. In addition, this requirement could add significant expense if entry doors must be installed in an exterior wall instead of utilizing an existing doorway facing the same direction as the entryway to the primary dwelling. The City must either eliminate this restriction or modify it such that it applies "when feasible."

5) **HCD's Original Finding**
Parking - Section 18.09.040(k)(iv) Parking: The ordinance indicates if covered parking for a unit is provided in any district, the maximum size of the covered parking area for the accessory dwelling unit is 220 square feet. Further, under this section, the space for the covered parking count towards the total floor area for the site and the ADU if attached to the unit. Covered parking should not count towards the total floor area of the site as if it would unduly limit the allowable size of an ADU established by state law, nor should it directly count toward the area available for the ADU. Although standards within an underlying zone may apply when noted in the adopted ADU ordinance, they may not be more restrictive than those contained in state statute. (See, e.g., Gov. Code, § 65852.2, subs. (a)(1)(B), (a)(1)(D)(vii), (a)(1)(D)(x), (c), and (e).) The portion of this section stating "unit unless attached to the unit" should be deleted, or the section should otherwise be modified to comply with state law.

Palo Alto's Response
"As noted above, the City will add a clarifying sentence at the top of Section 18.09.040 explaining that none of the regulations in PAMC 18.09.040 apply to subdivision (e) ADUs.

"Currently, all covered parking in the single-family zones counts towards floor area for the site and dwelling unit. The City does not understand how this creates a standard that is more restrictive than that contained in state statute; none of the subsections cited in your letter speak to whether a garage for an ADU must be

exempted from the unit size for the ADU. Moreover, this provision does not create a constraint on ADU production, as a property owner may always choose to provide a detached garage, uncovered parking, or no parking at all for the ADU.

"The City has concerns that allowing attached garages onto these structures will incentivize individuals to illegally expand the unit into the garage, which would both exceed the City's ordinance, contain unpermitted construction, and potentially place the health and safety of the occupants at risk."

HCD's Follow-up Response
Covered parking does not count towards the total floor area of the ADU. An ADU is defined in Government Code section 65852.2, subdivision (j)(1), as "complete independent living facilities," and subdivision (j)(4) further specifies that the living area for the ADU "does not include a garage..." Thus, a covered parking space or garage, whether or not attached to a unit, would be considered "non-livable" space. Therefore, as stated in our original finding, covered parking should not count towards the total floor area of the site as it would unduly limit the allowable size of an ADU established by state law. Similarly, it should not directly count toward the area available for the ADU, as this could also restrict the size of the ADU. The addition of garage space to the ADUs livable space would violate ADU size requirements found in Government Code section 65852.2, subdivisions (a)(1)(D)(iv) and (v), and (c).

While the City raises concerns of potential illegal expansion, the City may not adopt an ordinance that would violate State ADU Law. The City may rely on its enforcement of codes and standards to mitigate its concerns. The City should remove the portion of this section stating "unless attached to the unit" or otherwise modify the section to comply with State ADU Law.

Conclusion

Given the deficiencies described above and in HCD's December 23, 2021, letter, the City's Ordinance is inconsistent with State ADU Law. HCD requests that the City respond to this letter no later than January 20, 2023, with a detailed plan of action and timeline, to bring its Ordinance into compliance pursuant to Government Code section 65852.2, subdivision (h)(2)(B). Specifically, to bring its ADU ordinance into compliance, the City must either amend the Ordinance according to HCD's findings to comply with State ADU Law (Gov. Code, § 65852.2, subd. (h)(2)(B)(i)) or readopt the Ordinance without changes. Should the City choose to readopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. (Gov. Code, § 65852.2, subd. (h)(2)(B)(ii), (h)(3)(A).)

HCD will review and consider any plan of action and timeline received from the City before January 20, 2023, in advance of taking further action authorized by Government Code section 65852.2.

HCD appreciates the City's efforts provided in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov.

Sincerely,

Shannan West
Housing Accountability Unit Chief

Los Altos Affordable Housing Alliance

March 18, 2024

Dear Chair Steinle and Planning Commisioners,

Thank you for reviewing and bringing into state compliance the city's ADU ordinance. We especially want to commend the city for eliminating the fees for ADU permits, since we support the encouragement of ADU development as essential to increasing our city's housing stock.

We would like to commend the city staff, particularly Nick Zornes and the Development Services team, for prioritizing and working diligently on implementing the programs and commitments from our Housing Element Update. It has taken steady dedication and a lot of hard work to keep moving forward, and we appreciate that our city is taking its commitments seriously. Creating pathways to more housing - whether that is streamlining processes for developers, re-evaluating parking requirements, or encouraging ADU development - strengthens our community for the future.

With appreciation,
LAAHA Steering Committee

LEAGUE OF WOMEN VOTERS®
OF LOS ALTOS-MOUNTAIN VIEW AREA

March 19, 2024

Re: March 21, 2024, Meeting, Agenda Item #2 (Comprehensive ADU Update)

Dear Chair Steinle and Members of the Planning Commission:

The League of Women Voters (LWV) supports policies that encourage the development of housing, particularly affordable housing. The League has encouraged the building of accessory dwelling units (ADUs) because they typically are more affordable by design.

The programs proposed regarding ADUs were included in the Housing Element Update (HEU) and should encourage development that will allow Los Altos to meet its Regional Housing Needs Assessment (RHNA) goals. We commend the City for its aggressive implementation of the HEU. The City will be ahead of the schedule it promised in the HEU if it implements the proposed ordinance now. The League supports the proposed changes that will bring the City's ordinance into compliance with state law and applauds Los Altos for its leadership in providing permit-ready ADU plans, which make it easier for homeowners to build this housing.

Please send any questions about this email to Sue Russell, Co-Chair of the Housing Committee, at housing@lwvlamv.org.

Sincerely,

Katie Zoglin

Katie Zoglin, President
Los Altos-Mountain View Area LWV

C: Gabe Engeland, City Manager
Melissa Thurman, City Clerk
Nick Zornes, Development Services Director
Jon Maginot, Assistant City Manager
PC PublicComment@losaltosca.gov