Agenda Item B.1
PUBLIC HEARING
Meeting Date: February 27, 2023

TO: Planning Commission Chair and Members

FROM: Peter Imhof, Planning and Environmental Review Director

CONTACT: Anne Wells, Advance Planning Manager
Andy Newkirk, Senior Planner

SUBJECT: Consideration of an Ordinance for Accessory Dwelling Unit Regulations and Finding the Ordinance to be Exempt under the California Environmental Quality Act (Case No. 22-0005-ORD)

RECOMMENDATION:

Adopt Planning Commission Resolution No. 23-__ entitled, "A Resolution of the Planning Commission of the City of Goleta, Recommending that the City Council Adopt an Ordinance to Update Procedures and Regulations for Accessory Dwelling Units Pursuant to Assembly Bill 2221 and Senate Bill 897 and Determine the Ordinance to be Exempt from the California Environmental Quality Act, Case No. 22-0005-ORD."

BACKGROUND:

In 2016, 2017, and 2019, the State adopted several pieces of legislation limiting local control over the regulation of Accessory Dwelling Units (ADUs). In response to the changes in State law, the City Council adopted Ordinances No. 18-01 and 20-02.

During the 2022 legislative session, the Governor signed into law two new bills related to ADUs: Assembly Bill (AB) 2221 and Senate Bill (SB) 897. AB 2221 has no effect because it would have amended the same statute that SB 897 amended and SB 897 was signed into law (chaptered) later. However, Section 2.5 of SB 897 expressly includes changes to ADU law that would have been made by AB 2221. Ultimately, only SB 897 is effective and relevant. SB 897 took effect on January 1, 2023 and is provided as Attachment 2 for reference.

SB 897 amends California Government Code Sections 65852.2 and 65852.22. Among other things, SB 897 does the following:

- Requires the City to allow certain ADUs to be higher — up to 18 or 25 feet, depending on the situation;
- Requires the City's front setback requirement to yield for certain ADUs;

- Requires the City to justify a denial of an ADU, describe any code inconsistency, and explain how the applicant could remedy any inconsistency with comments describing the application's deficiencies and explaining how the applicant could remedy them; and
- Limits the City's ability to deny permits for previously unpermitted ADUs constructed before 2018.

The City's previous ADU regulations (Section 17.41.030 of the Goleta Municipal Code (GMC)) were not consistent with the new ADU regulations of SB 897 and would have rendered the City's entire existing ADU regulations null and void on January 1, 2023. The City Council addressed this circumstance by adopting Urgency Ordinance No. 22-16U on December 20, 2022, amending Section 17.41.030 of the GMC to conform to the updated State ADU standards. Urgency Ordinance No. 22-16U became effective immediately and provides local regulatory control, where available, for ADU projects subject to SB 897. However, the City now needs to process a permanent non-urgency ADU ordinance through a public review process with the Planning Commission and City Council to replace the standards adopted as part of Urgency Ordinance 22-16U.

DISCUSSION:

The Proposed Ordinance (Exhibit A to Attachment 1) replaces Urgency Ordinance No. 22-16U, establishing permanent ADU regulations, consistent with SB 897, in Title 17 of the GMC. Similar to Urgency Ordinance No. 22-16U, the Proposed Ordinance amends Section 17.41.030 of the GMC to comply with recently amended provisions of Government Code sections 65852.2 and 65852.22 found in SB 897. For context purposes, an underline/strikethrough version of Section 17.41.030 comparing the City's former permanent ADU regulations (prior to the adoption of Urgency Ordinance No. 22-16U) to what is included in the Proposed Ordinance, is provided as Attachment 3.

Revisions to Comply with SB 897

Below is a summary of the most significant changes to Section 17.41.030, that are needed to comply with SB 897. Note that these changes were also included in Urgency Ordinance No. 22-16U.

Heights

The most significant substantive change to ADU regulations included in SB 897 is how heights of ADUs are regulated. For new construction ADUs that were exempt from permits under the City's regulations prior to the adoption of Urgency Ordinance 22-16U, the maximum height was 16 feet. For non-exempt new construction ADUs, the height of ADUs varied from 12 to 16 feet based the type of ADU and location on the project site. These standards were not consistent with height allowances for ADUs under SB 897. Consequently, new height standards were adopted in Urgency Ordinance 22-16U and are included in the Proposed Ordinance in subsection 17.41.030(E)(2) and reflect the following standards for ADU heights:

- For detached ADUs:
    - Default of 16 feet.
    - 18 feet, if within one-half mile walking distance of a major transit stop or high-quality transit corridor (as defined in State law). This height increases to 20 feet, if the roof pitch of the ADU aligns with the roof pitch of the primary dwelling unit.
    - 18 feet, if on a lot with an existing or proposed multi-family dwelling with more than one story.

- For attached ADUs: 25 feet. (The actual standard in Urgency Ordinance No. 22-16U is 25 feet or the height limitation imposed by the underlying zone district that applies to the primary dwelling, whichever is lower. Because the lowest maximum height in a district that allows housing is 25 feet, the standard is always 25 feet.)

Front Setbacks

Prior to SB 897, the City had the authority to, and did, impose a front setback standard on ADUs that were subject to a zoning permit (where an ADU is permit-exempt, the City cannot apply a front setback). However, under SB 897, a front setback cannot be applied so as to prevent the construction of an 800 square foot ADU. Consequently, revisions to subsection 17.41.030(F)(1)(c) were made as part of Urgency Ordinance No. 22-16U and are included in the Proposed Ordinance to state this "must yield" provision is now applicable to front setbacks.

Procedural Changes

Under SB 897, if the City denies an ADU application, the City must now provide the applicant with a "full set of comments" listing the specific items that are "defective or deficient." A new subsection 17.41.030(D)(3)(c) was included as part of Urgency Ordinance No. 22-16U and is included in the Proposed Ordinance to add this requirement. Additionally, any required demolition permit for a detached garage that is to be replaced with an ADU must now be reviewed with the ADU Building Permit application and issued at the same time. A new subsection 17.41.030(D)(3)(d) was included as part of the Urgency Ordinance No. 22-16U and is included in in the Proposed Ordinance to require this.

Nonconforming and Unpermitted Conditions

Under SB 897, the City cannot deny an application to create an ADU solely because corrections are needed to address nonconforming zoning conditions, building code violations, or unpermitted structures elsewhere on the lot that do not present a threat to public health and safety and are not affected by the construction of the ADU. A new subsection 17.41.030(I)(1) was included as part of Urgency Ordinance No. 22-16U and is included in the Proposed Ordinance to address this change.

In addition, SB 897 limits the circumstances in which the City may deny an ADU approval to legalize an unpermitted ADU that was established prior to January 1, 2018. A denial

must be based on a threat to health and safety of the public or occupants of the structure. Provisions to enact these changes are included in a new subsection 17.41.030(I)(2).

Junior ADUs

Junior ADUs (JADUs) are a subset of ADUs and are already defined in subsection 17.41.030(C)(5). SB 897 made minor changes to JADU regulations, as described and addressed below.

Under prior State law, a JADU needed to be "within the walls" of a proposed or existing single-family dwelling. SB 897 clarifies that "enclosed uses within the residence, such as attached garages, are considered part of the proposed or existing single-family residence." This clarification was included in Urgency Ordinance No. 22-16U and is included in the Proposed Ordinance. This is not a substantive change as the City already processed garage JADUs.

Under SB 897 and included in Urgency Ordinance No. 22-16U and the Proposed Ordinance, in instances where the JADU shares a bathroom with the primary dwelling, the City will require the JADU to have an interior entry to the primary dwelling's "main living area," independent of the exterior entrances of the JADU and primary dwelling.

Additional Revisions

In addition to the revisions discussed above, the Proposed Ordinance includes a few revisions, based on input from the City Attorney's Office, to best ensure the City's ADU regulations are compliant with State ADU law. These revisions are shown in Attachment 3. Below is a summary of the most significant changes:

- The definition of "efficiency kitchen" is revised to remove specific square footage requirements for counter space and food storage space to match the required language in State ADU law (revision included in Urgency Ordinance No. 22-16U).
- A change in the required zoning permit for non-exempt ADUs from a Land Use Permit to an "ADU Permit." The ADU Permit will be a new permit type unique to ADUs that will be administered ministerially without notice or an opportunity for appeal. This change better aligns with the language of State ADU law and will prevent confusion caused by the use of a Land Use Permit without the typical process requirements provided for other Land Use Permits. Language is also added to allow the City to establish a fee for the ADU Permit, as outlined in State ADU law.
- Revision to the setback standards for non-exempt ADUs to more closely align with State ADU law. In particular, removal of a secondary front setback standard that is unique from an interior side setback standard.
- Rather than an outright prohibition on on-site sewer systems, a percolation test is required instead. Any requirement for sewer connections is already governed by the building code (revision included in Urgency Ordinance No. 22-16U).

- Removal of the requirement for a separate address for the ADU. This requirement is already covered through the City's building permit process (revision included in Urgency Ordinance No. 22-16U).
- Removal of an allowance for manufactured or modular ADUs to differ in design from the primary dwelling on the lot. This provision is proposed for removal in light of the City's reduced ability to regulate ADU development in front setbacks.
- Removal of a height exception for high pitched roofs and roofs with solar energy systems (because the ADU height limits have increased as discussed above).
- Revisions to the landscaping requirements to allow the rear and side 4-foot setbacks to be clear of obstruction for fire access.
- A new design standard for outdoor lighting, consistent with lighting standards found elsewhere in Title 17 of the GMC.
- A provision to protect sites listed on the California Register of Historic Resources, as required by State ADU law.

Environmental Review

Under California Public Resources Code Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by Section 65852.22. Therefore, the Proposed Ordinance is statutorily exempt from CEQA in that the Proposed Ordinance implements the State's ADU law. A draft Notice of Exemption is provided as Attachment 4.

FISCAL IMPACTS:

There is no direct fiscal impact for this item. Funding for Planning and Environmental Review staff time to prepare the Proposed Ordinance, and associated environmental documentation, is included in the adopted FY 2022–23 Budget under Program 4300 of the Advance Planning Division.

NEXT STEPS:

The Planning Commission is asked to adopt the attached Resolution, included as Attachment 1, officially recommending adoption of the Proposed Ordinance by City Council. The Proposed Ordinance would then be considered by City Council.

Legal Review By:

Winnie Cai
Assistant City Attorney

Approved By:

Peter Imhof
Director of Planning and Environmental Review

ATTACHMENTS:

1. Planning Commission Resolution No. 23-__ entitled, "A Resolution of the Planning Commission of the City of Goleta, Recommending that the City Council Adopt an Ordinance to Update Procedures and Regulations for Accessory Dwelling Units Pursuant to Assembly Bill 2221 and Senate Bill 897 and Determine the Ordinance to be Exempt from the California Environmental Quality Act, Case No. 22-0005-ORD"

   Exhibit A: Ordinance No. 23-__, entitled, "An Ordinance of the City Council of the City of Goleta, California Amending Title 17 of the Goleta Municipal Code to Update Procedures and Regulations for Accessory Dwelling Units Pursuant to Assembly Bill 2221 and Senate Bill 897 and Determining the Ordinance to be Exempt from the California Environmental Quality Act, Case No. 22-0005-ORD"

2. Senate Bill 897 (2022)

3. Section 17.41.030 of the Goleta Municipal Code Showing Track-Changes Edits Based on the Proposed Ordinance Compared to the City's Previous Permanent ADU Regulations

4. Draft Notice of Exemption

5. Staff Presentation

Attachment 1

Planning Commission Resolution No. 23-__ entitled, "A Resolution of the Planning Commission of the City of Goleta, Recommending that the City Council Adopt an Ordinance to Update Procedures and Regulations for Accessory Dwelling Units Pursuant to Assembly Bill 2221 and Senate Bill 897 and Determine the Ordinance to be Exempt from the California Environmental Quality Act, Case No. 22-0005-ORD"

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RESOLUTION NO. 23-__

AN RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GOLETA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE TO UPDATE PROCEDURES AND REGULATIONS FOR ACCESSORY DWELLING UNITS PURSUANT TO ASSEMBLY BILL 2221 AND SENATE BILL 897 AND DETERMINE THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CASE NO. 22-0005-ORD

WHEREAS State law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in 2022, the California Legislature approved, and the Governor signed into law, a new bill (Senate Bill (SB) 897) that further amends California Government Code Sections 65852.2 and 65852.22; and

WHEREAS SB 897 took effect January 1, 2023 and, if the City's ADU ordinance did not comply with the requirements imposed by SB 897, the City's entire existing ADU ordinance would become null and void as a matter of law; and

WHEREAS the City desired to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of California Government Code Sections 65852.2 and 65852.22 prior to the effective date of SB 897; and

WHEREAS, on December 20, 2022, the City Council adopted Ordinance No. 22-16U amending Section 17.41.030 of the GMC with immediate effect, to conform to the updated State ADU standards; and

WHEREAS the City desires to establish permanent ADU regulations in compliance with SB 897; and

WHEREAS, on February 27, 2023, the Planning Commission conducted a noticed public hearing, at which time all interested parties were heard; and

WHEREAS the Planning Commission considered the entire administrative record, including the staff report, the existing Title 17 of the GMC, the staff presentation, and oral and written testimony from interested person;

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GOLETA AS FOLLOWS:

SECTION 1. Recitals

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

SECTION 2. Ordinance Amendment Recommendation Findings

Consistent with the requirements of GMC subsection 17.66.040(B), the Planning Commission has reviewed the proposed Ordinance, incorporated as Exhibit A, and recommends adoption of said amendments included as they would amend Title 17 of the GMC based on the following findings:

1. **The amendment is consistent with the General Plan, the requirements of State planning and zoning laws, and Title 17 of the Goleta Municipal Code.**

Because this proposed Ordinance allows ADUs and JADUs in accordance with Government Code Sections 65852.2 and 65852.22, this Ordinance is "consistent with the existing general plan and zoning" as a matter of law (Government Code Section 65852.2(a)(8))

Therefore, the proposed Ordinance, which brings all City regulations into compliance with State ADU law, is deemed consistent with the General Plan, the requirements of State planning and zoning laws, and Title 17 of the Goleta Municipal Code

2. **The amendment is in the interests of the general community welfare.**

This proposed Ordinance is in the interest of the general community welfare, since it implements State law, specifically California Government Code Sections 65852.2 and 65852.22, which are intended to protect and promote the general welfare of homeowners and surrounding communities.

Therefore, the proposed Ordinance is in the interest of the general community welfare.

3. **The amendment is consistent with good zoning and planning practices.**

The proposed Ordinance is consistent with good zoning and planning practices, since it implements the Housing Element 2015-2023, State law, and other applicable law in a manner designed to encourage construction of affordable housing.

Therefore, the proposed Ordinance is consistent with good zoning and planning practices.

The Planning Commission hereby directs staff to report this determination to the City Council of the City of Goleta.

SECTION 3. Recommendation of the Title 17 Amendments Adoption to the City Council

The Planning Commission has reviewed the amendments to Title 17 of the GMC, incorporated as Exhibit A, and recommends adoption of the amendments and determination that the amendments are exempt from the California Environmental Quality Act, pursuant to California Public Resources Code Section 21080.17.

The Planning Commission hereby directs staff to report this recommendation to the City Council of the City of Goleta.

SECTION 4. Documents

The documents and other materials, which constitute the record of proceedings upon which this decision is based, are in the custody of the City Clerk, City of Goleta, 130 Cremona Drive, Suite B, Goleta, California 93117.

SECTION 5. Certification of City Clerk

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this _____day of _____ 2023.

_____
JENNIFER SMITH, CHAIR

ATTEST:

_____
DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:

_____
WINNIE CAI
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 23-__ was duly adopted by the Planning Commission of the City of Goleta at a regular meeting held on the ___ day of _____, 2023 by the following vote of the Planning Commission:

AYES:

NOES:

ABSENT:

(SEAL)

_____
DEBORAH S. LOPEZ
CITY CLERK

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EXHIBIT A

Ordinance No. 23-__, entitled, "An Ordinance of the City Council of the City of Goleta, California Amending Title 17 of the Goleta Municipal Code to Update Procedures and Regulations for Accessory Dwelling Units Pursuant to Assembly Bill 2221 and Senate Bill 897 and Determining the Ordinance to be Exempt from the California Environmental Quality Act, Case No. 22-0005-ORD"

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ORDINANCE NO. 23-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA AMENDING TITLE 17 OF THE GOLETA MUNICIPAL CODE TO UPDATE PROCEDURES AND REGULATIONS FOR ACCESSORY DWELLING UNITS PURSUANT TO ASSEMBLY BILL 2221 AND SENATE BILL 897 AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CASE NO. 22-0005-ORD

WHEREAS State law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in 2022, the California Legislature approved, and the Governor signed into law, a new bill (Senate Bill (SB) 897) that further amends California Government Code Sections 65852.2 and 65852.22; and

WHEREAS SB 897 took effect January 1, 2023 and, if the City's ADU ordinance does not comply with the requirements imposed by SB 897 by that date, the City's entire existing ADU ordinance becomes null and void as a matter of law; and

WHEREAS the City desired to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of California Government Code Sections 65852.2 and 65852.22; and

WHEREAS, on February 27, 2023, the Planning Commission conducted a noticed public hearing, at which time all interested parties were heard; and

WHEREAS the Planning Commission recommended to City Council adoption of the ADU Ordinance on February 27, 2023; and

WHEREAS the City Council conducted a duly noticed public hearing on _____ __, 2023 at which time all interested persons were given an opportunity to be heard; and

WHEREAS the City Council adopted Ordinance No. 23-__, which amends Title 17 of the GMC, by a majority vote on _____ __, 2023;

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

SECTION 1. Recitals

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

SECTION 2. Required Findings for an Ordinance Amendment

Pursuant to subsection 17.66.050(B) of the Goleta Municipal Code, the City Council makes the following findings:

A. The amendment is consistent with the General Plan, the requirements of State planning and zoning laws, and this Title.

Because this Ordinance allows ADUs and JADUs in accordance with Government Code sections 65852.2 and 65852.22, this Ordinance is "consistent with the existing general plan and zoning" as a matter of law (Government. Code Section 65852.2(a)(8)).

B. The amendment is in the interests of the general community welfare.

This Ordinance is in the interest of the general community welfare, since it implements State law, specifically California Government Code Sections 65852.2 and 65852.22, which are intended to protect and promote the general welfare of homeowners and surrounding communities.

C. The amendment is consistent with good zoning and planning practices.

The Ordinance is consistent with good zoning and planning practices, since it implements the Housing Element 2015-2023, State law, and other applicable law in a manner designed to encourage construction of affordable housing.

SECTION 3. Environmental Assessment

Under California Public Resources Code Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section

65852.2 of the California Government Code, which is California's ADU law and which also regulates JADUs, as defined by Section 65852.22. Therefore, the Ordinance is statutorily exempt from CEQA in that the Ordinance implements the State's ADU law.

SECTION 4. Title 17 Amendments

Section 17.41.030 of the Goleta Municipal Code is hereby amended and restated to read in its entirety as provided in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 5. Effect of Repeals

To the extent any provision of this Ordinance repeals or supersedes any previous approvals, such repeal or replacement will not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed or superseded part of previous approvals will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 6. Codification

The City Clerk shall cause this amendment to be appropriately renumbered and codified in Title 17 of the Goleta Municipal Code on the effective date of this Ordinance.

SECTION 7. Severability

If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 8. Certification of City Clerk

The City Clerk shall certify to the adoption of this ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California law.

SECTION 9. Effective Date

This ordinance shall take effect on the 31st day following adoption by the City Council.

INTRODUCED ON the ___ day of _____, 2023.

PASSED, APPROVED, AND ADOPTED this _____day of _____ 2023.

_____
PAULA PEROTTE
MAYOR

ATTEST:

_____
DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:

_____
MEGAN GARIBALDI
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 22-__ was introduced on _____, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the _____, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

_____
DEBORAH S. LOPEZ
CITY CLERK

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EXHIBIT A

Amended Section 17.41.030 of the Goleta Municipal Code

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17.41.030 Accessory Dwelling Units (ADUs)

A. **Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22.

B. **Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:

1. Deemed to be inconsistent with the City's General Plan/Coastal Land Use Plan land use designation and zone district for the lot on which the ADU or JADU is located.

2. Deemed to exceed the allowable dwelling unit density for the lot on which the ADU or JADU is located.

3. Considered in the application of any City ordinance, policy, or program to limit residential growth.

4. Required to correct a Nonconforming Zoning Condition, as defined in subsection (C)(7) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.

C. **Definitions.** As used in this Section, terms are defined as follows:

1. ***Accessory Dwelling Unit (ADU).*** 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. An accessory dwelling unit also includes the following:

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

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

2. ***Accessory Structure.*** A structure that is accessory and incidental to a dwelling located on the same lot.

3. ***Complete Independent Living Facilities.*** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-unit or multi-family dwelling is or will be situated.

4. ***Efficiency Kitchen.*** A kitchen that includes each of the following:

a. A cooking facility with appliances.

b. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

5. ***Junior Accessory Dwelling Unit (JADU).*** A residential unit that:

a. Is no more than 500 square feet in size;

b. Is contained entirely within an existing or proposed single-unit dwelling structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

c. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-unit dwelling structure; and

d. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.

e. Includes an efficiency kitchen, as defined subsection (C)(4) above.

6. ***Living Area***. The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

7. ***Multi-Family Dwelling.*** Any structure designed for human habitation that has been divided into two or more legally created independent living quarters.

8. ***Nonconforming Zoning Condition.*** A physical improvement on a property that does not conform with current zoning standards.

9. ***Passageway.*** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

10. ***Proposed Dwelling*****.** A dwelling that is the subject of a permit application and that meets the requirements for permitting.

11. ***Single-Unit Dwelling.*** Any structure designed for human habitation that has been legally created for a single independent living quarters.

D. **Approvals.** The following approval requirements apply to ADUs and JADUs under this section:

1. ***Building Permit Only.*** If an ADU or JADU complies with each of the general requirements in subsection E below, the ADU or JADU is exempt from zoning permits under this section in the following scenarios:

a. *Converted on Single-Unit Lot.* Only one ADU and one JADU on a lot with a proposed or existing single-unit dwelling on it, where the ADU or JADU:

i. Is either:

(1) Within the space of a proposed single-unit dwelling;

(2) Within the existing space of an existing single-unit dwelling; or

(3) Within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

ii. Has exterior access that is independent of that for the single-unit dwelling; and

iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

iv. The JADU complies with the requirements of Government Code Section 65852.22.

b. *Limited Detached on Single-Unit Dwelling Lot.* One detached, new-construction ADU on a lot with a proposed or existing single-unit dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (D)(1)(a) above) if the detached ADU satisfies the following limitations:

i. The side and rear setbacks are at least four feet.

ii. The floor area is 800 square feet or smaller.

iii. The height does not exceed the applicable height limit in subsection (E).

c. *Converted on Multi-Family Dwelling Lot.*

i. Multiple ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings.

ii. At least one converted ADU is allowed within an existing multi-family dwelling, and up to 25 percent of the existing multi-family dwelling units may each have a converted ADU under this subsection.

d. *Limited Detached on Multi-Family Dwelling Lot.* No more than two detached ADUs on a lot that has an existing or proposed multi-family dwelling if each detached ADU satisfies the following limitations:

i. The side and rear setbacks are at least four feet. If the existing multi-family dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multi-family dwelling as a condition of approving the ADU.

ii. The height does not exceed the applicable height limit provided in subsection (E) below.

2. ***ADU Permit.***

a. *Permit Required.* Except as allowed under subsection (D)(1), no ADU may be constructed or legalized without a Building Permit and zoning permit in compliance with the standards set forth in subsections E and F below.

i. Inland Area. Within the inland area of the City, except as allowed under subsection (D)(1) above, no ADU may be created without a Building Permit and an ADU Permit in compliance with the standards set forth in subsections (E) and (F) below.

ii. Coastal Zone. Within the Coastal Zone of the City, review, approval, and issuance of a Coastal Development Permit by the California Coastal Commission is required for construction of an ADU as well as for the legalization of any existing unpermitted ADU, unless exempt from the Coastal Act as determined by the California Coastal Commission.

iii. The City may charge a fee to reimburse it for costs incurred in processing ADU Permits, including the costs of adopting or amending the City's ADU ordinance. The ADU Permit processing fee is approved by the City Council by resolution.

3. ***Process and Timing****.*

a. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.

b. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If

the City has not approved or denied the completed application within 60 days, the application is deemed approved unless either:

i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or

ii. When an application to create an ADU or is submitted with a permit application to create a new single-unit dwelling or multi-family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-unit dwelling or multi-family dwelling, but the application to create the ADU or JADU will still be processed without discretionary review or a hearing.

c. *Denials*. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (D)(3)(b) above.

d. *Demolition Permits.* Any required demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU Building Permit and issued at the same time as the Building Permit.

E. **Development Standards for ADUs and JADUs.** The following requirements apply to all ADUs and JADUs that are approved under subsection (D)(1) or (D)(2) above:

1. ***Zoning.***

a. An ADU or JADU subject only to a Building Permit under subsection (D)(1) above may be created on a lot in a residential or mixed-use zone.

b. An ADU or JADU subject to an ADU zoning permit under subsection (D)(2) above may be created on a lot that is zoned to allow single-family dwelling residential use or multi-family dwelling residential use.

2. ***Height*.**

a. Except as otherwise provided by subsections (E)(2)(b) and (E)(2)(c) below, a detached ADU created on a lot with an existing or proposed single family or multi-family dwelling unit may not exceed 16 feet in height.

b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multi-family dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality

transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

c. A detached ADU created on a lot with an existing or proposed multi-family dwelling that has more than one story above grade may not exceed 18 feet in height.

d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone district that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (E)(2)(d) may not exceed two stories.

e. For purposes of this Section, height is the vertical distance between the existing legal grade and the uppermost point of the roof of the structure directly above that legal grade.

3. ***Fire Sprinklers.*** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

4. ***Rental Term.*** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

5. ***No Separate Conveyance.*** An ADU or JADU may be rented, but, except as provided in Government Code section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a Single-Unit Dwelling lot) or from the lot and all of the dwellings (in the case of a Multi-family Dwelling lot).

4. ***Septic System.*** If the ADU or JADU will connect to an onsite wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

5. ***Owner-Occupancy.***

a. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.

b. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A

natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.

c. All JADUs are subject to an owner-occupancy requirement under State law. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

6. ***Minimum Size.*** The minimum floor area of an ADU is 200 square feet for a standard unit. An "efficiency unit" ADU, in accordance with California Health and Safety Code Section 17958.1, may be a minimum of 150 square feet.

7. ***Deed Restriction.*** Prior to issuance of a Building Permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the Santa Barbara County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

a. Except as otherwise provided in Government Code section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.

b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.

c. The deed restriction runs with the land and may be enforced against future property owners.

d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of City zoning regulations. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of the City's zoning regulations.

e. The deed restriction is enforceable by the Director or their designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but

not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

8. ***Building and Safety***. All ADUs and JADUs must comply with Title 15 of the Goleta Municipal Code. Construction of an ADU does not constitute a Group R occupancy change under Title 15, as described in Section 310 of the California Building Code, unless the City Building Official makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (E)(8) prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this Section.

9. ***Income Reporting***. In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:

a. As part of the Building Permit application, the applicant must provide the City with an estimate of the projected monthly rent that will be charged for the ADU or JADU.

b. Within 90 days after September 1 of each year after issuance of the Building Permit, the owner must report the actual average monthly rent charged for the ADU or JADU during the prior year ending in September. If the City does not receive the report within the 90-day period, the owner is in violation of this Title, and the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

F. **Supplemental Development Standards for ADUs.** The following requirements apply only to ADUs that require an ADU permit under subsection (D)(2) above:

1. ***Maximum Size.***

a. The maximum size of an ADU subject to this subsection F is as follows:

i. 850 square feet for a studio or one-bedroom ADU.

ii. 1,000 square feet for an ADU with two or more bedrooms.

b. An attached ADU that is created on a lot with an existing or proposed primary dwelling is further limited to 50 percent of the floor area of the existing or proposed primary dwelling.

c. Application of other development standards in this subsection F, such as FAR or lot coverage (as applicable), might further limit the size of the ADU, but no application of the percent-based size limit in (F)(1)(b) above or of an FAR, front setback, lot coverage limit, or open-space requirement (as applicable) may require the ADU to be less than 800 square feet.

2. ***Lot Coverage.*** No ADU subject to this subsection F may exceed 10 percent of the total lot area of the subject lot, subject to subsection (F)(1)(c) above.

3. ***Setbacks.*** ADUs subject to this subsection must observe the following setback requirements:

a. Side setback: Four feet.

b. Rear setback: Four feet.

c. Front setback: 20 feet, subject to subject to subsection (F)(1)(c) above.

d. No setback is required for an ADU subject to this subsection if the ADU is constructed in the same location and to the same dimensions as an existing structure.

4. ***Separation.*** The minimum separation between the primary dwelling unit and a detached ADU must be at least five feet for new construction.

5. ***Passageway.*** No passageway, as defined by subsection (C)(9) above, is required for an ADU.

6. ***Parking.***

a. Parking spaces are not required for ADUs.

b. *No Replacement.* When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

7. ***Design Requirements.***

a. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance of those of the primary dwelling.

i. Samples of existing and proposed colors, materials, roofing, and features must be provided as part of a complete ADU application.

b. The roof pitch must match that of the dominant roof pitch of the primary dwelling. The dominant roof pitch is the pitch shared by the largest portion of

the roof. Roof pitch and roof materials for a newly constructed ADU may be different from that of the primary dwelling on the lot only if accommodating installation of solar energy systems at the same time as construction of the ADU.

c. Landscaping is required to enhance the appearance of the ADU as follows:

i. At least one 15-gallon size plant shall be provided along every five linear feet of exterior ADU wall in between the ADU and the right-of-way. Alternatively, at least one 24-inch box size plant shall be provided for every 10 linear feet of exterior ADU wall.

ii. New landscaping must use water-efficient species only.

d. Windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight. Samples of proposed vegetative screening and planting locations must be provided as part of a complete ADU application. Exceptions to this design standard apply only to conversion of legally permitted structures that do not include installation of new exterior windows facing an adjacent property line or when only clerestory windows are used and do not provide views into neighboring lots.

e. Exterior lighting shall be directed downward, fully shielded, and full cutoff or as otherwise required by the building or fire code.

8. ***Historical Protections***. An ADU that is on real property that is listed in the California Register of Historic Resources may not alter the exterior of any structure that is designated as a historic resource or, if the entire lot is designated as a historic resource, it may not alter the exterior of any structure on the lot.

G. **Development Impact Fees.** The following requirements apply to all ADUs that are approved under subsections (D)(1) or (D)(2) above:

1. No development impact fees are required for an ADU that is less than 750 square feet in floor area. For purposes of this subsection (G)(1), “impact fee” means a “fee” under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.

2. Any development impact fee that is required for an ADU that is 750 square feet or larger in floor area must be charged proportionately in relation to the square footage of the primary dwelling unit. “Development impact fee” here does not include any connection fee or capacity charge for water or sewer service.

H. **Utility Fees.** Converted ADUs and JADUs on a single-unit dwelling lot, created under subsection (D)(1)(a) above, are not required to have a new or separate utility connection directly between the ADU or JADU and the utility.

I. **Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures**.

1. ***Generally***. The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

2. ***Unpermitted ADUs constructed before 2018***.

a. *Permit to Legalize*. As required by State law, the City may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

i The ADU violates applicable building standards, or

ii The ADU does not comply with the state ADU law (Government Code Section 65852.2) or this Section.

b. *Exceptions*:

i Notwithstanding subsection (I)(2)(a) above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the City makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.

ii Subsection (I)(2)(a) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

J. **Discretionary Approval.** Any proposed ADU or JADU that does not conform to all of the objective standards set forth in this Section may be allowed through other applicable City discretionary approval process, including, but not limited to the Modification and Design Review Board processes.

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Attachment 2

Senate Bill 897 (2022)

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Senate Bill No. 897

CHAPTER 664

An act to amend Section 65852.22 of, to add Section 65852.23 to, and to repeal and amend Section 65852.2 of, the Government Code, and to amend Section 17980.12 of the Health and Safety Code, relating to land use.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 897, Wieckowski. Accessory dwelling units: junior accessory dwelling units.

(1) Existing law, the Planning and Zoning Law, authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use, as specified. Existing law authorizes a local agency to impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, and maximum size of a unit.

This bill would require that the standards imposed on accessory dwelling units be objective. For purposes of this requirement, the bill would define "objective standard" as a standard that involves no personal or subjective judgment by a public official and is uniformly verifiable, as specified. The bill would also prohibit a local agency from denying an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

This bill would require a local agency to review and issue a demolition permit for a detached garage that is to be replaced by an accessory dwelling unit at the same time as it reviews and issues the permit for the accessory dwelling unit. The bill would prohibit an applicant from being required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced by an accessory dwelling unit, as specified.

Existing law provides that an accessory dwelling unit may either be an attached or detached residential dwelling unit, and prescribes the minimum and maximum unit size requirements, height limitations, and setback requirements that a local agency may establish, including a 16-foot height limitation and a 4-foot side and rear setback requirement.

This bill would increase the maximum height limitation that may be imposed by a local agency on an accessory dwelling unit to 18 feet if the accessory dwelling unit is within ½ mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined, or if the

accessory dwelling unit is detached and on a lot that has an existing multifamily, multistory dwelling, as specified. The bill would increase the maximum height limitation that may be imposed by a local agency on an accessory dwelling unit to 25 feet if the accessory dwelling unit is attached to a primary dwelling, except as specified.

Existing law requires an ordinance that provides for the creation of an accessory dwelling unit to require accessory dwelling units to comply with local building code requirements that apply to detached dwellings, as appropriate. Existing law also prohibits an ordinance from requiring an accessory dwelling unit to provide fire sprinklers if they are not required for the primary residence.

This bill would provide that the construction of an accessory dwelling unit does not constitute a Group R occupancy change under the local building code, except as specified. The bill would prohibit the construction of an accessory dwelling unit from triggering a requirement that fire sprinklers be installed in the existing primary dwelling.

Existing law provides that a local agency must ministerially approve an application for a building permit within a residential or mixed-use zone to create not more than 2 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 limitation of 16 feet and a 4-foot side and rear setback requirement.

This bill would change the height limitation applicable to an accessory dwelling unit subject to ministerial approval to 18 feet if the accessory dwelling unit is within ½ mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined, or if the accessory dwelling unit is detached and on a lot that has an existing multifamily, multistory dwelling, as specified. The bill would change the height limitation applicable to an accessory dwelling unit subject to ministerial approval to 25 feet if the accessory dwelling unit is attached to a primary dwelling, except as specified. The bill, if the existing multifamily dwelling exceeds applicable height requirements or has a rear or side setback of less than 4 feet, would prohibit a local agency from requiring any modification to the existing multifamily dwelling to satisfy these requirements. The bill would prohibit a local agency from rejecting an application for an accessory dwelling unit because the existing multifamily dwelling exceeds applicable height requirements or has a rear or side setback of less than 4 feet.

Existing law prohibits a local agency from imposing parking standards on certain accessory dwelling units, including those that are located within ½-mile walking distance of public transit.

This bill would also prohibit a local agency from imposing any parking standards on an accessory dwelling unit that is included in an application to create a new single-family dwelling unit or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit meets other specified requirements.

Existing law, when a local agency has not adopted an ordinance governing accessory dwelling units, requires a permitting agency to act on an

application to create an accessory dwelling unit or a junior accessory dwelling unit within specified timeframes.

This bill would require a permitting agency to return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant, if the permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit.

(2) Existing law also provides for the creation of junior accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires an ordinance that provides for the creation of a junior accessory dwelling unit to, among other things, (A) require that the unit be constructed within the walls of the proposed or existing single-family residence, (B) require that the unit include a separate entrance from the main entrance to the proposed or existing single-family residence, and (C) require owner-occupancy in the single-family residence in which the junior accessory dwelling unit is permitted.

This bill would specify that enclosed uses within the proposed or existing single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence. The bill would require a junior accessory dwelling unit that does not include a separate bathroom to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. The bill would also prohibit a local agency from denying an application for a permit to create a junior accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the junior accessory dwelling unit.

(3) Existing law requires a local agency, in enforcing building standards applicable to accessory dwelling units, to delay enforcement for up to 5 years upon the owner submitting an application requesting the delay on the basis that correcting the violation is not necessary to protect health and safety.

This bill would prohibit a local agency from denying a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, because, among other things, the unit is in violation of building standards or state or local standards applicable to accessory dwelling units, unless the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure. This bill would specify that this prohibition does not apply to a building that is deemed substandard under specified provisions of law.

(4) Existing law requires the Department of Housing and Community Development to administer various programs intended to promote the development of housing, including the Multifamily Housing Program, pursuant to which the department provides financial assistance in the form of deferred payment loans to pay for the eligible costs of development for specified activities.

This bill would state the intent of the Legislature that accessory dwelling unit grant programs provide funding for predevelopment costs and facilitate accountability and oversight, as specified.

(5) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by AB 2221 to be operative only if this bill and AB 2221 are enacted and this bill is enacted last.

(6) By imposing new duties on local governments with respect to the approval of accessory dwelling units and junior accessory dwelling units, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to ensure that grant programs that fund the construction and maintenance of accessory dwelling units undertake both of the following:

(a) Provide funding for predevelopment costs, such as development of plans and permitting of accessory dwelling units.

(b) Facilitate accountability and oversight, including annual reporting on outcomes to the Legislature.

SEC. 2. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, 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 objective 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 Historical Resources. These standards shall not include requirements on minimum lot size.

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

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

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

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

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

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

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

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

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

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling 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, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

(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 either approve or deny 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 or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies 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 approved or denied 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) The ordinance shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed

with the application for the accessory dwelling unit and issued at the same time.

(5) The ordinance shall not require, and the applicant shall not be otherwise required, to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

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

(7) 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.

(8) (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, except that, subject to subparagraphs (B) and (C), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(B) (i) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit before January 1, 2025.

(ii) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit that was permitted between January 1, 2020, and January 1, 2025.

(C) Notwithstanding subparagraphs (A) and (B), a local agency may require that an accessory dwelling unit be used for rentals of terms longer than 30 days.

(9) 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.

(10) 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) (1) 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 or serve 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 either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family dwelling or multifamily dwelling, but the application to create or serve 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 approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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 requirement for a zoning clearance or separate zoning review or 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 with four-foot side and rear yard

setbacks to be constructed in compliance with all other local development standards.

(D) Any height limitation that does not allow at least the following, as applicable:

(i) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

(ii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(iii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(iv) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

(d) Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), all of the following shall apply:

(1) The local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

(A) Where the accessory dwelling unit is located within one-half mile walking distance of public transit.

(B) Where the accessory dwelling unit is located within an architecturally and historically significant historic district.

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

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

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

(F) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

(2) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction 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 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 as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).

(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) (i) Not more than two accessory dwelling units that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to the applicable height limitation in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and rear yard and side setbacks of no more than four feet.

(ii) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(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 (8) of subdivision (a).

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

(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.

(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 objective 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 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) "Objective standards" means 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.

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

(9) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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

(11) "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.

(12) "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), 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.

SEC. 2.5. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, 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 objective 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 Historical Resources. These standards shall not include requirements on minimum lot size.

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

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

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

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

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

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

(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, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

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

(3) (A) 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 either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create or serve 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 approved or denied 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.

(B) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subparagraph (A), the permitting agency shall, within the time period described in subparagraph (A), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(4) The ordinance shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time.

(5) The ordinance shall not require, and the applicant shall not be otherwise required, to provide written notice or post a placard for the

demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

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

(7) 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.

(8) (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, except that, subject to subparagraphs (B) and (C), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(B) (i) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit before January 1, 2025.

(ii) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit that was permitted between January 1, 2020, and January 1, 2025.

(C) Notwithstanding subparagraphs (A) and (B), a local agency may require that an accessory dwelling unit be used for rentals of terms longer than 30 days.

(9) 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.

(10) 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) (1) 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 or serve 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 either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family or multifamily dwelling, but the application to create or serve 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 approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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 requirement for a zoning clearance or separate zoning review or 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, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(D) Any height limitation that does not allow at least the following, as applicable:

(i) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

(ii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(iii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(iv) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

(d) Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), all of the following shall apply:

(1) The local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

(A) Where the accessory dwelling unit is located within one-half mile walking distance of public transit.

(B) Where the accessory dwelling unit is located within an architecturally and historically significant historic district.

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

(D) When onstreet parking permits are required but not offered to the occupant of the accessory dwelling unit.

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

(F) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

(2) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction 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 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 as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).

(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) (i) Not more than two accessory dwelling units that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and rear yard and side setbacks of no more than four feet.

(ii) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(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 (8) of subdivision (a).

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

(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.

(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 objective 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 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 shall supersede a conflicting local ordinance. 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) "Objective standards" means 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.

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

(9) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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

(11) "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.

(12) "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), 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.

SEC. 3. Section 65852.2 of the Government Code, as amended by Section 2 of Chapter 343 of the Statutes of 2021, is repealed.

SEC. 4. Section 65852.22 of the Government Code is amended to read:

65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family 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 the proposed or existing single-family residence. For purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

(5) (A) Require a permitted junior accessory dwelling unit to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(B) If a permitted junior accessory dwelling unit does not include a separate bathroom, the permitted junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

(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) (1) 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 either approve or deny the application to create or serve 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 or serve a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family dwelling on the lot, the permitting agency may delay approving or denying the permit application for the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family dwelling, but the application to create or serve 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.

(2) If a permitting agency denies an application for a junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(d) A local agency shall not deny an application for a permit to create a junior accessory dwelling unit pursuant to this section due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit.

(e) 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.

(f) 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.

(g) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation related to 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.

(h) 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.

(i) 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.

(3) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

SEC. 5. Section 65852.23 is added to the Government Code, to read:

65852.23. (a) Notwithstanding any other law, and except as otherwise provided in subdivision (b), a local agency shall not deny a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, due to either of the following:

(1) The accessory dwelling unit is in violation of 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.

(2) The accessory dwelling unit does not comply with Section 65852.2 or any local ordinance regulating accessory dwelling units.

(b) Notwithstanding subdivision (a), a local agency may deny a permit for an accessory dwelling unit subject to subdivision (a) if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.

(c) The section shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code.

SEC. 6. Section 17980.12 of the Health and Safety Code is amended to read:

17980.12. (a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

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

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

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) 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 a violation on the primary dwelling unit, provided that correcting the violation is not necessary to protect health and safety.

(4) The enforcement agency shall grant an application described in paragraph (2) if the enforcement agency 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.

(5) 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 (4).

(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.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 2221. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill

is enacted after Assembly Bill 2221, in which case Section 2 of this bill shall not become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Attachment 3

Section 17.41.030 of the Goleta Municipal Code Showing Track-Changes Edits Based on the Proposed Ordinance Compared to the City's Previous Permanent ADU Regulations

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17.41.030 Accessory Dwelling Units (ADUs)

A. **Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22.

B. **Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:

1. Deemed to be inconsistent with the City's General Plan/Coastal Land Use Plan land use designation and zone district for the lot on which the ADU or JADU is located.

2. Deemed to exceed the allowable dwelling unit density for the lot on which the ADU or JADU is located.

3. Considered in the application of any City ordinance, policy, or program to limit residential growth.

4. Required to correct a Nonconforming Zoning Condition, as defined in subsection (C)(7) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.

C. **Definitions.** As used in this ~~section~~Section, terms are defined as follows:

1. ***Accessory Dwelling Unit (ADU).*** 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 ~~principal~~primary residence. An accessory dwelling unit also includes the following:

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

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

2. ***Accessory Structure.*** A structure that is accessory and incidental to a dwelling located on the same lot.

3. ***Complete Independent Living Facilities.*** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-unit or multi-family dwelling is or will be situated.

4. ***Efficiency Kitchen.*** A kitchen that includes each of the following:

a. A cooking facility with appliances.

b. A food preparation counter ~~or counters~~and storage cabinets that ~~total at least 15 square feet~~are of a reasonable size in ~~area~~relation to the size of the JADU.

~~c. Food storage cabinets that total at least 30 square feet of shelf space.~~

5. ***Junior Accessory Dwelling Unit (JADU).*** A residential unit that:

a. Is no more than 500 square feet in size;

b. Is contained entirely within an existing or proposed single-unit dwelling structure~~;~~. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

c. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-unit dwelling structure; and

d. ~~Includes an efficiency kitchen.~~If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.

~~6.~~ e. Includes an efficiency kitchen, as defined subsection (C)(4) above.

6. ***Living Area***. The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

7. ***Multi-Family Dwelling.*** Any structure designed for human habitation that has been divided into two or more legally created independent living quarters.

~~7~~8. ***Nonconforming Zoning Condition.*** A physical improvement on a property that does not conform with current zoning standards.

~~8~~9. ***Passageway.*** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

~~9~~10. ***Proposed Dwelling***. A dwelling that is the subject of a permit application and that meets the requirements for permitting.

11. ***Single-Unit Dwelling.*** Any structure designed for human habitation that has been legally created for a single independent living quarters.

D. **~~Permit Requirements.~~Approvals.** The following ~~permit~~approval requirements apply to ADUs and JADUs under this section:

1. ~~***Exempt***~~***Building Permit Only.*** If an ADU or JADU complies with each of the general requirements in subsection E below, the ADU or JADU is exempt from zoning permits under this section in the following scenarios:

a. *Converted on Single-Unit Lot.* Only one ADU and one~~or~~ JADU on a lot with a proposed or existing single-unit dwelling on it, where the ADU or JADU:

i. Is either:

(1) Within the space of a proposed single-unit dwelling;

(2) Within the existing space of an existing single-unit dwelling; or

(3) Within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress~~.~~; and

ii. Has exterior access that is independent of that for the single-unit dwelling~~.~~; and

iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

iv. The JADU complies with the requirements of Government Code Section 65852.22.

b. *Limited Detached on Single-Unit Dwelling Lot.* One detached, new-construction ADU on a lot with a proposed or existing single-unit dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (D)(1)(a) above) if the detached ADU satisfies the following limitations:

i. The side and rear setbacks are at least four feet.

ii. The floor area is 800 square feet or smaller.

iii. The height ~~is 16 feet or less.~~does not exceed the applicable height limit in subsection (E).

c. *Converted on Multi-Family Dwelling Lot.*

i. Multiple ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings.

ii. At least one converted ADU is allowed within an existing multi-family dwelling, and up to 25 percent of the existing multi-family dwelling units may each have a converted ADU under this subsection.

d. *Limited Detached on Multi-Family Dwelling Lot.* No more than two detached ADUs on a lot that has an existing ~~multifamily~~or proposed multi-family dwelling if each detached ADU satisfies the following limitations:

i. The side and rear setbacks are at least four feet. If the existing multi-family dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multi-family dwelling as a condition of approving the ADU.

ii. The height ~~is 16 feet or less~~does not exceed the applicable height limit provided in subsection (E) below.

2. ***~~Non-Exempt~~ADU Permit.***

a. *Permit Required.* Except as allowed under subsection (D)(1), no ADU may be constructed or legalized without a ~~building permit~~Building Permit and zoning permit in compliance with the standards set forth in subsections E and F below.

i. Inland Area. Within the inland area of the City, ~~ministerial review, approval, and issuance of a Land Use Permit by the Director is required for construction of an ADU as well as the legalization of any existing unpermitted ADU~~except as allowed under subsection (D)(1) above, no ADU may be created without a Building Permit and an ADU Permit in compliance with the standards set forth in subsections (E) and (F) below.

ii. Coastal Zone. Within the Coastal Zone of the City, review, approval, and issuance of a Coastal Development Permit by the California Coastal Commission is required for construction of an ADU as well as for the legalization of any existing unpermitted ADU, unless exempt from the Coastal Act as determined by the California Coastal Commission.

~~b. *Required Findings.* The required findings for a Land Use Permit under this section are limited to the following findings:~~

iii. The City may charge a fee to reimburse it for costs incurred in processing ADU Permits, including the costs of adopting or amending the City's ADU ordinance. The ADU Permit processing fee is approved by the City Council by resolution.

3. ***Process and Timing.***

a. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.

b. ~~i. Based upon City consultation with the Goleta Water District and Goleta or Goleta West Sanitary District, there are adequate water and sewer services to support the ADU.~~

~~ii. The proposed ADU conforms to the applicable regulations of this section.~~

~~c. *Processing Time.*~~ The City must ~~act on~~approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application~~,~~. If the City has not approved or denied the completed application within 60 days, the application is deemed approved unless either:

i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or

ii. ~~In the case of a JADU and the~~ When an application to create ~~a JADU~~an ADU or is submitted with a permit application to create a new single-unit dwelling or multi-family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-unit dwelling or multi-family dwelling, but the application to create the ADU or JADU will still be processed without discretionary review or a hearing.

~~d. *Appeals.* An action of the Director to approve, conditionally approve, or deny an application for an ADU is final unless the applicant or opposing party appeals the decision within 10 calendar days of the decision. For an Appeal to be accepted by the Director, it must identify how the decision is inconsistent with applicable development standards of subsections E and F below. The grounds for an Appeal of an approved, conditionally approved, or denied Land Use Permit is limited to whether the decision on the project is inconsistent with one or more of the applicable development standards. The City will not accept an appeal of the decision on the requested ADU if the applicant or opposing party fails to identify the specific development standard inconsistency. The Review Authority for an accepted appeal shall be the Zoning Administrator.~~

c. *Denials*. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (D)(3)(b) above.

d. *Demolition Permits.* Any required demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU Building Permit and issued at the same time as the Building Permit.

E. **Development Standards for ADUs and JADUs.** The following requirements apply to all ADUs and JADUs that are approved under subsection (D)(1) or (D)(2) above:

1. ***Zoning.***

a. An ADU or JADU subject only to a Building Permit under subsection (D)(1) above may be created on a lot in a residential or mixed-use zone.

b. An ADU or JADU subject to an ADU zoning permit under subsection (D)(2) above may be created on a lot that is zoned to allow single-family dwelling residential use or multi-family dwelling residential use.

2. ***Height.***

a. Except as otherwise provided by subsections (E)(2)(b) and (E)(2)(c) below, a detached ADU created on a lot with an existing or proposed single family or multi-family dwelling unit may not exceed 16 feet in height.

b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multi-family dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

c. A detached ADU created on a lot with an existing or proposed multi-family dwelling that has more than one story above grade may not exceed 18 feet in height.

d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone district that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (E)(2)(d) may not exceed two stories.

e. For purposes of this Section, height is the vertical distance between the existing legal grade and the uppermost point of the roof of the structure directly above that legal grade.

3. ***Fire Sprinklers.*** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

~~2~~4. ***Rental Term.*** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

~~3~~5. ***No Separate Conveyance.*** An ADU or JADU may be rented, but, except as provided in Government Code section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the ~~principal~~primary dwelling (in the case of a Single-Unit Dwelling lot) or from the lot and all of the dwellings (in the case of a ~~Multifamily~~Multi-family Dwelling lot).

4. ***Septic System.*** ~~ADUs~~ If the ADU or ~~JADUs shall not use~~JADU will connect to an ~~on-site water~~onsite wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

5. ***Owner-Occupancy.***

a. ~~All ADUs permitted before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was permitted.~~

~~b.~~ An ADU that is permitted after ~~that date~~January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.

~~c. All~~b. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.

~~d~~c. All JADUs are subject to an owner-occupancy requirement under State law. A natural person with legal or equitable title to the property must reside on the property, in either the ~~principal~~primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

6. ***Minimum Size.*** The minimum floor area of an ADU is 200 square feet for a standard unit. An "efficiency unit" ADU, in accordance with California Health and Safety Code Section 17958.1, may be a minimum of 150 square feet.

7. ~~***Unique Address.*** Each ADU and JADU must have a unique address assigned and issued by the Santa Barbara County Fire Department.~~

~~8.~~ ***Deed Restriction.*** Prior to issuance of a ~~building permit~~Building Permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the Santa Barbara County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

a. ~~The~~ Except as otherwise provided in Government Code section 65852.26, the ADU or JADU may not be sold separately from the ~~principal~~primary dwelling.

b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.

c. The deed restriction runs with the land and may be enforced against future property owners.

d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of City zoning regulations. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of the City's zoning regulations.

e. The deed restriction is enforceable by the Director or ~~his or her~~their designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

~~9. The ADU or JADU is not on a lot created through an urban lot split pursuant to Chapter 16.18, Urban Lot Splits that has two existing dwelling units.~~

8. ***Building and Safety***. All ADUs and JADUs must comply with Title 15 of the Goleta Municipal Code. Construction of an ADU does not constitute a Group R occupancy change under Title 15, as described in Section 310 of the California Building Code, unless the City Building Official makes a written finding based on substantial evidence in the record that the construction of the ADU could have a

specific, adverse impact on public health and safety. Nothing in this subsection (E)(8) prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this Section.

9. ***Income Reporting***. In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:

a. As part of the Building Permit application, the applicant must provide the City with an estimate of the projected monthly rent that will be charged for the ADU or JADU.

b. Within 90 days after September 1 of each year after issuance of the Building Permit, the owner must report the actual average monthly rent charged for the ADU or JADU during the prior year ending in September. If the City does not receive the report within the 90-day period, the owner is in violation of this Title, and the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

F. **Supplemental Development Standards for ADUs.** The following requirements apply only to ADUs that require ~~a zoning~~an ADU permit under subsection (D)(2) above:

1. ***Maximum Size.***

a. The maximum size of an ADU subject to this subsection F is as follows:

i. 850 square feet for a studio or one-bedroom ADU.

ii. 1,000 square feet for an ADU with two or more bedrooms.

~~iii. No more than two bedrooms are allowed.~~

b. An attached ADU that is created on a lot with an existing or proposed ~~principal~~primary dwelling is further limited to 50 percent of the floor area of the existing or proposed ~~principal~~primary dwelling.

c. Application of other development standards in this subsection F, such as FAR or lot coverage ~~and setbacks,~~(as applicable), might further limit the size of the ADU, but no application of ~~other development standards~~the percent-based size limit in (F)(1)(b) above or of an FAR, front setback, lot coverage limit, or open-space requirement (as applicable) may require the ADU to be less than 800 square feet.

2. ***Lot Coverage.*** No ADU subject to this subsection F may exceed 10 percent of the total ~~net~~ lot area of the subject lot, subject to subsection (F)(1)(c) above.

3. ~~***Height.***~~

~~a. *Attached ADUs.*~~

~~i. The height of an attached ADU located above a garage or above a portion of the principal dwelling may not exceed the height of the principal dwelling.~~

~~ii. An attached ADU that is not situated atop another structure may only contain one story (an interior loft is not considered a second story) and may not exceed the following heights:~~

~~(1) 12 feet if located within 25 feet of a rear setback line;~~

~~(2) 12 feet if located within 10 percent of lot width with a minimum of five feet and a maximum of 10 feet from an interior side setback line; or~~

~~(3) 16 feet if located completely outside of all setbacks outlined above.~~

~~b. *Detached ADUs.*~~

~~i. A detached ADU not located atop an existing detached garage may only contain one story and may not exceed 12 feet in height~~

~~ii. A detached ADU located atop a legally permitted existing detached garage may not exceed the height of the principal dwelling unit.~~

~~4.~~ ***Setbacks.*** ~~New construction~~ ADUs subject to this subsection must observe the following setback requirements:

a. ~~Interior side~~Side setback: Four feet.

b. Rear setback: Four feet.

c. Front setback: 20 feet, subject to subject to subsection (F)(1)(c) above.

~~d. Secondary front setback on corner lots: 10 feet.~~

d. No setback is required for an ADU subject to this subsection if the ADU is constructed in the same location and to the same dimensions as an existing structure.

4. ~~5.~~ ***Separation.*** The minimum separation between the ~~principal~~primary dwelling unit and a detached ADU must be at least five feet for new construction.

~~6.~~ 5. ***Passageway.*** No passageway, as defined by subsection (C)(~~8~~9) above, is required for an ADU.

~~7~~6. ***Parking.***

a. Parking spaces are not required for ADUs.

b. *No Replacement.* When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

7. ***Design Requirements.***

a. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance of those of the primary dwelling.

i. ~~8.~~ Samples~~***Design Requirements.*** Administrative design review approval is required. If the property owner wishes to receive advice and informal guidance on the ADU design from the Design Review Board, the applicant will not need to pay any fees associated with such one-time voluntary presentation of the ADU design to the Design Review Board. However, this review must be completed prior to application submittal. Administrative Design Review will be formally conducted by the Director, or designee. The following standards apply for Administrative Design Review of ADUs.~~

~~a. The exterior appearance, design style, and character of an ADU must have the same exterior appearance and architectural style of the principal dwelling and use the same exterior materials, colors, and design (e.g., siding, trim, windows, and other exterior physical features, etc.).~~

~~i. Exception. Except on a lot with a designated historic resource, a manufactured or modular (HUD-certified) home proposed to be used as a detached ADU can be different in architectural style from that of the principal dwelling on the lot.~~

~~ii. Samples and/or photos~~ of existing and proposed colors, materials, roofing, and features must be provided as part of a complete ADU application.

b. The roof pitch must match that of the dominant roof pitch of the primary dwelling. The dominant roof pitch is the pitch shared by the largest portion of the roof. Roof pitch and roof materials for a newly constructed ADU ~~can~~may be different from that of the ~~principal~~primary dwelling on the lot only if

accommodating installation of solar energy systems at the same time as construction of the ADU.

~~i. An ADU with a roof with a 4:12 pitch or more for solar energy systems can increase the maximum height allowance of the ADU by three feet, as specified in the development standards in subsection (F)(3).~~

c. Landscaping is required to enhance the appearance of the ADU as follows:

i. At least one 15-gallon size plant shall be provided ~~for~~along every five linear feet of exterior ADU wall in between the ADU and the right-of-way. Alternatively, at least one 24-inch box size plant shall be provided for every 10 linear feet of exterior ADU wall.

ii. New landscaping must use water-efficient species only.

d. Windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight. Samples of proposed vegetative screening and planting locations must be provided as part of a complete ADU application. Exceptions to this design standard apply only to conversion of legally permitted structures that do not include installation of new exterior windows facing an adjacent property line or when only clerestory windows are used and do not provide views into neighboring lots.

e. Exterior lighting shall be directed downward, fully shielded, and full cutoff or as otherwise required by the building or fire code.

8. ***Historical Protections***. An ADU that is on real property that is listed in the California Register of Historic Resources may not alter the exterior of any structure that is designated as a historic resource or, if the entire lot is designated as a historic resource, it may not alter the exterior of any structure on the lot.

G. **Development Impact Fees.** The following requirements apply to all ADUs that are approved under subsections (D)(1) or (D)(2) above:

1. No development impact fees are required for an ADU that is less than 750 square feet in floor area. For purposes of this subsection (G)(1), "impact fee" means a "fee" under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.

2. Any development impact fee that is required for an ADU that is 750 square feet or larger in floor area must be charged proportionately in relation to the square

footage of the ~~principal~~primary dwelling unit. “Development impact fee” here does not include any connection fee or capacity charge for water or sewer service.

H. **Utility Fees.** Converted ADUs and JADUs on a single-unit dwelling lot, created under subsection (D)(1)(a) above, are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. ~~Nor is a connection fee or capacity charge required unless the ADU or JADU is constructed with a new single-unit dwelling.~~

~~I~~I. **Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures**.

1. ***Generally***. The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

2. ***Unpermitted ADUs constructed before 2018***.

a. *Permit to Legalize*. As required by State law, the City may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

i The ADU violates applicable building standards, or

ii The ADU does not comply with the state ADU law (Government Code Section 65852.2) or this Section.

b. *Exceptions*:

i Notwithstanding subsection (I)(2)(a) above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the City makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.

ii Subsection (I)(2)(a) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

J. **Discretionary Approval.** Any proposed ADU or JADU that does not conform to all of the objective standards set forth in this ~~section~~Section may be allowed through other applicable City discretionary ~~zoning provisions~~approval process, including, but not limited to the Modification and Design Review Board processes.

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Attachment 4

Draft Notice of Exemption

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NOTICE OF EXEMPTION (NOE)

To: ☐ Office of Planning and Research
P.O. Box 3044, 1400 Tenth St. Rm. 212
Sacramento, CA 95812-3044

■ Clerk of the Board of Supervisors
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101

From: City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

Subject: Filing of Notice of Exemption

Project Title: Accessory Dwelling Unit Ordinance (Case No. 22-0005-ORD)

Project Applicant: City of Goleta

Project Location (Address and APN): Citywide

Description of Nature, Purpose and Beneficiaries of Project:

The project includes the replacement of the City's existing Accessory Dwelling Unit (ADU) regulations (Section 17.41.030 of the Goleta Municipal Code) with a new set of citywide ADU and Junior ADU (JADU) standards that will fully comply with the changes in State laws (Senate Bill 897 of 2022),. Changes to the City's ADU regulations include, but are not limited to, ADU heights and front setbacks; changes to the processing and denial of ADUs; JADU locations, configurations, and definition; and changes in the ADU permit path. The ordinance replaces Urgency Ordinance 22-16U, which was adopted by the City Council on December 20, 2022.

Name of Public Agency Approving the Project: City of Goleta

Name of Person or Agency Carrying Out the Project: City of Goleta

Exempt Status: *(check one)*

- ☐ Ministerial (Sec. 15268)
- ☐ Declared Emergency (Sec. 15269 (a))
- ☐ Emergency Project (Sec. 15269 (b) (c))
- ☐ Categorical Exemption: (Insert Type(s) and Section Number(s))
- ■ Statutory Exemption: Accessory Dwelling Unit Ordinance Adoption, Public Resources Code Section 21080.17
- ☐ Other:

Reason(s) why the project is exempt:

Under California Public Resources Code Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by Section 65852.22. Therefore, the proposed Ordinance is statutorily exempt from CEQA in that the proposed Ordinance implements the State's ADU law.

City of Goleta Contact Person:

Peter Imhof Director, Planning & Environmental Review Date

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Attachment 5

Staff Presentation

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Ordinance for Accessory Dwelling Units

February 27, 2023

Planning Commission Hearing

Presentation by:

Anne Wells, Advance Planning Manager

Andy Newkirk, Senior Planner

CITY OF GOLETA

Public Hearing Agenda

- Staff Presentation
  - Background
  - Changes to ADU Regulations
  - CEQA
- Commission Questions
- Public Comment
- Comment and Deliberation

Background

- Changes to ADU law in 2016, 2017, and 2019
- Previous City changes to ADU regulations (Ordinances No. 18-01 an 22-02)
- During the 2022 legislative session, the Governor signed into law two new bills related to ADUs: Assembly Bill 2221 and Senate Bill (SB) 897. Only SB 897 became effective, on January 1, 2023
- Urgency Ordinance adopted by City Council onDecember 20, 2022
- City needs to adopt permanent ADU regulations

CITY OF GOLETA

Changes to ADU Regulations (SB 897)

- Height:
  - Detached ADUs:
    - Default of 16 feet
    - 18 feet if within 1/2-mile walking distance of a major transit stop or high-quality transit corridor; Up to 20 feet if the roof pitch of the ADU aligns with the roof pitch of the primary dwelling unit
  - 18 feet if on a lot with an existing or proposed multi-family dwelling with more than one story
  - For attached ADUs: 25 feet

Changes to ADU Regulations (SB 897)

- Front Setbacks – For non-exempt ADUs, cannot limit an ADU to less than 800 square feet
- Processing
  - Denials – Must provide comments detailing deficiencies and remedies
  - Any demolition permitting to align with Building Permit issuance
- Nonconforming/Unpermitted Conditions – Cannot be used to deny an ADU unless a threat to health and safety
- JADU Clarifications

Other Changes to ADU Regulations

- Change from Land Use Permit to “ADU Permit”
- Efficiency Kitchens, Septic Systems, Addresses, Setbacks
- Income Reporting Requirement
- Design Requirements
  - Heights, Lighting, Landscaping
- Protections for Structures on California Register of Historic Resources
- Other minor cleanups

Environmental Review

- California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by Section 65852.22. Therefore, the proposed Ordinance is statutorily exempt from CEQA in that the proposed Ordinance implements the State's ADU law.

CITY OF GOLETA

Commission Questions

Public Comment

Staff Recommendation

Adopt Resolution No. 23-__ entitled, "A Resolution of the Planning Commission of the City of Goleta, Recommending that the City Council Adopt an Ordinance to Update Procedures and Regulations for Accessory Dwelling Units Pursuant to Assembly Bill 2221 and Senate Bill 897 and Determine the Ordinance to be Exempt from the California Environmental Quality Act, Case No. 22-0005-ORD

CITY OF GOLETA