COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.1.	**SITE LOCATION:** Citywide
HEARING DATE: July 16, 2020	**GENERAL PLAN:** N/A
CASE NO.: Amendment No. A-027-2020	**ZONE:** N/A
APPLICANT: City of Garden Grove	
OWNER: N/A	**CEQA DETERMINATION:** Exempt

REQUEST:

Recommend approval to the City Council of a City-initiated zoning text amendment to Title 9 of the Garden Grove Municipal Code (Land Use Code) pertaining to the regulation of accessory dwelling units and junior accessory dwelling units to conform to changes in State law.

BACKGROUND:

Accessory Dwelling Units (ADUs), formerly known as second-units, have been identified by the State of California as providing an important affordable housing option essential to meeting the State's growing housing shortage.

In 1982, the State enacted legislation that authorized local jurisdictions to adopt provisions permitting second-units while maintaining local control. In 2002, Assembly Bill (AB) 1866 was adopted to update the second-unit law to require local jurisdictions to allow second-units by-right on lots developed with an existing single-family home, subject to reasonable zoning and development standards requirements.

In 2016, Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 were adopted amending State law to further restrict local control over second-units for the purpose of allowing property owners more flexibility to build ADUs through new construction or through the conversion of existing permitted structures. The significant State law changes included new parking requirements for ADUs; allowing ADU conversions within existing permitted spaces; and allowing local jurisdictions the option to allow for Junior Accessory Dwelling Units (JADUs).

State law defines an ADU as an attached or a detached residential dwelling unit that provides complete and independent living facilities, including kitchen and bathroom facilities, for one or more persons, and is located on a lot with a proposed or existing primary residence. A JADU is a unit that is no more than 500 square feet in size and is contained entirely within a single-family residence, with a cooking facility, and

which may include separate or shared bathroom facilities with the single-family residence.

To comply with the 2016 State law requirements, the City Council adopted Ordinance No. 2882 on June 13, 2017. The ordinance updated definitions for ADUs; established parking requirements in compliance with State law for ADUs; established a maximum ADU unit size of 800 square feet; established a minimum lot size of 7,200 square feet to construct an ADU; established building setbacks for ADUs; allowed ADU conversions; and established other requirements to facilitate the creation of ADUs in R-1 (Single-Family Residential) zoned properties developed with an existing single-family residence. The ordinance did not allow for JADUs.

In 2019, the State legislature adopted of series of bills, Senate Bill (SB) 13 and Assembly Bills (AB) 68, AB 587, AB 671 and AB 881, that became effective on January 1, 2020, which further restricted local control over ADUs and JADUs in order to facilitate more housing production. The State law changes significantly restrict and preempt local jurisdiction's authority to regulate certain aspects of ADUs and JADUs, but still allows local jurisdictions to regulate other aspects of ADUs and JADUs. The proposed zoning text amendment will bring the City's regulations and development standards for ADUs and JADUs in compliance with the new State law. Pursuant to State law, local jurisdictions that do not adopt a new ordinance consistent with State law are prohibited from imposing any zoning regulations on ADUs and JADUs beyond what is specified in State law.

During the interim period, from January 1, 2020 to the present, the City has been applying the new State law requirements to all ADU and JADU projects submitted for plan check review, and has continued to issue building permits for their construction.

To date, a total of 681 building permits have been issued for ADU applications received since 2017. The following chart, Table 1, identifies the total number of building permits issued for each type of ADU construction by year since 2017.

Table 1: ADUs Building Permits Issued by Year

Year	New ADU	ADU Conversion	Total
2017	18	7	25
2018	162	55	217
2019	239	55	294
2020	114	31	145
		Total to Date	**681**

DISCUSSION

The proposed code amendment is intended to conform the City of Garden Grove's regulations that pertain to ADUs and JADUs to current State law.

The City's current ADU regulations are contained within Chapter 9.08 of the Garden Grove Municipal Code, which only applies to properties zoned for single-family residential uses. The proposed code amendment will repeal the existing ADU regulations in Chapter 9.08, and will add an entirely new chapter, Chapter 9.54 Accessory Dwelling Units and Junior Accessory Dwelling Units, to Title 9 of the Municipal Code that will contain provisions to regulate ADUs and JADUs in all zones where single-family and multi-family uses are permitted in the City. In addition, Section 9.04.060.C will be amended to update the definition for Accessory Dwelling Unit and to add a definition for Junior Accessory Dwelling Unit.

The following discussion describes the most significant State law changes affecting ADUs and JADUs that have been incorporated in the proposed ordinance.

Permitted Zones

The 2017 ADU Ordinance only permitted ADUs in the R-1 (Single-Family Residential) zone. State law now requires ADUs to be permitted on lots where either single-family and multi-family residential developments are permitted. To comply with State law, ADUs will now be permitted on any lot in the City that is zoned to allow single-family or multiple-family residential uses, including, but not limited to, the R-1 (Single-Family Residential), R-2 (Limited-Multiple Residential), R-3 (Multiple-Family Residential), the Mixed Use zones, and residential Planned Unit Developments.

Prior to the recent State law changes, local jurisdictions had the discretion to allow JADUs. When the 2017 ADU Ordinance was adopted, the ordinance did not permit JADUs. State law now requires local jurisdictions to allow JADUs in all zones that allow single-family uses. To comply with State law, the proposed ordinance will allow JADUs within proposed or existing legally developed single-family dwellings on any lot in the City that is zoned to allow single-family residential uses.

Minimum Lot Size

The 2017 ADU Ordinance established a minimum lot size of 7,200 square feet to allow the construction of a new ADU. State law now prohibits local jurisdictions from imposing a minimum lot size requirement to develop a new ADU. State law also prohibits a minimum lot size requirement for ADU conversions and JADUs. The proposed ordinance will comply with State law and will not impose a minimum lot size to develop ADUs and JADUs.

Number of ADUs and JADUs Permitted

The 2017 Ordinance limited the number of ADUs to one per lot developed with a single-family residence. State law now requires local jurisdictions to allow one (1) ADU and/or one (1) JADU on a lot developed or proposed to be developed with a single-family residence.

In addition, State law requires local jurisdictions to allow at least two (2) detached ADUs on lots developed or proposed to be developed with a multi-family

development, and to allow multiple ADUs to be constructed within portions of existing multi-family dwelling structures not used as livable space, such as storage rooms, boiler rooms, passageways, attics, basements, garages, etc. up to 25% of the existing multi-family units.

To comply with State law, the proposed ordinance will allow one (1) ADU, constructed through new construction or through a conversion, and/or one (1) JADU on a lot developed or proposed to be developed with a single-family residence, as applicable.

Furthermore, the proposed ordinance will allow up to two (2) attached or detached ADUs or converted ADUs in detached accessory structures to be developed on a lot with a proposed or existing multi-family development. Also, multiple ADUs will be allowed to be constructed within portions of existing multi-family dwelling structures not used as livable space, such as storage rooms, boiler rooms, passageways, attics, basements, garages, etc., up to 25% of the existing multi-family units.

It should be noted that, pursuant to State law, density requirements are not applicable to ADUs and JADUs, and these units can exceed the maximum allowable density requirements of the zone.

Minimum and Maximum Unit Sizes

The 2017 ADU Ordinance limited the maximum unit size of ADUs to 800 square feet. At the time, State law allowed detached ADUs up to a maximum size of 1,200 square feet, and attached ADUs up to 50% of the existing primary unit or 1,200 S.F.; however, local jurisdictions had the discretion to establish reasonable minimum and maximum unit sizes for attached and detached ADUs, so long as such limits did not unreasonably restrict the ability of homeowners to create ADUs.

The 2017 Ordinance also established minimum unit size requirements based on the unit configuration, including, 220 square feet for an efficiency unit, 500 square feet for studio unit, 600 square feet for a one (1) bedroom unit, and 700 square feet for a two (2) bedroom unit.

State law continues to limit the maximum unit size of detached ADUs to 1,200 square feet, and maximum unit size of an attached ADUs to fifty (50) percent of the floor area of the primary unit. Nevertheless, local jurisdictions continue to have the discretion to establish a maximum ADU unit size provided the maximum ADU size is not less than 850 square feet for a studio or one bedroom unit, or 1,000 square feet for more than a one bedroom unit.

During the interim period since January 1, 2020, the City has approved ADUs up to 1,200 square feet in size, which is consistent with State law. Since January 1, the City has issued 54 building permits for new ADUs with a building area greater than 800 square feet.

The proposed ordinance will be consistent with State law, and will allow detached ADUs up to a maximum unit size of 1,200 square feet. For attached ADUs, the ADU

will be limited to fifty (50) percent of the floor area of the primary unit or 1,200 square feet, whichever is less. If the primary residence is less than 1,600 square feet, an ADU of at least 800 square feet will be allowed.

In addition, State law prohibits local jurisdictions from imposing a minimum ADU unit size that would prevent the construction of an efficiency unit. Efficiency units are smaller units, about 220 square feet in size, as determined by the California Building Code, that include a kitchen, sink, cooking appliance, refrigerator, and bathroom facility. The proposed ordinance will establish minimum unit size requirements based on the unit configuration that comply with State law, including, 220 square feet for a studio or efficiency unit, 500 square feet for a one (1) bedroom unit, 700 square feet for two (2) bedroom unit, and 900 square feet for a three (3) bedroom unit.

Finally, State law limits the maximum size of an JADU to 500 square feet. The proposed ordinance will comply with State law, and will allow JADUs to range in size from 220 square feet to 500 square feet.

Number of Bedrooms Permitted

The 2017 ADU Ordinance limited the number of bedrooms in an ADU to two (2) bedrooms. State law does not regulate the maximum number of bedrooms allowed in an ADU. At the time, the City determined that an ADU with a minimum unit size of 700 square feet could accommodate two (2) bedrooms while continuing to provide a common area with ample space to accommodate a living room, kitchen, and bathroom facilities. Since January 1, 2020, the City has only approved ADUs with up to two (2) bedrooms pending approval of a new ordinance that would allow for more than two (2) bedrooms. Staff has observed that ADUs with a living area of 900 square feet or greater can accommodate up to three (3) bedrooms while continuing to provide ample space for a living room, kitchen, and bathroom facilities. Allowing ADUs with up to three (3) bedrooms gives larger households the opportunity to live in an ADU with sufficient sleeping rooms to serve the needs of the occupants, especially the needs of larger families. The proposed ordinance allows for a maximum of three (3) bedrooms in an ADU with a minimum unit size of 900 square feet.

Since JADUs will be limited to a maximum size of 500 square feet, the maximum number of bedrooms that can be accommodate within a JADU is one (1) bedroom.

Required ADU Parking

State law establishes the minimum parking requirements for ADUs and JADUs, and those parking requirements have not changed since adoption of the 2017 ADU Ordinance. Pursuant to State law, ADUs are required to provide one (1) parking space per unit or one (1) parking space per bedroom, whichever is less. These parking spaces can be designed as tandem parking located along the existing driveway or within a setback area. In addition, the State law prohibits local jurisdictions from requiring parking if the ADU is located within one-half mile from public transit, including a bus stop; if the ADU is located within an architecturally and historically significant district; if the ADU is part of the existing primary residence or

an existing accessory structure (ADU conversion); if on-street parking permits are required, but not offered to the occupant of the ADU; or if a car-share vehicle station is located one block from the ADU. State law also exempts JADUs from parking requirements.

The proposed ordinance will comply with State law, and will require one (1) parking space for ADUs not located within one-half mile walking distance from a bus stop. Furthermore, no parking will be required for ADU conversions or for JADUs pursuant to State law.

Replacement Parking

The 2017 ADU Ordinance required parking that served the primary residence to be replaced as open parking if a garage or carport was demolished or converted to accommodate an ADU. State law now prohibits local jurisdictions from requiring replacement parking if a garage, carport or covered parking structures is demolished to accommodate an ADU or ADU conversion.

In addition, the 2017 Ordinance required the primary unit to comply with the current parking requirements as part of the creation of a new ADU. If the primary unit was not in compliance with the parking requirements, the primary unit was made to comply with the parking requirements. State law now prohibits local jurisdictions from imposing nonconforming zone corrections as a condition for the creation of an ADU or AJDU.

The proposed ordinance will comply with State law, and will not require replacement parking if a garage, carport or covered parking structures are demolished to accommodate an ADU or ADU conversion. The proposed ordinance will no longer require nonconforming zone corrections as a condition for approving an ADU or JADU.

ADU Setbacks

The 2017 ADU Ordinance required detached ADUs to maintain a rear and interior side yard setback of 5 feet, and attached ADUs to maintain a rear setback of 10 feet and an interior side setback of 5 feet. State law now requires a minimum side and rear yard setback of 4 feet for all new, attached or detached, ADUs.

The proposed ordinance will comply with State law, and will require detached and attached ADUs to maintain a rear and side yard setback of 4 feet. ADUs will be required to continue to comply with the required front setback of the respective zone. ADU conversions and JADUs are not subject to setback requirements pursuant to State law, but must comply with applicable Building Code requirements for setbacks.

Lot Coverage and Open Space Requirements

The 2017 ADU Ordinance required lots developed with new ADUs to continue to maintain 1,000 square feet of open space in the required rear yard setback area and counted an ADU as part of the 50% lot coverage calculation for the R-1 Zone. State

law now allows ADUs in all residential zones and exempts new ADUs with a building area of 800 square feet or less from complying with lot coverage and open space requirements. The new proposed ordinance does not establish express uniform lot coverage or open space requirements for ADUs. However, except to the extent prohibited by State law, a new ADU will be required to conform to the lot coverage, open space, and other general development standards applicable to the lot on which it is located. Also, consistent with State law, the proposed ordinance provides that when the application of a development standard related to lot coverage or open-space would prohibit the construction of an attached or detached ADU of at least 800 square feet, such standard will be waived to the extent necessary to allow construction of an ADU of up to 800 square feet.

Pursuant to State Law, ADU conversions and JADUs are exempt from lot coverage and open space requirements.

Other ADU and JADU Requirements

The 2017 ADU Ordinance required property owners to reside on the property developed with an ADU. State law no longer requires owner-occupancy of one of the units; however, for properties developed with JADUs, local jurisdictions can impose the owner-occupancy requirement. The proposed ordinance will impose owner-occupancy requirements for JADUs. The property owner will be required to occupy the primary residence or the JADU, and will be required to record a deed restriction by which the property owner acknowledges and agrees to comply with the JADU provisions of Title 9 of the Municipal Code.

In addition, the proposed ordinance will expressly prohibit ADUs and JADUs from being rented as short-term rentals with occupancies of 30-days or less, which is consistent with State law.

The 2017 ADU Ordinance required ADUs to be served by the same water, sewer, gas, and electrical connections that served the primary residence. With removal of the owner-occupancy requirement for ADUs, ADUs and the primary residence can be rented to different households that may now necessitate the need for separate utilities meters for the ADU. The proposed ordinance will allow (but not require) separate utilities for ADUs; however, no separate utilities will be allowed for a JADU due to the owner-occupancy requirement.

State law has reduced the time a local jurisdiction has to review and approve plan check applications for ADUs and JADUs from 120 days to 60 days from the time a complete application is received by the City.

State law has limited the development impact fees that local jurisdictions can charge for ADUs and JADUs. ADUs and JADUs less than 750 square feet in size can no longer be charged impact fees, including traffic mitigation, parkway tree, park facility, and drainage fees. For ADUs greater than 750 square feet, the impact fees must be charged proportionately in relation to the square footage of the main unit.

A comprehensive comparison of the 2017 ADU Ordinance, the State law regulations, and proposed ADU and JADU regulations are provided in Exhibit "A". Also, Exhibit "B" provides a copy of the Accessory Dwelling Unit Memorandum prepared by Department of Housing and Community Development (HCD) that identifies the State law changes, and includes a redline copy of the State ADU statute identifying the recent changes.

Once the proposed ordinance is adopted by the City, a copy of the ordinance will be submitted to HCD for review for compliance with State law.

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Adopt the proposed Resolution recommending approval of Amendment No. A-027-2020 to the City Council.

LEE MARINO
Planning Services Manager

By: Maria Parra
Senior Planner

Exhibit "A"

Comparison of the 2017 ADU Ordinance, State Law Regulations, and Proposed ADU and JADU Ordinance

		2017 ADU Ordinance	State Law Requirements	Proposed ADU and JADU Ordinance
1	**Permitted Zone**	ADU only permitted in the R-1 zone developed with an existing single-family residence.	ADUs and JADUs permitted in single-family, multiple-family, and mixed-use zones where residential uses are allowed.	Complies with State law. ADUs and JADUs permitted on any lot that is zoned to allow single-family or multiple-family residential uses and that includes a proposed or existing legally developed single-family or multiple-family dwelling.
2	**Minimum Lot Size**	7,200 S.F.	Prohibits minimum lot size for ADUs and JADUs	Complies with State law. No minimum lot size requirement for ADUs and JADUs.
3	**Number of Permitted ADUs**	One (1) ADU permitted on a lot through new construction or conversion.	One (1) ADU, new construction or conversion, on a lot developed or proposed to be developed with a single-family residence. Up to two (2) ADUs permitted on lots developed or proposed to be developed with a multiple-family development. Multiple ADUs can be constructed within portion of existing multiple-family structures not used for livable space, such as storage rooms, boiler rooms, passageways, attics, basements, garages, etc., up to 25% of the existing multiple-family units.	Complies with State law. One (1) ADU, new construction or conversion, on a lot developed or proposed to be developed with a single-family residence. Up to two (2) attached or detached ADUs permitted on lots developed or proposed to be developed with a multi-family development. In addition, multiple ADUs can be constructed within portion of existing multiple-family structures not used for livable space, such as storage rooms, boiler rooms, passageways, attics, basements, garages, etc., up to 25% of the existing multiple-family units on the lot.

		2017 ADU Ordinance	State Law Requirements	Proposed ADU and JADU Ordinance
4	**Number of Permitted JADUs**	JADUs not permitted.	One (1) JADU within a proposed or existing single-family residence.	Complies with State law. One (1) JADU within a proposed or existing single-family residence.
5	**Maximum Unit Size**	Detached or Attached ADU: 800 S.F. ADU Conversion: Not subject to maximum unit size per State law.	Detached ADU: 1,200 S.F., but jurisdictions cannot impose a maximum unit size of less than 850 S.F. for a studio/ 1-bedrom unit or 1,000 S.F. for more than one bedroom unit. Attached ADU: 50% of primary residence. ADU Conversion: Not subject to maximum unit size per State law. JADU: 500 S.F.	Complies with State law. Detached ADU: 1,200 S.F. Attached ADU: 50% of primary residence or 1,200 S.F., whichever is less. Primary residence less than 1,600 S.F. allowed an 800 S.F. ADU. ADU Conversion: Not subject to maximum unit size per State law. JADU: 500 S.F.
6	**ADU and JADU Minimum Unit Sizes**	ADU: Efficiency Unit: 220 S.F. Studio: 500 S.F. 1-Bedroom: 600 S.F. 2-Bedrooms: 700 S.F.	Jurisdictions must allow at least a 220 S.F. efficiency unit for ADUs and JADUs.	ADU: Studio or Efficiency Unit: 220 S.F. 1-Bedroom: 500 S.F. 2-Bedrooms: 700 S.F. 3-Bedroom: 900 S.F. JADU: 220 S.F.
7	**Maximum Total Number of Bedrooms**	Up to 2 bedrooms.	No bedroom limit established.	Up to 3 bedrooms in an ADU based on the minimum unit size. JADU can be designed as a efficiency unit/studio or one-bedroom unit.
8	**ADU Parking**	ADU: 1 space per unit unless property is located one-half mile from a bus stop. ADU Conversion: No parking required.	No change to State law. ADU: 1 space per unit unless property is located one-half mile from a bus stop. ADU Conversion and JADU: No parking required.	Complies with State law. ADU: 1 space per unit unless property is located one-half mile from a bus stop. ADU Conversion and JADU: No parking required.

		2017 ADU Ordinance	State Law Requirements	Proposed ADU and JADU Ordinance
9	**Replacement Parking**	Required replacement parking for a garage conversion or if a garage/carport was demolished to accommodate an ADU. Also, nonconforming parking for primary residence had to comply with code.	No replacement parking required when a garage, carport or covered parking structure is demolished for an ADU or if a garage is converted into an ADU. Jurisdictions can no longer require nonconforming issues affecting the property, including parking, to comply with current code.	Complies with State law. No replacement parking required. Nonconforming issues affecting the primary residence will no longer be considered with construction of an ADU.
10	**Minimum Building Setbacks**	Attached ADU: 5 feet from side and 10 feet from rear property line. Detached ADU: 5 feet from side and rear property line. No setbacks required for ADU conversion per State law.	Minimum building setback for ADUs is 4 feet from any side and rear property line. No setbacks required for ADU conversions or JADUs, but limited to Building Code requirements.	Complies with State law. Minimum building setback for ADU is 4 feet from any side and rear property line. No setbacks required for JADUs or for ADU conversions, provided the side and rear yard setbacks of the existing converted structure are sufficient for fire and safety.
11	**ADU Building Height**	17 feet (one-story)	16 feet ADU conversion only required to comply with Building Code requirements.	Complies with State law. 17 feet (one-story). ADU conversion only required to comply with Building Code requirements.
12	**Lot Coverage and Open Space**	ADU required to comply with 50% lot coverage and 1,000 square feet of open space in the rear yard setback area.	Lot coverage and open space requirements cannot be applied if does not permit at least 800 S.F. ADU. ADU conversion and JADU exempted.	Complies with State law. ADUs must comply with lot coverage and open space requirements applicable to lot on which it is located (unless exempted by State law); however, these requirements waived to extent necessary to allow ADU up to 800 S.F. ADU conversions and JADUs exempted from lot coverage and open space requirements.

		2017 ADU Ordinance	State Law Requirements	Proposed ADU and JADU Ordinance
13	**Approval Process**	Ministerially within 120 days of complete ADU application	Ministerially within 60 days of complete ADU application	Complies with State law. Ministerially within time required by State law (i.e., 60 days of complete ADU application).
14	**Short-Term Rental**	Tenant occupancies of less than 30-days prohibited	Jurisdiction can prohibit short term rental of ADUs and JADUs.	Complies with State law. Tenant occupancies of 30-days or less prohibited for ADUs and JADUs.
15	**Owner Occupancy**	Required owner-occupancy of one of the units.	Owner-occupancy requirement for an ADU no longer allowed. Owner-occupancy restriction only applicable to JADUs.	Complies with State law. Owner-occupancy restriction for an ADU no longer required. Owner-occupancy restriction apply to JADUs.
16	**Ownership**	ADU cannot be sold separately from the primary residence.	ADU cannot be sold separately from the primary residence; however, new law changes allow ADUs to be sold separately if developed by a qualified nonprofit corporation and the unit is restricted as affordable. JADU cannot be sold separately.	Complies with State law. ADU cannot be sold separately from the primary residence; however, ADUs can be sold separately if developed by a qualified nonprofit corporation and the unit is restricted as affordable. JADU cannot be sold separately.
17	**Fire Sprinklers**	Not required for ADU if not required for primary residence.	Not required for an ADU or JADU if not required for the primary residence.	Complies with State law. Not required for ADU or JADU if not required for the primary residence.
18	**Impact Fees**	Subject to permit fees and impact fees. Impact fees collected for parkway tree, park facility fee (In Lieu Park), drainage, and traffic mitigation.	ADUs less than 750 S.F. exempt from impact fees. ADUs greater than 750 S.F., the impact fees must be charged proportionately to the square footage of the primary residence.	Complies with State law. ADUs less than 750 S.F. exempt from impact fees. ADUs greater than 750 S.F., the impact fees must be charged proportionately in relation to the square footage of the primary residence.

		2017 ADU Ordinance	State Law Requirements	Proposed ADU and JADU Ordinance
19	**Utility Connection**	Separate utilities not allowed for ADU, exempt for a water meter if require sprinklers required for ADU under the same water bill as the primacy residence.	No requirement in State law.	ADUs will be allowed to have separate utilities. JADUs not allowed to have separate utilities and must share utilities with the primary residence.

Exhibit B

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY
Gavin Newsom, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
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MEMORANDUM

DATE: January 10, 2020

TO: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: **Local Agency Accessory Dwelling Units**
Chapter 653, Statutes of 2019 (Senate Bill 13)
Chapter 655, Statutes of 2019 (Assembly Bill 68)
Chapter 657, Statutes of 2019 (Assembly Bill 587)
Chapter 178, Statutes of 2019 (Assembly Bill 670)
Chapter 658, Statutes of 2019 (Assembly Bill 671)
Chapter 659, Statutes of 2019 (Assembly Bill 881)

This memorandum is to inform you of the amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Section 65852.2, 65852.22 and Health & Safety Code Section 17980.12) and further address barriers to the development of ADUs and JADUs. (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881).

This recent legislation, among other changes, addresses the following:

- Development standards shall not include requirements on minimum lot size (Section (a)(1)(B)(i)).
- Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety.
- Eliminates owner-occupancy requirements by local agencies (Section (a)(6) & (e)(1)) until January 1, 2025.
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom (Section (c)(2)(B)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement offstreet parking spaces cannot be required by the local agency (Section (a)(1)(D)(xi)).

- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Section (a)(3) and (b)).
- Clarifies "public transit" to include various means of transportation that charge set fees, run on fixed routes and are available to the public (Section (j)(10)).
- Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit (Section (f)(3)).
- Defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Section (j)(2)).
- Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law (Section (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m).
- Permits JADUs without an ordinance adoption by a local agency (Section (a)(3), (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 or an interior entry into the single-family residence (Gov. Code Section 65852.22).
- Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency (Section (n).
- Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households (Gov. Code Section 65852.26).
- Removes covenants, conditions and restrictions (CC&Rs) 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 (Civil Code Section 4751).
- Requires local agency 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 Section 65583 and Health and Safety Code Section 50504.5) (Attachment D).

For assistance, please see the amended statutes in Attachments A, B, C and D. HCD continues to be available to provide preliminary reviews of draft ADU ordinances to assist local agencies in meeting statutory requirements. In addition, pursuant to Gov. Code Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact HCD's ADU team at adu@hcd.ca.gov.

ATTACHMENT A

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

(AB 881, AB 68 and SB 13 Accessory Dwelling Units)

(Changes noted in strikeout, underline/italics)

Effective January 1, 2020, 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 ~~criteria that may include, but are not limited to,~~ 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, ~~lot coverage,~~ 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 ~~Places.~~ *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, ~~buy~~ *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 ~~single-family~~ dwelling.

(iii) The accessory dwelling unit is either attached *to,* or located ~~within the living area of the~~ *within, the* proposed or existing primary ~~dwelling or~~ *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) ~~The total area of floorspace of~~ *If there is an existing primary dwelling, the total floor area of* an attached accessory dwelling unit shall not exceed 50 percent of the ~~proposed or existing primary dwelling living area or 1,200 square feet.~~ *existing primary dwelling.*

(v) The total *floor* area ~~of floorspace~~ 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 ~~garage~~ *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 unit or to a portion of an accessory dwelling unit, and a setback of no more than ~~five~~ *four* feet from the side and rear lot lines shall be required for an accessory dwelling

unit that is ~~constructed above a garage.~~ *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 feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to ~~a~~ 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 an accessory dwelling unit or converted to an accessory dwelling unit, ~~and~~ the local agency ~~requires~~ *shall not require* that those ~~offstreet~~ *offstreet* parking spaces be ~~replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).~~ *replaced.*
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(3) ~~When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application~~ *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, within 120 days after receiving the application~~. *permits. 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 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.* A local agency may charge a fee to reimburse it for costs ~~that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature,~~ *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 ~~subsequent to the effective date of the act adding this paragraph~~ 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. ~~In the event that~~ *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 ~~upon the effective date of the act adding this paragraph~~ 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) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot ~~zoned for residential use~~ that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be ~~utilized~~ *used* or imposed, *including any owner-occupant requirement,* except that 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.
(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) within 120 days after receiving the application.~~ *(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)~~ *(C)* ~~A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum~~ *Any other minimum* or maximum size for an accessory dwelling unit, ~~or~~ size based upon a percentage of the proposed or existing primary dwelling, ~~shall be established by ordinance~~ *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 ~~efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~ *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 ~~to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.~~ *within a residential or mixed-use zone to create any of the following:*

(A) One accessory dwelling unit or 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 water treatment system, a percolation test completed within the last five years, or, if the 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 with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2) ~~Accessory~~ *An accessory* dwelling ~~units~~ *unit* shall not be considered by a local agency, special district, or water corporation to be a new residential use for ~~the~~ purposes of calculating connection fees or capacity charges for utilities, including water and sewer ~~service.~~ *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 development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 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 any connection fee or capacity charge charged by a local agency, special district, or water corporation.
~~(A)~~ *(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.~~ *charge, unless the accessory dwelling unit was constructed with a new single-family home.*
~~(B)~~ *(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 ~~size~~ *square feet* or the number of its ~~plumbing fixtures,~~ *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) ~~Local~~ *(1)* ~~agencies~~ *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. ~~The department may review and comment on this submitted ordinance.~~ *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.
~~(i)~~ (j) As used in this section, the following terms mean:
~~(1) "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.~~
~~(2) "Local agency" means a city, county, or city and county, whether general law or chartered.~~
~~(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.~~
~~(4)~~ (1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit ~~which~~ *that* provides complete independent living facilities for one or more ~~persons.~~ *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.
~~(A)~~ (3) ~~An efficiency unit,~~ "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
~~(B)~~ (4) ~~A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~ "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) "Neighborhood" has the same meaning as set forth in Section 65589.5.
(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
~~(5)~~ (8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
(10) "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.

~~(6)~~ *(11)* "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.

~~(j)~~ *(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.

(Becomes operative on January 1, 2025)
Section 65852.2 of the Government Code is amended to read (changes from January 1, 2020 statute noted in underline/italic):

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 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 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 unit or 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 feasible based 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 an accessory 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 primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential 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 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 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. 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~~ on 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 a local agency may require that the property be used for rentals of terms longer than 30 days.~~ 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 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 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 may 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 may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) 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)~~ (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the 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 with Chapter 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 be a 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 development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 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 any connection 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) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(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.

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

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "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.

(11) "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.*

Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in strikeout, underline/italics) (AB 68 (Ting)):

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 residences with a single-family residence ~~already built~~ *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, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, 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-family residence, 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 ~~existing~~ walls of the ~~structure, and require the inclusion of an existing bedroom.~~ *proposed or existing single-family residence.*

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the ~~structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.~~ *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 sink with a maximum waste line diameter of 1.5 inches.~~

~~(B)~~ *(A)* A cooking facility with ~~appliances that do not require electrical service greater than 120 volts, or natural or propane gas.~~ *appliances*.

~~(C)~~ *(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 ~~whether~~ *if* the junior accessory dwelling unit ~~is in compliance~~ *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. ~~A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section.~~ *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 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 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 ~~the~~ purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, 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 the single-family residence includes a junior accessory dwelling unit or not.

(e) For ~~the~~ purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling 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.

~~(g)~~ *(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 ~~an existing~~ *a* single-family ~~structure.~~ *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 is added to the Health and Safety Code, immediately following Section 17980.11, to read (changes noted in underline/italics) (SB 13 (Wieckowski)):

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.

ATTACHMENT B

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 587 Accessory Dwelling Units

(Changes noted in underline/italics)

Effective January 1, 2020 Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

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, 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 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 qualified buyer occupies.

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

(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property 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.

(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.

ATTACHMENT C

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 4751 is 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.

ATTACHMENT D

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6
AB 671 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is 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 is 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.