Planning & Transportation Commission

Staff Report (ID # 7368)

Report Type: Action Items **Meeting Date:** 11/30/2016

Summary Title: Accessory Dwelling Unit Ordinance

Title: The Planning and Transportation Commission will Consider a Recommendation to the City Council for Adoption of an Ordinance to Update the City's Municipal Code Sections Regarding Accessory Dwelling Units (Second Dwelling Units) for Compliance with Recent State Laws and Other Changes to Encourage Construction of Accessory Dwelling Units. The Proposed Ordinance is Exempt from the California Environmental Quality Act (CEQA) per Sections 15301 and 15303.

From: Hillary Gitelman

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) adopt a motion recommending that the City Council adopt an ordinance (Attachment A) amending Title 18 (zoning) of the Palo Alto Municipal Code to implement new State law requirements regarding Accessory Dwelling Units and Junior Accessory Dwelling Units and to make other changes encouraging construction of such units and finding the ordinance exempt from review under the California Environmental Quality Act (CEQA).

Executive Summary

In October 2015, the City Council directed the PTC to review the existing Accessory Dwelling Unit/Second Dwelling Unit regulations and recommend ways to increase construction. Subsequent to the Council's direction, the PTC conducted two study sessions, enabling extensive dialog regarding potential code changes and the impacts and benefits that might result. Following the study sessions, the PTC anticipated that staff would return to the Commission with further analysis of potential code changes and a draft ordinance for the Commission's consideration.

While staff's analysis was ongoing, the State of California adopted three laws regarding

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Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs): SB 1069, AB 2299 and AB 2406. In response to this, staff has prepared a draft ordinance (Attachment A) that would bring the City's Municipal Code into compliance with the new ADU legislation and allow JADUs, as allowed for under AB2406. Highlights of the draft ordinance include:

- Changing the terminology throughout the municipal code to use "accessory dwelling units" and "junior accessory units" rather than "second units;"
- Repealing Section 18.10.070,18.12.070 and 18.28.070 (regarding Second Dwelling Units in the RE, R-2, RMD,R-1 and OS Districts) and adding a new Section 18.42.040 with development standards applicable to accessory dwelling units and junior accessory dwelling units in all zoning districts;
- Adjusting parking and setback requirements to the minimum extent necessary to comply with the State laws;
- Maintaining existing minimum lot size requirements for accessory dwelling units;
- Allowing junior accessory dwelling units, which involve conversion of existing building space to a small living unit, without a minimum lot size requirement; and
- Ensuring that any residential lot may only have *one* accessory or junior accessory unit per parcel (and not one of each).

The PTC could consider additional changes to the Municipal Code (i.e. changes not required by State law) affecting parking and setback requirements, minimum lot sizes, and other standards, and could also consider a different stance on junior accessory units, which are enabled but not required by State law. This staff report provides an analysis of potential changes to the minimum lot sizes for the PTC's consideration, and the draft ordinance is annotated to explain where local discretion is available.

Background

In October 2015, the City Council in a Colleagues Memo directed the PTC to review the existing zoning regulations on Accessory Dwelling Units (ADUs), which are referred to as second dwelling units in the Municipal Code, and recommend ways to increase ADU construction. The City Council also directed PTC to consider ways to bring existing non-compliant ADUs into compliance and provide any other relevant recommendations. Palo Alto's high housing cost, demand for a variety of housing types, and change in demographics with a rise in an aging population, has encouraged the City to find opportunities to increase more affordable housing options for its residents. The Colleagues Memo proposes ADUs as a potential solution to these problems. The City Council was supportive of the facilitation of construction of ADUs, provided that impacts on community character and neighborhood design standards are minimized. The retention of the physical and social character of the existing residential neighborhoods was also deemed to be important.

To date, the PTC had two study sessions on the item (January 27, 2016 Staff Report ID# 6462 and July 27, 2016 Staff Report ID #6944) on this subject.

PTC Study Sessions

At the January 27, 2016 PTC Study Session, the PTC was provided with a brief history of Municipal Code changes made during the 2006 Zoning code update and the potential benefits and impacts of ADUs in Palo Alto. This meeting was well attended by several community members who provided detailed input. Some members of the public stated that it was important to balance the impacts of second units in single family zoned areas, while other said it was important to increase second unit production to meet the community's affordable housing needs. The PTC discussed the existing development standards of the Palo Alto Municipal Code (PAMC Sections 18.12.070 and 18.10.070) and identified City regulations which can act as potential constraints in the construction of ADUs. The PTC also reviewed some of the common practices and regulations followed by some Bay Area cities. The following is the link to PTC staff report and meeting minutes of January 27, 2016 meeting.
Staff Report: https://www.cityofpaloalto.org/civicax/filebank/documents/50714
Meeting Minutes: http://www.cityofpaloalto.org/civicax/filebank/documents/51618

At the second study session held on July 27, 2016 staff provided the PTC with an update on the research that was requested by the PTC. The report also included analysis of the constraints posed by existing zoning regulations that discouraged construction of new second units. At this meeting, the PTC requested staff to gather information on impacts of ADU ordinance changes in cities that have updated their ordinance. The PTC also requested staff to perform a sensitivity analysis of the effects of lot size change, parking regulation change, and adjustment of permit fee regulations on ADU construction. The PTC directed staff to return with a draft ordinance to encourage ADU construction concurrently with the additional data that was requested. Following is the link to the second Study Session and meeting minutes.
Staff Report: http://www.cityofpaloalto.org/civicax/filebank/documents/53216
Meeting Minutes: http://www.cityofpaloalto.org/civicax/filebank/documents/53622

State Legislation on ADUs

The State's Government Code Section 65852.2 Chapter 1062 (a.k.a. Second-Unit Law) was enacted in 1982 and has been amended four times since then (1986, 1990, 1994 and 2002) to encourage the creation of second-units while maintaining local flexibility for unique circumstances and conditions. The State recognizes there is a housing crisis and has adopted legislation to address it. The Second-Unit Law imposes standards intended to create greater flexibility to encourage construction while also requiring a ministerial process for the approval of such units. Specifically, the 2002 update of the Second-Unit Law (Government Code Section 65852.2(a)(3)) required all local agencies to review second-unit permit applications ministerially without discretionary review or a public hearing. The city's current regulations comply with this State requirement.

SB 1069 and AB 2299:

Concurrent with the City's efforts on ADUs, the State recently adopted two laws intended to further ease the regulatory burdens of existing local laws and remove barriers that have discouraged homeowners from constructing second units. In September 2016, Governor Jerry Brown signed the two bills which will take effect on January 1, 2017. If a jurisdiction does not amend their local codes in compliance with these bills, then, the State laws will supersede local laws. A short summary of the two bills is provided below.

SB 1069 and AB 2299 were introduced by Senator Wieckowski and Assembly Member Bloom in February of 2016 to amend different sections of the Second Unit Law.[1] The bills officially designated second dwelling units as Accessory Dwelling Units and amend the State government code accordingly. The two bills include amendments related to maximum unit size, parking, setbacks, and separation between the primary and the accessory dwelling unit. The bills also include changes regarding application of building codes and utility connection fees or charges. This report focuses on changes required for the zoning code or Palo Alto Municipal Code Chapter 18. The changes related to utility fees and the building code will be addressed through a separate process. More information on SB 1069 and AB 2299 can be found through the following links:
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB1069
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2299

Junior Accessory Dwelling Units

The State also adopted Assembly Bill 2406, introduced by Assembly Member Thurmond and Assembly Member Levine, governing a different type of an accessory dwelling unit called a "junior accessory dwelling unit." This bill adds a new section on Junior Accessory Dwelling Units (JADU)[2] to the Government Code Section 65852.2. A JADU is defined as the conversion of an existing bedroom within a home containing a kitchenette and not exceeding 500 square feet. The bill authorizes a local agency to create an ordinance on JADUs, in single-family residential zones. If a City chooses to allow JADUs, the bill would require the ordinance to include, among other things, standards for the creation of a JADU, processing regulations and occupancy requirements. The bill would prohibit the local ordinances from requiring, as a condition of granting a permit, water and sewer connection fees or additional parking requirements. Governor Brown on September 28, 2016 signed this bill and it takes effect immediately as an urgency statute.
More information on AB 2406 is available here:
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2406

Discussion

[1] Last minute changes were made to the final version of the bill creating some potential ambiguities and it is expected that the Housing and Community Development Commission (HCD) will be issuing some clarifying guidelines.

[2] *"Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.*

Consistent with Council and PTC direction as well as the new State legislation, staff is requesting that the PTC review and recommend adoption of an ordinance that would encourage construction of ADUs by adopting the State mandated changes and modifying the Municipal Code to allow JADUs. The draft ordinance included as Attachment A would bring the City's Municipal Code into compliance with State requirements and adopt changes that would immediately reduce constraints affecting the construction of second units. The PTC could recommend the ordinance as drafted, or with specific additions or changes, as long as the recommended adjustments do not conflict with State law.

The attached draft ordinance structure repeals the existing ADU regulations in each of the relevant residential zones that currently permit second units (R1, RE, R2, RMD and OS) and creates a new chapter 18.42.040 titled "Accessory and Junior Dwelling Units." The PAMC permits single family uses in the multi-family zoning districts, when the R-1 regulations would apply. This new chapter consolidates all ADU and JADU regulations in one place. The new chapter carries forward all existing local ADU development standards that do not conflict with State law, and adds the State law requirements. The section below focuses on the required ADU changes and the proposed JADU amendments. It does not focus on the other parts of the new laws that the City is not required or proposing to change, which include maximum size, height and setbacks, except for setbacks for garage conversions. For example, the City can regulate the minimum and maximum size of ADUs as long as the maximum size does not exceed 1,200 square feet (sf). Because the PAMC already complies with a smaller maximum size, no changes are proposed regarding the maximum size of ADUs.

Staff has also identified additional optional changes to the PAMC that might encourage construction of new ADUs. If the PTC is supportive of these optional changes, staff will modify the draft ordinance accordingly prior to bringing the item to the City Council for their consideration next February.

Changes for Compliance to the State Legislation for ADUs

SB 1069 and AB 2299 require that our existing Municipal Code be amended in regards to parking, conversion of existing garages located within setbacks, and the maximum percentage that an ADU may occupy of the existing living area. All other local requirements, including lot coverage and floor area maximums, may remain in place.

1. Proposed changes to the parking requirements

Palo Alto's existing parking standards has been identified as one of the prime constraints in the construction of ADUs. At the PTC study session held in January, several members of the public identified parking to be the single biggest impediment preventing construction of new ADUs. The Municipal Code currently requires two parking spaces, of which one must be covered, for each new unit. The spaces can be provided as tandem parking and within the rear or side setbacks, as long as is outside the front setback and at least ten feet from the street side property line for corner lots. The new State laws generally reduce parking requirements and eliminate them for certain types of ADUs, particularly for units that are in existing structures and those near transit. This change may encourage owners to build smaller one bedroom units. The following changes to parking requirements for ADUs are proposed:

A. Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom, whichever is greater.
B. Spaces may be provided as tandem parking, may be located on an existing driveway, and may be located in side and rear setbacks, but not a front setback. For corner lots, parking may be located within the corner street side setback if located at least 10 feet from the property line.
C. Notwithstanding the above, no parking standards would be imposed on an ADU if any of the following instances are met:

(1) The accessory dwelling unit is located within one-half mile of public transit. Public transit shall include a rail transit station and a bus stop with two or more lines that provide transit service at 15 minute intervals or better during peak commute periods.
(2) The accessory dwelling unit is located within an architecturally and historically significant local, state or nationally designated historic district.
(3) The accessory dwelling unit is part of the existing primary residence or an existing 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, where the car share vehicle is part of an established program available to the public.

2. Setbacks in the Case of Conversion or Additions to Existing Garages

The new State laws stipulate that no setback shall be required for an existing garage that is converted to an ADU, and a setback of no more than five feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage.

Palo Alto Municipal Code sections 18.12.070, 18.10.070 and 18.28.070 require a minimum rear setback of 20 feet and interior side yard setback of six to eight feet for all R-1, R-2 and RMD zoned properties. For RE and OS the requirement is higher; 30 feet rear yard and 15 feet interior side yard setback. However, accessory structures (non-habitable), including garages are permitted within the rear and side setbacks, if located at least 75 feet from the front property line and 20 feet from the street side property line. The proposed ordinance amends our Code to comply with State law allowing conversion of existing garages to ADUs with no requirements for setbacks. This provision would only apply if an existing garage is not needed as required parking for the principal dwelling unit.

The State law also permits construction of an ADU above a garage with a maximum side and rear property setback of five feet. The proposed ordinance changes the setback requirements to be consistent with State law. However, since State law allows the City to regulate ADU height and the R-1 district currently prohibits second story ADU's this state law change is not expected

to result in new units in the R-1 neighborhood. In districts allowing for second story ADU's (i.e. in RE and OS districts), this change could result in additional units.

3. Maximum Percentage An ADU May Occupy of Living Area

The recent state law established a maximum size and the percentage an ADU may occupy of the existing living area. The City's current code is below the 1,200 sf maximum, so no changes are proposed to that requirement. However, the additional requirement that an ADU may not occupy more than 50% of existing living space has been incorporated in Section 18.42.040(a)(7)(iii), consistent with State law.

JADU Ordinance Change

Assembly Bill 2406 allows local jurisdiction to adopt an ordinance to permit JADUs. This is not a requirement, but an option, and was adopted by the State legislature after some communities found the addition of JADUs to be an effective way to add units without increasing the intensity of development (since existing building space is converted to create the unit).

Staff is proposing to amend the PAMC to permit these smaller units as a way to increase the number of units with minimal impact on neighborhoods since JADUs would be limited to 500 square feet and contained entirely within an existing single-family structure.

JADUs would not be subject to a minimum lot size, and thus would be permitted in a larger number of properties, however the ordinance specifies that a property would be allowed either one ADU or one JADU. At no point would a property be allowed more than two units regardless of lot size and other requirements.

Permitting the construction of JADUs represents a significant policy shift and the PTC should consider whether they wish to include JADUs in their recommendation. Currently, the Municipal Code only allows ADUs on parcels that are at least 35% larger than the minimum lot size. The suggested provisions regarding JADUs would not only allow some form of second unit on all single family parcels, it would also not require any additional parking for these units, which would be added within existing building space. The thinking is that JADUs would not increase the occupant capacity of a home or impact infrastructure because it would not increase the size of the structure. Additionally, they would provide an opportunity for seniors to age in place by generating income from rentals or by providing a living space for caregivers or family.

Additional ADU Requirements

In addition to conforming to the State law, staff also is recommending additional changes to both remove development constraints and to avoid neighborhood impacts. These changes include:

- Clarification that only one ADU or JADU can be constructed on a lot;
- Elimination of current code's 10 foot separation buffer between existing single family home and detached ADU;

- Clarification that ADU may not be sold separately from the unit;
- Requirement that either ADU or single family home be owner occupied; and
- Requirement that ADU's not be rented for periods of less than 30 days.

Analysis of the Minimum Lot Size Requirement

As discussed by the PTC in both the study sessions, Palo Alto's existing lot size requirement to construct an ADU is the second most significant constraint in construction of new ADUs after parking. The Municipal Code requires that a lot be at least 35% larger than the minimum lot size of the district. To get a better understanding of the potential number of eligible parcels that can accommodate ADUs, the PTC suggested staff to develop scenarios by lowering the existing minimum lot size requirement at 500 sf or five percent intervals. The PTC also suggested studying only those residential parcels with excess of 450 sf of remaining FAR. This would provide a more realistic estimate of the actual number of second units that can be built in future years.

The Palo Alto Municipal Code has different minimum lot size requirement for different zone types including all subdistricts of R-1, R-2, RE RMD and OS. Furthermore, the lot size requirement varies based on the lot type; regular lots and flag lots[3].
The following table describes the existing Municipal code requirements for lot sizes in all zones that permit second units.

Table 1: Existing Minimum Lot Size Requirements for R-1 R-2, RE, RMD and OS Zones

Minimum Site Area Requirement	**R-1, R-1 (7,000), R-1 (8,000), R-1 (10,000), R-1 (20,000)**	**R-E**	**R-2**	**RMD**	**OS**
This applies for both attached and detached units Not more than **one** attached or detached second dwelling units shall be allowed on a lot	**35%** greater than the minimum lot size for the district. R-1: 8,100 sf R-1 (7,000): 9,450 sf R-1 (8,000): 10,800 sf R-1 (10,000): 13,500 sf R-1 (20,000): 27,000 sf (See Table 5 of 18.12.070). Flag Lot specifications according to Section 21.20.301 of Subdivision Ord.	In the RE district, the minimum lot size for a second dwelling unit is **one acre.** Provided, for flag lots, the minimum lot size shall be 35% greater than the minimum lot size established by Section 21.20.301 of the Subdivision Ordinance.	Second dwelling units are permitted that meet lot size requirements. But for R-2 zoned lots of **6,000** square feet or greater, but less than 7,500 square feet, a second dwelling unit with a max size of 450 sf is permitted subject to R-1 regulations	Second dwelling units are permitted in lots with a minimum **of 5,000** square feet or greater	In the OS zone Second dwelling shall only be permitted on sites with a minimum site area of **10 acres**

Source: City of Palo Alto Planning Department, November 2016

Below is a Parcel Size Analysis based on the PTC's earlier suggestion. For the purpose of this analysis, all substandard lots[4] in each zoning category that do not meet the minimum lot size

[3] *Definitions Chapter 18.04 (84) (B) Flag Lot means an interior lot that is either a landlocked parcel which has a driveway easement across another lot abutting a street, or a lot having limited frontage providing only enough width for a driveway to reach the buildable area of the lot which is located behind another lot abutting a street.*

requirement have been excluded, however, this analysis includes all flag lots since they comprise of less than two percent of all residential zoned lots. Additionally, this table only includes parcels that have more than 450 sf of unused FAR[5] left for development. Staff believes that including the above three conditions make the analysis more realistic in deriving the potential number of parcels that can be developed with an ADU in future.

Table 2: Number of Parcels & Lot Size Requirements in R-1 R-2, RE, RMD and OS Zones (in SF)

	R-1	R-1 (7,000)	R-1 (8,000)	R-1 (10,000)	R-1 (20,000)	R-2	RE	RMD	OS	Total
Total Number of Parcels*	**5,969**	**518**	**1,028**	**668**	**33**	**107**	**201**	**41**	**115**	**8,680**
Number ≥ 35% above min. lot size	**1824** (8,100)	**39** (9,450)	**101** (10,800)	**334** (13,500)	**4** (27,000)	**106** (6,000)	**19** (1 acre)	**16** (5,000)	**23** (588,060)	**2,466**

Source: City of Palo Alto Planning Department, November 2016
** Excludes substandard lots in each zoning category and lots with less than 450 sf of FAR remaining.*

The table above shows the total number of parcels per zoning designations and the number of parcels that meeting the existing ADU requirement of 35 percent above minimum lot size. Currently the City has 15,000+ residentially zoned lots, and approximately 8,680 parcels have 450 sf or more of unused FAR and are not substandard lots. With the existing Municipal Code lot size requirement of 35 percent more than the minimum, only 2,466 parcels qualify to develop an ADU.

The following table shows the increase in the number of parcels eligible for ADUs if the minimum requirement was lowered at five percent intervals. The table consolidates all R-1 zone subdistricts together and consolidates the R-2, RE, RMD and OS zones.

[4] *Substandard Lot: A substandard lots does not meet either the lot area, width or depth requirements required by the Municipal code.*

[5] *The "unused capacity" was estimated from the difference of total square feet allowed by zoning (FAR) and the actual "square feet built" on the lot. Staff used the actual "square feet built" data from Santa Clara County Assessor's Office. This is the best available information that can be used for this purpose.*

Table 3: Analysis of Increasing Parcels Eligible for ADUs by Reducing Minimum Lot Size Requirement at Five Percent Intervals

Percentage over Minimum Lot Area	Number of Qualifying Parcels (all R-1) Zones	Number of Qualifying Parcels (R-2, RE, RMD and OS) Zones	TOTAL ELIGIBLE PARCELS
35 % Over	2,302	164	**2,466**
30 % Over	2,703	113	**2,816**
25 % Over	3,218	152	**3,370**
20 % Over	3,732	163	**3,895**
15 % Over	4,280	177	**4,457**
10 % Over	4,912	193	**5,105**
5 % Over	5,773	219	**5,992**
Total Number of Parcels	8,216	464	**8,680**

Source: City of Palo Alto Planning Department, November 2016

Timeline/Next Steps

The new State laws regarding ADU become effective on January 1, 2017 whether or not the City has updated its municipal code and therefore there is some urgency to make many of the code changes included in the draft ordinance as a way to avoid confusion. Nonetheless, there are a number of complex policy options to consider, and at this evening's meeting, the PTC could choose to:

1. Forward a recommendation to the City Council (including the proposed ordinance, or the proposed ordinance with specific modifications); or
2. Continue their discussion to December 12, with the expectation that they will be able to formulate and forward their recommendation at that time.

Staff hopes to forward the PTC's recommendation to the City Council for consideration at a meeting in January or February 2017. Any provisions that go beyond the legal requirements of State law would become effective 31 days following the Council's adoption (on second reading).

Policy Implications

The City's Housing Element Goal H1 is "Ensure the preservation of the unique character of the city's residential neighborhoods," and Programs H1.1.2 and H3.3.5 encourage modifying existing second unit development standards in the Zoning Code, such as lowering the minimum lot size and allow for increased floor area, in order to facilitate the creation of additional SDUs while maintaining neighborhood character and increasing the City's affordable housing supply.

The City's Comprehensive Plan emphasizes the importance of the City's residential neighorhoods and the quality of life for residents. Policy L-13 of the Land Use and Community

Design Element emphasizes the need to increase and maintain the diversity of the City's housing stock and Program L-13 encourages City to create design prototypes and guidelines for second units ensuring compatability with rest of the single family neighborhoods.

The proposed ordinance is generally consistent wih these Comprehensive Plan provisions and would advance housing element programs referenced above.

Public Outreach

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper at least ten days in advance. Notice of a public hearing for this project was published in the Palo Alto Weekly on November 18, 2016. A project website (http://www.cityofpaloalto.org/gov/depts/pln/advance/accessory_dwelling_units_regulations_update.asp) has been made available for this project where interested members of the public can find more information and also sign up for an email list. The website has been shared on City website and social media. Staff has already received multiple requests for more information.

Environmental Review

The proposed ordinance change is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline sections 15061(b), 15301, 15303 and 15305 because it simply provides a comprehensive permitting scheme. Any future ADUs or JADUs would be approved ministerially and thus would be statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the State CEQA Guidelines.

Ordinance No. ____

Ordinance of the Council of the City of Palo Alto Amending Chapter 18 (Zoning) of the Palo Alto Municipal Code to Implement New State Law Requirements Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units and to Reorganize and Update City's Existing Regulations

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. Housing in California is becoming increasingly unaffordable. The average California home currently costs about 2.5 times the national average home price and the monthly rent is 50% higher than the rest of the nation. Rent in San Francisco, San Jose, Oakland, and Los Angeles are among the top 10 most unaffordable in the nation. With rising population growth, California must not only provide housing but also ensure affordability.

B. Housing costs in Palo Alto are out of reach for many families and a majority of owners and renters pay 30% or more of their gross income for housing, and many pay 50% or more.

C. The Palo Alto City Council, recognizing the severity of the regional housing crisis, requested that the Planning and Transportation Commission review constraints affecting the production of second (accessory) dwelling units and recommend modifications to the City's development standards.

D. While existing law enables accessory dwellings as a source of housing, recent studies show that local standards like Palo Alto's, perhaps unintentionally, prevent homeowners from building ADUs with standards like lot coverage, large set-backs, off-street parking, or costly construction requirements.

E. In September 2016, Governor Brown signed into law Senate Bill 1069, Assembly Bill 2299 and Assembly Bill 2406 relating to the creation of accessory dwelling units (ADUs) and junior accessory dwelling units.

F. These new bills were intended to address the housing crisis by easing regulatory barriers for homeowners who choose to build affordable housing in their own backyards.

G. This ordinance is adopted to comply with these new State mandates regarding ADUs and junior accessory dwelling units, and to reduce regulatory constraints affecting their production.

SECTION 2. Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) is amended to read as follows:

18.04.030 Definitions

. . .

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

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

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

In some instances this Code uses the term second dwelling unit interchangeably with accessory dwelling unit.

~~(46.5) "Dwelling unit, second" means a separate and complete dwelling unit, other than and subordinate to the main dwelling unit, whether a part of the same structure or detached, on the same residential lot.~~

(74.5) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(132) "Single-family use" means the use of a site for only one dwelling unit and, where permitted, an accessory ~~second~~ dwelling unit or a junior accessory dwelling unit.

. . .

SECTION 3. In Section 18.10.010 (a) substitute the term "accessory dwelling unit(s)" for "second dwelling unit(s)".

SECTION 4. Section 18.10.030 Table 1 and Footnote (2) are amended as follows:

TABLE 1

PERMITTED AND CONDITIONALLY PERMITTED LOW-DENSITY RESIDENTIAL USES

[P = Permitted Use -- CUP = Conditional Use Permit Required]

	R-E	R-2	RMD	Subject to Regulations in:
ACCESSORY AND SUPPORT USES				
Accessory facilities and uses customarily incidental to permitted uses (no limit on number of plumbing fixtures)	P	P	P	18.10.080
Home Occupations, when accessory to permitted residential uses.	P	P	P	18.42.060
Horticulture, gardening, and growing of food products for consumption by occupants of the site.	P	P	P	
Sale of agricultural products produced on the premises (1)	P			18.10.110
~~Second~~ Accessory Dwelling Units	P	P(2)	P(2)	18.42~~10~~.04~~7~~0
Junior Accessory Dwelling Units	P	P(2)	P(2)	18.42.040
AGRICULTURE AND OPEN SPACE USES				
Agriculture	P			18.10.110

EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
Private Educational Facilities	CUP	CUP	CUP	
Religious Congregations and Institutions	CUP	CUP	CUP	
PUBLIC/QUASI-PUBLIC USES				
Community Centers	CUP	CUP	CUP	
Utility Facilities essential to provision of utility services to the neighborhood, but excluding business offices, construction or storage yards, maintenance facilities, or corporation yards.	CUP	CUP	CUP	
RECREATION USES				
Neighborhood Recreational Centers			CUP	
Outdoor Recreation Services	CUP	CUP		
RESIDENTIAL USES				
Single-Family	P	P	P	
Two-Family use, under one ownership		P	P	
Mobile Homes	P	P	P	18.42.100
Residential Care Homes	P	P	P	
RETAIL USES				
Cemeteries	CUP			
Commercial Plant Nurseries	CUP			
SERVICE USES				
Convalescent Facilities	CUP			
Day Care Centers	CUP	CUP	CUP	
Small Adult Day Care Homes	P	P	P	
Large Adult Day Care Homes	CUP	CUP	CUP	
Small Family Day Care Homes	P	P	P	
Large Family Day Care Homes	P	P	P	
Bed & Breakfast Inns			P(3)	
P = Permitted Use		CUP = Conditional Use Permit Required		

. . .

(2) Second Units in R-2 and RMD Zones: An accessory ~~second~~ dwelling unit or a Junior Accessory Dwelling Unit associated with a single-family residence on a lot in the R-2 or RMD zones is

permitted, subject to the provisions of Section ~~18.10.070~~18.42.040, and such that no more than two units result on the lot.

. . .

SECTION 5. Section 18.10.040 (Development Standards) of Chapter 18.10 (Low-Density Residential (RE, R-2 and RMD) Districts) of Title 18 (Zoning) is amended to read as follows:

18.10.040 Development Standards

(a) Site Specifications, Building Size, Height and Bulk, and Residential Density

. . .

(5) Maximum House Size: The gross floor area of attached garages and attached ~~second~~ accessory dwelling units and junior accessory dwelling units are included in the calculation of maximum house size. If there is no garage attached to the house, then the square footage of one detached covered parking space shall be included in the calculation. This provision applies only to single-family residences, not to duplexes allowed in the R-2 and RMD districts.

. . .

(B) Flag Lot Development Standards: (i) Individual Review

. . .

(i) Individual Review

The Individual Review provisions of Section 18.12.110 of the Zoning Ordinance shall be applied to any single-family or two-family residence in the R-2 or RMD districts to those sides of a site that share an interior side lot line with the interior side or rear lot line of a property zoned for or used for single-family or two-family dwellings. ~~, except where architectural review board review is required for an~~ accessory ~~second dwelling on an RMD-zoned site~~. The individual review criteria shall be applied only to the project's effects on adjacent single-family and two-family uses.

[NOTE: STATE LAW REQUIRES MINISTERIAL REVIEW OF ADU'S.]

SECTION 6. Section 18.10.060 Table 3 is amended as follows:

TABLE 3
PARKING REQUIREMENTS FOR R-E, R-2 AND RMD USES

Use	Minimum Off-Street Parking Requirement
Single-family residential use (excluding ~~second~~ accessory dwelling units)	2 spaces per unit, of which one must be covered
Two family (R2 & RMD districts)	3 spaces total, of which at least two must be covered

~~Second~~ Accessory dwelling unit, attached or detached: ~~>450 sf in size~~ ~~≤450 sf in size~~	~~2 spaces per unit, of which one must be covered~~ ~~1 space per unit, which may be covered or uncovered~~ 1 space per unit or 1 space per bedroom, whichever is greater[(1), (2)] Parking may be provided as tandem parking. Parking may be located within side and rear setbacks, but not in front setback See also Section 18.42.040.
Junior accessory dwelling unit	None
Other Uses	See Chapter 18.40

(1) No parking is required for an accessory dwelling unit that is part of an existing primary residence or an existing accessory structure.

(2) For a corner lot, parking permitted within the corner street side setback if located at least ten (10) feet from the property line.

. . .

[NOTE: THESE PARKING REQUIREMENTS ARE DEFINED IN STATE LAW. THE CITY HAS THE DISCRETION TO REDUCE THESE REQUIREMENTS, BUT NOT TO INCREASE THEM.]

SECTION 7. Section 18.10.070 (Second Dwelling Units) of Chapter 18.10 (Low-Density Residential (RE, R-2 and RMD) Districts) of Title 18 (Zoning) is repealed in its entirety and a new 18.10.070 is added to read as follows:

18.10.070 Accessory and Junior Accessory Dwelling Units

Accessory Dwelling Units and Junior Accessory Dwelling Units are subject to the regulations set forth in Section 18.42.040.

[NOTE: THESE DEVELOPMENT STANDARDS HAVE BEEN MOVED TO SECTION 18.42.040.]

SECTION 8. Section 18.10.120 (Architectural Review) of Chapter 18.10 (Low-Density Residential (RE, R-2 and RMD) Districts) of Title 18 (Zoning) is amended to read as follows:

18.10.120 Architectural Review

Architectural review, as required in Section 18.76.020, is required in the R-E, R-2, and RMD districts whenever three or more adjacent residential units are intended to be developed concurrently, whether through subdivision or individual applications. ~~Architectural review is also required for **second dwelling units** of more than 900 square feet, when located in the Neighborhood Preservation Combining District (NP).~~

[NOTE: STATE LAW REQUIRES MINISTERIAL REVIEW OF ADU'S.]

SECTION 9. Section 18.10.140 (Neighborhood Preservation Combining District (NP) Standards) of Chapter 18.10 (Low-Density Residential (RE, R-2 and RMD) Districts) of Title 18 (Zoning) is amended to read as follows:

18.10.140 Neighborhood Preservation Combining District (NP) Standards

. . .

(2) Design Review Required

For properties on which two or more residential units are developed or modified, design review and approval shall be required by the architectural review board in compliance with procedures established in Section 18.76.020 for any new development or modification to any structure on the property and for site amenities. No design review is required for construction of or modifications to single-family structures that constitute the only principal structure on a parcel of land.

~~No design review is required for construction of **second dwelling units** on a parcel except when the **second unit** exceeds 900 square feet in size.~~

. . .

[NOTE: STATE LAW REQUIRES MINISTERIAL REVIEW OF ADU'S.]

SECTION 10. In Section 18.10.150(e), substitute the term "accessory dwelling units" for "second dwelling units".

. . .

SECTION 11. Section 18.12.010(a) is amended as follows:

(a) Single Family Residential District [R-1]

The R-1 single family residential district is intended to create, preserve, and enhance areas suitable for detached dwellings with a strong presence of nature and with open area affording maximum privacy and opportunities for outdoor living and children's play. Minimum site area requirements are established to create and preserve variety among neighborhoods, to provide adequate open area, and to encourage quality design. ~~Second~~ Accessory dwelling units, junior accessory dwelling units and accessory structures or buildings are appropriate. ~~where consistent with the site and neighborhood character.~~ Community uses and facilities, such as churches and schools, should be limited unless no net loss of housing would result.

. . .

SECTION 12. Section 18.12.030 Table 1, is amended as follows:

Table 1

PERMITTED AND CONDITIONAL R-1 RESIDENTIAL USES

	R-1 and all R-1 Subdistricts	Subject to Regulations for:
ACCESSORY AND SUPPORT USES		
Accessory facilities and uses customarily incidental to permitted uses with no more than two plumbing fixtures and no kitchen facility, or of a size less than or equal to 200 square feet	P	18.04.030(a)(3) 18.12.080
Accessory facilities and uses customarily incidental to permitted uses with more than two plumbing fixtures (but with no kitchen), and in excess of 200 square feet in size, but excluding ~~second~~ accessory dwelling units	CUP	18.12.080
Home occupations, when accessory to permitted residential	P	18.42.060
Horticulture, gardening, and growing of food products for consumption by occupants of the site	P	
~~Second~~ Accessory Dwelling Units	P(1)	18.42.040~~12.070~~
Junior Accessory Dwelling Unit	P(1)	18.42.040
EDUCATIONAL, RELIGIOUS AND ASSEMBLY USES		
Private Educational Facilities	CUP	
Churches and Religious Institutions	CUP	
PUBLIC/QUASI PUBLIC USES		
Community Centers	CUP	
Utility Facilities essential to provision of utility services to the neighborhood, but excluding business offices, construction or storage yards, maintenance facilities, or corporation yards	CUP	
RECREATION USES		
Outdoor Recreation Services	CUP	
RESIDENTIAL USES		
Single-Family	P	
Mobile Homes	P	18.42.100
Residential Care Homes	P	
SERVICE USES		
Day Care Centers	CUP	
Small Adult Day Care Homes	P	
Large Adult Day Care Homes	CUP	
Small Family Day Care Homes	P	
Large Family Day Care Homes	P	
P = Permitted Use	**CUP = Conditional Use Permit Required**	

(1) An Accessory Dwelling Unit or a Junior Accessory Dwelling Unit associated with a single-family residence on a lot is permitted, subject to the provisions of Section 18.42.040, and such that no more than two units result on the lot.

SECTION 13. Section 18.12.040 Table 2, footnote (8) is amended as follows:

(8) **Maximum House Size:** The gross floor area of attached garages and attached accessory ~~second~~ dwelling units and junior accessory dwelling units are included in the calculation of maximum house size. If there is no garage attached to the house, then the square footage of one detached covered parking space shall be included in the calculation.

SECTION 14. Section 18.12.060 Table 4 is amended as follows:

Table 4 shows the minimum off-street automobile parking requirements for specific uses in the R-1 district.

Table 4	
Parking Requirements for Specific R-1 Uses	
Use	Minimum Off-Street Parking Requirement
Single-family residential use (excluding ~~second~~ accessory dwelling units)	2 spaces per unit, of which one must be covered.
~~Second~~ Accessory dwelling unit~~-~~, attached or detached	~~2 spaces per unit, of which one must be covered~~ 1 space per unit or 1 space per bedroom, whichever is greater(1), (2) Parking may be provided as tandem parking. Parking may be located within side and rear setbacks, but not in front setback See also Section 18.42.040.
Junior Accessory Dwelling Unit	None
Other Uses	See Chs. 18.52 and 18.54

(1) No parking is required for an accessory dwelling unit that is part of an existing primary residence or an existing accessory structure.

(2) For a corner lot, parking permitted within the corner street side setback if located at least ten (10) feet from the property line.

. . .

[NOTE: THESE PARKING REQUIREMENTS ARE DEFINED IN STATE LAW. THE CITY HAS THE DISCRETION TO REDUCE THESE REQUIREMENTS, BUT NOT TO INCREASE THEM.]

SECTION 15. Section 18.12.070 (Second Dwelling Units) of Chapter 18.12 (R-1 Single-Family Residential District) of Title 18 (Zoning) is repealed in its entirety and a new 18.12.070 is added to read as follows:

18.12.070 Accessory and Junior Accessory Dwelling Units

Accessory Dwelling Units and Junior Accessory Dwelling Units are subject to the regulations set forth in Section 18.42.040.

[NOTE: THESE DEVELOPMENT STANDARDS HAVE BEEN MOVED TO SECTION 18.42.040.]

SECTION 16. In Section 18.12.090(b)(2), substitute the term "accessory dwelling unit(s)" for "second dwelling unit(s)".

. . .

SECTION 17. In Section 18.12.150(d), substitute the term "accessory dwelling unit(s)" for "second dwelling unit(s)".

. . .

SECTION 18. Section 18.28.040, Table 1, is amended as follows:

Table 1
Land Uses

	PF	OS	AC	Subject to Regulations in Chapter:
ACCESSORY AND SUPPORT USES				
Accessory facilities and accessory uses		P		Chs. 18.40 and 18.42
Eating and drinking services in conjunction with a permitted use	CUP (1)			
Retail services as an accessory use to the administrative offices of a non-profit organization, provided that such retail services do not exceed 25% of the gross floor area of the combined administrative office services and retail service uses	CUP (1)			
Retail services in conjunction with a permitted use	CUP (1)			
Sale of agricultural products produced on the premises; provided, that no permanent commercial structure for the sale or processing of agricultural products shall be permitted.			P	
~~Second~~ Accessory dwelling units, subject to regulations in Section 18.~~28.070~~42.040		P(2)		~~18.28.070~~ 18.42.040
Junior Accessory Dwelling Unit		P(2)		18.42.040
AGRICULTURAL AND OPEN SPACE USES				

Agricultural Uses, including animal husbandry, crops, dairying, horticulture, nurseries, livestock farming, tree farming, viticulture, and similar uses not inconsistent with the intent and purpose of this chapter		P	P	
Botanical conservatories, outdoor nature laboratories, and similar facilities		P		
Native wildlife sanctuaries		P		
Park uses and uses incidental to park operation	P			
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
Business or trade schools	CUP (1)			
Churches and religious institutions	CUP (1)			
Educational, charitable, research, and philanthropic institutions		CUP		
Private educational facilities	CUP (1)			
Public or private colleges and universities and facilities appurtenant thereto	CUP			
Special education classes	CUP (1)			
OFFICE USES				
Administrative office services for non-profit organizations	CUP (1)			

OTHER USES				
Other uses which, in the opinion of the director, are similar to those listed as permitted or conditionally permitted uses	CUP (1)			
PUBLIC/QUASI-PUBLIC FACILITY USES				
All facilities owned or leased, and operated or used, by the City of Palo Alto, the County of Santa Clara, the State of California, the government of the United States, the Palo Alto Unified School District, or any other governmental agency	P			
Communication Facilities		CUP		
Community Centers	CUP (1)			
Utility Facilities	CUP	CUP	CUP	
RECREATIONAL USES				
Neighborhood recreation centers	CUP (1)			
Outdoor recreation services	CUP (1)		CUP	
Recreational uses including riding academies, clubs, stables, country clubs, and golf courses		CUP		
Youth clubs	CUP (1)			
RESIDENTIAL USES				
Single-family dwellings		P		
Manufactured housing (including mobile homes on permanent foundations)		P		18.40.

Guest ranches		CUP		
Residential care facilities, when utilizing existing structures on the site	CUP (1)			
Residential Care Homes		P		
Residential use, and accessory buildings and uses customarily incidental to permitted dwellings; provided, however, that such permitted dwellings shall be for the exclusive use of the owner or owners, or lessee or lessor of land upon which the permitted agricultural use is conducted, and the residence of other members of the same family and bona fide employees of the aforementioned			P	
SERVICE USES				
Animal care, including boarding and kennels		CUP	CUP	
Cemeteries			CUP	
Cemeteries, not including mausolea, crematoria, or columbaria		CUP		
Small day care homes		P		
Large day care homes		CUP		
Day care centers	CUP (1)			
Art, dance, gymnastic, exercise or music studios or	CUP (1)			
Medical Services:				
Hospitals	CUP			
Outpatient medical facilities with associated medical research	CUP			
TEMPORARY USES				
Temporary parking facilities, provided that such facilities	CUP (1)			
TRANSPORTATION USES				
Airports and airport-related uses	CUP (1)			

. . .

(2) An accessory dwelling unit or a Junior Accessory Dwelling Unit associated with a single-family residence on a lot in the OS District is permitted, subject to the provisions of Section 18.42.040, and such that no more than two units result on the lot.

SECTION 19. Section 18.28.070(a)(Second Dwelling Units) is amended as follows:

18.28.070 Additional OS District Regulations

The following additional regulations shall apply in the OS district:

(a) Accessory~~Second~~ Dwelling Units and Junior Dwelling Units

Accessory Dwelling Units and Junior Accessory Dwelling Units are subject to the regulations set forth in Section 18.42.040.

~~Not more than one attached or detached second dwelling units shall be allowed on a lot in the OS district, and shall be subject to the following regulations:~~

~~(1) Second dwelling shall only be permitted on sites with a minimum site area of 10 acres;~~

~~(2) Attached second dwelling units shall comply with the OS district height limitation of 25 feet; and~~

~~(3) Second dwelling units shall follow the standards set forth in the Residential Estate (R-E) District for second dwelling units (18.10.070(b)), with the exceptions outlined in subsections 1 and 2 above.~~

[NOTE: THESE DEVELOPMENT STANDARDS HAVE BEEN MOVED TO SECTION 18.42.040.]

. . .

SECTION 20. Section 18.42.040 (Accessory and Junior Dwelling Units) is added as follows:

18.42.040 Accessory and Junior Dwelling Units

The following regulations apply to zoning districts where accessory dwelling units and junior accessory dwelling units are permitted.

(a) Accessory Dwelling Units

1. Purpose

The intent of this section is to provide regulations to accommodate accessory dwelling units, in order to provide for variety to the city's housing stock and additional affordable housing opportunities. Accessory dwelling units shall be separate, self-contained living units, with separate entrances from the main residence, whether attached or detached. The standards below are provided to minimize the impacts of accessory dwelling units on nearby residents and throughout the city, and to assure that the size, location and design of such dwellings is compatible with the existing residence on the site and with other structures in the area.

2. Minimum Lot Sizes

(i) In the R-1 district and all R-1 subdistricts, the minimum lot size for an accessory dwelling unit shall be 35% greater than the minimum lot size otherwise established for the district. Provided, for flag lots, the minimum lot size shall be 35% greater than the minimum lot size established by Section 21.20.301 of the Subdivision Ordinance.

(ii) Table 1 shows the minimum lot size required for an accessory dwelling unit in the R-1 districts, provided, in the event of a conflict between subsection (i) and this subsection (ii), subsection (i) shall control.

TABLE 1
MINIMUM LOT SIZES FOR ACCESSORY DWELLING UNITS

District	Minimum Lot Size (all lots except flag lots)	Minimum Lot Size (flag lots)
R-1	8,100 square feet ("sf")	9,720 sf
R-1 (7,000)	9,450 sf	11,340 sf
R-1 (8,000)	10,800 sf	12,960 sf
R-1 (10,000)	13,500 sf	16,200 sf
R-1 (20,000)	27,000 sf	32,400 sf
Exclusive of any portion of the lot used for access to the street		

(iii) In the RE district, the minimum lot size for an accessory dwelling unit is one acre. However, for flag lots in the RE District, the minimum lot size shall be 35% greater than the minimum lot size established by Section 21.20.301 of the Subdivision Ordinance.

(iv) In the R-2 District the minimum lot size for an accessory dwelling unit is 6,000 square feet and in the RMD District it is 5,000 square feet. All flag lots in the R-2 and RMD Districts shall comply with the lot size requirements set forth in Section 21.20.301 of the Subdivision Ordinance. For R-2 zoned lots of 6,000 square feet or greater, but less than 7,500 square feet, an Accessory Dwelling Unit of 450 square feet or less is permitted.

(v) In the OS District, the minimum lot size for an accessory dwelling unit is 10 acres.

[NOTE: STATE LAW ALLOWS THE CITY TO MAINTAIN EXISTING REQUIREMENTS FOR MINIMUM LOT SIZES FOR ACCESSORY DWELLING UNITS. AS A POLICY MATTER, THE CITY COULD CONSIDER REVISING OR ELIMINATING SOME OF THESE REQUIREMENTS TO ENCOURAGE ADDITIONAL UNITS, OR COULD LEAVE THESE REQUIREMENTS IN PLACE WITH THE KNOWLEDGE THAT UNDER STATE LAW, JUNIOR UNITS ARE ALLOWED ANYWHERE THERE IS AN EXISTING RESIDENCE, REGARDLESS OF LOT SIZE OR NON-CONFORMANCE.]

3. Setbacks

(i) Accessory dwelling units shall comply with the underlying zoning district's setbacks.

(ii) Notwithstanding section (i) above, no setback shall be required for an existing garage that is converted to an accessory dwelling unit.

(iii) In districts permitting second story accessory dwelling units, a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.

[NOTE: STATE LAW SPECIFIES ITEMS (II) AND (III) ABOVE.]

4. Lot Coverage/FAR

An accessory dwelling unit shall be included in the lot coverage and FAR requirements applicable to the primary dwelling unit.

[NOTE: THIS IS AN EXISTING CODE REQUIREMENT.]

5. Conversion of Space in Existing Single Family Residence or Existing Accessory Structure

Notwithstanding the lot size, setback, height and parking requirements in this Section 18.42.040, in the R-1 and RE Districts only, an Accessory Dwelling Unit shall be permitted if the unit is contained within the existing space of a single-family residence or and existing accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.

a. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

b. For the purposes of this section, the portion of the single-family residence or accessory structure subject to the conversion, must be legally permitted and existing as of January 1, 2017.

c. Notwithstanding the allowance in this section, only one accessory dwelling unit or junior accessory dwelling unit may be located on any lot subject to this section.

[NOTE: THESE REQUIREMENTS ARE REQUIRED BY STATE LAW, WITH THE EXCEPTION OF ITEM (I)(C).]

6. Privacy

Any window, door or deck of a second story accessory dwelling unit shall utilize techniques to lessen the privacy impacts onto adjacent properties. These techniques may include placement of doors, windows and decks to minimize overview of neighboring dwelling units, use of obscured glazing, window placement above eye level, and screening treatments.

[NOTE: STATE LAW REQUIRES A MINISTERIAL PROCESS FOR APPROVAL OF ADU'S, BUT ALLOWS DEVELOPMENT STANDARDS. CITY POLICY MAKERS SHOULD CONSIDER WHETHER THE PRIVACY-RELATED STANDARDS SUGGESTED HERE ARE SUFFICIENTLY CLEAR SO AS TO BE MINISTERIAL.]

7. Additional Development Standards for Attached Accessory Dwelling Units

(i) Attached accessory dwelling units are those attached to the main dwelling. All attached accessory dwelling units shall be subject to the additional development requirements specified below.

(ii) Attached unit size counts toward the calculation of maximum house size.

(iii) Unit Size: The maximum size of an attached accessory dwelling unit living area shall not exceed 450 square feet and shall not exceed 50% of the existing living area of the primary existing dwelling unit. The accessory dwelling unit and any covered parking shall be included in the total floor area for the site, but the covered parking area is not included in the maximum 450 square feet for attached unit. Any basement space used as an accessory dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the accessory unit.

(iv) Maximum height: one story and 17 feet. However, in the RE District, attached Accessory Dwelling Units may be 30 feet. In the OS zone, attached Accessory Dwelling Units may be 25 feet.

(v) Separate Entry Required for Attached Units: A separate exterior entry shall be provided to serve an accessory dwelling unit.

(vi) Except on corner lots, the accessory dwelling unit may not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit, and exterior staircases to second floor units shall be located toward the interior side or rear yard of the property.

(vii) In the RE zone, maximum size of covered parking area for the accessory dwelling unit is 200 square feet.

[NOTE: DEVELOPMENT STANDARDS IN THIS SECTION DERIVE FROM THE CITY'S EXISTING REQUIREMENTS, AS MODIFIED TO COMPLY WITH STATE LAW. THE CITY COULD CHOOSE TO MODIFY SOME OF THESE STANDARDS.]

8. Additional Development Standards for Detached Accessory Dwelling Units

(i) Detached accessory dwelling units are those detached from the main dwelling. All detached accessory dwelling units shall be subject to the additional development standards specified below.

(ii) The maximum size of the detached accessory dwelling unit living area shall be 900 square feet.

a. The accessory dwelling unit and covered parking shall be included in the total floor area for the site, but the covered parking area is not included within the maximum 900 square feet for detached unit.

b. Any basement space used as an accessory dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the accessory unit.

c. For R-2 zoned lots of 6,000 square feet or greater, but less than 7,500 square feet, a detached Accessory Dwelling Unit of 450 square feet or less is permitted.

(iii) Maximum height: one story and 17 feet.

(iv) Design: The detached accessory dwelling unit shall be similar to the main residence with respect to style, roof pitch, color and materials.

[NOTE: STATE LAW REQUIRES A MINISTERIAL PROCESS FOR APPROVAL OF ADU'S, BUT ALLOWS DEVELOPMENT STANDARDS. CITY POLICY MAKERS SHOULD CONSIDER WHETHER THE ABOVE DESIGN-RELATED STANDARD SUGGESTED HERE ARE SUFFICIENTLY CLEAR SO AS TO BE MINISTERIAL.]

(v) In the RE District, the maximum size of covered parking area for the detached accessory dwelling unit is 200 square feet.

[NOTE: DEVELOPMENT STANDARDS IN THIS SECTION DERIVE FROM THE CITY'S EXISTING REQUIREMENTS, AS MODIFIED TO COMPLY WITH STATE LAW. THE CITY COULD CHOOSE TO MODIFY SOME OF THESE STANDARDS.]

9. Additional Requirements for All Accessory Dwelling Units

(i) Sale of Units: The Accessory dwelling unit shall not be sold separately from the primary residence.

(ii) Short term rentals. The accessory dwelling unit shall not be rented for periods of less than 30 days.

(iii) Number of Units Allowed: Only one accessory dwelling unit or junior accessory dwelling unit may be located on any residentially zoned lot that permits a single-family dwelling and which is either not developed or contains only one existing legal single-family dwelling.

(iv) Existing Development: A single-family dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.

(v) Occupancy: The owner of a parcel proposed for accessory dwelling use shall occupy as a principal residence either the primary dwelling or the accessory dwelling.

(vi) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(vii) Street Address Required: Street addresses shall be assigned to all accessory dwellings to assist in emergency response.

(viii) Street Access: The accessory dwelling unit shall have street access from a driveway in common with the main residence in order to prevent new curb cuts, excessive paving, and elimination of street trees. Separate driveway access may be permitted by the director upon a determination that separate access will result in fewer environmental impacts such as excessive paving, unnecessary grading or unnecessary tree removal, and that such separate access will not create the appearance, from the street, of a lot division or two-family use.

[NOTE: THE STANDARDS SUGGESTED HERE DERIVE FROM STATE LAW AND EXISTING CODE REQUIREMENTS WITH SOME CLARIFICATIONS AND UPDATES.]

10. Parking

The following parking criteria apply to both detached and attached accessory dwelling units:

(i) One parking space per unit or one parking space per bedroom, whichever is greater, shall be provided for the accessory dwelling unit.

(ii) Such parking may be provided as tandem parking, may be located on an existing driveway and may be located in side and rear setbacks, but not in front setback. For a corner lot, parking may be located within the corner street side setback if located at least ten (10) feet from the property line.

(iii) Notwithstanding subsection (i) above, no parking shall be required for:

a. Accessory dwelling units located within one-half mile of public transit. For purposes of this section, "public transit" shall include a rail transit station and a bus stop with two or more lines that provide transit service at 15 minute intervals or better during peak commute periods. The Director shall have the authority to further interpret this section.

b. Accessory dwelling units located within an architecturally and historically significant National, California or locally designated historic district.

c. Accessory dwelling units part of the existing primary residence or an existing accessory structure.

d. When on-street parking permits are required but not offered to the occupant of the Accessory dwelling unit.

e. When there is a car-share vehicle located within one block of the Accessory dwelling unit. For purposes of this section, "car-share vehicle" shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public. The Director shall have the authority to further interpret this section.

(iv) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required 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.

[NOTE: THIS SECTION INCORPORATES NEW STATE LAW PARKING REQUIREMENTS.]

(b) Junior Accessory Dwelling Units

1. Purposes: This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, will be constructed within the walls of an existing single family structure and requires owner occupancy in the single family residence where the unit is located.

2. Development Standards. Junior accessory dwelling units shall comply with the following standards:

(i) *Number of Units Allowed:* Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Coordinated Area Plan or Specific Plan. A junior accessory dwelling unit may only be located on a lot which already contains one legal single-family dwelling.

(ii) *Size:* A junior accessory dwelling unit shall not exceed 500 square feet in size.

(iii) *Lot Coverage/FAR*: A junior accessory dwelling unit shall be included in the lot coverage and FAR requirements applicable to the primary dwelling unit.

(iii) *Owner Occupancy:* The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the junior accessory dwelling.

(iv) *Sale Prohibited:* A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

(v) *Short term rentals:* The junior accessory dwelling unit shall not be rented for periods of less than 30 days.

(vi) *Location of Junior Accessory Dwelling Unit:* A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include conversion of an existing bedroom.

(vii) *Separate Entry Required:* A separate exterior entry shall be provided to serve a junior accessory dwelling unit, with an interior entry to the main living area. A junior accessory dwelling may include a second interior doorway for sound attenuation.

(viii) *Kitchen Requirements:* The junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:

a. A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,

b. A cooking facility or appliance which does not require electrical service greater than one hundred and twenty (120) volts, or natural or propane gas, and

c. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(ix) *Parking.* No additional parking is required beyond that required at the time the existing primary dwelling was constructed.

[NOTE: THIS IS A NEW SECTION THAT IMPLEMENTS AB 2406 ABOUT JUNIOR ACCESSORY DWELLING UNITS IN RESIDENTIAL DISTRICTS WHICH CURRENTLY PERMIT ADU'S.]

SECTION 21. Section 18.52.040 (6)(c) Table 1, is amended as follows:

Table 1
Minimum Off-Street Parking Requirements

Use	Vehicle Parking Requirement (# of spaces)	Bicycle Parking Requirement	
		Spaces	Class[1] Long Term (LT) and Short Term (ST)
RESIDENTIAL USES			
Single -Family Residential (Primary Unit)	Tandem Parking Allowed		
(a) In the OS district	4 spaces, of which at least one space must be covered	None	
(b) In all other districts	2 spaces, of which at least one space must be covered		
(c) Underground parking for single family uses is prohibited, except pursuant to a variance granted in accordance with the provisions of Chapter 18.76 (Permits and Approvals) of this title, in which case the area of the underground garage shall be counted toward the gross floor area.			

~~Second~~ Accessory Dwelling Unit (In addition to main dwelling unit requirements) ~~>450 sf in size~~ ~~<450 sf in size~~	~~2 spaces, of which at least one must be covered~~ ~~1 space, covered or uncovered~~ 1 space per unit or 1 space per bedroom, whichever is greater[(2), (3)] Parking may be provided as tandem parking. Parking may be located within side and rear setbacks, but not in front setback See also Section 18.42.040.	None	
Junior Accessory Dwelling Units	None		
Two-Family Residential (R-2 & RMD Districts)	1.5 spaces per unit, of which at least one space per unit must be covered Tandem Parking Allowed, with one tandem space per unit, associated directly with another parking space for the same unit	1 space per Unit	100% – LT
Multiple -Family Residential	1.25 per studio unit 1.5 per 1-bedroom unit 2 per 2-bedroom or larger unit At least one space per unit must be covered Tandem parking allowed for any unit requiring two spaces (one tandem space per unit, associated directly with another parking space for the same unit, up to a maximum of 25% of total required spaces for any project with more than four (4) units)	1 per unit	100% – LT

(a) Guest Parking	For projects exceeding 3 units; 1 space plus 10% of total number of units, provided that if more than one space per unit is assigned or secured parking, then guest spaces equal to 33% of all units is required.	1 space for each 10 units	100% – ST

. . .

(2) No parking is required for an accessory dwelling unit that is part of an existing primary residence or an existing accessory structure.

(3) For a corner lot, parking permitted within the corner street side setback if located at least ten (10) feet from the property line.

SECTION 21. In Section 18.76.020 (D), substitute the term "accessory dwelling unit(s)" for "second dwelling unit(s)".

SECTION 22. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 23. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 24. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b) and 15301, 15303 and 15305 because it simply provides a comprehensive permitting scheme.

SECTION 25. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

NOT PARTICIPATING:

ATTEST:

_____
City Clerk

_____
Mayor

APPROVED AS TO FORM:

APPROVED:

_____
Senior Asst. City Attorney

_____
City Manager

_____
Director of Planning & Community Environment

SB-1069 Land use: zoning. (2015-2016)

SECTION 1.
Section 65582.1 of the Government Code is amended to read:

65582.1.
The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) ~~Second~~ *Accessory* dwelling units (Sections 65852.150 and 65852.2).

(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

(l) Limiting moratoriums on multifamily housing (Section 65858).

(m) Prohibiting discrimination against affordable housing (Section 65008).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

SEC. 2.

Section 65583.1 of the Government Code is amended to read:

65583.1.

(a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for ~~second~~ *accessory dwelling* units based on the number of ~~second~~ *accessory dwelling* units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available for rent at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of

affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

SEC. 3.
Section 65589.4 of the Government Code is amended to read:

65589.4.
(a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The attached housing development is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that an attached housing development shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the attached housing development site has not been rezoned to conform with the most recent adopted general plan.

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the attached housing development was deemed complete:

(i) A general plan.

(ii) A revision or update to the general plan that includes at least the land use and circulation elements.

(iii) An applicable community plan.

(iv) An applicable specific plan.

(D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

(E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

(d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

(g) This section is applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance, and thus a matter of statewide concern.

(h) For purposes of this section, "attached housing development" means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include ~~a second~~ *an accessory dwelling* unit, as defined by paragraph (4) of subdivision ~~(h)~~ *(j)* of Section 65852.2, or the conversion of an existing structure to condominiums.

SEC. 4.
Section 65852.150 of the Government Code is amended to read:

65852.150.
(a) The Legislature finds and declares all of the following:

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

~~The~~ *(2)* ~~Legislature finds and declares that second units are a valuable form of housing in California. Second units~~ *Accessory dwelling units* provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. ~~Homeowners who create second units benefit from added income, and an increased sense of security.~~

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

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

(5) California faces a severe housing crisis.

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

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

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

(b) It is the intent of the Legislature that ~~any second unit ordinances~~ *an accessory dwelling unit ordinance* adopted by *a* local ~~agencies have~~ *agency has* the effect of providing for the creation of ~~second~~ *accessory dwelling* units and that provisions in ~~these ordinances~~ *this ordinance* relating to matters including unit size, parking, ~~fees~~ *fees,* and other requirements,

are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ~~second~~ *accessory dwelling* units in zones in which they are authorized by local ordinance.

SEC. 5.
Section 65852.2 of the Government Code is amended to read:

65852.2.
(a) (1) ~~Any~~ *A* local agency may, by ordinance, provide for the creation of ~~second~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may~~ *shall* do ~~any~~ *all* of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~ *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 ~~second~~ *accessory dwelling* units on traffic ~~flow.~~ *flow and public safety.*

(B) Impose standards on ~~second~~ *accessory dwelling* units that include, but are not limited to, parking, height, setback, lot coverage, 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.

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

(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 shall be considered 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. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ *permits, within 120 days of submittal of a complete building permit application.* 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, including the costs of adopting or amending any ordinance that provides for the creation of ~~second~~ *accessory dwelling* units.

(b) (1) When a local agency ~~which~~ *that* has not adopted an ordinance governing ~~second~~ *accessory dwelling* units in accordance with subdivision (a) ~~or (c)~~ receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance

with subdivision (a) ~~or (c)~~ within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall ~~grant a variance or special use permit for~~ *ministerially approve* the creation of ~~a second~~ *an accessory dwelling* unit if the ~~second~~ *accessory dwelling* unit complies with all of the following:

(A) The unit is not intended for sale *separate from the primary residence* and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The ~~second~~ *accessory dwelling* unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached ~~second~~ *accessory dwelling* unit shall not exceed ~~30~~ *50* percent of the existing living ~~area.~~ *area, with a maximum increase in floor area of 1,200 square feet.*

(F) The total area of floorspace for a detached ~~second~~ *accessory dwelling* unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements ~~which~~ *that* apply to detached dwellings, as appropriate.

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

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

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed ~~second~~ *accessory dwelling* units on lots zoned for residential use ~~which~~ *that* contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant.~~ *owner-occupant or that the property be used for rentals of terms longer than 30 days.*

(4) ~~No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ *A* local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second~~ *accessory dwelling* units if these provisions are consistent with the limitations of this subdivision.

(5) ~~A second unit which conforms to the requirements of~~ *An accessory dwelling unit that conforms to* this subdivision 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 ~~which~~ *that* is consistent with the existing general plan and zoning designations for the lot. The ~~second~~ *accessory dwelling* units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(c) No local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single family and multifamily zoned areas justify adopting the ordinance.~~

~~(d)~~ *(c)* A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ *accessory dwelling* units. No minimum or maximum size for ~~a second~~ *an accessory dwelling* unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which~~ *that* does not *otherwise* 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.*

~~(e)~~ *(d)* Parking requirements for ~~second~~ *accessory dwelling* units shall not exceed one parking space per unit or per bedroom. ~~Additional parking~~ *These spaces* may be ~~required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings.~~ *provided as tandem parking on an existing driveway.* Off-street 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, or that it is not permitted anywhere else in the jurisdiction.~~ *conditions. This subdivision shall not apply to a unit that is described in subdivision (e).*

(e) 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 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 existing primary residence or an existing 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.

(f) Notwithstanding subdivisions (a) to (e), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone 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, 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.

~~(f)~~ *(g) (1)* Fees charged for the construction of ~~second~~ *accessory dwelling* units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000).~~ *66000) and Chapter 7 (commencing with Section 66012).*

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (f), a local agency 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.

(B) For an accessory dwelling unit that is not described in subdivision (f), a local agency 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 or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

~~(g)~~ *(h)* This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ~~second~~ *accessory dwelling* units.

~~(h)~~ *(i)* Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) ~~or (c)~~ to the Department of Housing and Community Development within 60 days after adoption.

~~(i)~~ *(j)* As used in this section, the following terms mean:

(1) "Living ~~area,"~~ *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) ~~"Second~~ *"Accessory dwelling* unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second~~ *An accessory dwelling* unit also includes the following:

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

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

~~(j)~~ *(k)* Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (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 ~~second~~ *accessory dwelling* units.

SEC. 5.5.
Section 65852.2 of the Government Code is amended to read:

65852.2.
(a) (1) ~~Any~~ *A* local agency may, by ordinance, provide for the creation of ~~second~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may~~ *shall* do ~~any~~ *all* of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~ *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 ~~second~~ *accessory dwelling* units on traffic ~~flow.~~ *flow and public safety.*

(B) *(i)* Impose standards on ~~second~~ *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.

(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 ~~second~~ *accessory dwelling* units do not exceed the allowable density for the lot upon which the ~~second~~ *accessory dwelling* unit is located, and that ~~second~~ *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 unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total 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 that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(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 unit or per bedroom. These spaces may be provided as tandem parking on an existing 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, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a 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, and the local agency requires that those 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).

(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 shall be considered 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. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ *permits, within 120 days after receiving the application.* 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, including the costs of adopting or amending any ordinance that provides for the creation of ~~second units.~~ *an accessory dwelling unit.*

~~(b)~~ *(4)* ~~(1)~~ *An* ~~When~~ *existing ordinance governing the creation of an accessory dwelling unit by* a local agency ~~which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it~~ *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 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 ~~in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:~~ *that complies with this section.*

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

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

~~(2)~~ *(5)* No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

~~(3)~~ *(6)* This subdivision establishes the maximum standards that local agencies shall use to evaluate ~~proposed second units on lots~~ *a proposed accessory dwelling unit on a lot* zoned for residential use ~~which contain~~ *that contains* an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision (a),~~ *subdivision,* shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant.~~ *owner-occupant or that the property be used for rentals of terms longer than 30 days.*

~~(4)~~ *(7)* ~~No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ *A* local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second units~~ *an accessory dwelling unit* if these provisions are consistent with the limitations of this subdivision.

~~(5)~~ *(8)* ~~A second unit which conforms to the requirements of~~ *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 ~~which~~ *that* is consistent with the existing general plan and zoning designations for the lot. The ~~second units~~ *accessory dwelling unit* shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(c)~~ *(b)* ~~No~~ *When a* local agency ~~shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.~~ *that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.*

~~(d)~~ *(c)* A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ *accessory dwelling* units. No minimum or maximum size for ~~a second~~ *an accessory dwelling* unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which~~ *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.*

(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 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 existing primary residence or an existing 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) ~~Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street 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, or that it is not permitted anywhere else in the jurisdiction.~~ *Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone 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, 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.*

(f) *(1)* Fees charged for the construction of ~~second~~ *accessory dwelling* units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000).~~ *66000) and Chapter 7 (commencing with Section 66012).*

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency 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.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency 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 or the number of its plumbing fixtures, 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 ~~second units.~~ *an accessory dwelling unit.*

(h) Local agencies shall submit a copy of the ~~ordinances~~ *ordinance* adopted pursuant to subdivision (a) ~~or (c)~~ to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living ~~area,"~~ *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) ~~"Second~~ *"Accessory dwelling* unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second~~ *An accessory dwelling* unit also includes the following:

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

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

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

(j) 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 (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 ~~second~~ *accessory dwelling* units.

SEC. 6.

Section 66412.2 of the Government Code is amended to read:

66412.2.

This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or ~~second~~ *accessory dwelling* units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

SEC. 7.

Section 5.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 2299. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 2299, in which case Section 5 of this bill shall not become operative.

SEC. 8.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

AB-2299 Land use: housing: 2nd units. (2015-2016)

SECTION 1.
Section 65852.2 of the Government Code is amended to read:

65852.2.
(a) (1) ~~Any~~ *A* local agency may, by ordinance, provide for the creation of ~~second~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may~~ *shall* do ~~any~~ *all* of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~ *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 ~~second~~ *accessory dwelling* units on traffic ~~flow.~~ *flow and public safety.*

(B) Impose standards on ~~second~~ *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.

(C) Notwithstanding subparagraph (B), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

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

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

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area.

(v) The total 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 that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(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 unit or per bedroom. These spaces may be provided as tandem parking on an existing 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, or that it is not permitted anywhere else in the jurisdiction.

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those 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.

(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 shall be considered 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. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ *permits, within 120 days after receiving the application.* 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, including the costs of adopting or amending any ordinance that provides for the creation of ~~second~~ *accessory dwelling* units.

~~(b)~~ *(4)* ~~(1)~~ *Any* ~~When~~ *existing ordinance governing the creation of accessory dwelling units by* a local agency ~~which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it~~ *or any such 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 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 ~~in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:~~ *that complies with this section.*

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

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

~~(2)~~ *(5)* No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

~~(3)~~ *(6)* This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed ~~second~~ *accessory dwelling* units on lots zoned for residential use ~~which~~ *that* contain an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision (a),~~ *subdivision,* shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

~~(4)~~ *(7)* ~~No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ *A* local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second~~ *accessory dwelling* units if these provisions are consistent with the limitations of this subdivision.

~~(5)~~ *(8)* ~~A second unit which conforms to the requirements of~~ *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 ~~which~~ *that* is consistent with the existing general plan and zoning designations for the lot. The ~~second~~ *accessory dwelling* units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(c)~~ *(b)* ~~No~~ *When a* local agency ~~shall adopt an ordinance which totally precludes second units within single family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single family and multifamily zoned areas justify adopting the ordinance.~~ *that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.*

~~(d)~~ *(c)* A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ *accessory dwelling* units. No minimum or maximum size for a ~~second~~ *accessory dwelling* unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which~~ *that* does not permit at least an efficiency unit to be constructed in compliance with local development standards.

~~(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street 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, or that it is not permitted anywhere else in the jurisdiction.~~

~~(f)~~ *(d)* Fees charged for the construction of ~~second~~ *accessory dwelling* units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

~~(g)~~ *(e)* This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ~~second units.~~ *accessory dwelling units, provided those requirements comply with subdivision (a).*

~~(h)~~ *(f)* Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) ~~or (c)~~ to the Department of Housing and Community Development within 60 days after adoption.

~~(i)~~ *(g)* As used in this section, the following terms mean:

(1) "Living ~~area,"~~ *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) ~~"Second~~ *"Accessory dwelling* unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second~~ *An accessory dwelling* unit also includes the following:

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

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

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

~~(j)~~ *(h)* 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 (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 ~~second~~ *accessory dwelling* units.

SEC. 1.5.
Section 65852.2 of the Government Code is amended to read:

65852.2.
(a) (1) ~~Any~~ *A* local agency may, by ordinance, provide for the creation of ~~second~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may~~ *shall* do ~~any~~ *all* of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~ *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 ~~second~~ *accessory dwelling* units on traffic ~~flow.~~ *flow and public safety.*

(B) *(i)* Impose standards on ~~second~~ *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.

(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 ~~second~~ *accessory dwelling* units do not exceed the allowable density for the lot upon which the ~~second~~ *accessory dwelling* unit is located, and that ~~second~~ *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 unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total 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 that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(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 unit or per bedroom. These spaces may be provided as tandem parking on an existing 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, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a 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, and the local agency requires that those 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).

(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 shall be considered 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. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ *permits, within 120 days after receiving the application.* 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, including the costs of adopting or amending any ordinance that provides for the creation of ~~second units.~~ *an accessory dwelling unit.*

~~(b)~~ *(4)* ~~(1)~~ *An* ~~When~~ *existing ordinance governing the creation of an accessory dwelling unit by* a local agency ~~which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it~~ *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 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 ~~in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:~~ *that complies with this section.*

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

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

~~(2)~~ *(5)* No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

~~(3)~~ *(6)* This subdivision establishes the maximum standards that local agencies shall use to evaluate ~~proposed second units on lots~~ *a proposed accessory dwelling unit on a lot* zoned for residential use ~~which contain~~ *that contains* an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision (a),~~ *subdivision,* shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant.~~ *owner-occupant or that the property be used for rentals of terms longer than 30 days.*

~~(4)~~ *(7)* ~~No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ *A* local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second units~~ *an accessory dwelling unit* if these provisions are consistent with the limitations of this subdivision.

~~(5)~~ *(8)* ~~A second unit which conforms to the requirements of~~ *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 ~~which~~ *that* is consistent with the existing general plan and zoning designations for the lot. The ~~second units~~ *accessory dwelling unit* shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(c)~~ *(b)* ~~No~~ *When a* local agency ~~shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that~~

~~would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.~~ *that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.*

~~(d)~~ *(c)* A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ *accessory dwelling* units. No minimum or maximum size for ~~a second~~ *an accessory dwelling* unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which~~ *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.*

(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 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 existing primary residence or an existing 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) ~~Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street 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, or that it is not permitted anywhere else in the jurisdiction.~~ *Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone 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, 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.*

(f) *(1)* Fees charged for the construction of ~~second~~ *accessory dwelling* units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000).~~ *66000) and Chapter 7 (commencing with Section 66012).*

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency 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.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency 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 or the number of its plumbing fixtures, 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 ~~second units.~~ *an accessory dwelling unit.*

(h) Local agencies shall submit a copy of the ~~ordinances~~ *ordinance* adopted pursuant to subdivision (a) ~~or (c)~~ to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living ~~area,"~~ *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) ~~"Second~~ *"Accessory dwelling* unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second~~ *An accessory dwelling* unit also includes the following:

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

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

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

(j) 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 (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 ~~second~~ *accessory dwelling* units.

SEC. 2.

Section 1.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 1069. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 1069, in which case Section 1 of this bill shall not become operative.

SEC. 3.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

AB-2406 Housing: junior accessory dwelling units. (2015-2016)

SECTION 1.

Section 65852.22 is added to the Government Code, immediately following Section 65852.2, to read:

65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already 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.

(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.

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

(C) 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 the junior accessory dwelling unit is in compliance 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. 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) 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 single-family structure. 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.

SEC. 2.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow local jurisdictions the ability to promulgate ordinances that create secure income for homeowners and secure housing for renters, at the earliest possible time, it is necessary for this act to take effect immediately.

Accessory Dwelling Unit (ADU) Requirements

Development Standards	Current Ordinance (R-1 Standards)*	State Law Restrictions	Staff Proposal
Attached ADUs			
Maximum size of living area (attached)	450sf ▪ Not including covered parking ▪ Basement area Included	Shall not exceed 50% of existing living area, with maximum increase of 1,200sf	No Change
Maximum house size (attached)	6,000sf (attached ADU included)	No	No Change
Maximum height (attached)	One story & 17ft	No	No Change
Detached ADUs			
Minimum separation from main dwelling (detached)	12ft	No	Delete
Maximum size of living area (detached)	900sf ▪ Not including covered parking ▪ Basement area included	Not to exceed 1,200sf	No Change
Maximum height (detached)	One story & 17ft	No	No Change
Attached and Detached			
Lot coverage	▪ Equivalent to FAR for single story ▪ 35% for two story	No	No Change

*Note: Other residential districts have different development standards

Accessory Dwelling Unit (ADU) Requirements

Development Standards	Current Ordinance (R-1 Standards)*	State Law Restrictions	Staff Proposal
FAR	▪ .45 (1st 5,000sf) ▪ .30 (in excess of 5,000sf)	No	No Change
Minimum lot size (attached & detached)	35% greater than minimum lot size for R-1 lots	No	No Change
Parking	▪ 2 parking spaces/1 covered ▪ Cannot be in front setback ▪ Not closer than 10ft from street in street side setback	▪ Not to exceed 1 per unit or per bedroom ▪ May be located in setbacks or tandem, unless special findings ▪ No parking required for Junior ADU ▪ No parking required for ADU part of existing primary residence or existing accessory structure	▪ 1 per unit or 1 per bedroom, whichever is greater ▪ No parking required for junior units or retrofit of existing structure

*Note: Other residential districts have different development standards

PUBLIC COMMENTS RECEIVED AS OF NOVEMBER 23, 2016

From: **Steve Baker**
Date Received: **11/20/2016**

I believe SDUs are an easy way to create more housing for couples or single people. However, they will probably also create more housing for families in palo alto, as empty nesters may move into SDUs on their own property and rent out their houses to newcomers. It seems like a win-win to me!

I support removing the minimum lot size requirement for SDUs and also relaxing the FAR requirement for the purposes of SDUs.

Thank you,
Steve Baker

From: **Abby Boyd**
Date Received: 11/20/2016

Please address:

First, is this instead of the single story overlay? Will neighborhoods with a single story overlay be changed to a less height restrictive zoning? I WANT TO KEEP THE SINGLE STORY OVERLAY.

Houses in a cul-de-sac have parking issues, which include the ability of garbage and recycling containers being up out for pickup

I don't want people looking into my house and backyard. This privacy is a plus that is disappearing and does not need to disappear in Eichler neighborhoods

I can't plant trees to block neighbor homes or insure privacy. I have had to cut down trees because of telephone lines

Will you increase traffic in residential areas? I already have cut through traffic and employees at the Jewish Campus parking on my street.

Sunlight. I need it for my vegetable garden and I like to look at the sky. What about solar panels?

Some houses back up to enormous lots, the one behind me is 17000 square feet. I don't want second stories that would loom over my house as people drove up to it. This has been done on Montrose and looks awful.

Higher grades and flood plains. These need to be taken into account when looking at the final height of buildings.
Access areas for repairs. Don't forget to keep these free.

Granny units are another structure that needs to not block sunlight, end my privacy, and increase parking. I think they may become homes for Stanford students, not low income employees.

Are you going to have rent restrictions on these so low income people can live in Palo Alto? Is this a can of worms?

Who decides the guidelines?

Please address these issues and consider that Palo Alto has increased density at the expense of quality of life.

From: **K JM**
Date Received: 11/20/2016

Question: so now, neighbor remodeling garage on churchill where plans are stamped not to be used for sleeping (or some similar designation...) - will they now be permitted to have a tenant?

From: **Virginia Van Kuran**
Date Received: 11/17/2016

I am in full support for updating the regulations regarding ADUs and JADUs to provide much needed additional housing options in Palo Alto. I would like to be informed about this project.

Thank you.
Regards,

Virginia Van Kuran
879 Garland Drive
Palo Alto, CA 94303
virginia@vankuran.com

From: **Tammy Kwan**
Date Received: 11/17/2016

My name is Tammy and I was referred to you by Samuel Gutierrez, one of the City Planning technicians.

I own a duplex in Palo Alto and we had hopes to build expand one unit by adding a second floor to maximize our square footage. Our local family of four would love to be able to live in the expanded side while keeping the other unit as a rental. It is zoned as R2 and since it is on a lot sized less than 7500 sq feet, we are considered a grandfathered, legal, non-conforming duplex. Therefore, we are not able to add any additional square footage. Unfortunately, we learned this too late and already drew up our plans.

According to Samuel, the only option we have if we want to increase the floor space is to convert it to a single family home. However, we'd like to keep it as 2 units to provide us that extra rental income. Also, it seems like a shame to take away a unit from the already short pool of housing in Palo Alto.

I also hear from news outlets that there is a push to allow more second unit dwellings on more properties. Do you know the latest on this in Palo Alto? Is there a chance that the City may decrease the 7500 sq foot lot minimum for 2 units in an R-2 zone? Samuel mentioned that I can be added to a newsletter to receive the latest info? If so, that would be great.

Thanks and looking forward to hearing your thoughts,

Tammy

From: **Diane Reklis**
Date Received: 11/21/2016

Dear Cory and members of the PTC,

Relaxing the setback from the street slightly would allow many Eichlers to either convert the front bedroom to a studio and/or add an apartment to half the garage. This would not impact the neighbors or the homeowner nearly as much as a second story addition or a separate structure and it should be considered while you are thinking about ADUs. The setbacks were put in place when we had water for front lawns; times have changed and we should examine what makes sense for today and the future.

There used to be an ordnance or zoning that would not allow bedroom in ½ garage – not sure if it is state or local, but if it is still restricted it needs to be changed. With appropriate firewalls this restriction does not make sense. Now many folks put in an "office" in part of the garage and use it for a bedroom. I'd rather make it legal and safe than illegal and therefore have no possibility of regulating for safety.

Many of the ideas I proposed in my editorial last April are relevant to this discussion. Please include copies of this editorial in your meeting packet.
http://www.paloaltoonline.com/news/2016/04/30/guest-opinion-be-creative-in-embracing-change-preserving-neighborhood

The city should make ADUs easy, including helping with getting simple designs through the permit process and helping (at cost) to develop appropriate leases (leases might include minor repairs or computer advice in lieu of some rent). There is no need to demand that each homeowner reinvent the basic design, particularly when many homes in the neighborhood are similar. A well-designed ADU might have many different uses during the time that a homeowner has control of their house and that flexibility is a good thing and should be encouraged. Many homes that are suitable for ADUs are owned by older folks who are more likely to do the work of adding an ADU and renting it out (or renting out the main part of the house and moving into the new part) if the city makes the process easy. This would also allow many to age in place while allowing new folks to share the space.

I am glad that this idea is gaining traction. Thank you for letting me give input.

Diane Reklis
650-814-3410