



Planning & Transportation Commission

Staff Report (ID # 12090)

Report Type: Action Items **Meeting Date:** 5/26/2021

Summary Title: ADU Code Changes: Affordability Regulations

Title: PUBLIC HEARING/LEGISLATIVE: Review and Discuss Potential Ordinance Changes to Palo Alto Municipal Code Chapter 18.09 to Consider Regulations to Encourage Affordability for Accessory Dwelling Units (ADUs). Environmental Assessment: Exempt from the CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), and 15305.

From: Jonathan Lait

Recommendation

Staff recommends the Planning and Transportation Commission (PTC) take the following action(s):

1. Discuss potential modifications to Palo Alto Municipal Code Chapter 18.09 to promote affordable accessory dwelling units and junior accessory dwelling units;
2. Provide recommendations on policies and development standards to develop further for inclusion in a draft ordinance.

Executive Summary

This report discusses policies and development standards intended to yield deed-restricted, income-restricted accessory dwelling units (ADU) and junior accessory dwelling units (JADU) that can be leased at affordable rates.

The following ideas are discussed in this report as incentives for rent restricted ADUs:

- i. Allowing Reconstruction/Expansion of Non-Conforming Structures
- ii. Removing the Existing Garage Requirement for Conversions
- iii. Allowing an Additional ADU to be Built when Providing an Affordable Unit On-Site
- iv. Exempting Basement Square Feet from Maximum Unit Size Calculations
- v. Increase Allowed Maximum Size for ADU/JADU
- vi. Allowing Reduced Setbacks for Affordable Units

- vii. Exempting Affordable Units from Development Impact Fees
- viii. Expediting Reviews of Affordable Units

This report and associated discussion follow two prior PTC hearings regarding proposed modifications to the city's ADU/JADU ordinance. The prior meetings were held on February 10, 2021¹ and 24, 2021² and; more information is available online at: <https://bit.ly/2QzrW1Y>.

Background

On October 26, 2020, the Palo Alto City Council adopted Palo Alto Municipal Code Chapter 18.09³, the most recent Accessory and Junior Accessory Dwelling Unit Ordinance (Attachment A). The October 5, 2020 first reading staff report⁴ and minutes⁵ are available online. The ordinance's adoption occurred after PTC's public hearing held on May 27, 2020. At that time, the PTC recommended adoption of the ordinance.

While the Council adopted the ordinance, the Council also directed the PTC and staff to continue pursuing additional changes to the ordinance that can further the production of ADUs and JADUs in Palo Alto. The PTC previously considered and recommended changes to development standards to encourage ADU production. This report proposes changes to the ordinance that could lead to affordable ADUs.

Defining Housing Affordability and Affordable Housing

When using the term "affordable", staff is referring to deed-restricted units that are offered for reduced rent to income-qualifying households. The tenant household must have an income that falls within a range established by City policy. The income corresponds to Santa Clara County's Income Table as developed by the Department of Housing and Urban Development (HUD). Each year, HUD publishes a table for each county identifying the median income, and the incomes of extremely low-, very low-, and low-income households. The household income varies based on household size. As of April 26, 2021, the area median income (AMI) in Santa Clara County is \$151,300. Most affordable housing programs focus on serving households below the area median income; those households that fall within the extremely low, very low, and low-income categories.

Table 1: Santa Clara County Income Table Issued by HUD April 26, 2021³
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¹ February 10, 2021 Staff Report: <https://www.cityofpaloalto.org/files/assets/public/planning-amp-development-services/file-migration/bc/ptc/2021-agenda/ptc-2.10-agenda-packet.pdf>; February 10, 2021 Minutes: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2021/ptc-2.10.2021-bgh-revisions.pdf>

² February 24, 2021 Staff Report: <https://www.cityofpaloalto.org/files/assets/public/planning-amp-development-services/file-migration/bc/ptc/2021-agenda/ptc-2.24-agenda-packet.pdf>; February 24, 2021 Minutes: <https://www.cityofpaloalto.org/files/assets/public/planning-amp-development-services/file-migration/bc/ptc/2021-agenda/ptc-2.24-agenda-packet.pdf>

³ PAMC Chapter 18.09 https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-58731

⁴ CMR 10-5-20 <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=59061.88&BlobID=78541>

⁵ Minutes 10-5-20 <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=42759.83&BlobID=79414>

	Household Size							
Income	1	2	3	4	5	6	7	8
Extremely Low	\$34,800	\$39,800	\$44,750	\$49,700	\$53,700	\$57,700	\$61,650	\$65,650
Very Low	\$58,000	\$66,300	\$74,600	\$82,850	\$89,500	\$96,150	\$102,750	\$109,400
Low	\$82,450	\$94,200	\$106,000	\$117,650	\$127,200	\$136,600	\$146,050	\$155,450
Median	\$105,900	\$121,050	\$136,150	\$151,300	\$163,400	\$175,500	\$187,600	\$199,700
Moderate	\$127,100	\$145,250	\$163,400	\$181,550	\$196,050	\$210,600	\$225,100	\$239,650

Source: California Department of Housing and Urban Development, 2021

A household's income and size determine the income-qualifying category within which the household falls. Further, the federal government provides guidance that housing is affordable if a household spends no more than thirty percent of its income on rent. For example, a home is affordable to a household of 4 earning 100% of the AMI if that household pays approximately \$3,782.50 per month for housing costs; or \$45,390 per year. As further illustration, the City's BMR (below market rate) rental price range for a one-bedroom unit is \$1,580 per month at 50% AMI to \$2,244 per month at 80% AMI.

There are three primary ways that housing can be made affordable (30 percent of a household's income or less). First, the market rate cost of the housing in an area can be affordable; this is sometimes referred to as "naturally" occurring affordable housing. This may be because the household earns sufficient income in relation to the housing, because the housing design commands a lower market price, or other factors. In relation to ADUs, the state has assumed that due to the smaller size of an ADU that ADUs will be lower cost. The actual rental price of ADU/JADUs, though, is not regulated; they are not required to be rented nor are they required to be rented at specific rental rates. The rates can rise and fall with the market and with the owner's preferences.

Second, housing can be made affordable through public policy. The City of Palo Alto, for example, has a policy that requires 15% of for-sale housing units be deed-restricted to be affordable to lower income households. These are often known as inclusionary below market rate units, as they are included in a development that has both market-rate and BMR units. Through this policy and others like it, the City facilitates the development of units that must be rented to households in certain income categories and at rates that household can afford. The management and rental and/or sale of these units ensures that only qualifying households purchase and/or rent the affordable units.

Finally, housing can be constructed by affordable housing developers who specifically serve households falling within the lower income groups. Such housing is often supported by public subsidy, philanthropic support, and/or private sector support (primarily tax credits), which generally also require a recorded covenant strictly limiting rents.

Discussion

Potential Incentives for Affordable ADUs

The policies and development standards described below are intended to incentivize property owners to voluntarily restrict an ADU/JADU to an affordable rent for income-qualifying households. Some of these items may be appealing to provide as a right to all owners of accessory units rather than just affordable units. Staff, however, believes these incentives can help further the creation of affordable housing, which is acutely needed.

Further, staff propose to allow a property owner to utilize all the policies and standards. That is, a J/ADU owner need not choose one policy or standard but can benefit from all incentives as they are applicable to the J/ADU. In order to apply, though, the unit must be restricted to income-qualified households only.

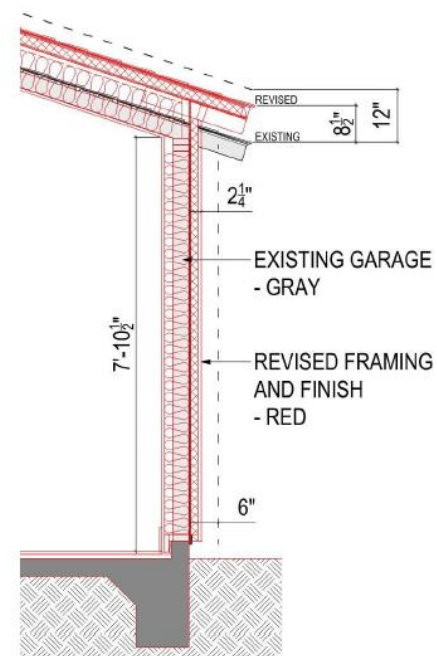
Finally, all these proposals assume the affordable ADU would be constructed on site and do not contemplate any in-lieu fee or other means of providing the affordable unit.

i. Allowing Reconstruction/Expansion of Non-Conforming Structures

State ADU law provides a simple path for conversion of an existing, non-conforming structure to an ADU, including complete demolition and reconstruction of the structure in place. If the non-conforming structure is expanded, however, state law allows local governments to impose some minimal regulations, like a four-foot setback and a 16-foot maximum height. A group of local architects has advocated for allowing some degree of expansion when converting or reconstructing non-conforming structures. Reconstruction can lead to a higher quality housing unit than converting a structure that was not intended for human habitation. However, modern building techniques may result in some expansion of the building envelope.

The PTC may consider allowing reconstruction of non-conforming buildings in the same location with a slightly different building envelope. Such policy could allow a converted structure to accommodate contemporary building code requirements for habitable buildings without significantly increasing the degree of non-conformity.

The PTC may, for example, consider recommending that the height of the structure can increase by up to one foot in height and the width of the structure to grow by a total of six inches in all other directions (see image and Attachment B), while remaining in the same non-conforming location. This could be considered “substantially the same” structure. Alternatively, the PTC could consider establishing a maximum height/dimension that a non-conforming unit could be expanded to (e.g., max height of 10 to 12 feet with a 4/12 roof pitch on all sides) or meet a predetermined daylight plane (established at 10 feet and angled 45 degrees towards property with max height for the structure of 10-12 feet).



The policy may, however, exacerbate perceived concerns regarding privacy. For example, if a non-confirming structure is closer than 4 feet from the neighboring property line, the reconstruction of a slightly larger structure at this location, and now for habitation purposes, could be perceived as a challenge to privacy. It would also be contrary to how the City's Municipal Code generally treats other non-confirming structures and would conflict with the City's general policy to eliminate non-confirming structures over time.

ii. Removing the Existing Garage/Carport Requirement for Conversions

Current state and local regulations provide that replacement parking need not be provided for covered parking that is eliminated in order to create an ADU. In maintaining this requirement, it requires that a structure must first be built and then later modified in order to benefit from the reduced parking requirements. For a project that is proposing a new garage or new house (which requires one covered and one uncovered space at a minimum), this would mean applying for two different permits with the City; each with their own plans, inspections, plan check fees, etc. This creates a two-step process for applicants that can add time, money, and barriers to unit production. Requiring a permit to build a garage or carport and a subsequent permit to convert the garage or carport does not add value to the quality of an application if the homeowner is intent on building a second unit and eliminating the covered parking. In the end, this results in more time for staff to review a project at two different stages.

Instead, the City could provide a single step process as an incentive for properties to build units that are compliant with the City's goals; namely, providing an affordable unit. The City could still require that, in this instance, uncovered parking spaces must be located on site, including an opportunity to locate within the front or street-side setbacks, to satisfy the primary unit's parking needs. Alternatively, the City could simply reduce the parking requirement for the primary unit, as that is the result of the two-step process.

The result would be that applicants could choose at any point to provide an ADU on their property, even during the review of a brand new single family home/garage. This change would mean that plans could indicate a house that does not provide any form of covered parking on the site at all. Although this raises some concerns about the existence of sufficient parking on the site, staff believe this could be an acceptable trade-off for the development of an affordable housing unit.

iii. Allowing an Additional ADU to be Built when Providing an Affordable Unit On-Site

Other jurisdictions within the state have provided incentives to allow additional ADUs to be developed on a site that also provides an affordable unit. In particular, the City of San Diego has allowed a homeowner one additional ADU if an ADU is provided at an affordable rent. Within a transit priority development area, San Diego allows an additional ADU for *each* affordable ADU provided on-site to an unlimited amount. The City of San Diego additionally requires that the affordable ADU is available to very low income, low income, and moderate-income households, with a deed restriction of not less than 15 years.

The City could develop a similar program, though a limit of 1 additional ADU may be more appropriate for Palo Alto. In combination with the existing ordinance, such a policy would allow a single-family zoned parcel to have (1) a primary home, (2) a JADU (3) an ADU, (4) a deed restricted affordable ADU. If there is a preference for these additional units to be attached or detached from the primary dwelling, limited to a certain size, follow specific setback criteria, etc., then staff would seek PTC's guidance on this. This type of policy may benefit larger parcels more than smaller ones; a separate policy could permit a greater number of additional units built on very large parcels (e.g., one additional unit for lots less than 10,000 sf, two for lots that are 10,000 – 20,000 sf, etc.).

iv. Exempting Basement Square Feet from Gross Floor Area/Floor Area Ratio Calculations

Per PAMC 18.09.040(i)(2), basements under ADUs are not allowed to extend into the setbacks required for the primary dwelling. Following the PTC hearing on 2/24, PTC voiced support for allowing basements under second units, provided they follow the four-foot side and rear setbacks.⁶ The ordinance could be further modified to treat basement square footage under an affordable unit as exempt from Gross Floor Area (GRA)/Floor Area Ratio (FAR). This basement would need to follow the footprint and setbacks required of all unit types so that they would not be able to project closer than four feet to a property line.

By exempting the basement space from GFA/FAR for affordable units, it could allow an individual to build a large unit, up to the maximum sizes prescribed in state law of 1,200 square feet for a detached unit or 50% of the primary dwelling for an attached unit. Providing a larger unit can provide a more equitable living situation for families looking for an affordable place to live in Palo Alto. It also can provide some flexibility to homeowners who may want to build a bigger unit but still want to preserve a portion of their yard for other uses. Staff would continue to review applications to confirm such basements would not have an adverse impact to adjacent trees, privacy, or dewatering. Potential concerns within the community regarding impacts of large units could include school district student increases (and impacts on other government services if development impact fees were waived for ADUs).

v. Increase Allowed Maximum Size for ADU/JADU

The City's ADU ordinance allows for a maximum ADU size of 900 square feet (sf), or 1,000 sf with 2 or more bedrooms, while a JADU has a maximum size of 500 sf. The architect group suggested in their comment letter (Attachment B) that the City should look at expanding the maximum allowed unit sizes. If the PTC would like to recommend Council pursue this change, staff would recommend limiting it to affordable units that meet the thresholds mentioned before in this report. At the moment, staff would suggest allowing up to 1,200 sf square feet for affordable ADUs and 800 sf for affordable JADUs.

vi. Allowing Reduced Setbacks for Affordable Units

The 2020 state law reduced setbacks for certain second units to a four-foot separation from the rear and side property lines. Staff has heard from homeowners and the architect group that

⁶ PTC 2-24-21 Staff Report: <https://bit.ly/3e1CuyE>; PTC 2-24-21 Minutes: <https://bit.ly/32dxba3>

while individuals are keen on developing second units, there is often a balance they seek to achieve between space for the unit and maintaining space for themselves. The City could consider further reducing interior yard setbacks for an affordable unit to a two-foot or zero setback allowance, so long as there were no concerns for fire and life safety. Within these zero-to-four-foot setback areas, the City would have greater authority to regulate the structure by establishing predetermined heights, daylight planes, or other envelope-based restrictions for new construction or even converted structures in these locations.

By allowing reduced setbacks, this could provide additional site planning flexibility for the homeowner and doubly serve to limit massing impacts on an adjacent property. If the PTC wishes to recommend this option, staff will need input on what height/setback would be acceptable before providing mock-ups for consideration. One concern with this approach is the area available for screening vegetation would be constrained with a two-foot setback, and non-existent with a zero setback. Likewise, impacts on neighboring property trees is a factor to consider.

vii. Exempting Affordable Units from Development Impact Fees

In order to encourage development of units that meet the City's goals of providing affordable housing, the City could exempt units of all sizes from Development Impact Fees. Staff does not generally support eliminating fees that are meant to cover the impacts of development within the City due to the long-term effects of deferred maintenance. However, this may be an acceptable trade-off to achieving the type of affordable development the City wants and needs. While exempting units from Development Impact Fees does not cover the entire costs experienced through the permit review process, it can serve to remove barriers to unit construction.

viii. Expediting Reviews of Affordable Units

The architect group noted that in addition to all the costs homeowners deal with when submitting permits to the City, processing time can be a significant cost factor. The current review time frames for building permits are: 30-day review of new submittals and 14-day review of resubmitted projects.

Staff could investigate reducing the time frames of these reviews to seven-days on the initial review and three-days on any resubmittal. However, without additional staff, it is likely this expedited permit effort would affect current staff's ability to provide on-time reviews for all other project types. As it is unknown how much development this program could generate, there is no metric to effectively gauge the impact to staff's workload. Staff would seek Council guidance on this possible incentive related to the City's resources.

Other Dimensions of Affordable ADU Policy

In addition to the incentives discussed above, the PTC may also consider several other important policy dimensions:

- (1) The length of time that a unit must be affordable - The ADU could be subject to restrictions for 55 or 99 years, similar to the treatment of inclusionary BMR units;

however, this might not be tolerable for many homeowners and could lead to limited affordable J/ADU production. The PTC might consider a shorter time period such as 10, 15, 20, or 30 years. Staff recommend a minimum of 15 years; during that period the J/ADU must be leased to an income qualified household. After the time ends, the owner could lease the unit to any household.

In meetings with the architect group, staff learned the group had not heard support from their clients and other residents for a 15-year minimum. They had heard support for a 5 to 10-year period. Staff does not believe that a 5 to 10-year period is sufficient, as some of the proposed incentives (e.g., an additional unit) provide significant ongoing value to the property owner. At a minimum, staff would seek to establish a graduated metric for the length and time for such units to remain affordable, with more deeply affordable units (50%-80% AMI) having a shorter sunset period. Staff is seeking PTC's input on this potential approach and whether there are additional possibilities to consider, such as terms related to eight-year housing element cycles and affordability levels.

- (2) The income categories affordable units must serve – The program could follow the same affordability requirements for the City's existing BMR program, targeting households within the 80% to 120% AMI range (moderate-income households). The PTC may wish to apply the same standards to the affordable J/ADUs.

Alternatively, the PTC may wish to serve low, very low, or extremely low-income households. Typically, units restricted to the latter two categories are supported through 100% affordable housing developments that offer additional services and supports to the households.

- (3) Process to Lease Affordable ADUs and JADUs – The rental process for the ADU/JADUs could follow a similar process to the rentals for inclusionary BMR housing units, which are administered for the City by Alta Housing. For BMR rental units, Alta Housing is contacted by a property owner when a BMR unit is or will be vacated. Alta Housing is responsible for advertising the unit and finding tenants. As part of the income certification process, the applicants are required to submit income documentation such as a W-2 form, paystubs, asset holdings, etc. Once placed in the housing, Alta Housing recertifies the tenant annually.

In speaking with Alta Housing, since there is not an affordable ADU rental program in place, their preference is for the City to create a waitlist that can be used to place pre-qualified tenants in available units. The income certification of prospective tenants can take 30-60 days. During this time, the owner of a vacant ADU is not collecting rent. This may discourage potential homeowners from participating because of the timing issue.

- (4) Tenant Selection – ADU owners could choose between (1) vetting a potential renter to submit to the administrator for income certification or (2) receiving a referral from the

program administrator. The former could add time and cost to securing a tenant, but the latter may not be ideal as the administrator only provides income certification of potential tenants. The landlord would still need to perform their own due diligence and qualification process with the prospective tenant.

- (5) Program Administration Costs - Alta Housing has suggested requiring a \$700 charge for initial certification of tenants and \$500 for annual recertification of tenants. This is based on costs for Alta Housing's administration of the Los Altos BMR program. Typically, this cost is paid by the landlord. This charge would be paid directly to Alta Housing to cover the cost to perform income certification of tenants. Please note that this fee is for income certification only. Other background review (credit history, rental history, criminal check, etc.) are all performed by the housing provider.

There are not funds available for the administration of this program within the City's budget. If the PTC and Council want to cover the program administration with public funds—as opposed to landlord's paying as described above—then funding sources will need to be identified and appropriated.

Staff can pursue State grant funds, such as the Permanent Local Housing Allocation (PLHA) to support creating this program. The PLHA was created in 2017 which established a \$75 recording fee on real estate documents to increase the supply of affordable homes in California.⁷ Based on conversations staff has had with HCD, roughly \$231,000 per year could be made available to the City to build this program. But staff is still reviewing the different funding activities in which this could be an eligible activity. This is a non-competitive program.

- (6) Financing ADU Development – Some cities and counties partner with financial institutions and other organizations to help finance the construction of ADUs. For example, Palo Alto could partner with organizations such as Housing Trust Silicon Valley (HTSV) which provides loans to homeowners trying to develop ADUs. Should the City pursue such partnerships and/or directly establish a loan fund to support ADU development, requiring affordability could be part of the loan terms.

Environmental Review

This ADU Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), and 15305 because it implements requirements related to accessory dwelling units as established in Government Code Section 65852.2, represents only minor changes to land use limitations, and is likely to result in additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment. Moreover, the actual development of ADUs would be exempt pursuant to CEQA Guidelines sections 15301, 15302, and 15303.

⁷ PLHA - <https://www.hcd.ca.gov/grants-funding/active-funding/plha.shtml>

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance. Notice of a public hearing for this project was published in the *Daily Post* on April 30, 2021, which is 12 days in advance of the meeting.

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Attachments:

- Attachment A: Ordinance 5507 (PDF)
- Attachment B: Architect Group's Correspondence (PDF)

⁸ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org

Ordinance No. 5507

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code to Amend Requirements Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units

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 increasingly unaffordable. In 2017, the average California home cost about 2.5 times the national average home price and the monthly rent was 50% higher than the rest of the nation. Rents in San Francisco, San Jose, Oakland, and Los Angeles are among the top 10 most unaffordable in the nation.
- B. Housing in Palo Alto is especially unaffordable. The average Palo Alto home currently costs about 8 times the national average home price and the monthly rent is about 2.5 times the national average.
- C. Palo Alto has a jobs/housing imbalance. When addressing this imbalance, the City must not only provide housing but also ensure affordability.
- D. Assembly Bills (“ABs”) 68, 587, 671, and 881 and Senate Bill (“SB”) 13 (“State ADU Law”) pertain to accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) and were approved by the California Legislature on September 13, 2019 and signed by the Governor on October 9, 2019. These bills, codified primarily in California Government Code sections 65952.2 and 65952.22, are intended to spur the creation of lower cost housing by easing regulatory barriers to the creation of ADUs and JADUs.
- E. This ordinance is adopted to comply with the mandates of the State ADU Law.

SECTION 2. Section 18.42.040 (Accessory and Junior Accessory Dwelling Units) of Chapter 18.42 (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code (“PAMC”) is deleted in its entirety.

SECTION 3. Chapter 18.09 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of Title 18 (Zoning) of the Palo Alto Municipal Code (“PAMC”) is added to read:

18.09.010 Purpose

The intent of this Chapter is to provide regulations to accommodate accessory and junior accessory dwelling units (ADU/JADU), in order to provide for variety to the city's housing stock and additional affordable housing opportunities. These 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 units on nearby residents and throughout the city, and to assure that the size and location of such dwellings is compatible with the existing or proposed residence(s) on the site and with other structures in the area.

18.09.020 Applicable Zoning Districts

The establishment of an accessory dwelling unit is permitted in zoning districts when single-family or multi-family residential is a permitted land use.

18.09.030 Units Exempt from Generally Applicable Local Regulations

- (a) Government Code section 65852.2, subdivision (e) provides that certain units shall be approved notwithstanding state or local regulations that may otherwise apply. The following types of units shall be governed by the standards in this section. In the event of a conflict between this section and Government Code section 65852.2, subdivision (e), the Government Code shall prevail.
- i. An ADU or JADU within the existing space of a single-family dwelling or an ADU within the existing space of an accessory structure (i.e. conversion without substantial addition).
 - ii. An ADU or JADU within the proposed space of a single-family dwelling.
 - iii. A detached, new construction ADU on a lot with a proposed or existing single-family dwelling, provided the ADU does not exceed 800 square feet, sixteen feet in height, or four-foot side and rear (i.e. interior) setbacks.
 - iv. ADUs created by conversion of portions of existing multi-family dwellings not used as livable space.
 - v. Up to two detached ADUs on a lot with an existing multi-family dwelling.
- (b) The Development Standards for units governed by this section are summarized in Table 1.

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Table 1: Development Standards for Units Described in Government Code Section 65852.2(e)

Table 1: Development Standards for Units Described in Government Code Section 65852.2(c)					
	Single-Family			Multi-Family	
	Conversion of Space Within an Existing Single-Family Home or Accessory Structure	Construction of Attached ADU Within the Space of a Proposed Single-Family Home	New Construction of Detached ADU	Conversion of Non-Habitable Space Within Existing Multi-family Dwelling Structure	Conversion or Construction of Detached ADU
Number of Units Allowed	1 ADU and 1 JADU			25% of the existing units (at least one)	2
Minimum size ¹	150 sf				
Maximum size ¹	N/A ²		800 sf	N/A	
Setbacks	N/A, if condition is sufficient for fire and safety	Underlying zone standard for Single Family Home (ADU must be within space of Single-Family Home)	4 feet from side and rear lot lines; underlying zoning for front setback	N/A	4 feet from side and rear lot lines; underlying zoning for front setback
Daylight Plane	N/A		N/A		
Maximum Height	N/A		16 ³	N/A	16 ⁴
Parking	None				
State Law Reference	65852.2(e)(1)(A)	65852.2(e)(1)(A)	65852.2(e)(1)(B)	65852.2(e)(1)(C)	65852.2(e)(1)(D)

- (1) Lofts where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater shall count towards the unit's floor area.
- (2) Up to 150 sf may be added for the purpose of ingress and egress only.
- (3) Units built in a flood zone are not entitled to any height extensions granted to the primary dwelling.

(c) Development standards stated elsewhere in this Section or Title 18, including standards related to FAR, lot coverage, and privacy, are not applicable to ADUs or JADUs that qualify for approval under this section.

(d) The establishment of accessory dwelling units and junior accessory dwelling units pursuant to this section shall not be conditioned on the correction of non-conforming zoning conditions; provided, however, that nothing in this section shall limit the authority of the Chief Building Official to require correction of building standards relating to health and safety.

(e) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. Nothing in this section shall preclude the Fire Marshal from accepting fire sprinklers as an alternative means of compliance with generally applicable fire protection requirements.

(f) Rental of any unit created pursuant to this section shall be for a term of 30 days or more.

(g) Attached units shall have independent exterior access from a proposed or existing single-family dwelling. Except for JADUs, attached units shall not have an interior access point to the primary dwelling (e.g. hotel door or other similar feature/appurtenance).

(h) Conversion of an existing accessory structure pursuant to Government Code section 65852.2(e)(1)(A) may include reconstruction in-place of a non-conforming structure, so long

as the renovation or reconstruction does not increase the degree of non-compliance, such as increased height, envelope, or further intrusion into required setbacks.

- (i) Street addresses shall be assigned to all units prior to building permit final to assist in emergency response.
- (j) The unit shall not be sold separately from the primary residence.
- (k) Replacement parking is not required when a garage, carport, or covered parking structure is converted to, or demolished in conjunction with the construction of, an ADU.
- (l) JADUs shall comply with the requirements of Section 18.09.050.

18.09.040 Units Subject to Local Standards

- (a) This section shall govern applications for ADUs and JADUs that do not qualify for approval under section 18.09.030 and for which the City may impose local standards pursuant to Government Code section 65852.2, subdivisions (a) through (d).

- (b) The Development Standards for units governed by this section are provided in Table 2.

Table 2: All other Units

	Attached	Detached	JADU
Number of Units Allowed ¹	1		1
Minimum size	150 sf		
Maximum size	900 sf (1,000 sf for two or more bedrooms); no more than 50% of the size of the single-family home	900 sf (1,000 sf for two or more bedrooms)	500 sf
Setbacks	4 feet from side and rear lot lines; underlying zone standard for front setback		
Daylight Plane Initial Height Angle	8 feet at lot line		
	45 degrees		
Maximum Height ³			
Res. Estate (RE)	30 feet		
Open Space (OS)	25 feet		
All other eligible zones	16 feet		
Parking	None		
Square Footage Exemption	Up to 800 sf ⁽⁴⁾		Up to 500 sf ⁽⁴⁾

- (1) An attached or detached ADU may be built in conjunction with a JADU on a lot with an existing or proposed single family home
- (2) Lofts where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater shall count towards the unit's floor area.
- (3) Units built in a flood zone are not entitled to any height extensions granted to the primary dwelling.
- (4) Lots with both an ADU and a JADU may exempt a maximum combined total of 800 square feet of the ADU and JADU from FAR, Lot Coverage, and Maximum House Size calculations.

- (c) A single-family dwelling shall exist on the lot or shall be constructed on the lot in conjunction with the construction of an ADU/JADU.

- (d) ADU and/or JADU square footage shall not be included in FAR, Lot Coverage, and Maximum House Size calculations for a lot with an existing or proposed single family home, up to the amounts stated in Table 2. ADU and/or JADU square footage in excess of the exemptions provided in Table 2 shall be included in FAR, Lot Coverage, and Maximum House Size calculations for the lot.
- (e) Attached units shall have independent exterior access from a proposed or existing single-family dwelling. Except for JADUs, attached units shall not have an interior access point to the primary dwelling (e.g. hotel door or other similar feature/apurtenance).
- (f) No protected tree shall be removed for the purpose of establishing an accessory dwelling unit unless the tree is dead, dangerous or constitutes a nuisance under Section 8.04.050. Any protected tree removed pursuant to this subsection shall be replaced in accordance with the standards in the Tree Technical Manual.
- (g) For properties listed in the Palo Alto Historic Inventory, the California Register of Historical Resources, the National Register of Historic Places, or considered a historic resource after completion of a historic resource evaluation, compliance with the appropriate Secretary of Interior's Standards for the Treatment of Historic Properties shall be required.
- (h) Noise-producing equipment such as air conditioners, water heaters, and similar service equipment, shall be located outside of the setbacks for the ADU/JADU. All such equipment shall be insulated and housed, except that the planning director may permit installation without housing and insulation, provided that a combination of technical noise specifications, location of equipment, and/or other screening or buffering will assure compliance with the city's Noise Ordinance at the nearest property line. All service equipment must meet the city's Noise Ordinance in Chapter 9.10 of the Municipal Code.
- (i) Setbacks
 - i. Detached units shall maintain a minimum three-foot distance from the primary unit, measured from the exterior walls of structures.
 - ii. No basement or other subterranean portion of an ADU/JADU shall encroach into a setback required for the primary dwelling.
 - iii. Projections, including but not limited to windows, doors, mechanical equipment, venting or exhaust systems, are not permitted to encroach into the required setbacks, with the exception of a roof eave of up to 2 feet.
- (j) Design
 - i. Except on corner lots, the unit shall not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit unless the entranceway to the accessory unit is located in the rear half of the lot. Exterior staircases to second floor units shall be located toward the interior side or rear yard of the property.
 - ii. Privacy
 - A. Second story doors and decks shall not face a neighboring dwelling unit. Second story decks and balconies shall utilize screening barriers to prevent views into adjacent properties. These barriers shall provide a minimum five-foot, six-inch, screen wall from the floor level of the deck or balcony and shall not include perforations that would allow visibility between properties.

- B. Second story windows, excluding those required for egress, shall have a five-foot sill height as measured from the second-floor level, or utilize obscured glazing on the entirety of the window when facing adjacent properties. Second story egress windows shall utilize obscured glazing on the entirety of the windows which face adjacent properties.
- C. Second story windows shall be offset from neighbor's windows to maximize privacy.

(k) Parking

- i. Replacement parking is not required when a garage, carport, or covered parking structure is converted to, or demolished in conjunction with the construction of, an ADU.
- ii. Replacement parking is required when an existing attached garage is converted to a JADU. These replacement spaces may be provided as uncovered spaces in any configuration on the lot including within the front or street side yard setback for the property.
 - A. The Director shall have the authority to modify required replacement parking spaces by up to one foot in width and length upon finding that the reduction is necessary to accommodate parking in a location otherwise allowed under this code and is not detrimental to public health, safety or the general welfare.
 - B. Existing front and street side yard driveways may be enlarged to the minimum extent necessary to comply with the replacement parking requirement above. Existing curb cuts shall not be altered except when necessary to promote public health, safety or the general welfare.
- iii. When parking is provided, the 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, unless separate driveway access will result in fewer environmental impacts such as paving, grading or tree removal.
- iv. If covered parking for a unit is provided in any district, the maximum size of the covered parking area for the accessory dwelling unit is 220 square feet. This space shall count towards the total floor area for the site but does not contribute to the maximum size of the unit unless attached to the unit.

(l) Miscellaneous requirements

- i. Street addresses shall be assigned to all units prior to building permit final to assist in emergency response.
- ii. The unit shall not be sold separately from the primary residence.
- iii. Rental of any unit created pursuant to this section shall be for a term of 30 days or more.
- iv. The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. Nothing in this section shall preclude the Fire Marshal from accepting fire sprinklers as an alternative means of compliance with generally applicable fire protection requirements.

18.09.050 Additional Requirements for JADUs

- (a) A junior accessory dwelling unit shall be created within the walls of an existing or proposed primary dwelling.
- (b) The junior accessory dwelling unit shall include an efficiency kitchen, requiring the following components: A cooking facility with appliances, and; food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
 - i. A cooking facility with appliances shall mean, at minimum a one burner installed range, an oven or convection microwave, a 10 cubic foot refrigerator and freezer combination unit, and a sink that facilitates hot and cold water.
 - ii. A food preparation counter and storage cabinets shall be of reasonable size in relation to a JADU if they provide counter space equal to a minimum 24-inch depth and 36-inch length.
- (c) For the purposes of any fire or life protection ordinance or regulation or for the purposes of providing service for water, sewer, or power, a junior accessory dwelling unit shall not be considered a separate or new unit.
- (d) The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a primary residence either the primary dwelling or the junior accessory dwelling. Owner-occupancy is not required if the owner is a governmental agency, land trust, or housing organization.
- (e) Prior to the issuance of a building permit for a junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the city that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, requires owner-occupancy consistent with subsection (d) above, does not permit short-term rentals, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.

SECTION 4. Subsection (g) of Section 16.58.030 of Chapter 16.58 (Development Impact Fees) of Title 16 (Building) of the Palo Alto Municipal Code ("PAMC") is amended to read:

- (f) Accessory dwelling units (ADU) less than 750 square feet in size. Any impact fees to be charged for an accessory dwelling unit of 750 square feet or more shall be proportional to the square footage of the primary dwelling unit. ~~established by the conversion of an existing garage or carport, provided that the existing garage or carport was legally constructed, or received building permits, as of January 1, 2017, and is converted to an ADU with no expansion of the existing building envelope;~~

SECTION 5. Subsections (a)(4) and (a)(75) of Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code ("PAMC") is amended to read:

[. . .]

- (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. For the purposes of this definition, in order to provide “complete independent living facilities,” a dwelling unit shall not have an interior access point to another dwelling unit (e.g. hotel door or other similar feature/appurtenance).

[. . .]

(75) “Kitchen” means a room designed, intended or used for cooking and the preparation of food and dishwashing. Kitchen facilities include the presence of major appliances, utility connections, sink, counter, for storing, preparing, cooking, and cleaning.

(A) For ADUs, major appliances shall mean a minimum two burner installed range, and an oven or convection microwave, as well as a minimum 16 cubic foot freezer and refrigerator combination unit. Kitchens shall also include counter space for food preparation equal to a minimum 24-inch depth and 36-inch length, and a sink that facilitates hot and cold water.

[. . .]

SECTION 6. 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 7. 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 8. The Council finds that the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305 because it constitutes minor adjustments to the City’s zoning ordinance to implement State law requirements related to accessory dwelling units as established in Government Code Section 65852.2, and these changes are also likely to result in few additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment.

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SECTION 9. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED: October 5, 2020

PASSED: October 26, 2020

AYES: CORMACK, DUBOIS, FILSETH, FINE, KNISS, KOU, TANAKA

NOES:

ABSENT:

NOT PARTICIPATING:

ATTEST:

DocuSigned by:
Beth Minor
27523117DA804D7...
City Clerk

DocuSigned by:
Adrian Fine
289F2F6A091E448...
Mayor

APPROVED AS TO FORM:

DocuSigned by:
Albert Yang
1586C45220134DC...
Assistant City Attorney

APPROVED:

DocuSigned by:
Ed Shibada
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City Manager

DocuSigned by:
[Signature]
293CF322E1294F6...
Director of Planning & Development
Services

Certificate Of Completion

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Signer Events

Albert Yang


Albert.Yang@CityofPaloAlto.org

Assistant City Attorney

City of Palo Alto

Security Level: Email, Account Authentication
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Signature

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Jonathan Lait

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Interim Director Planning and Community

Environment

City of Palo Alto

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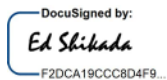
Ed Shikada

ed.shikada@cityofpaloalto.org

Ed Shikada, City Manager

City of Palo Alto

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Adrian Fine

adrian.fine@cityofpaloalto.org

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Signer Events	Signature	Timestamp
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City Of Palo Alto ADU Ordinance, First Reading, Meeting Date 10/5/2020 Agenda Item #8

To the Members of The Palo Alto City Council:

We want to begin by expressing commendation for what has been done to date by Council and PTC but particularly by Staff. This is a complex political and technical topic and we consider the ordinance to be mostly in alignment with the State Statutes. We applaud the effort where choices have been made to exceed limitations in a reasonable way, and understand clearly the boundaries established by State legislation.

What we need to remember is that the State is promoting this legislation to incentivize and streamline the creation of ADUs. We should also remember to view all of this through the local lens of prioritizing residential development as a clearly stated Palo Alto goal. As professionals, we seek a clear and precise set of rules we can rely on in the design process to achieve a predictable result for our clients.

A number of individuals spoke in warning when we came before Council in January, and we have been proven correct in stating Palo Alto's urgency ordinance was seriously flawed. Many elements did not properly conform to State legislation. Since then, Staff has adjusted their interpretations, in some cases after being challenged by the professional community, and partly when influenced by input from HCD. The updated document before you makes good progress toward alignment, but we still fall short in some important areas.

The Palo Alto ADU Task Force (PAADUTF), now approximately 20 individuals and growing, was created out of a grassroots desire for peer communication between professionals who are active in ADU development. Sharing information regarding regulatory interpretations, design methodology, and construction strategy, this group came together to evaluate the August 17 staff report and associated ordinance language. Unfortunately, we were not aware of the May 27 PTC hearing and recognize this was a missed opportunity to interact with staff. Over the course of five meetings conducted during August and September, the group developed a narrative along with an annotated review of the proposed ordinance. As indicated, two additional meetings were conducted with staff included to review and discuss the information. Several significant points from that discussion have been captured in your staff report. There are others that were not, that we nonetheless feel are critical to implement as part of this update.

Through direct and frequent interaction with HCD and supported by other experts active in ADU regulatory action, The PAADUTF has identified several specific areas where the proposed local ordinance departs from the State intent. We recognize Staff feels they have rigorously evaluated the language presented to you tonight, but we do not believe they are entirely correct. The HCD ADU Handbook, released just last week, seems to confirm a few areas where the proposed language is in conflict with HCD's guidance. As you have heard, if inconsistency is not corrected, there is a significant possibility the ordinance will be challenged and potentially deemed invalid.

The most significant issue is the approach taken in the ordinance regarding the Statewide Exemption ADU and how that language relates to all other units, particularly those exceeding 800 square feet.

Gov. Code, § 65852.2, subd. (c)(2)(C) *“Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.”*

Staff's interpretation of this section includes a vision that the Exemption Unit is an isolated obligation. In fact, the Statute language says clearly "**at least**", so we have been told any attempt at creating limitations for units which are larger (daylight plane restrictions, placement on the lot, a limitation for subterranean construction, or basement construction) is simply inconsistent with the State Statute.

Another significant departure is the approach taken in regard to 2-story construction. Staff is seeking to create limits on the basis of privacy, but the restrictions they have offered are inconsistent with the statutes. It is important to remember that the State put these new rules in place to shake up the norms, and we need to understand and align with that intent. As an example, HCD has described a scenario where if a lot is so small that 800 sf cannot be accommodated on one level, then 2-stories can be the only option. Because of this, HCD has confirmed there can be no restriction against 2-story units, under any condition. Whether in conformance with an Exemption ADU or larger, 2-story construction must be embraced. We would offer that Santa Cruz has done an excellent job in this area and has elected to allow 22' of height with additional restrictions for distance from the property line once beyond 16' of height. (<https://www.cityofsantacruz.com/government/city-departments/planning-and-community-development/accessory-dwelling-units-adus>)

Again, there are a number of specific areas of improvement in the proposed ordinance, and we applaud that. What we ask of you tonight is the consideration of 15 areas of concern we identify below, some of which have already been described by Staff. We believe all of these are important and nuanced topics that are truly necessary to implement. Some are changes only included to simplify the development of ADUs, but others are very technical responses to costly or avoidably complex limitations. We ask that you remember our pace is 1,000 units short of our RHNA requirement and that we need to do better and move faster. This set of considerations provides an easy way to encourage the development of additional units with minimal collateral impact when compared to larger, more dense projects with their significant timelines and approval hurdles.

15 Suggestions for Consideration:

1. Alignment with Gov. Code, § 65852.2, subd. (c)(2)(C)

- a. Remove language that improperly restricts daylight plane, placement on the lot, limitation for subterranean construction, or basement construction.

2. Two-Story

- a. Provide definition for subterranean 1st level construction. (1st level partially recessed in the ground)
 - i. Clarify how deep this can be without being interpreted as a 'basement'
 1. Suggest 36" max below existing natural grade as the threshold
- b. Confirm Staff's recommendations for privacy management
 - i. Windows obscured when sills are below 5' above adjacent finish floor on walls parallel to property lines when the structure is within 8' of a property line
 - ii. Set sills at 5' above adjacent finish floor on walls parallel to property lines when the structure is within 8' of a property line
 - iii. Sleeping rooms endeavor to have egress windows located on walls non-adjacent to property lines
 - iv. Use of (operable) skylights in bathrooms and other spaces where windows could be considered optional
 - v. No exterior lighting mounted above 7' on walls adjacent to property lines to keep it at or below maximum fence height
- c. Consider adopting language similar to that used in Santa Cruz:

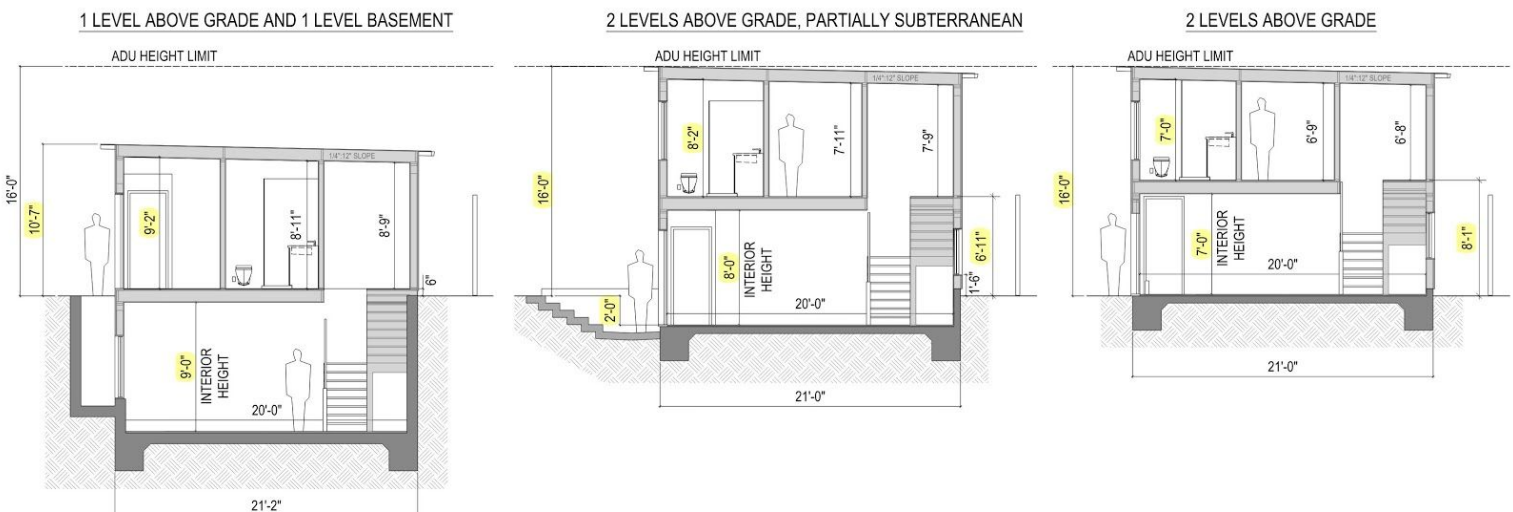
- i. ADUs higher than one story may be up to 22' tall at the peak, measured from average grade, and any portion of the structure that exceeds 16' in height must be set back a minimum of 5' from the side yard property line and 10' from the rear yard property line.
- ii. Exception: An ADU that faces an alley or street can be up to 22' tall and any portion of the structure that exceeds 16' in height must be set back 5' from the side and rear property lines.
- iii. Detached New Construction ADUs higher than one story shall limit the major access stairs, decks, entry doors, and windows to the interior of the lot or an alley if applicable. Windows that impact the privacy of the neighboring side or rear yards should be minimized or otherwise restricted as in (b.) above

3. Fees

- a. Significant cost is incurred relative to fees for Plan Check, Building Permit, Planning Impacts, Specialty Consultants, School Fees, etc. They are not always levied in a relative fashion.
 - i. Why not just charge a flat fee based on ADU floor area?
 - ii. Included in that methodology, remove some of the fees to further incentivize ADU construction.
- b. It is important to note that the proportionate language in regard to Planning Impact Fees for units >750 sf contained in Gov. Code, § 65852.2, subd. (f)(3)(A) creates a significant disincentive for individuals with existing small homes. Please note the following examples:
 - i. Project #1, Demolish an existing detached garage and replace it with a new conforming detached ADU.
 - 1. **Main house at 3,427 sf and new ADU at 800 sf = 23.3% = \$4,511.47**
 - ii. Project #2, Convert an existing detached garage and construct an addition to create a new detached ADU.
 - 1. **Main house at 1,209.6 sf and new ADU at 882 sf = 73.0% = \$14,101.46**
- c. *Both are roughly the same scope but because of the more modest house on Project #2, the weighted ratio pushes the fee to be \$10k more.*
- d. Add to this about \$9,000 for: School Impact Fees (\$3,000), Plan Check Fees (\$2,800) and Building Permit Fees (\$3,300) - That puts the fees for Project #2 at around \$23k, or almost 11% of the total anticipated project construction cost!

4. Subterranean/Basement Construction

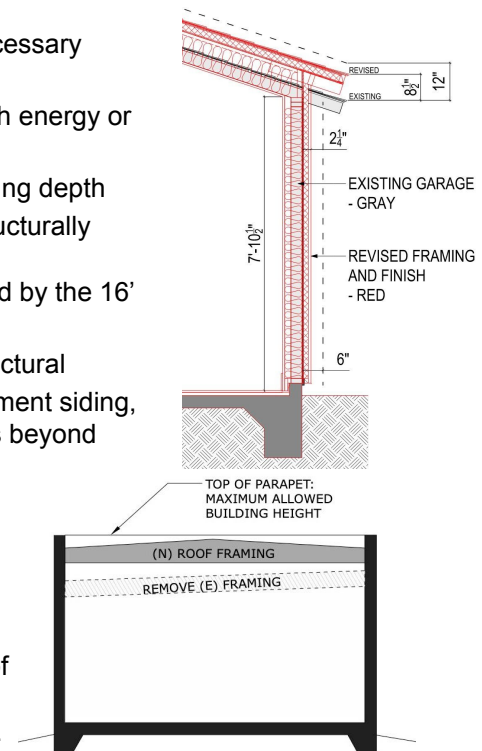
- a. Without some flexibility in this, floor to ceiling heights are substandard (+/- 7'-0"). Codifying this in a thoughtful way can provide tangible improvements in privacy management and enhancement to overall massing.
- b. Partially subterranean 1st floor lowers 2nd floor and allows 8' ceilings with a reasonable roof slope



- c. Adding a basement could reduce an entire floor of height/massing
 - 1. Reduce impact to neighbors
 - 2. Required exclusionary excavation techniques remove any concerns related to dewatering
- ii. Tree root impacts could be conditioned since the 800 sf exemption ADU is not obligated in regard to underground space
- iii. Add clarifying language requiring the interior basement FA to count toward the 800 sf exemption triggering the additional area beyond 800 sf to be deducted from overall site FA
- iv. No further encroachment other than that required for emergency egress.
- v. Consider, as an additional incentive, allowing a 1200 sf max ADU if 50% of FA is below grade?

5. Minimal increase to non-conforming structures

- a. Create an allowance to avoid complete demolition or unnecessary complexity due to energy or structural upgrades
 - i. Clarify that it can only be accessed for compliance with energy or structural obligations
 - 1. Grant an additional 12" of height – increase framing depth above top plate rather than hanging, which is structurally complex and reduces ceiling heights.
 - 2. Note that the structure height will still be restricted by the 16' height limit.
 - 3. Grant an additional 6" in plan on any side for structural seismic sheathing, exterior insulation, or replacement siding, so long as no portion of the structure encroaches beyond the property line.
 - ii. Add a clarification regarding structures with existing parapets. A non-conforming portion of the structure may be modified up to the height of the existing parapet. This can be done without creating an increased impact to neighbors. Previous interpretation of 'shrink-wrap' rules should not apply to recessed roof areas below the top of the parapet. This flexibility will allow the interior to be a reasonable residential height.

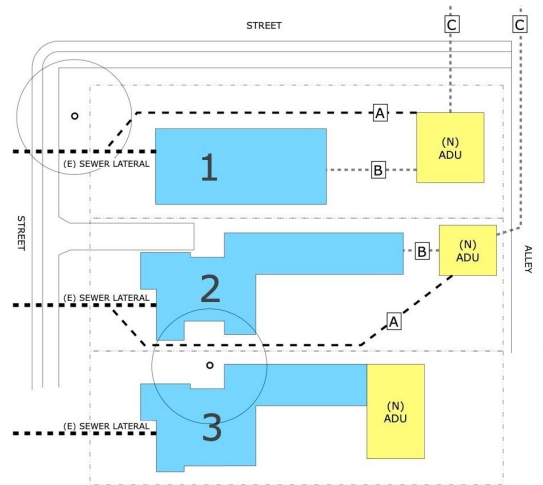


6. Utility Connections

- a. Separate meters placed only at the owner's discretion
- b. The requirement to provide a separate sewer line for detached ADUs has been directed by the Chief Building Official.
 - i. There is an exception in the Plumbing Code recognized in many jurisdictions to avoid the significant cost this causes (often greater than \$9,000) CPC 311.1 *Exception: Where one building stands in the rear of another building on an interior lot, and no private sewer is available or can be constructed to the rear building through an adjoining court, yard, or driveway, the building drain from the front building shall be permitted to be extended to the rear building.*
 - 1. Recognize that the high cost can be viewed as the basis for applying the exception
 - 2. Question - If no separate line is required for an attached ADU, why obligate the cost and complexity for a detached ADU. The outcome is the same so why regulate differently?
 - 3. An alternative to this might be a study performed by experts under CPC 301.3 "Alternate Materials and Methods of Construction Equivalency" with the establishment

of standards for equipment (backflow prevention) and cleaning/inspection schedules. Once established in the City, this could be relied on as an alternate approach.

- c. Routing of utilities at the discretion of property owner (rear alley or another alternate to avoid disruption to landscape or trees)
 - i. This graphic compares three lots with an alley behind. Parcel 3 has an attached ADU and the sewer may connect to the main house line. There is no impact to the site. Parcels 1 and 2 have detached ADUs and are currently required to run their sewer line shown as 'A', around the main house, and out to the street at the front yard. This is highly problematic, especially if there are protected trees on site. A reasonable option would be to allow the sewer line placement shown by the 'B' or 'C' routing.



7. Garage replacement associated with Detached ADU

- a. When replacement covered parking is provided, and attached to an ADU, that area should not count against the 800 sf 'bonus'
 - i. Staff has not indicated agreement with this.
 - ii. It represents a significant disincentive toward the creation of covered parking spaces.
 - iii. The space designated as a garage should count against the overall FA and not be allowed if the FAL or Lot Coverage will be exceeded as a result.

8. Retroactive Actions for all ADUs in process after 1/1/2020 (for projects without Building Final)

- a. Retract all enacted Deed Restrictions which are not in compliance with the updated regulations
 - i. Require new Deed Restrictions in conformance with the updated requirements
- b. Refund any overpayment of fees for all projects in process (between approvals and Building Final) since January 1, 2020 for:
 - i. Proportionate Impact Fees, if they remain in place
 - ii. Other fees as adjusted by the revised ordinance
 - iii. Council could elect to refund the full amount or an adjusted amount according to 16.06.110/R108.5 at 80%?

9. Green Building

- a. The current detached ADU regulations require Tier 2 with exceptions
 - i. Tier 2 obligates requirements for third party preparation of documents and site evaluation which comes at significant cost
- b. If a homeowner proposes an addition/alteration to their home under 1,000sf, a third party is not required and the project is only required to meet CALGreen Mandatory measures
- c. To streamline the ADU permitting and construction process, detached ADUs under 1,000 sf should only be required to comply with CALGreen Mandatory for consistency

10. Noise producing equipment

- a. Allow placement at any location on the property as long as documentation is provided which confirms noise level will be below the 66 decibel limit at the property line. What should be codified for these issues are rules that direct the desired result. Don't overcomplicate what can be achieved simply.
 - i. Equipment should be <66 dB without accessories such as blankets (can fail/degrade over time)

- ii. Asking for site-specific studies creates an additional unreasonable cost burden and must be avoided

11. Doorway between ADU and Primary Unit

- a. This really should be allowed as long as it is a hotel style communicating door. Note that it is allowed for a JADU so why not for an ADU?
 - i. Provides indoor access to care for or interact with the occupant but can be closed if privacy or separation is needed
- b. Don't create rules people will routinely circumvent - just remove the unnecessary regulation - Some may take advantage but there is little stopping them anyway

12. 60-day Processing

- a. Sets unrealistic expectations without clear narrative
- b. Explain how this will be interpreted/implemented
- c. Note that HCD has indicated the State says once an application is submitted, the City must approve within 60 days or it is automatically approved.
 - i. It is assumed that the clock is stopped when waiting for applicant response to comments, but there is nowhere this is codified and creates frustration for homeowners

13. Sprinkler requirements

- a. Clarify rules relative to the California State Fire Marshal Information Bulletin 17-001 (1/24/17)
 - i. Current PA implementation is not in alignment with Senate Bill 1069
 - ii. Safety concerns and physical constraints must be balanced against compliance with the State language

14. Flood Zone

- a. Better articulate requirements and permitted exceptions
 - i. Consider an example of the Exemption 800 sf ADU in the flood zone on a small lot – if reconstructing a non-conforming structure, it must be allowed to go higher than the 16 foot limitation by the delta between existing grade and the project site base flood elevation to raise the first floor level.

15. Remove requirement to convert “existing” garage/carport

- a. Only applies to projects where a new home is constructed with the intent of the garage or carport being converted to an ADU as a second ‘step’ after final inspection.
- b. Allow for a one-phase process
 - i. Offer incentive for streamlining
 - 1. Cannot be setbacks, height, etc. as these are enshrined in Gov. Code, § 65852.2, subd. (c)(2)(C)
 - 2. Could offer an additional fee reduction for saved staff time or something similar

While we recognize the Ordinance before you has been in process for the better part of a year, your action tonight will set the tone for what is possible until the next iteration of this language evolves. We are hopeful the commitment you have voiced toward incentivizing residential development, aligned with a stated goal of streamlining the approval of ADUs, will lead you to adopt some version of the 15 points we have presented. As professionals serving as guides to those who wish to construct an ADU, and being tasked with implementing the regulations, we want you to understand how important we believe these items are. If anything, we hope you might consider this as a starting point. We welcome your willingness to perhaps go further and, as many other cities have done, consider the adoption of additional language which will make ADUs more livable, desirable, and affordable.

Respectfully submitted,

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