

**PLANNING COMMISSION**  
**STAFF REPORT**

**MEETING DATE: August 1, 2022**


**ITEM FOR CONSIDERATION**

**Proposed Accessory Dwelling Unit (ADU) and  
Junior Accessory Dwelling Unit (JADU) Program**

**PROJECT 19-2008-ORD/LCPA**

A public hearing at the request of the City of Carpinteria to consider Case No. 19-2008-LCPA/ORD, proposing to amend the City's Local Coastal Program to reflect changes to the City Municipal Code, Zoning Code, and Zoning Map to include regulations regarding Accessory Dwelling Units and Junior Accessory Dwelling Units as well as an Exemption pursuant to §15061(b)(3) and §15282(h) of the California Environmental Quality Act (CEQA) Guidelines. Changes to the Municipal Code include the rescission of provisions of Chapter 14.72 entitled, "Residential Secondary Dwelling Unit" and replacement within this Chapter with new provisions entitled, "Accessory Dwelling Units and Junior Accessory Dwelling Units"; addition of a new definition to Chapter 14.08; and addition of new uses and processes of Chapter 14.12 R-1 Single-Family Residential District, 14.14 PRD Planned Residential Development District, 14.16 PUD Planned Unit Development District, 14.17, MHS/PUD Mobile/Modular Home Subdivision/Planned Unit Development District, 14.18 MHP Mobile Home Park Planned Development District, 14.20 CPD Commercial Planned Development District, 14.22 CB Central Business District, 14.26 M-RP Industrial Research Park District, 14.28 M General Industry District, 14.32 A Agriculture District; adoption of a new "Accessory Dwelling Unit Beach Overlay District". The project would be applicable to a number of parcels throughout the City located in zone districts that permit residential uses. City staff is seeking Planning Commission recommendations to the City Council as noted under, I. RECOMMENDATIONS and IV. ACTION OPTIONS.

**Report prepared by:** Rita Bright, Principal Planner

  
SIGNATURE

**Reviewed by:** Steve Goggia, Director  
Community Development Department

  
SIGNATURE

**I. RECOMMENDATION**

1. That the Planning Commission recommend that the City Council adopt Ordinance No. 758 (Exhibit 1), amending Title 14 (Zoning) of the Carpinteria Municipal Code by establishing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) regulations,

including an ADU Beach Neighborhood Overlay District, as delineated in Exhibit 2 of the Ordinance, and adding additional provisions related to the regulation of ADUs and JADUs.

2. That the Planning Commission recommend that the City Council determine that Ordinance No. 758, is statutorily exempt from review under CEQA pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to adoption of an Accessory Dwelling Unit ordinance to implement the provisions of State Government Code Section 65852.2 (Exhibit 3).
3. That the Planning Commission recommend that the City Council determine that Ordinance No. 758, is categorically exempt from review under CEQA in accordance with CEQA Guidelines Section 15303, which exempts new construction or conversion of small structures, as in the case of a Junior Accessory Dwelling Unit, implemented under the provisions of State Government Code Section 65852.22 (Exhibit 3).

## II. EXECUTIVE SUMMARY

The item provides an analysis and recommendations that the Planning Commission may consider regarding proposed amendments to the Carpinteria Municipal Code (CMC), Title 14 - Zoning, Chapter 14.72 - Secondary Dwelling Units that would implement recent state enactments of housing laws to promote development of ADUs and JADUs. In addition to staff's recommendations, this report provides an overview of state housing law requirements; the Project Description, which includes the proposed ordinance amendment to implement the ADU and JADU Program; and an analysis of the Program's consistency with the City's General Plan and Coastal Land Use Plan.

## III. DISCUSSION

### Background.

In 2017, the California Legislature passed a suite of three bills (Assembly Bill (AB) 2229, Senate Bill (SB) 1069 and AB 2406), which generally sought to encourage the development of ADUs and JADUs by streamlining the approval process and limiting local agencies' authority to regulate ADUs and JADUs. These bills and subsequent ADU and JADU legislation, however, stated that the State's laws did not supersede the California Coastal Act (Coastal Act) and thus the City elected not to update its certified Local Coastal Program (LCP) at that time. (Gov. Code § 65852.2(j).)

Following the City's decision, the California Coastal Commission (CCC) issued memos, including the most recent memo on January 21, 2022 providing guidance on implementation of State ADU and JADU law within the Coastal Zone (Exhibit 4). The memo reaffirms past CCC guidance that Government Code Section 65852.2 should not be interpreted as allowing coastal jurisdictions to disregard state ADU legislation in the Coastal Zone and encouraged coastal jurisdictions to amend their LCPs to implement state ADU legislation consistent with the Coastal Act. In doing so, the CCC also encouraged local governments to develop ADU and JADU standards in a manner that protects wetlands, sensitive habitat, public access, scenic views of the coast, productive agricultural soils, and the safety of new ADUs and their occupants.

Recognizing the need to develop City ADU and JADU regulations in order to promote development of more affordable housing units as well as market rate units to increase the City's housing supply in response to State Housing Element laws and an anticipated increase the related Regional Housing

Needs Allocation for the City, the City Council adopted Resolution No. 5915 to initiate the Accessory Dwelling Unit zone code amendment work program. Chapter 14.72 would be replaced in its entirety with the Accessory Dwelling Unit and Junior Accessory Dwelling Unit Program.

The State legislature continues to identify the production of ADUs and JADUs as an important element to increase housing production and has adopted legislation to promote new ADUs and JADUs. On January 1, 2020 and 2021, new State laws that apply to ADU and JADU regulations went into effect (AB 68, AB 881, and SB 13, codified in Gov. Code Section 65852.2). Consistent with CCC guidance, local agencies within the Coastal Zone must implement these State ADU and JADUs laws that include but are not limited to: ministerial (non-discretionary) permit review through use of objective development standards; reduction or elimination of development fees; reduced application review timelines; limitations on zoning regulations (e.g., minimum lot size, maximum unit square footage, parking standards, setbacks, etc.); and expansion of ADU and JADU unit count, construction, and/or conversion opportunities for both single family and multi-family residential zones.

### **Program Status and Approach to Adopt the ADU and JADU Program.**

The proposed ADU and JADU Program requires compliance with both state housing laws and the Coastal Act, given that the City is located entirely within the Coastal Zone. While many public planning agencies outside of the Coastal Zone are implementing State ADU laws by updating their housing programs or defaulting to the State's requirements, cities and counties within or partially within the Coastal Zone must also ensure compliance with state and locally certified coastal policies. Related to recent passage of State laws governing ADUs and JADUs, the CCC's most recent memo supersedes prior CCC memos and further guide cities and counties with land within the Coastal Zone (Exhibit 4).

*Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act.*

Staff completed an initial administrative draft ordinance for the ADU Program. After a series of internal reviews and revisions, staff presented the Planning Commission, City Council, and public with opportunities to provide input on main program components, prior to commencement of HCD and CCC review of the administrative draft. Staff provided the Planning Commission with a publicly noticed status report on October 4, 2021 and the also provided a status report to City Council on October 25, 2021.

### **Planning Commission October 4, 2021 Status Hearing.**

At the October 4, 2021 Planning Commission hearing, staff provided your commission with five policy options to address compliance with State housing laws and the Coastal Act as summarized in Table 1 below:

<b>Table 1. Planning Commission October 2021 Status Hearing - Policy Options</b>
<b>Option 1. Allow City-wide ADU and JADU Applications with No Exclusion Areas.</b>
This option proposed that ADUs and JADUs would be eligible in all zone districts that permit residential and mixed uses without any exclusion or prohibition areas. Under this scenario, more ADU and/or JADU applications could be filed for City review; however, the requirement to be consistent with coastal resource policies would remain. ADU and JADU units in areas identified with coastal resource concerns could be denied.
<b>Option 2. Exclusion of ADUs and JADUs within Certain Neighborhood Districts or Geographic Areas based on Coastal Act and Sensitive Resource Policies and Supporting Technical Studies.</b>
This option proposed to prohibit ADUs and JADUs in certain areas based on documented information, including the <i>Final Sea Level Rise Vulnerability Assessment and Adaptation Plan</i> (SLRVAAP) (City of Carpinteria, 2019). The SLRVAAP identifies coastal hazard risks to coastal resources in the Beach Neighborhood District and portions of the Concha Loma District. Additionally, both areas experience high-use of coastal access parking areas, including on-street public parking close to designated coastal access points. To address coastal resource policy concerns, this option proposed creation of either district-wide or partial district exclusion areas.
<b>Option 3. Apply Discretionary Review in lieu of Exclusion Areas, in Certain Areas Based on Coastal Act and Sensitive Resource Policies and Supporting Technical Studies.</b>
Option 3 proposed a discretionary permit review alternative, rather than a geographic-based exclusion option where coastal resource policy concerns exist, similar to the process identified in the City's Interim Sea Level Rise Guidance document (City of Carpinteria, 2020). Option 3 included a discretionary review option for ADU and/or JADU applications that could meet the requirements of the objective development standards, including consistency with coastal resource policies. Areas that presently experience high demand for coastal access could be designed to require on-site parking for ADU and JADU units, as well as on-site parking replacement for existing onsite uses, which would be displaced with ADU and/or JADU development, with the goal to maintain consistency with coastal land use and access policies.
<b>Option 4. Exclusion of ADUs in Sensitive Coastal Resource or Other Sensitive Resource Areas.</b>
Option 4 proposed to preclude ADUs on lots that contain protected resources (e.g., environmentally sensitive habitat areas (ESHA)). For example, lots that contain ESHA; bluff tops; or are in their Hillside Overlay Zone, Very High Fire Hazard Area, or Wildland Urban Interface could be excluded from ADUs.
<b>Option 5. A Hybrid ADU and JADU Program Option.</b>
Option 5 proposed to implement a combination of processing requirements the options. Option 5 would preclude certain areas with known coastal hazard risks but provide for discretionary review in areas with less vulnerability to such risks but with coastal resource protection policies concerns. Discretionary review and special conditions would be applied to an ADU and/or JADU projects that could result in adverse effects on public coastal access sites.

At the October 4, 2021 public status hearing, the Planning Commission recommended that the City Council, direct staff to approach the ADU and JADU Program by implementing a hybrid option, similar to Option 5, by applying exclusion zones and applying development standards for ministerial permits. The Commission recommended that exclusions would not be necessary for ESHAs given



known ESHAs are generally outside of eligible zone districts. The Commission recommended that existing reports and investigations be used to substantiate exclusion of a portion of the Beach Neighborhood, south of Sandyland Road, between Ash Avenue and Linden Avenue. The Commission also recommended a revisit of the ordinance, two to three years from its effective date as more information becomes available regarding sea level rise (Exhibit 5).

### **City Council October 25, 2021 Status Hearing.**

The City Council received a status hearing staff report, which provided an overview of the ADU and JADU Program components and options, in accordance with State HCD regulations to implement the Program and Coastal Act policy requirements. The report included the Planning Commission's recommendations. Based on the presentation, Planning Commission recommendations, and public comment, the City Council directed staff to incorporate Option 5, a hybrid approach, to the ADU and JADU Program with the following elements: (1) exclude Interim Sea Level Rise Guidance Document Zone 1 from Program eligibility, (2) require onsite parking, as an objective development standard, in Interim Sea Level Rise Guidance Document Zone 2, and (3) if necessary to address flooding issues, require discretionary review on a case-by-case basis, in Interim Sea Level Rise Guidance Document Zone 2 (the area of Beach Neighborhood north of Sandyland Road (Exhibit 6)).

### **Coordination with State Housing and Community Development (HCD), the California Coastal Commission (CCC), Special Service Districts and Senate Bill (SB) 18 Tribal Consultations.**

Based on input and direction from both decision-making bodies, staff revised the ADU project standards to address state housing law compliance while consistency with Coastal Act resource protection policies. As part of ADU and JADU Program review by interested parties and agencies, staff invited Tribal consultation of the Program in accordance with Senate Bill (SB) 18 and Native Heritage Preservation Commission (NAHC) Section 106 requirements and concurrently submitted the proposed draft ADU ordinance to the CCC, HCD, the Carpinteria Valley Water District, Carpinteria Sanitary District, Carpinteria – Summerland Fire Department for their review and input prior to release of the draft ADU ordinance. Concurrent review by agencies provided an opportunity to resolve any conflicting direction related to coastal resource protection, coastal hazard concerns, and provisions of necessary public services with state housing mandates. Specific discussions and comments regarding agency and Tribal comments are provided below:

- **Housing and Community Development (HCD) Review and Comments.** Staff has maintained contact with the State's Housing and Community Development Department (HCD) throughout development of the proposed ADU and JADU Program, given this agency determines public planning agency compliance with the State's housing laws. Staff submitted the administrative draft ADU and JADU Ordinance to HCD on November 7, 2021, incorporating changes based on City Council direction. On March 3, 2022, HCD provided limited comments on the proposed ordinance via email. HCD stated that the ordinance should not exceed the standards of the State ADU statute (e.g., adequacy of sewer and water service and the impact of ADUs on public safety or traffic flow). HCD also indicated that ADUs and JADUs created within the space of an existing dwelling or accessory structure are not limited by local development standards. HCD also provided clarifications that have been incorporated into the proposed ordinance (e.g., permitted and required uses in an ADU, restrictions on

standards for ADU or JADU conversions of existing space, allowance of efficiency units (G. Nickless, Housing Policy Specialist, E-mail message, Mar. 3, 2022).

Many of HCD's comments were straightforward and incorporated into Ordinance No. 758. However, staff continued to discuss the use of exclusion areas to protect coastal resources and hazards with HCD staff, given HCD's position that such exclusions are limited to water and sewer adequacy, public safety, and traffic flow as defined in the state's ADU regulations contained in 65852.2(a)(1)(A). HCD advised that exclusion areas involving ADUs and/or onsite parking requirements in portions of the Beach Neighborhood District must be based on public safety and traffic.

- **Coastal Commission Review and Comments.** Ongoing discussions and coordination between City and Coastal Commission staff have occurred as part of development of Ordinance No. 758. The Coastal Commission provided comments on the administrative draft ordinance and met with staff to review their comments, specifically related to increasing density in a known area vulnerable to sea level rise, and related public safety and access issues. Their comments are incorporated into the regulations, including public access and coastal hazard concerns, to address compliance with the Coastal Act, as more fully described in Section VI - Analysis.
- **Special District Review and Comments.** The City provided the Carpinteria Valley Water District, Carpinteria Sanitary District, and Carpinteria-Summerland Fire Department with the administrative draft ADU and JADU Ordinance on November 7, 2021.
  - The Carpinteria-Summerland Fire Department reviewed the proposed ordinance and communicated that they had no comments (Chief G. Fish, E-mail message, Nov. 8, 2021).
  - The Carpinteria Sanitary District requested that additional language be inserted into 14.71.050.H (Required Features, Public Sewer Service) to indicate that exterior plumbing modifications or sewer lateral installation necessary for an ADU obtain a Sewer Construction Permit in advance from the Carpinteria Sanitary District (C. Murray, PE, General Manager, E-mail message, Nov. 10, 2021). This change is incorporated into Ordinance No. 758.
  - The Carpinteria Valley Water District requested clarifying text regarding district determination of water supply adequacy (Section 14.72.030.C.4), rates and charges (Section 14.72.050.G), and potential fee requirements involving necessary fire line or meter capacity upgrades (Section 14.72.050.J) (M. Motlow, Management Analyst, Dec. 22, 2021). Staff has incorporated the District's request into Ordinance No. 758, to the extent that the State ADU regulations permit.
- **Native American Heritage Commission (NAHC) and Senate Bill (SB) 19 Tribal Consultation Invitations.** In conformance with NAHC regulations and SB 19 Tribal Consultation requirements, the City submitted a Tribal Consultation list request to the NAHC and submitted individual Tribal consultation invitation letters to potentially affected Native American Tribes, in November 2021. The City did not receive any consultation requests.

## **VI. PROPOSED ORDINANCE NO. 758 - THE ADU and JADU PROGRAM**

In addition to incorporation of earlier Planning Commission and City Council policy direction, staff revised portions of the draft ADU and JADU ordinance to address agency comments for Planning Commission consideration and recommendations to City Council. After the City Council receives the report and renders a decision on the proposed amendments, the City must submit the adopted ADU and JADU ordinance to HCD for review and acceptance within 60 days of adoption. (Gov. Code § 65852.2(h)(1).) The City would concurrently submit the adopted ADU and JADU ordinance to the CCC for certification.

Consistent with State ADU and JADU law, the proposed amendments to Title 14 - Zoning, Chapter 14.72, Ordinance No. 758, would streamline the permit process and reduce the development standards applicable to ADUs and JADUs. Related code amendments to Chapter 14.08 – DEFINITIONS, applicable chapters involving zone district processes governing ADU and JADU development, and creation of a new ADU – Beach Neighborhood Overlay District are included as part of this Program (Exhibit 2).

Project components would address necessary planning regulations to comply with State ADU and JADU law, and provide distinct sets of zoning requirements for the two main categories of ADUs: Special (commonly referred to as “State-exempt”) ADUs and ADUs subject to local development standards.

1. Special (“State-exempt” ADUs). State ADU law provides four categories of ADUs that are exempt from local development standards and must be ministerially permitted on residential or mixed-use zoned lots, subject to the provisions of Government Code Section 65852.2(e)(1). ADUs in this category and all JADUs would not be subject to local zoning and development standards, but must meet building code, health and safety, and a limited set of state standard requirements. ADUs created under subdivision (e) are not required to provide replacement or additional parking. The Special (“State-exempt”) categories include:
  - A. Up to one ADU and one JADU permitted per lot within existing or proposed space of a single-family dwelling, or a JADU within the walls of a single-family dwelling, or an ADU within an existing accessory structure that meets specified requirements for public safety;
  - B. One detached new construction ADU with not less than 4-foot side and rear yard setbacks, and may be combined on the same lot with a JADU. Such units may not exceed 800 square feet in floor area and 16 feet in height;
  - C. Multiple ADUs within portions of multifamily structure that are not presently used as livable space. Local agencies must allow at least one ADU per lot, or up to 25 percent of the existing multifamily units within a structure; and
  - D. Up to 2 detached ADUs on a lot that has a multifamily structure. Such ADUs are subject to a 16-foot height limit and a maximum side and rear yard setbacks standard of 4 feet.

2. ADUs Subject to Local Development Standards.

State ADU law allows the City to apply local development standards when (1) those standards are adopted by local ordinance, and (2) such units do not conform to the requirements of Government Code Section 65852.2(e), as described above. (Gov. Code § 65852.2 (a)–(d).) Such units may occur in zone districts where residential and multifamily units are allowed, and may be subject to zoning regulations of the base zone district, that are objective and consistent with State law.

Table 2 below provides a comparison of major regulations for the current City Second Dwelling Units regulations, the State ADU regulations, which permits implementation of objective local development standards, and the new state-exempt ADU and JADU regulations. Please refer to the HCD Accessory Dwelling Unit Handbook, December 2020 (Exhibit 7) for detailed explanations of State regulations, including the governing laws (Gov. Code §§ 65852.2, 65852.22).

Table 2 - Comparison of Existing City Secondary Dwelling Units and State ADU-JADU Programs				
Development Standard	City's Existing Secondary Dwelling Units Program (CMC Chapter 14.72)	State ADU Program (Subject to Local Development Standards) (Gov. Code § 65852.2)	Special (State Exempt) ADU Standards <sup>1</sup>	Special (State Exempt) JADU Standards
Zone Districts	R-1, PRD	Eligible in any residential or mixed-use zone <sup>2</sup>	May be combined with a JADU; attached or detached Gov. Code § 65852.2(e)(1)(A) & (B)	May be combined with an ADU Gov. Code § 65852.2(e)(1)(A) & (B)
Type of ADUs	1 attached or detached unit with sleeping & kitchen facilities	May be combined with a JADU; attached or detached; 1 ADU per lot where one or multiple detached single family dwellings exist or are proposed Gov. Code § 65852.2(e)(1)(A)	Multiple ADUs for portions of existing multi-family structures that are not used as livable space (up to 25% of existing multi-family units on a lot) Gov. Code § 65852.2(e)(1)(C)	Must be attached to the primary dwelling or attached garage Must have separate efficiency kitchen facilities Must have a separate entrance (allowing 150 square feet of expansion to meet this requirement) Gov. Code § 65852.2(e)(1)(A)
Minimum Lot Size	8,000 square feet		May allow 2 detached ADUs per lot that has a multi-family dwelling Gov. Code § 65852.2(e)(1)(D)	Must record a Declaration of Restrictions Gov. Code § 65852.22(a)(3)
Maximum Floor Area	Maximum 700 square feet and no more than 30% of living area of primary dwelling	At least 850 square feet for studios and 1 bedroom; 1,000 square feet for more than one bedroom <sup>3</sup> Gov. Code § 65852.2(c)	No minimum lot size requirement Gov. Code § 65852.2(a)(1)(B)(i)	500 square feet Gov. Code § 65852.22(h)(1)
Minimum Floor Area	Efficiency Unit 150 square feet Health and Safety Code § 17958.1	No less than 220 square feet + 100 square feet/occupant and no more than 2 occupants. Gov. Code § 65852.2(c)(2)(d)	ADU conversion: N/A; existing structure Gov. Code § 65852.2 (e)(1)(A)(i)	
Floor Area Ratio (FAR)	Included in FAR calculation of underlying zone district	May include an FAR standard (e.g., base zone district) but cannot preclude creation of a statewide exempt ADU Gov. Code § 65852.2(a)(1)(B)(i) and (c)(2)(C)	New ADU: 800 square feet Gov. Code § 65852.2 (e)(1)(B)(i)	
Building Coverage	Within maximum of the underlying zone district	May include a building coverage standard (e.g., base zone district) but cannot preclude creation of a statewide exempt ADU Gov. Code § 65852.2(a)(1)(B)(i) and (c)(2)(C)		
Height	Single story, up to 18 feet	ADU conversions: N/A; existing structural height New construction: Up to 16 feet Gov. Code § 65852.2(e)(1)(B)(ii)	ADU conversion: N/A; existing structural height	N/A; existing or proposed primary dwelling height Gov. Code § 65852.22(a)(4) and (h)(1)
Setbacks	Underlying zone district setbacks apply, no units between the street and primary dwelling	ADU conversions: No setbacks New ADUs: 4 feet side and rear yard setbacks No setbacks for existing structures demolished and rebuilt with same dimensions Gov. Code § 65852.2 (a)(1)(D)(viii)	New ADU: Up to 16 feet Gov. Code § 65852.2(e)(1)(B)(ii) Attached ADU: Side and rear yard setbacks deemed necessary for fire and safety purposes Gov. Code § 65852.2(e)(1)(A)(iii) Detached ADU: Minimum 4-foot side and rear yard setbacks Gov. Code § 65852.2(e)(1)(B)	Side and rear yard setbacks deemed necessary for fire and safety purposes Gov. Code § 65852.2(e)(1)(A)(iii)
Architectural Review	Required ARB CMC 2.36.080	Permitted; must be sufficiently objective to allow ministerial review Gov. Code § 65852.2(a)(1)(B)(i)	Permitted; must be sufficiently objective to allow ministerial review Gov. Code § 65852.2(a)(1)(B)(i)	Exempt Gov. Code § 65852.2(a)(1)(B)(i)

<sup>1</sup> Provides a comparison of ADUs, including ADUs permitted in zones allowing multi-family use.

<sup>2</sup> Limits on ADUs may only be based on water and sewer service adequacy, impacts on traffic flow and public safety, and consistency with Coastal Act coastal resource and public access policies. Gov. Code § 65852.2(e); (Pub. Res. Code § 30250.)

<sup>3</sup> Local agencies may adopt less stringent for the creation of ADUs, including greater maximum square footage allowances (Gov. Code § 65852.2(g)).



Table 2 - Comparison of Existing City Secondary Dwelling Units and State ADU-JADU Programs				
Development Standard	City's Existing Secondary Dwelling Units Program (CMC Chapter 14.72)	State ADU Program (Subject to Local Development Standards) (Gov. Code § 65852.2)	Special (State Exempt) ADU Standards <sup>1</sup>	Special (State Exempt) JADU Standards
Parking	1 space/bedroom must be in a garage	1 parking space/unit or bedroom, whichever is less; no guest parking requirement; tandem parking is allowed; demolished or converted garages, carports, or covered parking does not require replacement Gov. Code § 65852.2(a)(2)(D)(xi)  Parking exemptions shall apply if an ADU meets 1 of the following conditions: (1) Is located within 0.5 mile walking distance to public transit (2) Is within an architecturally or historic district (3) Is part of a primary dwelling or accessory structure (4) On-street parking permits are required but not offered to the ADU occupant (5) Is within one block for a car share vehicle location Gov. Code § 65852.2(d)(1-5) and (f)(10) Gov. Code § 65852.2(a)(1)(a)(A)	No parking spaces required and no replacement parking to satisfy parking requirements for the primary dwelling Gov. Code § 65852.2(a)(1)(a)(A)	No new spaces for JADU Gov. Code § 65852.22(b)(1)
Rental Restrictions	Owner shall reside on the parcel	Minimum 31 day rental requirement; no onsite owner occupancy requirement on units permitted before Jan. 1, 2025 Gov. Code § 65852.2(a)(1)(a)(A)	Minimum 31 day rental requirement; no onsite owner occupancy requirement on units permitted before Jan. 1, 2025 Gov. Code § 65852.2(a)(1)(a)(A)	Minimum 31 day rental requirement; owner occupancy of either the primary residence or the JADU Gov. Code §§ 65852.2(a)(1)(a)(A), 65852.22(a)(2)
Dev. Impact Fees	Required, although reduced CMC Ch 15.80	Exempt for ADUs less than 750 square feet; ADUs greater than 750 square feet may be waived or charged a proportional fee (ADU/ primary dwelling SF) Gov. Code § 65852.2(e)(1)(C)	Exempt for ADUs less than 750 square feet; ADUs greater than 750 square feet may be waived or charged a proportional fee (ADU/ primary dwelling SF) Gov. Code § 65852.2(e)(1)(C)	Exempt (Maximum floor area allowed, 500 square feet, is below the 750 square foot threshold) Gov. Code § 65852.2(e)(1)(C)
Public Utilities	Must be served by CSD	Local agency, sewer district, special district, water corporations may provide service. Water and sewer service adequacy is required Gov. Code § 65852.2(a)(1)(A) & (f)  Local agency, special district, or water corporation may require a new or separate utility connection between the ADU and utility and a proportionate share of a fee based on service duty factors. Gov. Code § 65852.2(f)(3)	Local agency, sewer district, special district, water corporations may provide service. Water and sewer service adequacy is required Gov. Code § 65852.2(a)(1)(A) & (f)  No separate utility connection or connection fee may be required for an ADU proposed within the proposed or existing space of a primary dwelling or accessory structure, unless the ADU is developed concurrently with a new primary dwelling Gov. Code § 65852.2(f)(4)	The JADU is not considered a separate or new dwelling and shall not be subject to connection fees Gov. Code § 65852.22(e)
Non-Conforming	Code conforming primary dwelling requirement	No requirement to correct nonconforming zoning conditions Gov. Code § 65852.2(e)(2)	No requirement to correct nonconforming zoning conditions Gov. Code § 65852.2(e)(2)	No requirement to correct nonconforming zoning conditions Gov. Code § 65852.2(e)(2)
Permit Requirement	• Administrative CDP no appeal • Administrative CDP no appeal • Administrative CDP no appeal	• Administrative CDP no appeal • Administrative CDP no appeal • Administrative CDP no appeal	• Administrative CDP no appeal • Administrative CDP no appeal • Administrative CDP no appeal	• Exempt <sup>4</sup> (Building permit issuance) • 60 day timeframe; delays allowed under certain circumstances Gov. Code § 65852.22(c)
Appeals Zone	• Outside • In Coastal	• 60 day timeframe; delays allowed under certain circumstances Gov. Code § 65852.2(a)(3)	• 60 day timeframe; delays allowed under certain circumstances Gov. Code § 65852.2(a)(3)	

<sup>4</sup> Improvements that qualify as exempt development under the Coastal Act and its implementing regulations do not require a CDP from the Commission or a local government unless required pursuant to a previously issued CDP (Cal. Code Regs., tit. 14, § 13250(b)(6)).

### **ADU Prototype Plan Sets for Applicant Use.**

Concurrent with implementation of the ADU and JADU ordinance, the City retained RRM Design Group to prepare two prototype plan sets that could provide an “off-the-shelf” experience for applicants and significantly reduce design and permit costs. The prototypes would receive City pre-approval through the City’s development review process and comply with building and fire code requirements, at the time of their preparation. In future years, applicants would need to confirm that the plan sets remain in conformance with potential changes code requirements.

## **V. ENVIRONMENTAL**

Ordinance No. 758, is statutorily exempt from review under CEQA pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to adoption of an Accessory Dwelling Unit ordinance to implement the provisions of State Government Code Section 65852.2 (Exhibit 3).

Ordinance No. 758, is categorically exempt from review under CEQA in accordance with CEQA Guidelines Section 15303, which exempts new construction or conversion of small structures, as in the case of a Junior Accessory Dwelling Unit, implemented under the provisions of State Government Code Section 65852.22 (Exhibit 3).

Although the ADU and JADU Program is exempt from CEQA, Ordinance No. 758 proposes certain standards that could require discretionary review, which could subject projects to CEQA analysis, on a case-by-case basis. This limited application of discretionary review includes ADU and JADU applications in the Beach Neighborhood Overlay District (Section 14.72.110) and/or in the Coastal Appeals Overlay District (Section 14.48).

## **VI. ANALYSIS**

### **Consistency with State Housing Laws and the California Coastal Act.**

The proposed ADU and JADU Program would implement recently passed State housing laws that seek to accelerate ADU and JADU housing production. The City’s Program proposes eligibility of ADUs and JADUs in zone districts that permit residential and mixed-use zoning. The Program also includes objective development standards, that if successfully incorporated into project design, allow ministerial application review. Such review can expedite project application review given discretionary planning analysis and design review, and CEQA investigations would not be required. The proposed Program also provides a discretionary permit process for ADUs that do not or cannot conform to the proposed objective development standards.

While the Program’s focus is to provide a more streamlined and efficient review path for development of ADUs and JADUs, given that the City is located entirely within the Coastal

Zone, this program must also ensure that proposed regulations are consistent with the Coastal Act coastal resource policies, as required under Public Resources Code (PRC) Section 30200 *et seq.* (Exhibit 4, J. Ainsworth, 2022). These coastal resource policies are also reflected in the City's adopted Coastal Land Use Plan (2003). Such policies include but are not limited to: public access, recreation, marine environment, land resources, development, and industrial development. Where actions may result in conflict between coastal resource policies, those that are most protective of significant coastal resources shall be prioritized. (Pub. Res. Code § 30007.5.) Further, PRC Section 30200(b) states:

*"Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of the chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts."*

During formulation of the proposed ADU and JADU regulations, staff referred to the newly adopted housing laws as well as available HCD guidance documents. State laws allow local agencies to identify areas where ADUs and JADUs may be permitted within its jurisdiction. Such areas may be based on the adequacy of water and sewer services and ADUs on traffic flow and public safety. (Gov. Code § 66852.2(a)(1)(A).) Further, given this relationship between State housing laws and the Coastal Act, the proposed program must ensure that its adoption would not conflict with coastal resource protection policies, supported by findings. Therefore, if warranted, the City is authorized to exclude or restrict areas from ADU or JADU eligibility and/or ministerial permit review, where such exclusion ensures protection of public health, safety, general welfare, and consistency with specified planning laws.

### **Coastal Resource Policy Analysis.**

As part of ongoing policy consistency evaluation for the proposed program, staff reviewed the City's current permit procedures and considered relevant technical investigations recently conducted by the City to consider the current permitting approach in areas that have identified coastal resources. As well as the adopted General Plan/Local Coastal Land Use Plan and Title 14 – Zoning code, staff evaluated the SLRVAAP, the City's Interim Sea Level Rise Guidance (City of Carpinteria, 2020), and various environmental and planning analyses performed in the City.

The SLRVAAP and Interim SLR Guidance document represents the City's response to the CCC's release of guidance documents encouraging local governments to amend their LCPs in light of the evolving sea level rise science behind sea level rise. In August 2015, the CCC adopted its Sea Level Rise Policy Guidance: *Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permits*. The guidance was updated in 2018 to reflect the current best available science, provided by the California Ocean Protection Council. The focused changes consider recent scientific studies and statewide guidance that reflect updated understanding of sea level rise projections in California. The guidance document serves to inform public agencies of coastal hazard risks and their effects upon vulnerable resources and services. This information is useful when considering existing and proposed development opportunities in areas subject to coastal hazards.

Based upon review of the SLRVAAP, including mapped coastal hazards associated with sea level rise modeling and projections, staff identified potential coastal resource policy concerns associated with public safety and coastal hazards, coastal access, recreation, land resources, and environmentally sensitive habitat areas. Policy concerns are briefly summarized below:

**Coastal Hazards:** The SLRVAAP required preparation of the City's sea level rise model, citywide mapping of related coastal hazards by City-selected sectors, and identification of projected risks based on estimated sea level rise (2-, 5-, and 10-foot rise) and time horizons by year (existing, 2030, 2060, and 2100).<sup>5</sup> Sectors include both coastal resources; public services, facilities, and infrastructure; and both public and private properties. An adaptation plan was then developed to address potential coastal hazard risks, define measures to reduce such risks, identify tipping points and triggers (to activate an adaptation program), and establish a monitoring plan.

**Land Use/Resources:**

***Objective LU-1: Establish the basis for orderly, well planned urban development while protecting coastal resources and providing for greater access and recreational opportunities for the public.***

***Policy LU-1a: The policies of the Coastal Act are incorporated by reference as the guiding policies of the land use plan (Public Resources Code Sections 30210 through 30263).***

***Objective S-4: Minimize the potential risks and reduce the loss of life, property and the economic and social dislocations resulting from flooding.***

The SLRVAAP identifies that currently, 90 percent of vulnerable parcels are residential and most are located in the Beach Neighborhood. The study estimates that increased coastal flooding will extend further north in the Beach Neighborhood, with 1 foot of sea level rise. The study also estimates that up to 105 residential units could be at risk with 2 feet of sea level rise due to coastal flooding, coastal erosion, and tidal flooding. With 5 feet of sea level rise, the study projects that Concha Loma and Carpinteria Bluffs would experience substantial erosion in addition to continued, high tidal flooding in the Beach Neighborhood.

**Policy Concern:** Increased density associated with development of ADUs and JADUs in the Beach Neighborhood District may increase public safety risks associated with sea level rise. The SLRVAAP identified that currently, approximately 90 percent of all parcels vulnerable to coastal hazards are residential parcels, and the majority of such parcels are located in the Beach Neighborhood, with an estimated 20 structures and their occupants in this area currently at risk. With one foot of sea level rise, coastal flooding is projected to extended inland in the Beach Neighborhood south of Sandyland Road, with approximately 156 structures and their occupants at risk. With two feet of sea level rise, approximately 265 structures and their occupants in this neighborhood may be at risk, and at five feet of sea

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<sup>5</sup> The probability of projected sea level rise occurring in the respective time horizons is < 0.5% in 2030, ~2% in 2060, and ~2% in 2100 (California Ocean Protection Council, 2018).

level rise approximately 553 structures and their occupants could be exposed to coastal flooding, the predominant coastal hazard in this area attributed to sea level rise.

The SLRVAAP projected economic loss of properties vulnerable to coastal flooding, without adaptation at \$8.5 million from a one percent wave event, increasing to \$28 million with one foot of sea level rise, \$53.8 million with two feet of sea level rise, and \$128.8 million with five feet of sea level rise, the majority of which is associated with multi-unit residences in Beach Neighborhood (2019 valuations). Increasing density in this area with ADUs and JADUs may further increase both risk to life due to potential increases in population, and increased costs to both public infrastructure and private properties.

Further, the SLRVAAP identifies social vulnerabilities, noting that City areas containing the highest number of minority households and households below the poverty level, Beach Neighborhood and Downtown, Although a number of short-term rentals and expensive beach front homes are in Beach Neighborhood, the SLRVAAP estimated that between 152 and 252 households in this neighborhood are below the poverty level and are the most at risk of being exposed from hazards attributed to sea level rise due to limited relocation ability relative to other populations.

To address this concern and given HCD and CCC comments on the proposed draft ordinance related to prohibitions or exclusions in the Beach Neighborhood District, the program proposes a new ADU Beach Neighborhood Overlay District, to clarify specific ADU – JADU permit standards and requirements, that are specific to this neighborhood (Exhibit 2). Section 14.72.030 would require that proposed Accessory Dwelling Units be subject to discretionary review, as determined necessary by the Community Development Director, or the Director's designee. This provision would allow site specific analysis of potential coastal hazards, including flooding as well as coastal resource policy issues, such as coastal access to address the risks to public safety.

The CCC staff provided focused comments on proposed Ordinance No. 758, most recently on July 21, 2022, related to applicant waivers of any right to shoreline protection for the approved ADUs in areas that are currently or will become subject to coastal hazards. Staff recommends inclusion of a new subsection to the proposed ordinance (Section 14.72.100.I) that states that the City may require a recorded deed restriction to acknowledge and waive rights associated with documented coastal hazards, as deemed necessary by the Chapter 14 – Zoning Code, applicable laws, ordinances, policies, practices, and/or procedures.

#### Coastal Access - Roads and Parking:

***Objective OSC-14: Provide for adequate park and recreation facilities to meet the needs of the community and visitors.***

***Policy OSC-14k: In those areas where it is established that the public acquired a right of access through use, custom or legislative authorization, new development shall not interfere with or diminish such access. This policy shall be interpreted to allow flexibility***



***in accommodating both new development and continuation of historic public parking and access.***

The SLRVAAP identifies 4 parking lots and approximately 0.1 mile of roads (in the area of the City and State beaches) currently at risk, with a 1 percent annual storm (i.e., a 100-year storm). The lots include coastal access parking at the southern terminus of Ash, Holly, Elm, and Linden Avenues, which would be subject to further damage over time. In addition, with 2 feet of sea level rise, a major parking lot at Carpinteria State Beach would be at risk, and 1.1 miles of roads become at risk along lower Linden and Elm Avenues. With 5 feet of sea level rise, 3 additional Carpinteria State Beach parking lots (2 of the day-use lots south of the Concha Loma Neighborhood), approximately 4.8 miles of public roads providing on-street parking in the Beach Neighborhood, Carpinteria State Beach, portions of Carpinteria Avenue and 7<sup>th</sup> Street, and the westernmost southbound segment of U.S. Highway 101 are at risk.

**Policy Concern:** The Beach Neighborhood District already experience high-use of coastal access parking areas, including on-street public parking close to designated coastal access points. In the Beach Neighborhood District, high-use parking and access points currently experience coastal flooding with a 1 percent annual storm (i.e., a 100-year storm) and are projected to be at an increased risk of loss with projected rises in sea level.

Additionally, given that the State law would reduce and/or exempt off-street parking requirements, the Beach Neighborhood District may experience increased on-street parking by residents, in an area that already experiences high-use of multiple coastal access points and related parking areas, as well as on-street public parking close to these coastal access points. A potential increase in on-street parking attributable to ADU and JADU development, near high-use coastal access points that are vulnerable to sea level rise, may result in adverse effects upon coastal access.

The addition of ADU and JADU residents in this district with existing high coastal access use, along with projected loss of beach access parking, including on-street public parking, may result in adverse effects upon coastal access. The City retained Walker Transportation Consultants, who will be conducting a summer weekend traffic count and observation in the Beach Neighborhood District between July 22 and July 23. Their findings regarding existing conditions related to public roadways and parking access will be presented at the Planning Commission hearing.

To address coastal hazard and public access policy concerns, Section 14.72.080.A of the proposed ordinance mandates onsite parking for all required parking in the proposed ADU Beach Neighborhood Overlay District (Exhibit 2). The proposed onsite parking requirement serves to address coastal access where on-street beach parking is in limited supply and high demand. The amendment further tailors such parking needs and differentiates between these areas and other areas in the City where ADU parking may be satisfied on-street because impacts to public recreational access are more limited due to lower demand.

Environmentally Sensitive Habitat Areas:

***Objective OSC-1: Protect, preserve and enhance local natural resources and habitats.***

***Policy OSC-1a. Protect Environmentally Sensitive Habitat Area(s) (ESHA) from development and maintain them as natural open space or passive recreational areas.***

***Policy OSC-1b. Prohibit activities, including development, that could damage or destroy ESHA.***

The SLRVAAP identifies Environmentally Sensitive Habitat Areas (ESHA) that could be directly impacted by sea level rise and related coastal hazards, with coastal flooding and cliff erosion potentially affecting more ESHA.

Policy Concern: While much of mapped ESHA is located in the Recreation District, which would not permit ADUs and JADUs, localized ESHA including wetlands and drainages, may be located in zone districts that could allow ADUs and JADUs. Intensification of uses on certain constrained sites may result in adverse effects upon ESHA resources.

To address this policy concern, proposed ordinance Section 14.72.030.C.2 requires that ADUs must be consistent with Coastal Act resources policies including but not limited to ESHAs. Discretionary review, including a consistency analysis may require necessary biological assessments, investigations, and mitigations/conditions.

## **VII. ACTION OPTIONS**

1. The Planning Commission recommend that the City Council adopt Ordinance No. 758 (Exhibit 1), amending Title 14 (Zoning) of the Carpinteria Municipal Code by establishing Accessory Dwelling Unit regulations, including an ADU Beach Neighborhood Overlay District, as delineated in Exhibit 2 of the Ordinance, and adding additional provisions related to the regulation of ADUs and JADUs, and
2. The Planning Commission recommend that the City Council determine that Ordinance No. 758, is statutorily exempt from review under CEQA pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to adoption of an ADU ordinance to implement the provisions of State Government Code Section 65852.2 (Exhibit 3), and
3. The Planning Commission recommend that the City Council determine that Ordinance No. 758, is categorically exempt from review under CEQA in accordance with CEQA Guidelines Section 15303, which exempts new construction or conversion of small structures, as in the case of a JADU, implemented under the provisions of State Government Code Section 65852.22 (Exhibit 3), or
4. The Planning Commission may choose not to provide specific recommendations to the City Council at this time. The City Council would receive a staff report and may then provide

staff with direction on this program, prior to submittal of an adopted ADU and JADU ordinance to the Department of Housing and Community Development and the Coastal Commission.

## **VIII. ATTACHMENTS**

- Exhibit 1: Recommended Zoning Ordinance Text Amendments
- Exhibit 2: ADU Beach Neighborhood Overlay District Map
- Exhibit 3: CEQA Exemptions
- Exhibit 4: California Coastal Commission Guidance Memo, January 21, 2022
- Exhibit 5: Planning Commission Status Hearing Minutes October 4, 2021
- Exhibit 6: City Council Status Hearing Minutes October 25, 2021
- Exhibit 7: California Department of Housing and Development, *Accessory Dwelling Unit Handbook*, Dec 2020



**Exhibit 1**

**Recommended Zoning Ordinance Text Amendments**

Accessory Dwelling Unit – Junior Accessory Dwelling Unit Program

Project No. 19-2008-LCPA/ORD

Planning Commission Hearing: August 1, 2022





## **ORDINANCE NO. 758**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF CARPINTERIA AMENDING TITLE 14 (ZONING) OF THE CARPINTERIA MUNICIPAL CODE SECTION 14.72 TO RESCIND THE RESIDENTIAL SECONDARY DWELLING UNIT PROVISIONS AND REPLACE THIS SECTION WITH THE ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT PROVISIONS, INCLUDING AMENDMENTS TO VARIOUS SECTIONS WITHIN TITLE 14 TO BE CONSISTENT WITH THIS INTENT**

### **RECITALS**

**WHEREAS**, on September 27, 2016, the State Legislature adopted Assembly Bill ("AB") 2299 and Senate Bill ("SB") 1069 (Government Code ("GC") Section 65852.2) requiring ministerial approval of planning and building permit applications for Accessory Dwelling Units ("ADUs") that are located within single-family residential zones and comply with applicable parking, setback, and size restrictions.

**WHEREAS**, on October 8, 2017, the State Legislature adopted SB 229 and AB 494 (GC Section 65852.2) to allow ADUs on all lots zoned for single- or multi-family uses, reduce maximum parking requirements, and make clarifying edits to GC Section 65852.2.D.

**WHEREAS**, on October 9, 2019, the State Legislature adopted AB 68, AB 881, and SB 13 (GC Sections 65852.2 and 65852.22) to further streamline the permit process for and reduce the development standards applicable to ADU and Junior Accessory Dwelling Units ("JADUs").

**WHEREAS**, on September 28, 2020, the State Legislature adopted AB 3182 to update and clarify provisions of GC Section 65852.2.

**WHEREAS**, on January 1980, by Resolution No. 1019, the City Council adopted the Coastal Plan that was developed pursuant to The California Coastal Act of 1976 (Public Resources Code 30000 et seq.) ("Coastal Act"), which includes the entirety of the City's jurisdiction.

**WHEREAS**, on October 12, 1981, by Ordinance 315, the City Council adopted Title 14 of the Carpinteria Municipal Code, in compliance with the State of California planning and zoning laws.

**WHEREAS**, on May 29, 2001, by Resolution 4670, the City Council adopted the first amendment to the Carpinteria General Plan and Local Coastal Program (Project No. GPA/LCPA 97-810), in compliance with California Law (Government Code Section 65300, et seq., and Public Resources Code 30000 et seq.), respectively.

**WHEREAS**, in March of 2019, the City published its Final City of Carpinteria Sea Level Rise Vulnerability Assessment and Adaptation Project, which constitutes a science-based investigation, findings, and recommendations to address physical effects of sea level rise upon the public and lands in the City's jurisdiction, and responds to California Coastal Commission guidance related to protection of Coastal Act resource policies.

**WHEREAS**, the Final City of Carpinteria Sea Level Rise Vulnerability Assessment and Adaptation Project investigates coastal flooding, tidal inundation, and coastal erosion risks in 2019 and projected coastal hazard risks in 2030, 2060, and 2100, based upon the regional County of Santa Barbara Coastal Resilience Project, utilized by the counties of Santa Barbara and Ventura and the cities of Goleta and Oxnard.

**WHEREAS**, the Final City of Carpinteria Sea Level Rise Vulnerability Assessment and Adaptation Project identifies greatest coastal hazard risks in the Beach Neighborhood District, which is bounded by the Carpinteria Salt Marsh to the west, the Union Pacific Railroad to the north, Carpinteria City Beach to the south, and Linden Avenue to the east, as defined in the as defined in the Community Design Element of the City's General Plan and Local Coastal Plan (2003), with an estimated 1.1 miles of public road and 4 public parking lots vulnerable to coastal hazards by 2030; 2.5 miles of lateral coastal access, 13 vertical coastal access points, and 2.2 miles of coastal trails vulnerable to coastal hazards; and the most vulnerable parcels, comprised of approximately 90 percent residential lots, located in this district.

**WHEREAS**, the Final City of Carpinteria Sea Level Rise Vulnerability Assessment and Adaptation Project identifies that the Carpinteria Salt Marsh, and three neighborhood districts: Beach Neighborhood, Carpinteria Bluffs, and Concha Loma Neighborhood, as defined in the Community Design Element of the City's General Plan and Local Coastal Plan (2003) warrant regional strategies and adaptation measures. Such strategies for built environments of these neighborhoods may include but are not limited to implementation of: a Managed Retreat Program (e.g., Beach Neighborhood), a Repetitive

Loss Program, storm drain and channel improvements, and a Coastal Adaptation Overlay Zone.

**WHEREAS**, consistent with the City's certified Local Coastal Program ("LCP") and policies of the Coastal Act, the City's current LCP Objective LU-1 requires the City to "establish the basis for orderly, well planned urban development while protecting coastal resources and providing for greater access and recreational opportunities for the public."

**WHEREAS**, consistent with the City's certified Local Coastal Program and policies of the Coastal Act, the City's current LCP Objective S-4 requires the City to "minimize the potential risks and reduce the loss of life, property and the economic and social dislocations resulting from flooding."

**WHEREAS**, on September 23, 2019, the City adopted Resolution No. 5915 to initiate the Accessory Dwelling Unit zone code amendment work program item, recognizing the need to develop City ADU and JADU regulations in order to promote development of more affordable housing units as well as market rate units to increase the City's housing supply; the City Council directed staff to proceed with incorporating State ADU and JADU law into its LCP, recognizing Coastal Act consistency requirements remain in effect.

**WHEREAS**, the City Council finds that the need to proactively encourage the safe and orderly development of ADUs and JADUs in the City must also address compliance with the Coastal Act and the City's Local Coastal Program, including preservation and promotion of public access and recreational opportunities and minimization of potential risks to public safety associated with loss of life, property, impaired traffic flow, and social dislocations resulting from identified coastal hazards, including flooding.

**WHEREAS**, the City Council therefore identifies an area of the Beach Neighborhood District, as an area excluded from development of ADUs and JADUs due to identified, science-based coastal hazards that presently occur along the seaward side of Sandyland Road, and with increasing hazards that are projected to occur in the district due to estimated sea level rise of one to five feet, between the present and through 2100 as identified in the City of Carpinteria Sea Level Rise Vulnerability Assessment and Adaptation Project.

**WHEREAS**, the City Council now finds that it is in the interest of the orderly development of the City and important to the preservation of the health, safety, and general welfare of the residents of the City, to adopt an ordinance amending Chapter

14.08 - DEFINITIONS; Chapter 14.12 (R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT; Chapter 14.14 (PRD PLANNED RESIDENTIAL DEVELOPMENT DISTRICT); Chapter 14.16 (PUD PLANNED UNIT DEVELOPMENT DISTRICT); Chapter 14.17 (MHS/PUD MOBILE/MODULAR HOME SUBDIVISION/PLANNED UNIT DEVELOPMENT DISTRICT); Chapter 14.18 (MHP PLANNED UNIT DEVELOPMENT DISTRICT); Chapter 14.20 (CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT); Chapter 14.22 (CB CENTRAL BUSINESS DISTRICT); Chapter 14.26 (M-RP INDUSTRIAL RESEARCH PARK DISTRICT); Chapter 14.28 (GENERAL INDUSTRY DISTRICT); Chapter 14.32 (A AGRICULTURE DISTRICT); and Chapter 14.72 (SECONDARY DWELLING UNITS) to implement new regulations regarding the permitting of ADUs and JADUs in compliance with GC Sections 65852.2 and 65852.22.

**WHEREAS**, the proposed Title 14 - Zoning Ordinance amendment is attached hereto as Exhibit 1 and is incorporated by reference.

**WHEREAS**, the proposed Title 14 - Zoning Ordinance amendment is consistent with the General Plan and Coastal Land Use Plan and the requirements of the State planning, zoning, and development laws.

**WHEREAS**, the proposed Title 14 - Zoning Ordinance amendment is in the interest of the general community welfare since it will serve to implement the requirements of State law that promote the development of ADUs and JADUs that will increase the supply of housing in the City while protecting coastal resources consistent with the Coastal Act and the City's certified LCP.

**WHEREAS**, the Planning Commission has held a duly noticed public hearing on August 1, 2022, as required by GC Section 65854, on the proposed Title 14 - Zoning Ordinance amendment at which hearing the proposed amendment was explained and comments invited from people in attendance.

**WHEREAS**, the Planning Commission adopted a resolution at a public meeting on August 1, 2022 that provides their recommendations on the proposed Title 14 - Zoning Ordinance amendment to the City Council.

**WHEREAS**, the City Council has held a duly noticed public hearing on (TBD "adoption date"), as required by GC Section 65854, on the proposed Title 14 - Zoning Code amendment at which hearing the proposed amendment was explained and comments invited from people in attendance.

**WHEREAS**, the City adoption of the proposed Title 14 - Zoning Code amendment reflects the Council's commitment to promote development of ADUs and JADUs in accordance with state housing laws, to increase the City's affordable and market rate housing supplies and contribute to the City's Regional Housing Needs Allocation, and to protect coastal resources in accordance with the Coastal Act and the City's Coastal Land Use Plan.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARPINTERIA DOES HEREBY ORDAIN AS FOLLOWS:**

### **SECTION 1. INCORPORATION OF RECITALS**

The City Council hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

### **SECTION 2. ADOPTION OF ADU - BEACH NEIGHBORHOOD OVERLAY DISTRICT MAP**

Pursuant to Section 14.04.070 of the Carpinteria Municipal Code, Exhibit 1, attached to and made a part of this ordinance by this reference, delineates the boundaries of the ADU Beach Neighborhood Overlay District.

### **SECTION 3. AMENDMENT OF TITLE 14 OF CARPINTERIA MUNICIPAL CODE**

The following amendments to the Carpinteria Municipal Code by this ordinance are delineate as underlined text depicting revisions to the existing text of the Carpinteria Municipal Code except for the amendments to Chapter 14.72 of the Carpinteria Municipal Code where this ordinance rescinds the current text and replaces it with text herein.

Chapter 14.04, of Title 14 of the Carpinteria Municipal Code is hereby amended (in part) to read as follows:

#### **14.04.060 - Overlay Districts.**

1. In addition to the regulations governing the foregoing districts, the following overlay districts and the symbols used to represent them on the official zoning maps are established as follows:

<u>ADU Beach Neighborhood</u>	<u>ADU-Beach</u>
Coastal Appeals Area	CA
Ellinwood Parcel	Ellinwood
Environmentally Sensitive Habitat	ESH
Flood Hazard Area	FH

Residential	R
Specific Plan	S
Transportation Corridor Wetland	TCW
Vacation Rental	VR
Visitor-Serving/ Highway Commercial	V
Whitney Site	Whitney

2. The regulations of the overlay district shall apply to the land in the same manner as specific district regulations. Overlay regulations shall apply wherever the symbol and the boundaries of the area are shown on the official zoning maps. When a symbol for an overlay district is added to a district symbol, the provisions of the overlay district shall be effective in addition to the applicable district regulations. If any of the provisions of the overlay district conflict with provisions of the specific district regulations, the provisions which are most restrictive shall govern.

Section 14.08.010, of Chapter 14.08 (DEFINITIONS), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to read as follows:

**14.08.010 Accessory Building or Structure.**

"Accessory building or structure" means a building containing no kitchen, with the exception of an Accessory Dwelling Unit as defined in Section 14.72, and located upon the same building site as the building or use to which it is accessory the use of which is customarily incidental, appropriate and subordinate to the use of the main building, or to the main use of the land.

Chapter 14.12 (R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.12.015 to read as follows:

**14.12.15 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the R-1 district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
2. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.

appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).

3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.14 (PRD PLANNED RESIDENTIAL DEVELOPMENT DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.14.015 to read as follows:

**14.14.015 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the PRD district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Permits for Accessory Dwelling Units and Junior Accessory Dwelling Units located in the ADU Beach Neighborhood Overlay District, shall be subject to discretionary review in accordance with Section 14.72.110 of this Chapter.
2. Accessory Dwelling Units and Junior Accessory Dwelling Units shall be permitted in the PRD district.
3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.
4. Accessory Dwelling Units outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
5. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).

Chapter 14.16 (PUD PLANNED UNIT DEVELOPMENT DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.16.025 to read as follows:

**14.16.025 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the PUD district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):



1. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
2. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.17 (MHS/PUD MOBILE/MODULAR HOME SUBDIVISION/ PLANNED UNIT DEVELOPMENT DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.17.045 to read as follows:

**14.17.045 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the MHS/PUD district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
2. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.18 (MHP PLANNED UNIT DEVELOPMENT DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.18.015 to read as follows:

**14.18.015 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the MHP district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Permits for Accessory Dwelling Units and Junior Accessory Dwelling Units

- located in the ADU Beach Neighborhood Overlay District, shall be subject to discretionary review in accordance with Section 14.72.110 of this Chapter.
2. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
  3. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
  4. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.20 (CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.20.015 to read as follows:

**14.20.015 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the CPD district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Permits for Accessory Dwelling Units and Junior Accessory Dwelling Units located in the ADU Beach Neighborhood Overlay District, shall be subject to discretionary review in accordance with Section 14.72.110 of this Chapter.
2. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
3. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
4. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.22 (CB CENTRAL BUSINESS DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.22.015 to read as follows:

**14.22.015 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the CB district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
2. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.26 (M-RP INDUSTRIAL RESEARCH PARK DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.26.015 to read as follows:

**14.26.015 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the M-RP district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
2. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.28 (GENERAL INDUSTRY DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.28.015 to read as follows:

**14.28.015 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the M district,

in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
2. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.32 (A AGRICULTURE DISTRICT), of Title 14 of the Carpinteria Municipal Code is hereby amended, in part, to include Section 14.32.025 to read as follows:

#### **Chapter 14.32 – A AGRICULTURE DISTRICT**

##### **14.32.025 – Processing Accessory Dwelling Units and Junior Accessory Dwelling Units.**

The following processes shall govern development of such units in the A district, in accordance with Section 14.72 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS):

1. Accessory Dwelling Units, outside the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit.
2. Accessory Dwelling Units, within the coastal zone appeals jurisdiction, shall be subject to approval of an administrative coastal development permit, appealable to the California Coastal Commission as provided in Chapter 14.78 (APPEALS).
3. Junior Accessory Dwelling Units shall be subject to issuance of a building permit.

Chapter 14.72 of Title 14 of the Carpinteria Municipal Code is hereby rescinded and replaced in its entirety to read as follows:

#### **Chapter 14.72 – ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.**

##### **14.72.010 Purpose and Intent.**

The purpose of this chapter is to provide for processing requests for Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) within zone

districts that permit residential uses, as defined in this Chapter and Chapters governing zone districts of Title 14. The need for these provisions is based on the following findings:

1. The adopted policy of the city is to encourage a range of housing types, designs, and costs to suit the varying needs and desires of the community in terms of income, family size, and physical ability within existing neighborhoods.
2. Opportunities for affordable housing for persons of low and moderate income are becoming increasingly scarce.
3. The shortage of low-and moderate-income housing opportunities is exacerbated by the lack of available rental units at a time when few rental units are being constructed. Thus, the existing rental stock needs to be preserved and new rental opportunities provided.
4. Accessory Dwelling Units have been a part of the city's housing stock and provide a valuable source of rental housing for persons of low and moderate income, particularly the elderly, students, and single-parent family households.
5. The establishment of clear objective development standards, consistent with applicable state law, including but not limited to Government Code Section 65852.2 or 65852.22 and the California Coastal Act, is required to reduce the time necessary to secure permits for Accessory Dwelling Unit and Junior Accessory Dwelling Unit construction and to ensure that there will be no adverse effect on the public health, safety and welfare.
6. Expand opportunities to create additional housing to suit the spectrum of individual lifestyles and space needs, allow more efficient use of existing housing stock and public infrastructure, and provide a range of housing opportunities.
7. Allow Accessory Dwelling Units and/or Junior Accessory Dwelling Units as an accessory use to a Primary Residential Unit, consistent with California Government Code Section 65852.2 or 65852.22 and the California Coastal Act, as applicable.
8. Promote Accessory Dwelling Units and/or Junior Accessory Dwelling Units that are compatible with the surrounding neighborhood, cultural and historic resources, and historic districts; preserve the City's coastal resources including but not limited to environmentally sensitive habitats, public coastal access, and visual resources; promote long-term sustainability; contribute to a desirable living environment; and avoid risks to public safety associated with loss of life, property, and social dislocations resulting from identified coastal hazards, including flooding.

#### 14.72.020 Definitions.

Chapter 14.08 (DEFINITIONS) apply to Chapter 14.72, unless they conflict with the definitions below. Where a conflict may occur, the definitions below shall apply and have the following meaning:

- A. **Accessory Dwelling Unit.** An attached or a detached residential unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing Primary Residential Unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and be located on the same parcel that the Primary Residential Unit is or will be situated. The following categories of Accessory Dwelling Units are subject to specific development standards:

**Accessory Dwelling Unit.** Accessory Dwelling Units connected with an existing or proposed Primary Residential Unit, with size, height, and setback standards as described in Section [14.72.055](#), (DEVELOPMENT STANDARDS FOR ACCESSORY DWELLING UNITS). Up to one Accessory Dwelling Unit and one Junior Accessory Dwelling Unit may be allowed on property where residential uses are permitted and has been developed, or will be developed concurrently with the Accessory Dwelling Unit(s), subject to the provisions of this Chapter (14.72).

**Special Accessory Dwelling Unit.** Specific types of Accessory Dwelling Units, meeting specific criteria identified in Government Code section 65852.2(e) that may be combined with a Junior Accessory Dwelling Unit with certain size, height, and setback standards described in Section [14.72.090](#), (DEVELOPMENT STANDARDS FOR SPECIAL ACCESSORY DWELLING UNITS). Further, Special Accessory Dwelling Units allow for more than one Accessory Dwelling Unit on a property zoned for multiple family use. Such units are not subject to local zoning and development standards, but must meet building code and health and safety requirements.

An Accessory Dwelling Unit also includes the following:

- 1) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
  - 2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- B. **Carshare Vehicle.** A motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization which provides hourly or daily car sharing service to its members.
- C. **Efficiency Kitchen.** A kitchen that includes at a minimum:

- 1) Appliances for cooking food and refrigeration, either built-in or countertop.
  - 2) A sink for food preparation greater than 12 inches by 12 inches, excluding the sink located in the bathroom.
  - 3) A food preparation counter.
- D. **Existing Floor Area.** A legally permitted building constructed on the site with a final inspection or certificate of occupancy as of the date of application submittal, that conforms to current zoning standards or is legal nonconforming as to current zoning standards, in accordance with Section 14.08.270 (FLOOR AREA, GROSS) and Section 14.08.275 (FLOOR AREA, NET).
- E. **Junior Accessory Dwelling Unit.** A unit that is no more than 500 square feet in size and contained entirely within an existing or proposed single residential unit. A Junior Accessory Dwelling Unit may include separate sanitation facilities or may share sanitation facilities with the existing or proposed single residential unit and includes an efficiency kitchen.
- F. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the Accessory Dwelling Unit.
- G. **Primary Residential Unit.** The existing or proposed residential unit on a lot on which an Accessory Dwelling Unit or Junior Accessory Dwelling Unit is permitted. The Primary Residential Unit shall comprise one unit in either a dwelling, one family; dwelling, two family; dwelling, multiple; or mixed-use development (as those terms are defined in Section [14.08 \(DEFINITIONS\)](#) of this Title).
- H. **Principal Place of Residence.** The residence where a property owner actually lives for the greater part of time, or the place where the property owner remains when not called elsewhere for some special or temporary purpose and to which the property owner returns frequently and periodically, as from work or vacation.

If multiple persons own the property as tenants in common or some other form of common ownership, a person or persons representing at least 50 percent of the ownership interest in the property shall reside on the property a majority of their time as their principal place of residence. Any person or persons who qualify for the homeowner's tax exemption under the California State Board of Equalization rules, may qualify as an owner occupant.

The burden shall be on the property owner to show that the primary residential unit, accessory dwelling unit, or junior accessory dwelling unit is the property owner's principal place of residence as evidenced by qualifying for the homeowner's tax exemption, voter registration, vehicle registration, or similar



methods that demonstrate owner-occupancy as their principal place of residence.

**14.72.030 Where Permitted.**

- A. **Accessory Dwelling Unit.** An Accessory Dwelling Unit that conforms to the development standards of this section shall be permitted in any zone that allows residential use, located on a lot developed or proposed to be developed with one or more residential units, except as prohibited or restricted in subsection C below. An Accessory Dwelling Unit that does not conform to the development standards of this section, may nonetheless be approved in accordance with the requirements of Section [14.72.060.H.2](#).
- B. **Junior Accessory Dwelling Unit.** A Junior Accessory Dwelling Unit may be permitted in any zone that allows residential use, and shall be located on a lot developed with an existing or proposed single residential unit, except as prohibited or restricted in subsection C below.
- C. **Prohibited or Restricted Locations.**
- 1) Based on the Final Sea Level Rise Vulnerability Assessment and Adaption Plan identification of flooding hazards in the Beach Neighborhood Overlay District and City Local Coastal Plan Objective S-4, proposed Accessory Dwelling Units in the Beach Neighborhood Overlay District, as defined in the ADU Beach Overlay District Zoning Map, shall be subject to discretionary review, as determined necessary by the Community Development Director, or a Director-appointed designee, to address and mitigate identified coastal hazards, including flooding, and coastal resource policy issues that address coastal access, in order to avoid risks to public safety associated with loss of life, property, and social dislocations
  - 2) Accessory Dwelling Units shall be permitted in locations that are consistent with coastal resource protection policies of the City's Coastal Land Use Plan, including but not limited to environmentally sensitive habitats; coastal access; and visual, recreational, and cultural resources.
  - 3) No Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall be permitted in an area where water or sewer service is found to be inadequate, as determined by the Carpinteria Sanitary District or Carpinteria Valley Water District, as appropriate, or in an area where traffic flow and public safety would be adverse impacted, as determined by the Carpinteria-Summerland Fire Protection District.
  - 4) Unless prohibited or restricted by C.1 – C.4 of this subsection, applications for an Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit in the California Coastal Commission's Appeals Jurisdiction shall be permitted in accordance with Section [14.72.110](#).



#### **14.72.035 Unit Configuration.**

- A. One Accessory Dwelling Unit and/or one Junior Accessory Dwelling Unit shall be permitted on a lot in addition to the Primary Residential Unit, pursuant to this Chapter. However, multiple Accessory Dwelling Units may be permitted in accordance with all the configuration requirements, development standards, and special procedures outlined in Section [14.72.090](#), Development Standards for Special Accessory Dwelling Units.
- B. An Accessory Dwelling Unit may be permitted in the following configurations:
  - 1) Incorporated entirely within an existing or proposed Primary Residential Unit.
  - 2) Incorporated entirely within an existing accessory building, including garages, located on the same lot as the Primary Residential Unit.
  - 3) Through conversion of a garage, carport or covered parking structure.
  - 4) Attached to or increasing the size of an existing Primary Residential Unit or attached accessory building located on the same lot as the Primary Residential Unit.
  - 5) Detached from and located on the same lot as the existing or proposed Primary Residential Unit. An Accessory Dwelling Unit that is attached to another detached accessory building, but not the Primary Residential Unit, or is attached by a breezeway or porch, is considered detached.
- C. Except as provided in Health and Safety Code Section 17981.12, Accessory Dwelling Units shall not be permitted within an existing nonconforming structure if the structure is nonconforming as to the coastal resource protection policies of the LCP.

#### **14.72.040 Sale, Rental, and Occupancy Terms.**

All Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to the following sale, rental, and occupancy terms:

- A. **Not to be Sold Separately.** An Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall not be sold separately from the Primary Residential Unit, subject to the provisions of Government Code Section 65852.26 and/or other provisions of state law that govern Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit sales.
- B. **Deed Restriction.** Prior to issuance of a permit for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, the owner shall record a deed restriction with the County Recorder and file the recorded deed restriction with the City, acknowledging the applicable use limitations consistent with

this Section 14.72.040 or other applicable limitations in the Title 14 of the Carpinteria Municipal Code and City administrative policies applying to the applicable base zone district that shall run with the land.

- C. **Rental Terms.** The Accessory Dwelling Unit or Junior Accessory Dwelling Unit may be rented; however, rental terms shall not be less than thirty one (31) consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one thirty (30) day period occupancy by the same tenant.
- D. **Owner Occupancy.** The following types of projects are subject to an owner occupancy requirement:
  - 1) The property owner's principal place of residence requirement, upon the property where an Accessory Dwelling Unit is permitted, shall not apply to Accessory Dwelling Units approved between adoption of this Chapter 14.72 and January 1, 2025. The property owner's principal place of residency requirement shall apply to, an Accessory Dwelling Unit permit issued after January 1, 2025, unless otherwise prohibited under state law, or upon repeal of Government Code Section 65852.2(a)(6)(B) removing the state-imposed prohibition of an owner occupancy requirement, whichever occurs first.
  - 2) Where a Junior Accessory Dwelling Unit is located on a property, the burden shall be on the property owner to show that the Primary Residential Unit, or Junior Accessory Dwelling Unit is the property owner's principal place of residence as evidenced by qualifying for the homeowner's tax exemption, voter registration, vehicle registration, or similar methods that demonstrate owner-occupancy. A property owner shall have only one principal place of residence for the purposes of this Chapter 14.72. Notwithstanding, owner occupancy shall not be required if the property owner is another governmental agency, land trust, or housing organization.
- E. **Hardship Waiver.** If owner occupancy is required in accordance with subsection D, Owner Occupancy, the property owner may apply for a temporary waiver in the event of a hardship. For the purposes of this section, an event of a hardship includes but is not limited to the death or disability of the property owner, job transfer, or similar significant personal situation which prevents the property owner from occupying the owner's unit. A property owner or estate representative may apply for a temporary waiver of the owner-occupation requirement for a specific time period to allow the owner's unit to be occupied by a non-property owner until the cessation of the circumstances preventing the property owner from occupying the owner's unit on the property. The Community Development Director shall review applications for an event of hardship waiver. Any such temporary waiver shall specify the

period of time for which it is granted, provided that no such waiver may be granted for a period longer than three (3) years.

- F. **Removal of Owner Occupancy Requirement.** With the exception of owner occupancy covenants, restrictions or conditions required to permit a Junior Accessory Dwelling Unit, the Community Development Director will, in a form acceptable to the City Attorney, release an owner occupancy requirement recorded against the property prior to adoption of this ordinance upon the request of the property owner. No other covenants, restrictions or conditions required pursuant to this Title 14, and contained in the agreement recorded against the property shall be released, unless the Community Development Director determines that the covenant, restriction or condition conflicts with California Civil Code section 714.3.

#### **14.72.050 Required Features.**

Each Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall contain, at a minimum, the following features:

- A. **Residential Elements.** Permanent provisions for separate residential occupancy must be provided as follows within the contiguous livable floor space of the Accessory Dwelling Unit or Junior Accessory Dwelling Unit and must be independent from the Primary Residential Unit, unless otherwise noted:
1. Provisions for cooking, including storage, countertop, sink, and electric outlets as required per Carpinteria Municipal Code, Title 15 – Buildings and Construction. A Junior Accessory Dwelling Unit may contain an efficiency kitchen.
  2. A bathroom consisting of a toilet, sink, and bathtub or shower. A Junior Accessory Dwelling Unit may share sanitation facilities with the existing or proposed Primary Residential Unit.
  3. A separate sleeping room, except in studio residential units, where a living room is considered a sleeping room.
- B. **Minimum Floor Area.** The minimum floor area for a new Accessory Dwelling Unit is as follows:
1. Efficiency Unit: 150 square feet.
  2. Studio Unit: 220 square feet.

Such usable floor area shall be exclusive of open porches, garages, basements, cellars and unfinished attics. The minimum floor area for

Accessory Dwelling Units that are created by converting existing structures is 150 square feet.

- C. **Exterior Access.** Exterior access to the unit, that is independent from the Primary Residential Unit must be provided. An Accessory Dwelling Unit or Junior Accessory Dwelling Unit may provide an interior connection consisting of one fire-rated lockable door between the Primary Residential Unit, but one is not required.
- D. **Fire Sprinklers.** Fire sprinklers are required only if they are required for the Primary Residential Unit.
- E. **Permanent Foundation.** Attached and detached units shall be constructed with a City-approved permanent foundation in accordance with Chapter 15 – Buildings and Construction, of the Carpinteria Municipal Code.
- F. **Property Addresses.** Addresses identifying all residential units on the lot, with minimum three- and one-half-inch numbers plainly visible from the street or road fronting the property shall be provided.
- G. **Utility Fees.** An Accessory Dwelling Unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the Accessory Dwelling Unit was constructed with a new single-family dwelling.
- H. **Public Sewer Service.** Accessory Dwelling Units and Junior Accessory Dwelling Units shall comply with the sewer service requirements of the Carpinteria Sanitary District, including but not limited to advanced procurement of a Sewer Construction Permit for exterior plumbing modifications or sewer later installation.
- I. **Public Water Service.** Accessory Dwelling Units shall comply with the water service requirements of the Carpinteria Valley Water District, consistent with state law, including but not limited to Government Code Section 65852.2(f)(2)(A).
- J. **Direct Utility Connection.** No direct new or separate utility connection, or related fees, shall be required between a public sewer or water service district and an Accessory Dwelling Unit or Junior Accessory Dwelling Unit that is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure (including an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure).

K **Passageway.** No passageway is required in conjunction with the construction of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

L **Enforcement of Building Standards.** In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code providing the Accessory Dwelling Unit was built prior to January 1, 2020.

#### **14.72.055 Development Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units.**

A **Development Standards Generally.** The development standards listed in this section apply to Accessory Dwelling Units and Junior Accessory Dwelling Units, except for Special Accessory Dwelling Units permitted in accordance with all the configuration requirements, development standards, and special procedures outlined in Section [14.72.090](#), Standards for Special Accessory Dwelling Units.

1. The reductions and exceptions to the development standards normally applicable to residential development allowed in this section are for the express purpose of promoting the development and maintenance of an Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit on the lot. If for any reason the Accessory Dwelling Unit is not maintained on the lot in conformance with this section, the lot shall be brought into compliance with all of the requirements for the residential development, or with the legal nonconforming condition of the lot prior to the development of the Accessory Dwelling Unit, including, but not limited to, the requirements for open yard, setbacks, and covered parking.
2. Except as otherwise specified in this section, projects developed in accordance with this Chapter shall otherwise comply with objective development standards applicable to an attached or detached accessory building or structure for the housing type and base zone in which the lot is located.
3. One Primary Residential Unit shall be designated on a lot on which an Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit is permitted.
4. Notwithstanding Section B below or other local development standards for the base zone district that are not expressly prohibited by state law or reduced due to provisions in Section [14.72.030](#), any other minimum or

maximum size for an Accessory Dwelling Unit based upon a percentage of the proposed floor area or existing floor area, or limits on building coverage, floor area ratio, open space, or minimum lot size, for either attached or detached dwellings shall permit at a minimum: an 800 square foot Accessory Dwelling Unit that is up to 16 feet in height, with four-foot side and rear yard setbacks, constructed in compliance with all other local development standards.

**B. Maximum Floor Area.** The maximum floor area(s) for a standard Accessory Dwelling Unit and Junior Accessory Dwelling Unit are as follows:

1. Attached Accessory Dwelling Unit. An Accessory Dwelling Unit that is attached to, and increasing the size of, the Primary Residential Unit shall not exceed 50 percent of the existing floor area of the existing Primary Residential Unit, and shall not exceed a maximum floor area of 800 square feet.
2. Converted Accessory Dwelling Unit. An Accessory Dwelling Unit that is incorporated entirely within an existing Primary Residential Unit, or within an existing accessory building, is not limited in size.
3. Detached Accessory Dwelling Unit. An Accessory Dwelling Unit that is detached from the Primary Residential Unit and may or may not be attached to another detached accessory building, including detached garages, shall not exceed the following maximum floor area based on lot size and number of bedrooms:
  - a. Lots up to 14,999 square feet:
    - i. One-bedroom or studio units: 850 square feet.
    - ii. Two or more-bedroom units: 1,000 square feet.
4. Junior Accessory Dwelling Unit. The maximum floor area of a Junior Accessory Dwelling Unit shall not exceed 500 square feet.

**C. Relationship to Other Floor Area Limitations.** The floor area of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.

1. Exception. The floor area of a detached Accessory Dwelling Unit shall be excluded from the aggregate maximum lot coverage allowed for other detached accessory buildings, such as work or storage sheds.

**D. Building Separation.** The minimum separation between the Primary Residential Unit and a detached Accessory Dwelling Unit shall be five feet.

- E Front, Side, and Rear Setbacks.** The following setbacks shall apply to new and converted standard Accessory Dwelling Units approved pursuant to this section:
1. **New Construction.** Newly constructed Accessory Dwelling Units shall comply with the following setback standards:
    - a. **Front Setback:** Meet the minimum front setback for residential structures of the base zone district.
    - b. **Side and Rear Setback:** Four feet in all zones except 4-R-1, which must maintain a minimum three feet of distance in the side yards.
  2. **Converted.** No setback is required to convert the existing floor area of a principal or accessory building to an Accessory Dwelling Unit.
  3. **Demolished or Substantially Redeveloped.** No setback is required when an existing principal or accessory building is demolished or substantially redeveloped and converted to an Accessory Dwelling Unit, provided that the new building is reconstructed in the same location and with the same dimensions and floor area as the existing building.
    - a. **Exception for Small Conforming Additions.** One small 150-square-foot conforming first floor addition may be permitted on a substantially redeveloped and converted accessory building that is nonconforming as to the front, side, or rear setbacks for accommodation of unit ingress and egress.
  4. **New Construction Combined with Replacement of a Nonconforming Accessory Structure.** The construction of an Accessory Dwelling Unit may be combined with the demolition and replacement of a detached accessory structure that is nonconforming as to the front, side, or rear setbacks if all of the following requirements are met:
    - a. The new accessory structure is reconstructed in the same location and with the same dimensions as the existing accessory structure; or
    - b. The Accessory Dwelling Unit and any additions to the accessory structure shall conform with setbacks of this section; and
    - c. The new accessory structure shall comply with all applicable height and all other development standards of this section.

#### **14.72.060 Design Review.**

All Accessory Dwelling Units or Junior Accessory Dwelling Units shall be subject to the following architectural design criteria as applicable to either new construction or exterior alterations, which shall be reviewed ministerially by the Community Development Director or the Director's designee. Design standards in the base

zone district shall apply where they do not conflict with this section or state law. For purposes of this section, portions of a building or site considered to be the Accessory Dwelling Unit shall include all of the contiguous interior livable floor area of the Accessory Dwelling Unit and any exterior alterations directly attached to, and integral to, the livable floor area of the Accessory Dwelling Unit.

A. **Prohibition of Shiny Roofing and Siding.** New roofing and siding materials that are shiny, mirror-like, or of a glossy metallic finish are prohibited.

B. **Grading.** No more than 30 cubic yards of grading on slopes of less than 15 percent.

C. **Height.** An Accessory Dwelling Unit shall not exceed the following, whichever is greater:

1. Height of the Primary Residential Unit;
2. Number of stories of the Primary Residential Unit; or
3. 16 feet.

This height limitation is not applicable to an Accessory Dwelling Unit constructed above a garage; however, in no event shall the resulting building exceed the maximum height or number of stories allowed for a detached or attached accessory building in the zone.

4. **Front Yard Location.** The construction of a new detached Accessory Dwelling Unit located in the front yard shall be subject to all of the following: The new Accessory Dwelling Unit must be located a minimum of 20 feet back from all front lot lines, or meet the minimum front setback for the zone in which the lot is located, whichever is greater, providing setbacks do not preclude construction of a Special Accessory Dwelling Unit.

5. Unless constructed over a garage, the new unit located in the front yard shall be:

- a. No more than one-story and 16 feet in height; and
- b. Screened from the street by location or landscape, as viewed from the street.

D. **Design.** New detached or attached Accessory Dwelling Units shall utilize the design of the Primary Residential Unit regarding style, fenestration, materials, colors, and details if the Accessory Dwelling Unit meets any of the following:

1. Attached to, or if any portion of the Accessory Dwelling Unit is located within 20 feet of, the Primary Residential Unit;
2. Two stories tall, or 12 feet or taller in building height;
3. Located in the front yard or visible from a public street or public place.



4. Located on a site on which there is a historical resource as follows:
  - a. Listed on the National Register of Historic Places or the California Register of Historic Resources; or
  - b. Designated as a City of Carpinteria Landmark or Structure of Merit.
- E. **Privacy Standards.** The construction of an Accessory Dwelling Unit where any portion of the proposed construction is either: two or more stories tall or 16 feet or taller in building height, shall comply with the following:
  1. Upper story unenclosed landings, decks, and balconies greater than 20 square feet, shall face the Primary Residential Unit or the public right-of-way.
  2. Upper story unenclosed landings, decks and balconies, that do not overlook the adjoining property due to orientation or topography, may be located at the minimum interior setback line if an architectural screening element such as enclosing walls, trellises, awnings or perimeter planters with an eight-foot minimum height is incorporated into the unenclosed landing, deck or balcony.
  3. Upper story windows that face or overlook the adjoining property, located within 15 feet of the interior lot lines, shall be installed with a minimum of 72 inches above finish floor.
- F. **Solar Access.** Newly constructed detached Accessory Dwelling Units are subject to the Energy Code requirement to provide solar panels. The panels may be installed on the Accessory Dwelling Unit or the Primary Residential Unit. Accessory Dwelling Units that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to this requirement.

#### **14.72.070 Protection for Historic Resources.**

No Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall be permitted if the proposal would cause a substantial adverse change in the significance of a historical resource that is listed or eligible for listing on the National Register of Historic Places, the California Register of Historical Resources, located in the downtown and Old Town District, or designated as a City of Carpinteria Landmark or Structure of Merit. The Community Development Director shall make this determination by requiring additional information that the Director determines is necessary, including but not limited to a Historic Resources Report, to ensure that the proposal is consistent with City cultural and historic resource policies and as appropriate, the Secretary of Interior's *Standards for the Treatment of Historic*

*Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.*

**14.72.080 Parking Standards**

Consistent with the requirements of the City's Coastal Land Use Plan Policies, sufficient off-street parking must be provided for any new development and substantial redevelopment so as to avoid significant adverse impacts to public access to the shoreline and coastal recreation areas. Automobile parking, therefore, must be provided consistent with this Section for lots developed with Accessory Dwelling Units or Junior Accessory Dwelling Units, as follows:

**A Beach Neighborhood Overlay District.** All required parking in the Beach Neighborhood Overlay District shall be located based on:

1. The City's Local Coastal Plan Objective OSC-14 and Policy OSC-14a, the City's Final Sea Level Rise Vulnerability Assessment and Adaption Plan identification of increasing coastal flood hazards in the Beach Neighborhood Overlay District and given existing identified impeded traffic flow during flood events at neighborhood and Carpinteria State Beach parking lots.
2. The need to preserve coastal public access in this area, where specific vacation rental provisions are implemented under the LCP and high demand exists for coastal visitor-serving recreational opportunities, including coastal access parking.

Parking may be located and designed consistent with D.3 of this section.

**B. Primary Residential Units.** Automobile parking for the Primary Residential Unit shall be provided in compliance with Chapter 14.54, except as provided below.

1. Special Procedures for Conversion or Demolition of Existing Covered Parking to an Accessory Dwelling Unit. When an existing garage, carport, or other covered parking structure is converted to an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit or demolished in conjunction with the construction of the unit, the required covered parking spaces that are displaced by the conversion or demolition shall not be required to be replaced.
2. Nonconforming Conditions. If the Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit is developed in accordance with all the requirements of this Chapter, and is a Special Accessory Dwelling Unit eligible for approval, nonconforming parking shall not be required to conform to current parking standards for new floor area associated with the unit(s).

- C. **Junior Accessory Dwelling Units.** No automobile parking is required for Junior Accessory Dwelling Units.
- D. **No Parking Required for Certain Dwelling Units.** The following types of Accessory Dwelling Units are not required to provide parking if it meets all of the following criteria:
1. The Accessory Dwelling Unit is located outside of ADU Beach Neighborhood Overlay District based on the Final Sea Level Rise Vulnerability Assessment and Adaption Plan science-based identification of coastal hazards in the Beach Neighborhood Overlay District, that presently occur along the seaward side of Sandyland Road, and with increasing hazards that are projected to occur in the district due to estimated sea level rise of one to five feet, between the present and through 2100
  2. The Accessory Dwelling Unit meets at least one of the following measures that will sufficiently reduce the demand for off-street parking:
    - a. The Accessory Dwelling Unit is located within a walking distance of one-half mile of an operational public transit stop, which shall include various means of transportation that charge set fees, run on fixed routes, and are available to the public; or
    - b. The Accessory Dwelling Unit is located within the Downtown Old Town District; or
    - c. The Accessory Dwelling Unit is contained entirely within the permitted floor area of the existing Primary Residential Unit or an existing accessory building; or
    - d. When on-street parking permits are required but not offered to the occupants of the Accessory Dwelling Unit; or
    - e. When there is a carshare vehicle located within 500 feet of the Accessory Dwelling Unit.
  3. All other Accessory Dwelling Units shall provide parking as below:
    - a. A minimum of one uncovered automobile parking space per unit or bedroom, whichever is less. Guest parking shall not be required for Accessory Dwelling Units in any circumstance.
    - b. The space may be provided as tandem parking on a driveway.
    - c. Uncovered parking spaces may be located four feet from any interior lot line, provided a minimum of three feet in width of planting area is provided for the length of the paved parking area along the interior lot line.

#### **14.72.090 Development Standards for Special Accessory Dwelling Units.**

Special Accessory Dwelling Units, as defined in Section [14.72.020\(A\)](#), shall be allowed, consistent with state law, in accordance with either subsection A or B, below, and shall conform to the development standards of subsection C, below. Design standards of the base zone district shall apply where they do not conflict with this section or state law.

- A Configuration – Dwelling, Single Family Lots.** A lot developed with only one existing or proposed single residential unit, may permit one of the following types of Special Accessory Dwelling Units:
1. **Converted Portion of Main Building.** Only one Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit contained entirely within the fully enclosed existing floor area of the existing or proposed Primary Residential Unit; or
  2. **Converted Accessory Building.** Only one Accessory Dwelling Unit contained entirely within the fully enclosed existing floor area of a garage or other accessory building on the same lot as the Primary Residential Unit, plus one 150-square-foot conforming first floor addition, if the addition is limited to accommodating ingress and egress; or
  3. **One Unit – New Construction.** One newly constructed Accessory Dwelling Unit, detached from any other main or accessory building; or
  4. **Two Units – Combination.** One Junior Accessory Dwelling Unit contained entirely within the existing, legally permitted, fully enclosed livable floor area of the existing or proposed Primary Residential Unit, plus one newly constructed, Accessory Dwelling Unit, detached from any other main or accessory building.
- B. Configuration - Dwelling, Multiple Family Lots.** A lot developed with two or more residential units may permit one of the following types of Special Accessory Dwelling Units:
1. **Converted Non-Livable Space.** At least one Accessory Dwelling Unit, and up to twenty five percent (25%) of the existing number of multifamily structures (structure containing multiple dwelling units) on a lot, may be converted into a Special Accessory Dwelling Unit on the lot, if contained entirely within portions of fully enclosed existing floor area of a residential structure that is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages; or
  2. **Two Units – New Construction.** No more than one newly constructed Accessory Dwelling Unit, detached from any other main or accessory

building, shall be allowed for lots with four or fewer units. For lots with greater than four units, no more than two newly constructed Accessory Dwelling Units, detached from any other main or accessory building shall be allowed.

- C. **Development Standards Generally.** The development standards listed in this section apply to specific types of Special Accessory Dwelling Units with certain size, height, and setback standards that, if followed, allow for a permit issued by the Director of the Community Development Department. Further, no lot coverage, floor area ratio, open space, or minimum lot size shall preclude the construction of a Special Accessory Dwelling Unit.
1. Maximum unit size. The maximum unit size of a Special Accessory Dwelling Unit shall be 800 square feet.
  2. Height. The maximum height of a Special Accessory Dwelling Unit shall be 16 feet.
  3. Setbacks. Rear yard and side yard setbacks shall be a minimum of 4 feet.
  4. Parking. Except for Accessory Dwelling Units or Junior Accessory Dwelling Units located in Beach Neighborhood Overlay District, which is subject to Section [14.72.080](#) – PARKING STANDARDS, no replacement or additional parking shall be required.
  5. Nonconformity. Correction of any existing or created nonconformity shall not be required, except that Special Accessory Dwelling Units shall not be allowed in buildings or structures that are nonconforming as to coastal resource protection policies or development standards of the LCP.
  6. Rental term. No unit shall be rented for 30 days or less.
  7. Fire sprinklers. Fire sprinklers are required in units where required for the primary residence.
  8. Density. Units shall not be calculated as part of general plan/coastal land use plan density calculations.
  9. Ownership occupancy. Special Accessory Dwelling Units and Junior Accessory Dwelling Units shall conform to owner occupancy terms as defined in Section [14.72.040\(D\)](#).
- D. **Development Standards for Conversion of Existing or Proposed Primary Single-Family Residence or Accessory Structure into a Special Accessory Dwelling Unit.**

Except for Accessory Dwelling Units located in Beach Neighborhood Overlay District, which is subject to Section [14.72.080](#) – PARKING STANDARDS, no size limitation, height, setback, lot coverage, design review, landscape, or

other development standard shall be required. The proposed unit shall be required to obtain a building permit.

- E. Any reductions and exceptions in this section are for the express purpose of promoting the development and maintenance of a Special Accessory Dwelling Unit or Junior Accessory Dwelling Unit on the lot. If for any reason the Accessory Dwelling Unit or Junior Accessory Dwelling Unit is no longer maintained on the lot, the lot shall be brought into compliance with all of the requirements for the remaining residential development, or with the legal nonconforming condition of the lot prior to the development of the Accessory Dwelling Unit or Junior Accessory Dwelling Unit.
- F. Applications utilizing the Special Accessory Dwelling Unit standards described in this section may not utilize the less restrictive configuration, size, and height standards allowed under another section to achieve a larger unit or more than one unit.
- G. Except as otherwise specified in this section, Special Accessory Dwelling Units developed in accordance with this Chapter shall otherwise comply with the development standards applicable to the housing type and base zone district in which the lot is located and all applicable state and local building codes.

#### **14.72.100 Permits and Processing.**

All Accessory Dwelling Units and Junior Accessory Dwelling Units shall comply with applicable state and local building codes and shall require approval of either a Coastal Development Permit without public hearing and a building permit, or an Appealable Coastal Development Permit and a building permit for units located within the zones governed by the California Coastal Commission Appeals Jurisdiction.

- A. **Residential Density.** An Accessory Dwelling Unit or Junior Accessory Dwelling Unit is a residential use that is consistent with the existing Coastal Land Use Plan designation and zoning for lots within the allowable residential zones. Any Accessory Dwelling Unit or Junior Accessory Dwelling Unit permitted pursuant to this section does not exceed the allowable density for the lot upon which the Accessory Dwelling Unit or Junior Accessory Dwelling Unit is located.
- B. **Combined Permits.** If a permit application for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit is submitted at the same time as a permit application for a new single-unit dwelling, review of the permit for the Accessory Dwelling Unit or Junior Accessory Dwelling Unit application shall be delayed until the permit for the single-unit dwelling has been approved.

- C. **Permit Approval.** Except for applications to create an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit in the Beach Neighborhood Overlay District, where the City determines that discretionary review is required, the City shall act on the application to create an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit within 60 days from the date a complete application is submitted, if an existing primary residence or multifamily dwelling exists on the lot and the proposed Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to all applicable objective development standards of this Chapter. If an applicant requests a delay, the application shall be deemed approved unless the City provides the applicant with notice within the 60 day period that the application implicates Coastal Act/LCP policies such that it requires further review.
- D. **Building Permit Approval.** The City shall ministerially approve or disapprove a complete building permit application for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit in compliance with time periods established by State law, following any applicable coastal development permit approvals.
- E. **Exemption for Public Improvements.** No public improvements shall be required for the creation or conversion of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit.
- F. **Impact Fees.** Accessory Dwelling Units up to 750 square feet are exempt from impact fees. Accessory Dwelling Units that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling. In no event shall Junior Accessory Dwelling Units be charged impact fees.
- G. **School Impact Fees.** School districts may levy impact fees for Accessory Dwelling Units greater than 500 square feet. Such fees should be based on City and school district coordination and evaluation, and findings of a district prepared nexus study to determine any appropriate fees necessary to ensure the adequacy of school facilities.
- H. **Recorded Agreement.** Before obtaining a building permit for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, the property owner shall execute an agreement, containing a reference to the deed under which the property was acquired by the present owner which outlines the requirements regarding the sale, rental, and owner occupancy of lots developed with Accessory Dwelling Units and Junior Accessory Dwelling Units as specified in Section [14.72.040](#) of this Chapter and other applicable limitations in the Title 14 of the Carpinteria Municipal Code and City administrative policies applying to the applicable base zone district that shall run with the land.

- I. **Recorded Deed Restriction.** As a condition of coastal permit approval for new development in the ADU Beach Neighborhood Overlay District, and as required by this code and other applicable laws, ordinances, policies, practice and/or procedures, the City may require that an applicant record a deed restriction on the property to acknowledge and agree to certain conditions, including but not limited to: 1) that the development is located in a hazardous area, or an area that may become hazardous in the future; 2) to assume the risks of injury and damage from such hazards in connection with the permitted development; 3) to unconditionally waive any claim of damage or liability against the City of Carpinteria and Coastal Commission, if the property is appealed, its officers, agents, and employees with respect to approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; 5) that they have no rights under Coastal Act Section 30235 and related LCP policies to shoreline armoring in the future; 6) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; 7) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; 8) any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval; and 9) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required.

**14.72.110 Authority to Review.**

- A. Where an appealable coastal development permit is required pursuant to Section 14.48 of this Title, the authority to review an application for a Coastal Development Permit is designated to the Community Development Director, or the Director's designee. In the appealable area, decisions of the Director or the Director's designee may be appealed to the Coastal Commission in accordance with Section 14.48. Actions on applications to construct Accessory Dwelling Units within these areas shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Carpinteria's certified Local Coastal Program and Chapter 3 of the California Coastal Act.



- B. Except for applications to create an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit in Beach Neighborhood Overlay District, excluding parcels located east of Holly Avenue and north of Third Street, or parcels located south of Sandyland Road, where the City determines that discretionary review is required, when a proposed Accessory Dwelling Unit or Junior Accessory Dwelling Unit is located outside the Coastal Commission appeals jurisdiction, a coastal development permit application shall be required and the application shall be reviewed and approved by the Community Development Director, or the Director's designee without a public hearing in accordance with Government Code Section 65852.2. The decision of the Community Development Director, or the Director's designee shall constitute the final action of the City.
- C. Except for applications to create an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit in Beach Neighborhood Overlay District, excluding parcels located east of Holly Avenue and north of Third Street, or parcels located south of Sandyland Road, where the City determines that discretionary review is required, when a Special Accessory Dwelling Unit is proposed in conformance with [14.72.090](#) of this section and is outside of the geographic boundary of subsection 14.72.110.A of this subsection, such unit shall be issued an administrative coastal development permit. When a Junior Accessory Dwelling Unit is completely within the footprint of a single-family residence, such unit shall be required to obtain a building permit to ensure compliance with building code and health and safety standards.
- D. Applications to create an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit in Beach Neighborhood Overlay District, where the City determines that discretionary review is required shall be processed with a Coastal Development Permit, that may be appealed in accordance with Section 14.78 – APPEALS, of this Chapter.

**Exhibit 2**

**ADU Beach Neighborhood Overlay District Map**

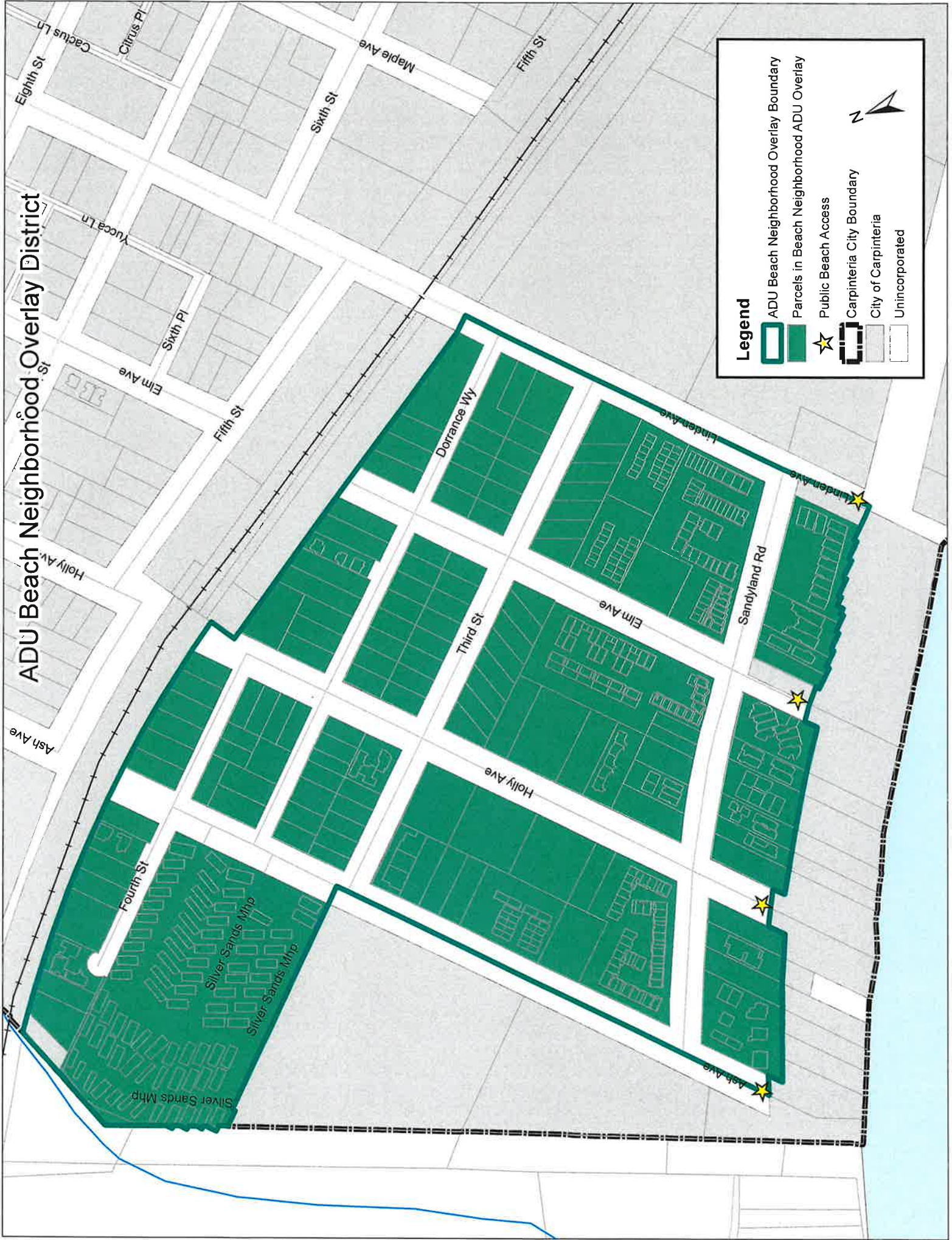
Accessory Dwelling Unit – Junior Accessory Dwelling Unit Program

Project No. 19-2008-LCPA/ORD

Planning Commission Hearing: August 1, 2022



# ADU Beach Neighborhood Overlay District





**Exhibit 3**

**CEQA Exemptions**

Accessory Dwelling Unit – Junior Accessory Dwelling Unit Program

Project No. 19-2008-LCPA/ORD

Planning Commission Hearing: August 1, 2022



# Notice of Exemption

## Appendix E

To: Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: Santa Barbara

105 East Anapamu Street

Santa Barbara, CA 93101

From: (Public Agency): City of Carpinteria

5775 Carpinteria Avenue

Carpinteria, CA 93013

(Address)

Project Title: Accessory Dwelling Unit Program

Project Applicant: City of Carpinteria

Project Location - Specific:

Citywide Carpinteria

Project Location - City: Carpinteria

Project Location - County: Santa Barbara

Description of Nature, Purpose and Beneficiaries of Project:

The proposed project would amend the Zoning Code to implement the Accessory Dwelling Unit and Junior Accessory Dwelling Unit Program, consistent with State of California housing laws.

Name of Public Agency Approving Project: City of Carpinteria

Name of Person or Agency Carrying Out Project: City of Carpinteria

Exempt Status: (check one):

☐ Ministerial (Sec. 21080(b)(1); 15268);

☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));

☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));

☒ Categorical Exemption. State type and section number: 15303

☒ Statutory Exemptions. State code number: 21080.17

Reasons why project is exempt:

The ordinance is statutorily exempt from review under CEQA pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to adoption of an ordinance to implement the provisions of State Government Code Section 65852.2. The ordinance is categorically exempt per CEQA Guidelines Section 15303, which exempts new construction or conversion of small structures, as is the case with Junior ADUs.

Lead Agency

Contact Person: Steve Goggia, CDD Director

Area Code/Telephone/Extension: (805) 755-4414

If filed by applicant:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: Comm. Developmt. Director

☐ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_





**Exhibit 4**

**California Coastal Commission Guidance Memo  
January 21, 2022**

Accessory Dwelling Unit – Junior Accessory Dwelling Unit Program

Project No. 19-2008-LCPA/ORD  
Planning Commission Hearing: August 1, 2022



**CALIFORNIA COASTAL COMMISSION**

455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105-2421  
VOICE (415) 904-5200  
FAX (415) 904-5400



To: Planning Directors of Coastal Cities and Counties  
From: John Ainsworth, Executive Director, California Coastal Commission  
Date: January 21, 2022

**RE: Updates Regarding the Implementation of New ADU Laws**

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## I. Introduction

California's ongoing housing crisis continues to exacerbate housing inequity and affordability, especially in the coastal zone. To address this critical issue, the state Legislature has enacted a number of laws in the last several years that are designed to reduce barriers to providing housing and to encourage construction of additional housing units in appropriate locations. To this end, the 2019 legislative session resulted in a series of changes to state housing laws that facilitate the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), which can help provide additional housing units that can be more affordable than other forms of market rate housing. Importantly, the changes did not modify existing provisions of state housing law that explicitly recognize that local governments must still abide by the requirements of the Coastal Act, and by extension, Local Coastal Programs (LCPs). Thus, provisions on coastal resource protection must be incorporated into the planning and development process, and into updated LCP J/ADU requirements, when considering J/ADUs in the coastal zone.

The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing.

The Coastal Commission has previously circulated three memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of J/ADUs. These memos have raised some questions for local governments, including the manner in which they are to be understood together. In order to address this issue, and to reflect lessons learned regarding J/ADU regulation in the coastal zone in the past few years, this updated memo supersedes and replaces these prior memos. This updated memo also elaborates on the changes to state housing laws that went into effect on January 1, 2020 and provides further information to help local governments harmonize these laws with the Coastal Act. This memo will briefly discuss the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding J/ADUs, how local governments can streamline J/ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for J/ADU

provisions are undertaken. This memo is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is responsible for Coastal Act review of J/ADUs in most areas that are not subject to a fully certified LCP. Local governments that have questions about specific circumstances not addressed in this memo should contact the appropriate district office of the Commission.

## II. Coastal Act Authority Regarding Housing in the Coastal Zone

The Coastal Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)) but states that “[n]o local coastal program shall be required to include housing policies and programs. (Pub. Res. Code § 30500.1.) Finally, new residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.)

While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of J/ADUs. The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.

## III. Overview of New Legislation

As of January 1, 2020, [AB 68](#), [AB 587](#), [AB 881](#), [AB 670](#), [AB 671](#), and [SB 13](#) collectively updated existing Government Code Sections 65852.2 and 65852.22 concerning local government review and approval of J/ADUs, and as of January 1, 2021, AB 3182 further updated the same laws, with the goal of increasing statewide availability of smaller, and potentially more affordable, housing units. Importantly, some of the changes affect local governments in the coastal zone and are summarized below.

- Local governments continue to have the discretion to adopt J/ADU provisions that are consistent with state law, and they may include specific requirements for protecting coastal resources and addressing issues such as design guidelines and protection of historic structures.
- Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the

provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) However, existing J/ADU provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified. Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP, including, for example, by ensuring that new J/ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas and wetlands, or in areas where the J/ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over the structure's lifetime.

- A major change to Section 65852.2 is that the California Department of Housing and Community Development (HCD) now has an oversight role to ensure that local J/ADU provisions are consistent with state law. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h)(3).) To ensure a smooth process, local governments should submit their draft J/ADU provisions to HCD and Coastal Commission staff to review for housing law and Coastal Act consistency before they are adopted locally and should continue to foster a three-way dialogue regarding any potential issues identified. Additionally, Coastal Commission and HCD staff meet regularly to discuss and resolve any issues that arise in the development of J/ADU provisions in the coastal zone. The Commission continues to prioritize J/ADU LCP amendments, and some may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); 14 Cal. Code Regs. § 13554.)
- In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create J/ADUs, regardless of whether the local government has adopted updated J/ADU provisions. (Gov. Code § 65852.2(a)(3).) In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline J/ADU processes as much as feasible.

Other recent legislative changes clarify that local J/ADU provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a J/ADU

ordinance, all of which set the “maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling.” (Gov. Code § 65852.2(a)(6).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions (see below).

#### IV. General Guidance for Reviewing J/ADU Applications

The following section lays out the general permitting pathway in which local governments can process J/ADU applications in a manner that is consistent with Coastal Act requirements and LCP provisions.

##### 1) Check prior CDP history for the site.

Determine whether a CDP or other form of Coastal Act/LCP authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP and/or authorization affects the applicant’s ability to apply for a J/ADU.

##### 2) Determine whether the proposed J/ADU constitutes “development.”

As defined by the Coastal Act, development refers to both “the placement or erection of any solid material or structure” on land as well as any “change[s] in the density or intensity of use of land[.]” (Pub. Res. Code § 30106.) Most J/ADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached J/ADU, or conversion of an existing, uninhabitable, attached or detached space to a J/ADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code § 30600.)

Unlike new construction, the conversion of an existing, legally established habitable space to a J/ADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development (and thus does not require Coastal Act or LCP authorization) is the conversion of an existing bedroom within a primary structure.

*Previously circulated Commission J/ADU memos (being superseded and replaced by this memo) indicated that construction or conversion of a J/ADU contained within or directly attached to an existing single-family residence (SFR) may qualify as development that was exempt from the requirement to obtain a CDP. Specifically, the Coastal Act and the Commission's implementing regulations identify certain improvements to existing SFRs that are allowed to be exempted from CDP requirements (Pub. Res. Code § 30610(a); 14 Cal. Code Regs § 13250.) Although the Commission has previously certified some LCP amendments that permitted certain exemptions for such ADU development, in a recent action, the Commission reevaluated its position and found that "the creation of a self-contained living unit, in the form of an ADU, is not an 'improvement' to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property." <sup>1</sup> On this basis, and based on the finding that a variety of types of J/ADUs—including both attached and detached J/ADUs—could have coastal resource impacts that make exemptions inappropriate, it rejected the local government's proposed exemptions for certain J/ADUs. Local governments considering updating LCP J/ADU provisions should consider the Commission's recent stance regarding exemptions for ADUs and may work with Commission staff to determine the best way to proceed on this issue.*

**3) If the proposed J/ADU constitutes development, determine whether a CDP waiver or other type of expedited processing is appropriate.**

If a local government's LCP includes a waiver provision, and the proposed J/ADU meets the criteria for a CDP waiver, the local government may issue a CDP waiver for the proposed J/ADU. The Commission has generally allowed a CDP waiver for proposed J/ADUs if the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed J/ADU project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is not impacted, etc.). (See Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a reduced evaluation framework and streamlined approval.

Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission's regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under the state's J/ADU provisions, public hearings are not required for qualifying development.



Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP. Any LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are appropriate procedures for notifying the public and the Commission regarding approvals of individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.

The Coastal Act also provides for other streamlined processing for certain types of development, including for minor development. (Pub. Res. Code § 30624.9.) In certain cases, categories of development can also be excluded from CDP requirements if certain criteria are met (see box). In any case, local governments without such CDP waiver and other processing and streamlining tools are encouraged to work with Commission staff to amend their LCP to include such measures.

*Coastal Act section 30610(e) allows certain categories of development that are specified in Commission-approved Categorical Exclusion (Cat Ex) Orders to be excluded from CDP requirements, provided that the category of development has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. (See also 14 Cal. Code Regs §§ 13240 et seq.)*

*Cat Ex Orders apply to specific types of development within identified geographical locations. For example, the Commission may approve a Categorical Exclusion for J/ADUs that would normally require a CDP (i.e., it is defined as development) because that specific development type in that specific geographic area can be demonstrated to not result in individual and/or cumulative coastal resource impacts. Cat Ex Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately adjacent to the inland extent of any beach; lots immediately adjacent of the mean high tide line of the sea where there is no beach; and public trust lands.*

*Cat Ex Orders provide another potential means of streamlining J/ADU consideration, and interested local governments should consult with Commission staff if they intend to propose such an Order. Cat Ex Orders are processed separately from LCP amendments, require a 2/3 vote of the Commission to be approved, and are typically subject to conditions. Once approved, the local government is responsible for reviewing development that might be subject to the Cat Ex Order and is typically required to report any exclusions applied pursuant to the Order to the Commission for review by the Executive Director and for an appeal period before they can become effective. It is important to note that while Cat Ex Orders can be a powerful tool if approved, the Commission must be able to conclude that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resources impacts in order to approve one. Thus, the local government pursuing a Cat Ex Order must provide supporting documentation and evidence that can conclusively show that to be the case.*

4) If a full CDP is required, review CDP application for consistency with certified LCP requirements.

If a proposed J/ADU constitutes development and cannot be processed as a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government must then provide the required public notice for any CDP applications for J/ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law, if feasible. However, local governments are not required to hold a public hearing on CDPs for ADUs. (Gov. Code § 65852.2(l).) Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the CDP is appealable, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

## V. Key Considerations

Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act. This section addresses some of the key issues that the Commission has dealt with recently, including public coastal access parking requirements and protection of sensitive habitats and visual qualities. Local governments are encouraged to contact their local Coastal Commission district office for further assistance.

### Protection of public recreational access in relation to parking requirements

Government Code Section 65852.2 requirements regarding parking for J/ADUs are as follows:

- a. One parking space is required per unit or per bedroom, whichever is less. The parking space can be a tandem space in an existing driveway.
- b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, no replacement parking space(s) are required.

However, Section 65852.2 further stipulates that the parking requirements listed above do not apply to ADUs constructed:

- a. Within ½ mile walking distance of public transportation stops/routes;
- b. Within a historic district;
- c. Within a primary residence or accessory structure;
- d. When on-street parking permits are required but not offered to the occupant of the ADU;

- e. And where a car-share vehicle is located within one block of the ADU.

Thus, the Government Code limits the circumstances when a local government can require a J/ADU project to address its parking needs onsite. This is a departure from most local government parking requirements which often explicitly specify the number of off-street parking spaces that must be provided onsite in any particular development, including residential development. The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

### Protection of sensitive habitats and visual qualities; avoidance of hazards

While most J/ADU projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed J/ADU provisions are not structured to undo any such LCP protections that already apply. J/ADUs may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, J/ADUs must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for J/ADUs constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the J/ADU, and any other risk-related issues dealt with in the LCP).

## VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new J/ADU provisions. Coastal Commission staff reports are linked below, which summarize specific issues that arose between Coastal Act requirements and the new J/ADU provisions as well as the necessary changes that were made in order to harmonize each jurisdiction's LCP with the State's housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission.

[City of Santa Cruz \(approved May 2021\)](#). This LCP amendment included clarifying language to address which provisions of the new state housing laws applied to ADUs in the coastal zone of the City of Santa Cruz as well as ensuring that the coastal resource protection provisions of the City's current LCP are maintained. The amendment also addressed specific off-street parking requirements for ADUs sited near significant coastal visitor destinations. The City of Santa Cruz adopted the Commission's modifications in August 2021.

[City of Pacifica \(approved June 2021\)](#). This LCP amendment revised the City's Implementation Plan to incorporate J/ADU provisions that are in line with the updated state housing laws, including streamlined procedures for J/ADU review and permitting processing, providing J/ADU development standards, and crafting tailored modifications to address specific public access parking needs in key visitor destination areas. The City of Pacifica adopted the Commission's modifications in August 2021.

[County of San Mateo \(approved July 2021\)](#). This LCP amendment incorporated more specific ADU regulations relating to size limits, maximum number of J/ADUs permitted per lot, streamlined review and process of J/ADU permits, and parking availability in areas that are

significant coastal visitor destinations. The County of San Mateo adopted the Commission's modifications in September 2021.

**City of Encinitas (approved August 2021).** The Coastal Commission approved revisions to the City of Encinitas' Implementation Plan that updated existing definitions for ADUs and JADUs and clarified development standards for accessory units, including standards for size, height, and setbacks.

**City of Santa Barbara (approved December 2021).** The Coastal Commission approved Commission staff's revision of the City of Santa Barbara's LCP amendment submittal addressing updated ADU provisions to be consistent with state housing laws. The amendment revised J/ADU terms and definitions, building standards, parking requirements, and permitting review and processing procedures. The staff report included modifications that address the CDP exemption issue (discussed above).

**Exhibit 5**

**Draft Planning Commission  
Status Hearing Minutes  
October 4, 2021**

Accessory Dwelling Unit – Junior Accessory Dwelling Unit Program

Project No. 19-2008-LCPA/ORD  
Planning Commission Hearing: August 1, 2022



MINUTES, PLANNING COMMISSION  
CITY OF CARPINTERIA  
CARPINTERIA, CALIFORNIA

October 4, 2021  
Regular Meeting  
5:30 P.M.

<b>CALL TO ORDER and ROLL CALL</b> The meeting was called to order at 5:30 p.m. by Chair Benefield.  <b>Commissioners Present:</b> Jane L. Benefield, Chair Glenn La Fevers, Vice-Chair John Moyer David Allen <b>Commissioners Absent:</b> John Callender  <b>Others Present:</b> Steve Goggia, Community Development Director Rita Bright, Principal Planner Mack Carlson, Legal Counsel, Brownstein Hyatt Farber Schreck	<b>CALL TO ORDER &amp; ROLL CALL</b>
<b>PLEDGE OF ALLEGIANCE</b> – Chair Benefield led the flag salute.	<b>PLEDGE</b>
<b>INTRODUCTIONS, PRESENTATIONS, ANNOUNCEMENTS</b> - None	<b>ANNOUNCEMENTS</b>
<b>PUBLIC COMMENT</b> Susan Skenderian asked the Planning Commission to consider project reviews of clerestory windows; while they afford privacy, they can cast light down on the houses next to them at night. She compared them to a satellite.	<b>PUBLIC COMMENT</b>
<b>CONSENT CALENDAR</b>  1) Minutes of the regular Planning Commission meeting held September 7, 2021  <b>MOTION</b> Upon a motion by Commissioner La Fevers, seconded by Commissioner Moyer, the Planning Commission voted 4-0 to approve the minutes of the regular Planning Commission meeting held September 7, 2021, as presented (Moyer, La Fevers, Allen and Benefield voted yes).	<b>CONSENT CALENDAR</b>
<b>NEW PUBLIC HEARING</b>  2) Project: Accessory Dwelling Unit Status Report and Recommendations Applicant: City of Carpinteria  Hearing on the request of the City of Carpinteria for the Planning	<b>NEW PUBLIC HEARING</b>



Commission to receive a status report on the Accessory Dwelling Unit Program, and to provide recommendations to the City Council regarding program components, as determined appropriate.

Principal Planner Rita Bright presented the staff report. She began with background information on housing laws enacted to promote development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in response to California's housing shortage. She said the current Second Dwelling Unit Program would be replaced with an ADU/JADU program, and related processes; the Zoning Code will need to be modified. She explained, among other things, state laws, exemptions of ADU/JADU programs from CEQA review, minimum lot size, parking requirements and in limited cases on-site owner residency requirements. The state permit process timeline will be shortened from around 120 to 60 days.

She said we have contracted with a firm to develop two plan sets for projects that may be commonly submitted by applicants: one for a garage conversion and the other for a 750 sq. ft. ADU. Community Development Director Steve Goggia explained "off the shelf" plans will be available online or at the counter. Minor adjustments can be made, and plans submitted without a designer, architect or engineer involved. It will result in cost savings for applicants and more ADUs in production.

Ms. Bright provided details about the ordinance process, noting staff is looking to obtain feedback from the Planning Commission, City Council, other agencies and the public before a draft is submitted for review to the Department of Housing and Community Development (HCD) and California Coastal Commission (CCC). After revisions, it will be re-opened to public comment, amended for effectiveness and re-submitted to the Planning Commission who will review it and make a recommendation to the City Council. The City Council can choose to submit it to HCD and CCC for final review and certification.

She gave an analysis of how the program will need to comply with state housing laws and the California Coastal Act, noting some areas of the city may more easily be able to build units, while certain parts, such as the Beach Neighborhood, Concha Loma and the bluffs have special considerations such as parking constraints, erosion and sea level rise. She explained the draft ordinance includes objective development standards that need to be met. She proceeded to review five options the Planning Commission can further consider, refine or recommend to the City Council:

1. Allow city-wide ADU and JADU Applications with no exclusion areas.
2. Exclusion of ADUs and JADUs within certain neighborhood

districts or geographic areas based on Coastal Act and sensitive resource policies and supporting technical studies.

3. Apply discretionary review in lieu of exclusion areas, in certain areas based on Coastal Act and sensitive resource policies and supporting technical studies.
4. Exclusion of ADUs within sensitive coastal resource or other sensitive resource areas.
5. A hybrid ADU and JADU program option.

Community Development Director Steve Goggia explained to the commissioners that their comments will be part of the record, passed to the City Council and included in the administrative report shared with agencies.

Commissioner La Fevers asked about the distinction between having no exclusion areas (option 1) versus specific exclusion zones or more complex mixes. He asked if the premise is that regardless of complex zones, every area would still be subject to being consistent with coastal development policies, with someone deciding whether it is consistent even if objective design criteria are met.

Ms. Bright explained that a Coastal Development Permit would still be required to comply with the Coastal Act even if it's administrative. She said that with exclusions to these areas, the City may address coastal policy issues; however, she said she is not sure how CCC will address consistency.

Legal Counsel Mack Carlson clarified if the ordinance establishes minimum standard ADU design criteria citywide, regardless if the ADU is subject to discretionary review, you would still be evaluating based on standard criteria in the zoning code. A chapter will lay out development standards for these types of units.

Commissioner Moyer asked if trailers were part of the mix, and Ms. Bright stated mobile homes are considered eligible ADU units.

Commissioner Allen pointed out that design objectives for colors and materials matching the main house wouldn't apply to a mobile home. Ms. Bright explained we need to look at what's reasonable but, if an ADU is attached, consistency is warranted. She added compatibility may be more important if the ADU is visible to the public. She said mobile homes are more challenging and would need to be evaluated on a case-by-case basis.

Commissioner Moyer noted you can designate an existing auxiliary as an ADU and questioned whether objective design criteria can be implemented for an existing building. Ms. Bright said there are state laws must be abided

by, but as an example, with an above-garage ADU, privacy standards and height requirements are objectives that can be considered.

Chair Benefield pointed out that sea level rise requires higher discretionary review and there is a 60-day limit for the application process. She questioned if there would be automatic approval if the 60 days expire. Ms. Bright said the city could build in a waiver of more time for discretionary reviews, but for other areas State law requires 60 days.

#### PUBLIC HEARING OPENED

Chair Benefield opened the public hearing.

Susan Skenderian, 5583 Calle Arena, said she was excited about the program but had a sinking feeling when Concha Loma was considered for exclusion. Regarding erosion, she said squirrels create more of a problem than any housing. She said parking was never a problem until there was a rush to use the beach during the pandemic, and she has always thought an electric bus that brings people there would be good. She is hoping her neighborhood won't be excluded.

Ms. Bright summarized the following comments received through Granicus and one phone call:

- Richard Little said he was told Carpinteria did not need to follow the state guidelines. He said he hopes the City moves forward with reasonable guidance.
- Lee Jacobs asked that we make the program a priority. He suggested we fast-track a program applying to most projects, with a different approach for the more complicated ones.
- Drew Simons expressed concern about the legal authority to exclude neighborhoods and said discretionary review should not be applied.
- Jim Taylor pointed out since the rights to cross the UPRR in Concha Loma are in question maybe it should be excluded. He said the City should increase housing opportunities and questioned whether on-site parking for certain areas is appropriate.

Luis Martinez said 4-5 years ago he was asking about ADU permitting. He stressed we cannot wait 3-6 months or a year and should do the program ASAP. He said Santa Barbara and Goleta are streamlining the process and moving faster than we are.

#### PUBLIC HEARING CLOSED

Chair Benefield closed the public hearing.

BREAK

Chair Benefield called for a 3-minute break before Commission discussion.

Commissioner Moyer said he would accept the state law as is, noting anything over 800 square feet will be reviewed by us. He expressed concern about parking but doesn't think it's an issue in Concha Loma. He said the ADU ordinance has been a mess for Santa Barbara's planning staff and has created long waits. He encouraged keeping the ordinance streamlined and said the more discretionary elements we place in it, the more time it will take City staff. He noted the public is not happy with the Bailard Avenue project, and we need to step up to prevent those kinds of projects coming before us. He said ADU ordinance is to the scale of a beach town community like Carpinteria, while 3-story complexes are a different scale.

Commissioner Allen said with state-exempt ADUs where review is more limited, we should cap at the required maximums (4 ft. setbacks, 850 square feet, etc.) and be careful to apply as many objective design standards as we can (colors, materials, height). For other ADUs that allow more latitude with ministerial permits, we should cap with standards and require as much parking as we can. If we can allow for some discretionary review, then it should be full discretionary review. He noted the Beach Neighborhood has multi-family dwellings where State law could allow ADUs/JADUs are allowed by right. He cautioned when someone comes in for review to consider what can be built by right (use of the basement and attic, and parking can be converted).

Discussion took place about the zones and vulnerable structures in the Beach Neighborhood. Commissioner Allen said we can reasonably tie where we are going to incur expenses and exclude that area from the ordinance. He said it's harder to justify excluding Concha Loma but agreed parking worsened during Covid. He expressed concern how the ordinance applies to existing residential zones. He also said with Chevron decommissioned, we are going to have major coastal access issues and suggested we plan and integrate it into zoning maps.

Ms. Bright clarified state law requires ADUs for residential and mixed use, but the City is unique in that you can permit residential uses in industrial/commercial zones. She said our ADU program as drafted follows that approach.

Regarding Allen's comment about the Chevron property, Community Development Director Steve Goggia said planning for it may be premature. He said what we are proposing will be a mix of recreation and PUDs, and it will be kept in mind when doing this.

Commissioner Allen said it would be good to have data for the maximum number of ADUs that could be generated in various neighborhoods.

Commissioner La Fevers stated how we were concerned the floodgates would open when the original ADU program went into effect, but we didn't see that. He believes that program was overly restrictive which is why we are seeing this outcome. He suggested we increase our focus in facilitating the development and implementation of ADUs, noting they truly address the needs of family and community who are limited to rentals. He supports focusing on facilitating straightforward ministerial approval of units. He likes Option 1's simple approach with pre-defined standards that apply to the majority of the City with as much certainty as possible. If we can accomplish that for the majority of the community, he is less concerned with how we deal with the more complex locations.

Regarding objective standards, La Fevers encourages keeping them simple with the possible exception that materials, finish and color match the existing structure. In some cases, there may be less costly options that owners want to implement in their backyard, such as a pre-fab unit. Carpinteria has a lot of variation, which he finds a good thing. He thought that an ADU does not need to lock in matching a structure. He also suggested implementing a process by which more flexibility can be authorized, whether the standard process or a modified one. If someone wants 1000 vs. 800 square feet, they should get it; full discretionary review may be unnecessary. About objective design standards, he said they should be simple.

With respect to exclusion zones, La Fevers said they should be very limited if we have them. We shouldn't have them for every Environmentally Sensitive Habitat Area (ESHA), Concha Loma, the bluffs and beach neighborhood. He thinks Zone 1 and 2 is pushing it, but Zone 1 has clear rationale based on indisputable current evidence. Regarding the hybrid option, we should build in flexibility, or we are going to be telling people no. The concept of ADUs shouldn't create public safety or coastal resource issues and should be planned into our program.

Chair Benefield said she agrees with Commissioner La Fevers about keeping things simple and clear on the first go around. She added if we don't get the housing we need, we might want to indicate to HCD that we need to include other areas, such as the excluded ones. She also agrees with Allen on Zones 1 and 2. With respect to ESHAs, she can let go because most are in zones that don't allow housing anyway. She asked for strict standards regarding square footage and setbacks, as well as the minimum we can get away with in size, because she doesn't think big ADUs are the goal. Regarding Concha Loma, she said many older people live there who

can live in an ADU and rent out their houses and change economic standards, which she is all for. It should be quick and dirty and clear. She noted discretionary policies will include the ARB, and she doesn't like that idea and neither might HCD.

Ms. Bright expressed concern that robust discretionary review could backfire with HCD; however, she said HCD might prefer discretionary review for the subset of ADUs that cannot meet objective standards.

Chair Benefield said there would have to be limitations if we offered discretionary review but indicated she was negotiable. She expressed concern about Senate Bill 9 that was recently enacted.

Legal Counsel Mack Carlson provided details about SB-9. He said it was signed two weeks ago by the governor and will take effect in 2022. It provides two different paths: the path of seeking 2 housing units on an individual residential lot (known as the duplex bill), and the lot split where you can apply for 2 units. He said all new legislation affecting ADUs will be included in the ordinance and an update will take place on all new housing laws before the end of the year.

It was suggested the Planning Commission provide feedback if consensus had been reached on any of the issues.

Commissioner Allen said discretionary review is not allowed unless minimum objective standards are exceeded, and he wants caps at the minimums. He expressed concern it could be difficult within the state program to come up with latitude regarding color matching within an objective standard without discretionary review.

Regarding the minimum 31-day rental requirement, Allen said the whole point is to provide housing not vacation rentals. He noted we have a problem with vacation rentals and referenced a Seventh Street project that was presented as workforce housing, yet turned into vacation rentals, including the attic. He said Staff is stretched but we need enforcement mechanisms to ensure the ADUs are workforce housing.

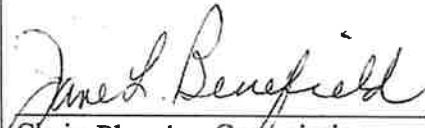

#### Consensus to Exclude Zone 1

All agreed to exclude Zone 1. Chair Benefield and Commissioner Allen wanted to exclude Zone 2 but Commissioners La Fevers and Moyer were not in agreement. Benefield commented on Zone 2's tiny lot sizes.

#### Consensus Not to Expand Minimum Standards for Ministerial Permits

Commissioner La Fevers said affordability and easy to build and install should be the focus. Commissioners Moyer and Benefield agreed to keep

<p>things simple, with Benefield in support of allowing some creativity.</p> <p><u>Consensus Not to Allow ADUs as Vacation Rentals</u></p> <p>There was agreement vacation rentals are not the goal. Ms. Bright said their hands might be tied with extending beyond the 31-day limit and she would research it, noting there are state limits they must follow.</p> <p>Community Development Director Steve Goggia brought to their attention that there are short-term rentals of 3 months where Transient Occupancy Tax is not collected and units remain vacant for weeks at a time.</p> <p>The meeting concluded with Ms. Bright recapping the Planning Commission's direction. Among other things, she said there was agreement on exclusion zones and capping standards for ministerial permits. Exclusions will not be necessary for ESHAs. Existing reports and investigations will be used to substantiate excluding Beach Neighborhood's Zone 1, with Zone 2 remaining a split between commissioners. An option will be included to revisit the ordinance in 2-3 years as more information becomes available regarding sea level rise.</p> <p>Chair Benefield suggested including goals and a track record of how we are doing.</p>	
<p><b>OTHER BUSINESS - None</b></p>	<p><b>OTHER BUSINESS</b></p>
<p><b>MATTERS PRESENTED BY COMMISSIONERS</b></p> <p>Commissioner Allen asked for a report regarding the Venoco clean-up, including where the pipeline is located, whether there will be above ground activity and how long it will take.</p>	<p><b>MATTERS PRESENTED</b></p>
<p><b>DIRECTOR'S REPORT</b></p> <ul style="list-style-type: none"> <li>3) Action Minutes of the Architectural Review Board meeting of August 12, 2021</li> <li>4) City calendar for the month of October</li> <li>5) Planning Activity Report as of September 27, 2021</li> <li>6) Building Permit Report as of September 27, 2021</li> </ul> <p>Community Development Director Steve Goggia reviewed the distributed information.</p>	<p><b>DIRECTOR'S REPORT</b></p>
<p><b>ATTENDANCE OF PLANNING COMMISSIONERS FOR THE NEXT MEETING OF November 1, 2021</b> – Chair Benefield said she was not sure she could attend.</p>	<p><b>ATTENDANCE FOR NEXT MEETING</b></p>

<p><b>ADJOURNMENT</b> - Chair Benefield adjourned the meeting at 8:00 p.m.</p> <p><b>ATTEST:</b></p> <p> Chair, Planning Commission</p> <p> Secretary, Planning Commission</p>	<p><b>ADJOURNMENT</b></p>
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MINUTES, PLANNING COMMISSION  
CITY OF CARPINTERIA  
CARPINTERIA, CALIFORNIA

October 4, 2021  
Regular Meeting  
5:30 P.M.

**Exhibit 6**

**City Council Status Hearing Minutes  
October 25, 2021**

Accessory Dwelling Unit – Junior Accessory Dwelling Unit Program

Project No. 19-2008-LCPA/ORD  
Planning Commission Hearing: August 1, 2022



**City of Carpinteria  
City Council Minutes  
Regular Meeting  
Monday, October 25, 2021**

**In-Person and Virtual**

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Acting City Clerk Brian C. Barrett noted for the record that in response to the Governor's Executive Orders N-07-21 and N-08-21, the City of Carpinteria has made the decision to provide both in-person and virtual attendance and participation options available to the public for this meeting and additionally noted the protocols by which the public could participate and should one of the virtual attendance/viewing or public comment options be unavailable due to technological issues, the public is invited to take advantage of one of the other participation options available.

**CALL TO ORDER**

Mayor Nomura called the meeting to order at 5:30 pm

**ROLL CALL**

Councilmembers present:

Councilmember Natalia Alarcon  
Councilmember Gregg A. Carty  
Councilmember Roy Lee  
Vice Mayor Al Clark  
Mayor Wade T. Nomura

Staff members present:

Dave Durflinger, City Manager  
Jena Shoaf Acos, on behalf of Brownstein Hyatt Farber  
Schreck, LLP acting as City Attorney of the City  
of Carpinteria  
Mack Carlson, on behalf of Brownstein Hyatt Farber  
Schreck, LLP acting as City Attorney of the City  
of Carpinteria  
Brian C. Barrett, Acting City Clerk  
John L. Ilasin, Public Works Director  
Rita Bright, Principal Planner  
Steve Goggia, Community Development Director

**PLEDGE OF ALLEGIANCE**

Mayor Nomura led those present in the salute to the flag.

**INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS: None**

**PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS**

Lieutenant Butch Arnoldi with the Santa Barbara County Sheriff's Department provided an update on crime in the City.

### **CITY MANAGER'S REPORT**

City Manager Durflinger reported on the following:

- The City is seeking community input in developing the City's Local Roadway Safety Plan. A public survey is available on the City's website until end of January 2022.
- City received grant funds to replace play structure at Heath Ranch Park. Installation of new play structure is anticipated in four to six weeks.
- Chevron is decommissioning the Carpinteria oil/gas plant behind City Hall. Chevron has submitted their development application for the decommissioning process.

Councilmember Lee asked for an update on the Senior Center. City Manager Durflinger commented that seniors can program the space at the Vets Hall by working with the City's scheduler. He related that in terms of capital improvements and desired programs and services, the City would need to engage in a process to determine the scope which is a part of the ongoing work plan item.

Councilmember Carty addressed that he had heard that the property where the Seal Watch is located was recently sold. City Manager Durflinger remarked that the prospective buyer has been in contact with Planning staff due to outstanding code compliance issues with the property.

### **PRESENTATIONS BY CITIZENS / PUBLIC COMMENT**

Speakers via Zoom: Rod Caudillo and Robin Karlsson

Emails distributed: Mary Docter, Carrie Miles, and Joe Franken

**AGENDA MODIFICATIONS: None**

### **CONSENT CALENDAR:**

Motion by Councilmember Lee, seconded by Councilmember Alarcon, to approve the Consent Calendar Item Nos. 1 through 5. The roll call vote was as follows:

AYES:	Councilmember Alarcon, Councilmember Carty, Councilmember Lee, Vice Mayor Clark, and Mayor Nomura
NOES:	None
ABSENT:	None
ABSTAIN:	None

The motion carried unanimously.

1. Approve the minutes of the regular City Council meeting of October 11, 2021.
2. Receive and file the Expenditures for the period beginning October 2, 2021 and ending October 15, 2021
3. Receive and file the Contracts Executed by the City Manager on behalf of the City for the Period of September 22, 2021, through October 12, 2021.
4. Receive and file the Monthly City Treasurer's Report on Compliance with Statement of Safekeeping and Investment of Public Funds.
5. Receive and file the report of the of the Quarterly Review of Pension Stabilization Trust.

**ADMINISTRATIVE MATTERS:**

6. Fiscal Year 2020-21 Year-End Capital Improvement Program Budget Rollover of Unused Funds into Fiscal Year 2021-22 Capital Improvement Program Budget and Budget Appropriation for Capital Improvement Program Update.

Recommendation: (1) Authorize the rollover of unused funds from Fiscal Year 2020-21 Capital Improvement Program Budget into Fiscal Year 2021-22 Capital Improvement Program Budget. (2) Approve an appropriation of \$20,000 from the General Fund Available Fund Balance to General Fund Expense Account No. 101-401-5201 for the Capital Improvement Program Update.

Staff Presenter: John L. Ilasin, Public Works Director

There was no public comment.

Motion by Councilmember Alarcon, seconded by Vice Mayor Clark, to (1) authorize the rollover of unused funds from Fiscal Year 2020-21 to Capital Improvement Program Budget into Fiscal Year 2021-22 Capital Improvement Program Budget and (2) approve an appropriation of \$20,000 from the General Fund Available Fund Balance to General Fund Expense Account No. 101-401-5201 for the procurement of consulting services to prepare Capital Improvement Program Update. The roll call vote was as follows:

AYES: Councilmember Alarcon, Councilmember Carty, Councilmember Lee, Vice Mayor Clark, and Mayor Nomura  
NOES: None  
ABSENT: None  
ABSTAIN: None

The motion carried unanimously.

7. Annual Review and Adoption of the City's Investment Policy.

Recommendation: Adopt Resolution No. 6076, receiving and filing the annual City Investment Policy.

Staff Presenter: Dave Durflinger, City Manager

There was no public comment.

Motion by Councilmember Lee, seconded by Councilmember Carty, to move adoption of Resolution No. 6076, as read by title only. The roll call vote was as follows:

AYES: Councilmember Alarcon, Councilmember Carty, Councilmember Lee, Vice Mayor Clark, and Mayor Nomura  
NOES: None  
ABSENT: None  
ABSTAIN: None

The motion carried unanimously.

**PUBLIC HEARING: NONE**

**OTHER BUSINESS:**

8. Proposed correspondence from the City to the Housing Authority of the County of Santa Barbara Board of Commissioners objecting to its residential development concept for 173 apartment units on an approximately 7-acre site located at 1101 and 1103 Bailard Avenue.

Recommendation: Approve the letter to be sent to the Housing Authority of the County of Santa Barbara (HASBARCO) Board of Commissioners (and copying same to the Santa Barbara County Board of Supervisors) objecting to its residential development concept for 173 apartments on an approximately 7-acre site located at 1101 and 1103 Bailard Avenue.

Staff Presenter: Dave Durflinger, City Manager

In-person speakers: Fred Shaw, Catherine Overman, Carla Kroman, and Christie Boyd

Speakers via Zoom: Mike Wondolowski and John Gobbell

Emails distributed: Russell Ruiz

Motion by Councilmember Lee, seconded by Vice Mayor Clark, to approve the letter (Attachment A to the staff report) and authorize its transmittal to HASBARCO and copying same to the Santa Barbara County Board of Supervisors.

Councilmember Carty asked if there was anyone else the letter could be sent to. City Manager Durlinger stated that staff could copy the letter to the California Coastal Commission's local office in Ventura as well as the Local Agency Formation Commission (LAFCO). Councilmember Carty requested the letter be sent also to the California Coastal Commission's local office in Ventura and the Local Agency on Formation for the State of California (LAFCO).

Councilmember Lee amended the motion to include sending the letter to the California Coastal Commission's local office in Ventura, the Local Agency on Formation (LAFCO), and the Carpinteria Unified School District Board. Vice Mayor Clark seconded the amended motion. The roll call vote on the amended motion was as follows:

AYES: Councilmember Alarcon, Councilmember Carty, Councilmember Lee, Vice Mayor Clark, and Mayor Nomura  
NOES: None  
ABSENT: None  
ABSTAIN: None

The motion carried unanimously.

9. A status report and request for City Council policy input on proposed amendments to the Carpinteria Municipal Code, Title 14, Chapter 14.72 to implement recent State of California (State) enactment of housing laws to promote development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs).

Recommendation: (1) Receive and consider this report and the recommendations of the Planning Commission on proposed amendments to the Carpinteria Municipal Code, Title 14, Chapter 14.72 to implement State enactment of housing laws. (2) Provide direction to staff on specific criteria, i.e., any or a combination of Options 1 through 5, as described in this report, for the proposed ADU-JADU administrative draft ordinance.

Staff Presenter: Steve Goggia, Community Development Director, Rita Bright, Principal Planner, and Mack Carlson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria

In-person speakers: Fred Shaw

Emails distributed: Jim Taylor



Motion by Vice Mayor Clark, seconded by Councilmember Lee, to exclude Interim Sea Level Rise Zone 1 and Interim Sea Level Rise Zone 2, and for Sea Level Rise Zone 2 to provide discretionary review in terms of potential parking and Environmentally Sensitive Habitat Area (ESHA) impacts especially related to creek-flooding inundation, and require onsite parking in the beach neighborhood and affected areas in Concha Loma neighborhood, and adopt a hybrid plan.

Vice Mayor Clark amended the motion and Councilmember Lee seconded the amended motion to replace discretionary review in terms of potential parking for Sea Level Rise Zone 2 with making onsite parking an objective requirement and address potential flooding risks on a case-by-case basis for Sea Level Rise Zone 2.

Ms. Bright stated the amended motion was to adopt a hybrid plan that excludes Interim Sea Level Rise Zone 1 from ADU eligibility, requires in Interim Sea Level Rise Zone 2 an objective development standard for onsite parking and allows for discretionary review to address flooding issues on a case-by-case basis, requires parking onsite consistent with the parking requirements of the Chapter in the Concha Loma neighborhood from the railroad to 0.10 miles north. She recommended the Council amend the motion to allow discretionary review if the objective development standards cannot be met for any ADU in the City.

Vice Mayor Clark further amended the motion and Councilmember Lee seconded the further amended motion to remove the requirement of parking onsite consistent with the parking requirements of the Chapter in the Concha Loma neighborhood from the railroad to 0.10 miles north.

Ms. Bright again restated the further amended motion was to direct staff to prepare a hybrid plan that excludes Interim Sea Level Rise Zone 1 Guidance Document, includes an objective development standard for Sea Level Rise Zone 2 that requires onsite parking, and allows for discretionary review in Sea Level Rise Zone 2 to address flooding on a case-by-case basis.

The final amended motion by Vice Mayor Clark and seconded by Councilmember Lee was to direct staff to apply Option 5, a hybrid approach, to the ADU-JADU Program with the following elements: (1) exclude Interim Sea Level Rise Guidance Document Zone 1 from program eligibility, (2) require onsite parking, as an objective development standard, in Interim Sea Level Rise Guidance Document Zone 2, and (3) if necessary to address flooding issues, require discretionary review on a case-by-case basis, in Interim Sea Level Rise Guidance Document Zone 2. The roll call vote on the final amended motion was as follows:

AYES:	Councilmember Alarcon, Councilmember Carty, Councilmember Lee, Vice Mayor Clark, and Mayor Nomura
NOES:	None
ABSENT:	None

ABSTAIN: None

The motion carried unanimously.

**LEGISLATIVE UPDATE:**

City Manager Durflinger spoke on the email from the City's regional representative recapping the number of bills introduced and signed by the Governor.

Councilmember Alarcon asked about when the Council would receive the report on the Downtown Overlay. City Manager Durflinger responded that this topic would be brought to the Council next year.

**COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS**

Councilmember Alarcon reported on the Ad Hoc District Elections Committee's last meeting and that the Committee has finished its task.

**ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS**

All Councilmembers are expected to be in attendance at the next regular City Council meeting of November 8<sup>th</sup>.

**ADJOURNMENT**

Mayor Nomura adjourned the meeting at 8:26 p.m.

  
Wade T. Nomura, Mayor

ATTEST:

  
Brian C. Barrett, Acting City Clerk



**Exhibit 7**

**California Department of Housing and Development  
Accessory Dwelling Unit Handbook  
December 2020**

Accessory Dwelling Unit – Junior Accessory Dwelling Unit Program

Project No. 19-2008-LCPA/ORD  
Planning Commission Hearing: August 1, 2022





California Department of Housing and  
Community Development

# Accessory Dwelling Unit Handbook



Where foundations begin

*Updated December 2020*





California Department of Housing and  
Community Development

# Accessory Dwelling Unit Handbook

*December 2020*



Where foundations begin

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# Understanding Accessory Dwelling Units (ADUs) and Their Importance



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

\*\*\*\*\*

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

## What is an ADU?

An ADU is an accessory dwelling unit with complete independent living facilities for one or more persons and has a few variations:

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

ADUs tend to be significantly less expensive to build and offer benefits that address common development barriers such as affordability and environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land, dedicated parking or other costly infrastructure required to build a new single-family home. Because they are contained inside existing single-family homes, JADUs require relatively

modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one or two-story wood frames, which are also cheaper than other new homes. Additionally, prefabricated ADUs can be directly purchased and save much of the time and money that comes with new construction. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

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

ADUs also give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care, thus helping extended families stay together while maintaining privacy. The space can be used for a variety of reasons, including adult children who can pay off debt and save up for living on their own.

New policies are making ADUs even more affordable to build, in part by limiting the development impact fees and relaxing zoning requirements. A 2019 study from the Turner Center on Housing Innovation noted that one unit of affordable housing in the Bay Area costs about \$450,000. ADUs and JADUs can often be built at a fraction of that price and homeowners may use their existing lot to create additional housing, without being required to provide additional infrastructure. Often the rent generated from the ADU can pay for the entire project in a matter of years.

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

# Summary of Recent Changes to Accessory Dwelling Unit Laws



In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in zones that allow single-family and multifamily uses provides additional rental housing, and is an essential component in addressing California's housing needs. Over the years, ADU law has been revised to improve its effectiveness at creating more housing units. Changes to ADU laws effective January 1, 2021, further reduce barriers, better streamline approval processes, and expand capacity to accommodate the development of ADUs and junior accessory dwelling units (JADUs).

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing

options for family members, friends, students, the elderly, in-home health care providers, people with disabilities, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the California Department of Housing and Community Development (HCD) has prepared this guidance to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. The following is a summary of recent legislation that amended ADU law: AB 3182 (2020) and SB 13, AB 68, AB 881, AB 587, AB 670, and AB 671 (2019). Please see Attachment 1 for the complete statutory changes for AB 3182 (2020) and SB 13, AB 68, AB 881, AB 587, AB 670, and AB 671 (2019).

## AB 3182 (Ting)

Chapter 198, Statutes of 2020 (Assembly Bill 3182) builds upon recent changes to ADU law (Gov. Code, § 65852.2 and Civil Code Sections 4740 and 4741) to further address barriers to the development and use of ADUs and JADUs.

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

- States that an application for the creation of an ADU or JADU shall be *deemed approved* (not just subject to ministerial approval) if the local agency has not acted on the completed application within 60 days.
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU *and* one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met.
- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, *and* without regard to the date of the governing documents.

- Provides for not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units.

## **AB 68 (Ting), AB 881 (Bloom), and SB 13 (Wieckowski)**

Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Gov. Code § 65852.2, 65852.22) and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size (Gov. Code, § 65852.2, subd. (a)(1)(B)(i)).
- Clarifies areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services as well as impacts on traffic flow and public safety (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020, and January 1, 2025 (Gov. Code, § 65852.2, subd. (a)(6)).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet (Gov. Code, § 65852.2, subds. (c)(2)(B) & (C)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of offstreet parking spaces cannot be required by the local agency (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi)).
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, § 65852.2, subd. (a)(3) and (b)).
- Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes and are available to the public (Gov. Code, § 65852.2, subd. (j)(10)).
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees (Gov. Code § 65852.2, subd. (f)(3)); ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 65852.2, subd. (f)(3)).
- Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Gov. Code, § 65852.2, subd. (j)(2)).
- Authorizes HCD to notify the local agency if HCD finds that their ADU ordinance is not in compliance with state law (Gov. Code, § 65852.2, subd. (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy Regional Housing Needs Allocation (RHNA) housing needs (Gov. Code, §§ 65583.1, subd. (a), and 65852.2, subd. (m)).
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 65852.2, subds. (a)(3), (b), and (e)).

- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code § 65852.22, subd. (a)(4); former Gov. Code § 65852.22, subd. (a)(5)).
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 65852.2, subd. (n); Health & Safety Code, § 17980.12).

### **AB 587 (Friedman), AB 670 (Friedman), and AB 671 (Friedman)**

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an impact on state ADU law, particularly through Health and Safety Code Section 17980.12. These pieces of legislation, among other changes, address the following:

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



# Frequently Asked Questions:

## Accessory Dwelling Units<sup>1</sup>

### 1. Legislative Intent

#### **a. Should a local ordinance encourage the development of accessory dwelling units?**

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

ADU law and recent changes intend to address barriers, streamline approval,

#### **Government Code 65852.150:**

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

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

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

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

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

*(5) California faces a severe housing crisis.*

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

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

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

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

<sup>1</sup> Note: Unless otherwise noted, the Government Code section referenced is 65852.2.

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

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

## **2. Zoning, Development and Other Standards**

### **A) Zoning and Development Standards**

- **Are ADUs allowed jurisdiction wide?**

No. ADUs proposed pursuant to subdivision (e) must be considered in any residential or mixed-use zone. For other ADUs, local governments may, by ordinance, designate areas in zones where residential uses are permitted that will also permit ADUs. However, any limits on where ADUs are permitted may only be based on the adequacy of water and sewer service, and the impacts on traffic flow and public safety. Further, local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors.

Examples of public safety include severe fire hazard areas and inadequate water and sewer service and includes cease and desist orders. Impacts on traffic flow should consider factors like lesser car ownership rates for ADUs and the potential for ADUs to be proposed pursuant to Government Code section 65852.2, subdivision (e). Finally, local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns. (Gov. Code, § 65852.2, subd. (e))

Residential or mixed-use zone should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use.

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

Yes. A local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards shall be sufficiently objective to allow ministerial review of an ADU. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

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

What does objective mean?

“objective zoning standards” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. Gov Code § 65913.4, subd. (a)(5)

ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to do so. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with ADU law. Examples of these processes include areas where additional health and safety concerns must be considered, such as fire risk.

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

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

- **Are ADUs permitted ministerially?**

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

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

Yes. A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure or a new construction detached ADU subject to certain development standards.

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

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



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

## **B) Size Requirements**

- **Is there a minimum lot size requirement?**

No. While local governments may impose standards on ADUs, these standards shall not include minimum lot size requirements. Further, lot coverage requirements cannot preclude the creation of a statewide exemption ADU (800 square feet ADU with a height limitation of 16 feet and 4 feet side and rear yard setbacks). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area or open space requirements. Local governments may continue to enforce building and health and safety standards and may consider design, landscape, and other standards to facilitate compatibility.

What is a statewide exemption ADU?

A statewide exemption ADU is an ADU of up to 800 square feet, 16 feet in height, as potentially limited by a local agency, and with 4 feet side and rear yard setbacks. ADU law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, ADU law allows the construction of a detached new construction statewide exemption ADU to be combined on the same lot with a JADU in a single-family residential zone. In addition, ADUs are allowed in any residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

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

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

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

- **Can a percentage of the primary dwelling be used for a maximum unit size?**

Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unit size for attached or detached ADUs but only if it does not restrict an ADU's size to less than the standard of at least 850 square feet (or at least 1000 square feet for ADUs with more than one bedroom). Local agencies must not, by ordinance, establish any other minimum or maximum unit sizes, including based on

a percentage of the primary dwelling, that precludes a statewide exemption ADU. Local agencies utilizing percentages of the primary dwelling as maximum unit sizes could consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

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

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

Larger unit sizes can be appropriate in a rural context or jurisdictions with larger lot sizes and is an important approach to creating a full spectrum of ADU housing choices.

## **C) Parking Requirements**

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

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway. Guest parking spaces shall not be required for ADUs under any circumstances.

What is Tandem Parking?

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

Local agencies may choose to eliminate or reduce parking requirements for ADUs such as requiring zero or half a parking space per each ADU.

- **Is flexibility for siting parking required?**

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

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

- **Can ADUs be exempt from parking?**

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

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

- (2) Accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) Accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

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

## D) Setbacks

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

Yes. A local agency may impose development standards, such as setbacks, for the creation of ADUs. Setbacks may include front, corner, street, and alley setbacks. Additional setback requirements may be required in the coastal zone if required by a local coastal program. Setbacks may also account for utility easements or recorded setbacks. However, setbacks must not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii).)

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

A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude a statewide exemption ADU and must not unduly constrain the creation of all types of ADUs. (Gov. Code, § 65852.2, subd. (c).)

## E) Height Requirements

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

Not in state ADU law, but local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).)

## F) Bedrooms

- **Is there a limit on the number of bedrooms?**

State ADU law does not allow for the limitation on the number of bedrooms of an ADU. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs.

## **G) Impact Fees**

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

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit.

What is "Proportionately"?

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

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

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

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

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

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

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

Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for

utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home. (Gov. Code, §§ 65852.2, subd. (f), and 66000)

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

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

## **H) Conversion of Existing Space in Single Family, Accessory and Multifamily Structures and Other Statewide Permissible ADUs (Subdivision (e))**

- **Are local agencies required to comply with subdivision (e)?**

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

- b. One ADU and one JADU are permitted per lot within the existing or proposed space of a single-family dwelling, or a JADU within the walls of the single family residence, or an ADU within an existing accessory structure, that meets specified requirements such as exterior access and setbacks for fire and safety.**
- c. One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU and may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.**
- d. Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.**
- e. Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and 4-foot rear and side yard setbacks.**

The above four categories are not required to be combined. For example, local governments are not required to allow (a) and (b) together or (c) and (d) together. However, local agencies may elect to allow these ADU types together.

Local agencies shall allow at least one ADU to be created within the non-livable space within multifamily dwelling structures, or up to 25 percent of the existing multifamily dwelling units within a structure and may also allow not more than two ADUs on the lot detached from the multifamily dwelling structure. New detached units are subject to height limits of 16 feet and shall not be required to have side and rear setbacks of more than four feet.



The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards. This would enable the conversion of an accessory structure, such as a 2,000 square foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings. These types of ADUs are also eligible for a 150 square foot expansion (see discussion below).

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

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

Yes. The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through the state ADU law. These conversions of accessory structures are not subject to any additional development standard, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under building and safety codes. A local agency should not set limits on when the structure was created, and the structure must meet standards for health and safety. Finally, local governments may also consider the conversion of illegal existing space and could consider alternative building standards to facilitate the conversion of existing illegal space to minimum life and safety standards.

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

Yes. An ADU created within the existing or proposed space of a single-family dwelling or accessory structure can be expanded beyond the physical dimensions of the structure. In addition, an ADU created within an existing accessory structure may be expanded up to 150 square feet without application of local development standards, but this expansion shall be limited to accommodating ingress and egress. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs shall conform to setbacks sufficient for fire and safety.

A local agency may allow for an expansion beyond 150 square feet, though the ADU would have to comply with the size maximums as per state ADU law, or a local agency's adopted ordinance.

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

## **I) Nonconforming Zoning Standards**

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

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

## **J) Renter and Owner-occupancy**

- **Are rental terms required?**

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

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

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

However, should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU, or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. (Gov. Code, § 65852.2, subd. (a)(2).)

## **K) Fire Sprinkler Requirements**

- **Are fire sprinklers required for ADUs?**

No. Installation of fire sprinklers may not be required in an ADU if sprinklers are not required for the primary residence. For example, a residence built decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. Therefore, an ADU created on this lot cannot be required to install fire sprinklers. However, if the same primary dwelling recently undergoes significant remodeling and is now required to have fire sprinklers, any ADU created after that remodel must likewise install fire sprinklers. (Gov. Code, § 65852.2, subds. (a)(1)(D)(xii) and (e)(3).)

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

## **L) Solar Panel Requirements**

- **Are solar panels required for new construction ADUs?**

Yes, newly constructed ADUs are subject to the Energy Code requirement to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.

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

### **3. Junior Accessory Dwelling Units (JADUs) – Government Code Section 65852.22**

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

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

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

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

No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single-family residence. As noted above, attached garages are eligible for JADU creation. The maximum size for a JADU is 500 square feet. (Gov. Code, § 65852.22, subds. (a)(1), (a)(4), and (h)(1).)

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

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

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

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

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

### **4. Manufactured Homes and ADUs**

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

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



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

## 5. ADUs and the Housing Element

- **Do ADUs and JADUs count toward a local agency’s Regional Housing Needs Allocation?**

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

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

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

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

Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must

include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code, § 65583 and Health & Saf. Code, § 50504.5.)

## **6. Homeowners Association**

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

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

## **7. Enforcement**

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

Yes. After adoption of the ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with state ADU law. If the local agency's ordinance does not comply, HCD must provide a reasonable time, no longer than 30 days, for the local agency to respond, and the local agency shall consider HCD's findings to amend the ordinance to become compliant. If a local agency does not make changes and implements an ordinance that is not compliant with state law, HCD may refer the matter to the Attorney General.

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

## **8. Other**

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

No. Ordinances existing prior to the new 2020 laws are only null and void to the extent that existing ADU ordinances conflict with state law. Subdivision (a)(4) of Government Code Section 65852.2 states an ordinance that fails to meet the requirements of subdivision (a) shall be null and void and shall apply the state standards (see Attachment 3) until a compliant ordinance is adopted. However, ordinances that substantially comply with ADU law may continue to enforce the existing ordinance to the extent it complies with state law. For example, local governments may continue the compliant provisions of an ordinance and apply the state standards where pertinent until the ordinance is amended or replaced to fully comply with ADU law. At the same time, ordinances that are fundamentally incapable of being enforced because key provisions are invalid -- meaning there is not a reasonable way to sever conflicting provisions and apply the remainder of an ordinance in a way that is consistent with state law -- would be fully null and void and must follow all state standards until a compliant ordinance is adopted.

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

No. Local governments may choose not to adopt an ADU ordinance. Should a local government choose to not adopt an ADU ordinance, any proposed ADU development would be only subject to standards set in state ADU law. If a local agency adopts an ADU ordinance, it may impose zoning, development, design, and other standards in compliance with state ADU law. (See Attachment 4 for a state standards checklist.)

- **Is a local government required to send an ADU ordinance to the California Department of Housing and Community Development (HCD)?**

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

Local governments may also submit a draft ADU ordinance for preliminary review by HCD. This provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with the new state ADU law.

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

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

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

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

Yes. ADU laws apply to jurisdictions in the Coastal Zone, but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (l)).

Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws. For more information, see the [California Coastal Commission 2020 Memo](#) and reach out to the locality's local Coastal Commission district office.

- **What is considered a multifamily dwelling?**

For the purposes of state ADU law, a structure with two or more attached dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of state ADU law.

## Resources





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

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

#### Combined changes from (AB 3182 Accessory Dwelling Units)

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

(Changes noted in ~~strikeout~~, underline/*italics*)

Effective January 1, 2021, Section 65852.2 of the Government Code is amended to read:

#### **65852.2.**

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

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted.

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

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

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

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

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

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

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

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

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

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

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

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

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

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

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

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

(i) 850 square feet.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

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

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

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

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

(A) An efficiency unit.

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



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

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

**65852.2.**

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

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

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

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

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

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed

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

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

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

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

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

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

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

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

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

(i) 850 square feet.

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

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

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

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

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

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

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

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

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

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

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not



more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

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

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

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

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

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

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

~~(4)~~ A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

~~(4)~~ (5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

~~(5)~~ (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

~~(6)~~ (7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

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

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~home-~~ dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the

Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

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

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

(A) An efficiency unit.

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

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

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

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

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

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

(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit

applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed.~~ *become operative on January 1, 2025.*

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

#### **4740.**

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

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

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

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

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

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

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

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

Effective January 1, 2021 of the *Section 4741 is added to the Civil Code, to read (AB 3182 (Ting)):*

#### **4741.**

*(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.*

*(b) A common interest development shall not adopt or enforce a provision in a governing document or amendment to a governing document that restricts the rental or lease of separate interests within a common interest to less than 25 percent of the separate interests. Nothing in this subdivision prohibits a common interest development from adopting or enforcing a provision authorizing a higher percentage of separate interests to be rented or leased.*

*(c) This section does not prohibit a common interest development from adopting and enforcing a provision in a*



governing document that prohibits transient or short-term rental of a separate property interest for a period of 30 days or less.

(d) For purposes of this section, an accessory dwelling unit or junior accessory dwelling unit shall not be construed as a separate interest.

(e) For purposes of this section, a separate interest shall not be counted as occupied by a renter if the separate interest, or the accessory dwelling unit or junior accessory dwelling unit of the separate interest, is occupied by the owner.

(f) A common interest development shall comply with the prohibition on rental restrictions specified in this section on and after January 1, 2021, regardless of whether the common interest development has revised their governing documents to comply with this section. However, a common interest development shall amend their governing documents to conform to the requirements of this section no later than December 31, 2021.

(g) A common interest development that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(h) In accordance with Section 4740, this section does not change the right of an owner of a separate interest who acquired title to their separate interest before the effective date of this section to rent or lease their property.

Effective January 1, 2020, Section 65852.22 of the Government Code is was amended to read (AB 68 (Ting)):  
**65852.22.**

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

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

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

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For 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 purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

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

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 is was added to the Health and Safety Code, immediately following Section 17980.11, to read (SB 13 (Wieckowski)):

**17980.12.**

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

(A) The accessory dwelling unit was built before January 1, 2020.

(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.



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

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

**65852.26.**

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

(1) The property was built or developed by a qualified nonprofit corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability

to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

**GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6**

**AB 671 Accessory Dwelling Units**

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

**65583(c)(7).**

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

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

**50504.5.**

(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

## Attachment 2: State Standards Checklist

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains a proposed, or existing, dwelling.	65852.2(a)(1)(D)(ii)
	The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure, or detached from the proposed or existing dwelling and located on the same lot as the proposed or existing primary dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing primary dwelling but shall be allowed to be at least 800/850/1000 square feet.	65852.2(a)(1)(D)(iv), (c)(2)(B) & C)
	Total area of floor area for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.	65852.2(a)(1)(D)(vii)
	Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)(l)

## Attachment 3: Bibliography

### [ACCESSORY DWELLING UNITS: CASE STUDY](#) (26 pp.)

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

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

### [THE MACRO VIEW ON MICRO UNITS](#) (46 pp.)

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

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

### [SECONDARY UNITS AND URBAN INFILL: A Literature Review](#) (12 pp.)

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

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

### [RETHINKING PRIVATE ACCESSORY DWELLINGS](#) (5 pp.)

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

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

### [Regulating ADUs in California: Local Approaches & Outcomes](#) (44 pp.)

By Deidra Pfeiffer

Terner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation's housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting—contribute to these goals. This research helps to fill this gap by using data from the Terner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2) a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging in place. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to help align formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

### [ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes](#) (8 p.)

By David Garcia (2017)

Terner Center for Housing and Innovation, UC Berkeley

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

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

### [Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle and Vancouver](#) (29 pp.)

By Karen Chapple et al (2017)

Terner Center for Housing and Innovation, UC Berkeley

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

Accessory Dwelling Units as Low-Income Housing: California's Faustian Bargain (37 pp.)

By Darrel Ramsey-Musolf (2018)

University of Massachusetts Amherst, ScholarWorks@UMass Amherst

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

