Agenda Item B.2

PUBLIC HEARING
Meeting Date: December 9, 2019

TO: Planning Commission Chair and Members

FROM: Peter T. Imhof, Planning and Environmental Review Director

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

SUBJECT: Public Hearing to Consider Case No. 19-144-ORD: New Accessory Dwelling Unit Ordinance.

RECOMMENDATION:

Staff recommends that the Planning Commission:

Adopt Resolution No. 19-_ entitled, "A Resolution of the Planning Commission of the City of Goleta, California, Recommending that the City Council adopt both (A) An Urgency Ordinance and (B) A Non-Urgency Ordinance Repealing and Replacing Ordinance No. 18-01 Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units and Determining the Ordinance to be Exempt from CEQA." (Attachment 1)

The Planning Commission should refer the report back to staff for appropriate modifications, if the Commission does not adopt the recommended action.

BACKGROUND:

In 2016 and 2017, Governor Brown signed in to law several pieces of legislation limiting local control over the regulation of Accessory Dwelling Units (ADUs). In response to the changes in state law and after a thorough public outreach process, the City Council adopted Ordinance No. 18-01.

During the 2019 legislative session, the Governor signed into law three new bills related to ADUs: Assembly Bill (AB) 68, AB 881, and Senate Bill (SB) 13 (2019 ADU Laws). The enacted portions of the 2019 ADU Laws are provided as Attachment 2. These bills made numerous changes to state law regarding ADUs and Junior ADUs (JADUs). The new 2019 ADU Laws take effect January 1, 2020. Below is a summary of changes as a result of the 2019 ADU Laws and whether City Ordinance No. 18-01 complies with each provision:

More Locations

- State law now clearly prohibits a city from requiring a minimum lot size.
  City Ordinance 18-01: Compliant. No minimum lot size required.

- ADUs are now allowed on lots with multifamily dwellings (not just single-unit dwellings).
  City Ordinance 18-01: Not compliant. Limited to lots with an existing or proposed single-unit dwelling.

- The no-setback rule is expanded beyond just nonconforming garages to include any existing structure, or any new structure in the same place and with the same dimensions as an existing structure.
  City Ordinance 18-01: Not compliant. Base district setback standards applied.

- The most a city may require for a side or rear setback is now four feet.
  City Ordinance 18-01: Not compliant. Required five-foot setbacks.

- Previously, the adequacy of water and sewer services and ADU impact on traffic flow and public safety were just examples of reasons that might justify a city in restricting ADUs in a certain area. Now, they are the only allowed reasons, and cities must consult with utility providers before deciding that water and sewer services are inadequate.
  City Ordinance 18-01: Not compliant. Findings broader.

Fewer Opportunities to Regulate Size

- Minimum size must be 220 square feet, or as low as 150 square feet if the city has adopted a lower efficiency-unit standard by local ordinance.
  City Ordinance 18-01: Compliant. Minimum floor area 200 square feet and 150 square feet if an efficiency unit.

- Maximum size must be at least 850 square feet for attached and detached studio and one-bedroom ADUs and at least 1,000 square feet for two or more bedrooms. In practice, an ADU might be limited to less than these minimum maximums by the application of development standards, such as lot coverage and floor area ratio. But another new provision prohibits the application of any standard that would not allow for at least an 800-square foot, 16-foot tall ADU with 4-foot side and rear setbacks.
  City Ordinance 18-01: Not compliant. Limited to 800 square feet or 50 percent of the existing floor area of the principal dwelling, whichever is less.

- Converted ADUs may now include an expansion of the existing structure of up to 150 square feet for ingress and egress.
  City Ordinance 18-01: Not compliant. While allowed, they are not exempt from permitting.

- Attached ADUs are no longer limited to 1,200 square feet – just 50 percent of the existing primary dwelling.
  City Ordinance 18-01: Not compliant. No special limit on size for attached ADUs.

Less Parking

- Cities may no longer require replacement parking when a garage is converted to an ADU.
  City Ordinance 18-01: Not compliant. Replacement parking required.

- A city cannot require ADU parking within a 1/2 mile of public transit. State law now clarifies that "public transit" includes any bus stop, which may considerably expand parking-exempt areas for many cities.
  City Ordinance 18-01: Compliant. No parking spaces required.

More Limited Review

- Whether or not a city has a compliant ADU ordinance, it must ministerially approve a compliant ADU, and now a JADU as well, within 60 days of receiving a complete application – a decrease from 120 days. But the city must extend that time, if an applicant requests it. Cities may charge a fee to recover review costs.
  City Ordinance 18-01: Not compliant. Requires processing within 120 days.

- Any new primary dwelling that requires a discretionary review may still be subjected to the normal discretionary process, and consideration of an ADU on the same lot may be delayed until the primary dwelling is approved. But the ADU decision must remain ministerial.
  City Ordinance 18-01: Compliant. Not expressly discussed.

- Cities now have to approve new detached ADUs with only a building permit (as they do for converted ADUs), without applying any standard except for 4-foot setbacks, an 800-square foot maximum, and a 16-foot height limit.
  City Ordinance 18-01: Not compliant. All ADUs require a zoning permit.

- Cities may not require correction of physical nonconforming zoning conditions for an ADU or JADU.
  City Ordinance 18-01: Not compliant. Findings require no violations.

Multiple ADUs and Multifamily Dwellings

- Cities must now allow both a JADU and either a converted ADU or a detached, building-permit-only ADU on the same lot.
  City Ordinance 18-01: Not compliant. JADUs prohibited and ADUs prohibited on multifamily dwelling lots.

- A city must now allow JADUs, even if the city doesn't have an ADU ordinance, in which case it may only impose the few standards in state law.

City Ordinance 18-01: Not compliant. JADUs prohibited.

- Cities must now allow multiple converted ADUs on lots with a multifamily dwelling.
  City Ordinance 18-01: Not compliant. ADUs prohibited on multifamily dwelling lots.

- Cities must now allow up to two detached ADUs on lots with a multifamily dwelling, subject only to a 16-foot height limit and 4-foot setback.
  City Ordinance 18-01: Not compliant. ADUs prohibited on multifamily dwelling lots.

More Limited Fees

- Utility providers are now more limited in whether and how they can charge connection fees and capacity charges.
  City Ordinance 18-01: Compliant. Does not regulate connection fees and capacity charges.

- Impact fees are prohibited for ADUs smaller than 750 square feet. They're allowed for large ADUs, but only proportional to the primary dwelling.
  City Ordinance 18-01: Compliant. Ordinance does not specify impact fee requirements.

No Owner-Occupancy Requirement

- All ADUs are exempt from owner-occupancy requirements until Jan. 1, 2025. Cities may then impose occupancy requirements, but only to ADUs created after that date.
  City Ordinance 18-01: Not compliant. Owner-occupancy required with no caveats.

No Short-Term Rentals

- Cities may no longer allow short-term rentals of ADUs.
  City Ordinance 18-01: Compliant. Prohibits rentals of 30 days or less.

As outlined above, Ordinance No. 18-01 does not comply with all provisions of the 2019 ADU Laws. As such, Ordinance No. 18-01 becomes null and void on January 1, 2020 as a matter of law.

DISCUSSION:

Based on the above list on non-compliant portions of Ordinance No. 18-01 and the limited local regulatory authority of ADUs and JADUs as of January 1, 2020 under state law, staff is proposing a repeal of Ordinance No. 18-01 and replacement with a new ADU ordinance, provided as Exhibits A and B (Urgency and Non-Urgency) to Attachment 1, that reflects the myriad of changes in the 2019 ADU Laws.

As the list above displays, many of the items that were previously at the City's discretion related to ADUs and JADUs, have now been removed. The City does maintain

discretion over regulation of a limited set of issues regarding ADUs and JADUs, where the ADU or JADU is not otherwise exempt from zoning permits. These include:

- Limiting ADUs and JADUs based on traffic, sewer, and water capacity.
- Banning short-term rentals.
- Applying standards for:
    - Design;
    - Open Space;
    - Lot Coverage;
    - Parking (to an extent)
    - Size (to an extent); and
    - Historic Preservation.

Proposed Ordinance

The proposed ADU Ordinance makes significant revisions to Ordinance No. 18-01. Among the most significant changes is the inclusion of exemptions from zoning permits for four sets of ADUs and JADUs in order to comply with the 2019 ADU Laws. These new exemptions include:

1. One ADU or JADU on a lot with a proposed or existing single-unit dwelling on it, where the ADU or JADU is within the existing single-unit dwelling.
2. One detached, new-construction ADU on a lot with a proposed or existing single-unit dwelling, up to 16 feet in height and 800 square feet, if there are at least four-foot side and rear setbacks.
3. At least one ADU, and up to 25% of the number of existing units, in a multifamily dwelling where the space used for the ADUs not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages. Each converted ADU must comply with state building standards for dwellings.
4. No more than two detached ADUs on a lot that has an existing multifamily dwelling, if each detached ADU observes 4-foot rear and side setbacks and does not exceed 800 square feet.

For non-exempt ADUs and JADUs, the ADU Ordinance retains the requirement for a Land Use Permit outside the Coastal Zone. However, these Land Use Permits include limited findings that are narrower than typical Land Use Permit findings in order to remain consistent with the 2019 ADU Laws. The two findings for ADU Land Use Permits ensure consistency with the standards in the ADU Ordinance and adequate water and sewer services. Within the Coastal Zone, non-exempt ADUs and JADUs must receive a Coastal Development Permit from the California Coastal Commission. The California Coastal Commission is better equipped than the City to balance the potential conflicts between the 2019 ADU Laws and the California Coastal Act.

The proposed ADU Ordinance also removes the requirement for owner-occupancy for either the principal dwelling or the ADU until 2025; shortens the allowed processing time

from 120 days to 60 days; removes the limit of one ADU per lot; removes the size limit of 800 square feet for an ADU; and removes the requirement for replacement parking for garage conversions. The ADU Ordinance also revises the findings for instances where the City can issue a permit to include only findings of consistency with the ADU standards and adequate sewer and water service.

The proposed ADU Ordinance does include a limited set of standards from Ordinance No. 18-01 that are still allowed for ADUs. These standards include: requiring a separate address, minimum floor area, a prohibition for short-term rentals, an owner-occupancy requirement after 2025, and a prohibition on a separate conveyance for all ADUs and JADUs.

In addition, the proposed ADU Ordinance includes several standards from Ordinance No. 18-01, where the City retains permit authority over the proposed ADU (i.e., the ADU or JADU does not fall within one of the four exempt categories listed above). These standards include: limits on size in terms of square footage and number of bedrooms (although the square footage allowances are slightly larger than allowed under Ordinance No. 18-01), height (16 feet outside proposed "RS" zone district setbacks in the New Zoning Ordinance, 12 feet inside those setbacks to within four feet of the lot line), lot coverage (10% of the lot area), separation standard for detached ADUs (five feet), and design requirements.

The design requirements from Ordinance No. 18-01 have been modified to ensure they are purely objective in nature. As such, the ADU must have the same, and not merely reflect, the exterior appearance, architectural style, and materials of the principal dwelling. Also added are detailed landscaping and screening requirements. In order to provide some flexibility in design that the Planning Commission sought in Ordinance No. 18-01, the ADU Ordinance also makes clear that deviations from these objective standards are allowed through the Design Review Process, should the applicant seek Design Review Board approval.

The ADU Ordinance includes a more detailed Deed Restriction requirement than Ordinance No. 18-01. This requirement is critical to ensure that property owners do not take advantage of the ADU standards to circumvent development standards that would otherwise apply to their proposed development.

Urgency Ordinance

Staff is presenting an urgency version of the Ordinance (Exhibit A to Attachment 1) and a non-urgency version of the Ordinance (Exhibit B to Attachment A) at the same time due to the 2019 ADU Laws taking effect in January 1, 2020 and Ordinance No. 18-01 lacking compliance with the new state regulations. A four-fifths vote of the City Council is required to enact an urgency ordinance. The urgency version of the Ordinance will become effective immediately upon Council adoption (see Government Code Section 36937) and would therefore provide local regulatory control, where available, for ADUs and JADUs in the short-term. The non-urgency version of the Ordinance would become effective 31 days after Council adoption on second reading and would replace the

urgency version of the Ordinance. The urgency and non-urgency versions of the Ordinance are identical with respect to the development regulations.

Relation to New Zoning Ordinance (NZO)

The proposed Ordinance is drafted to repeal and replace Ordinance No. 18-01 and to serve as a stand-alone, uncodified ordinance. Should the NZO be adopted prior to Council adoption of either the Urgency or Non-Urgency Ordinance, the NZO will include a placeholder in Section 17.41.030 for the new ADU and JADU regulations. The Ordinance provided in Attachment 1 would be then be reformatted to amend Section 17.41.030 rather than serve as a stand-alone ordinance.

CEQA Exemption

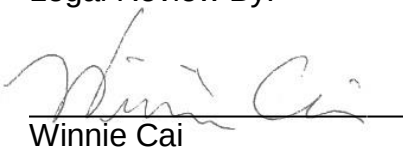
Under California Public Resources Code section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22 and by CEQA Section 15282(h), which exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state's ADU law.

In addition to being statutorily exempt from CEQA, the proposed Ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly fall within this exemption. Here, the Ordinance is categorically exempt under the Class 3 exemption because the Ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot.

NEXT STEPS:

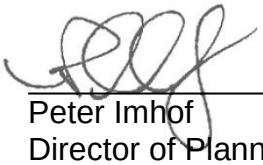
The Planning Commission is asked to adopt the attached Resolution, included as Attachment 1, officially recommending adoption of the Ordinance by City Council on an urgency and non-urgency basis.

Legal Review By:



Winnie Cai
Assistant City Attorney

Approved By:



Peter Imhof
Director of Planning and
Environmental Review

ATTACHMENTS:

1. Planning Commission Resolution No. 19- entitled, "A Resolution of the Planning Commission of the City of Goleta, California, Recommending that the City Council adopt both (A) An Urgency Ordinance and (B) A Non-Urgency Ordinance Repealing and Replacing Ordinance No. 18-01 Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units and Determining the Ordinance to be Exempt from CEQA."

2. 2019 ADU Laws – Assembly Bill 68 (Section 2), Assembly Bill 881 (Sections 1.5 and 2.5), and Senate Bill 13 (Section 3)

Attachment 1

Planning Commission Resolution No. 19-__ entitled, "A Resolution of the Planning Commission of the City of Goleta, California, Recommending that the City Council adopt both (A) An Urgency Ordinance and (B) A Non-Urgency Ordinance Repealing and Replacing Ordinance No. 18-01 Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units and Determining the Ordinance to be Exempt from CEQA."

RESOLUTION NO. 19-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GOLETA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT BOTH (A) AN URGENCY ORDINANCE AND (B) A NON-URGENCY ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 18-01 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

WHEREAS the Planning and Zoning 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 the City Council adopted Ordinance No. 18-01 on June 19, 2018 to regulate ADUs within the City, and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills ("New ADU Laws") that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS the New ADU Laws take effect January 1, 2020 and, if the City's ADU ordinance does not comply with the New ADU Laws, the City's ordinance becomes null and void on that date as a matter of law; and

WHEREAS the City desires to repeal and replace Ordinance No. 18-01 to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 renders Ordinance No. 18-01 null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, design, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

WHEREAS staff and the City Attorney prepared the proposed ordinance, including the proposed language and terminology, and any additional information and documents deemed necessary for the Planning Commission to take action; and

WHEREAS, on November 27, 2019, the City gave public notice of the public hearing for the proposed ordinance by publishing in a newspaper of general circulation of a Planning Commission public hearing at which the ordinance would be considered; and

WHEREAS, on December 9, 2019, the Planning Commission held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the proposed ordinance;

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. Recommendation of the ADU and JADU Urgency Ordinance Adoption to the City Council

The Planning Commission hereby recommends that the City Council adopt the attached proposed urgency ordinance (Exhibit A) entitled: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA REPEALING AND REPLACING ORDINANCE NO. 18-01 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA.

SECTION 3. Recommendation of the ADU and JADU Ordinance Adoption to the City Council

The Planning Commission hereby recommends that the City Council adopt the attached proposed ordinance (Exhibit B) entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA REPEALING AND REPLACING ORDINANCE NO. 18-01 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA.

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

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 9th day of December 2019.

_____
JENNIFER R. 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. 19-__ was duly adopted by the Planning Commission of the City of Goleta at a regular meeting held on the 9th day of December, 2019 by the following vote of the Commission Members:

AYES:

NOES:

ABSENT:

(SEAL)

_____
DEBORAH S. LOPEZ
CITY CLERK

URGENCY ORDINANCE NO. 20-__U

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA REPEALING AND REPLACING ORDINANCE NO. 18-01 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA.

WHEREAS the Planning and Zoning 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 the City Council adopted Ordinance No. 18-01 on June 19, 2018 to regulate ADUs within the City, and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (New ADU Laws) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS the New ADU Laws take effect January 1, 2020 and, if the City's ADU ordinance does not comply with the New ADU Laws, the City's ordinance becomes null and void on that date as a matter of law; and

WHEREAS the City desires to repeal and replace Ordinance No. 18-01 to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS there is a current and immediate threat to the public health, safety, or welfare based on the passage the New ADU Laws because if the City's ordinance does not comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 and the City's Ordinance No. 18-01 regulating ADUs and JADUs becomes null and void, the City would thereafter be limited to applying the few default standards that are provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, design, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council; and

WHEREAS to protect the public safety, health, and welfare, the City Council may adopt this ordinance as an urgency measure in accordance with Government Code Section 36937(b), after consideration and recommendation by the City's Planning Commission;

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. Urgency Findings

The City Council hereby finds, determines and declares pursuant to California Government Code Section 36937 (b) that this urgency ordinance is necessary to address a current and immediate threat to the public health, safety and welfare of the City and its residents based on the following declaration of facts:

A. There is a current and immediate threat to the public health, safety, or welfare based on the passage the New ADU Laws because if the City's ordinance does not comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 and the City's Ordinance No. 18-01 regulating ADUs and JADUs becomes null and void, the City would thereafter be limited to applying the few default standards that are provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs.

B. The approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, design, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council

SECTION 3. Required Findings for an Ordinance Amendment

Pursuant to Zoning Ordinance sections 35-180.6 and 35-325.5, the City Council makes the following findings:

A. 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 is intended to protect and promote the general welfare of homeowners and surrounding communities; and

B. This Ordinance is consistent with the Goleta General Plan/Coastal Land Use Plan and, specifically, Housing Element subpolicy HE 2.7, Encourage Accessory (Second) Residential Units, of the 2015-2023 Housing Element. Additionally, the Ordinance complies in all respect with the State Law and all local law, including, but not limited to the Government Code, Health and Safety Code, Public Resources Code, and the Goleta Municipal Code. 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 (Gov. Code § 65852.2(a)(8)); and

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

SECTION 4. 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 Government Code, which is California's ADU law, which also regulates JADUs, as defined by section 65852.22, and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot.

SECTION 5. Repeals and Amendments

A. Ordinance No. 18-01 is hereby repealed in its entirety.

B. The following provisions were repealed or amended by Ordinance No. 18-01, and are hereby again repealed or amended:

1. Repeal of Section 35-68.3.9 of Division 4 of Article II of the Coastal Zoning Ordinance

2. Amend Section 35-68.12 of Division 4 of Article II of the Coastal Zoning Ordinance to read as follows:

   Sec. 35-68.12. Maximum Gross Floor Area (Floor Area Ratio or FAR) "None".

3. Repeal of Section 35-70.3.9 of Division 4 of Article II of the Coastal Zoning Ordinance

4. Repeal of Section 35-70.5.2 of Division 4 of Article II of the Coastal Zoning Ordinance

5. Amend Section 35-70.10 of Division 4 of Article II of the Coastal Zoning Ordinance to read as follows:

Sec. 35-70.10. Maximum Gross Floor Area (Floor Area Ratio or FAR) "None".

6. Repeal of Section 35-71.3.8 of Division 4 of Article II of the Coastal Zoning Ordinance

7. Repeal of Section 35-71.13 of Division 4 of Article II of the Coastal Zoning Ordinance

8. Repeal of Section 35-73.3.9 of Division 4 of Article II of the Coastal Zoning Ordinance

9. Repeal of Section 35-73.4.2(c) of Division 4 of Article II of the Coastal Zoning Ordinance

10. Amend of Section 35-73.10 of Division 4 of Article II of the Coastal Zoning Ordinance to read as follows:

    Sec. 35-73.10. Maximum Gross Floor Area (Floor Area Ratio or FAR) "None".

11. Repeal of Section 35-120.14 of Division 7 of Article II of the Coastal Zoning Ordinance

12. Repeal of Section 35-142 of Division 7 of Article II of the Coastal Zoning Ordinance

13. Repeal of Section 35-179.2.3.f.(2) of Division 11 of Article II of the Coastal Zoning Ordinance

14. Repeal of Section 35-216.3.11 of Division 4 of Article III of the Inland Zoning Ordinance

15. Repeal of Section 35-219.3.8 of Division 4 of Article III of the Inland Zoning Ordinance

16. Repeal of Section 35-219.13.B of Division 4 of Article III of the Inland Zoning Ordinance

17. Repeal of Section 35-291 of Division 7 of Article III of the Inland Zoning Ordinance

18. Repeal of Section 35-321.2.3.f.(2) of Division 10 of Article III of the Inland Zoning Ordinance

SECTION 6. ADU and JADU Regulations.

A. **Purpose.** The purpose of this Ordinance 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 Ordinance 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 Ordinance, 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 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 that total at least 15 square feet in area.

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

5. ***Junior Accessory Dwelling Unit (JADU).*** means 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;

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.

6. ***Multifamily Dwelling.*** Any structure designed for human habitation that has been divided into two or more legally created independent living quarters.

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

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

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

D. **Permit Requirements.** The following permit requirements apply to ADUs and JADUs under this Ordinance:

1. ***Exempt.*** 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 Ordinance in the following scenarios:

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

(i) Is either:

a. Within the space of a proposed Single-Unit Dwelling;

b. Within the existing space of an existing Single-Unit Dwelling; or

c. 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.

(ii) Has exterior access that is independent of that for the Single-Unit Dwelling.

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

b. *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.

c. *Converted on Multifamily Dwelling Lot:*

(i) Multiple ADUs within 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 converted ADU complies with state building standards for dwellings.

(ii) At least one converted ADU is allowed within an existing Multifamily Dwelling, and up to 25 percent of the existing Multifamily Dwelling units may each have a converted ADU under this subsection.

d. *Detached on Multifamily Dwelling Lot:* No more than two detached ADUs on a lot that has an existing Multifamily Dwelling if each detached ADU satisfies the following limitations:

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

(ii) The total floor area is 800 square feet or smaller.

2. ***Non-Exempt.***

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, 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.

(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.

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

(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 Ordinance.

c. *Processing Time*. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, 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 application to create a JADU is submitted with a permit application to create a new Single-Unit Dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new Single-Unit Dwelling, but the application to create the 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 ten 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 subsection (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.

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

1. ***Fire Sprinklers.*** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. ***Rental Term.*** No ADU or JADU may be rented for a term that is shorter than 30 days.

3. ***No Separate Conveyance.*** An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the principal 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 Dwelling lot).

4. ***Septic System.*** ADUs or JADUs shall not use an on-site water-treatment system.

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 but before January 1, 2025, is not subject to any owner-occupancy requirement.

    c. 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. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the principal 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 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 ADU or JADU may not be sold separately from the principal dwelling.

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

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 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.

F. **Supplemental Development Standards for ADUs.** The following requirements apply only to ADUs that require a zoning 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 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 dwelling is further limited to 50 percent of the floor area of the existing or proposed principal dwelling.

c. Application of other development standards in this subsection (F), such as lot coverage and setbacks, might further limit the size of the ADU, but no application of other development standards may require the ADU to be less than 800 square feet.

2. ***Lot Coverage.*** No ADU subject to this subsection (F) may exceed ten percent of the total net lot area of the subject lot.

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:

a. 12 feet if located within 25 feet of a rear setback line;

b. 12 feet if located within ten percent of lot width with a minimum of five feet and a maximum of ten feet from an interior side setback line; or

c. 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 must observe the following setback requirements:

a. *Interior Side Setback:* Four feet.

b. *Rear Setback:* Four feet.

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

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

7. ***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.

8. ***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 attached 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) 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. Roof pitch and roof materials for a newly constructed ADU can be different from that of the principal 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 every five linear feet of exterior wall. Alternatively, at least one 24-inch box size plant shall be provided for every ten linear feet of exterior 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.

G. **Development Impact Fees.**

1. No Development Impact Fees are required for an ADU that is less than 750 square feet in floor area.

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

SECTION 7. 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 8. 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 9. Certification of City Clerk.

This Urgency Ordinance is adopted by a four-fifths majority vote of the City Council.

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 10. Effective Date.

This Ordinance takes effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this _____day of _____ 2019.

_____
PAULA PEROTTE, MAYOR

ATTEST:

_____
DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:

_____
MICHAEL JENKINS
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. 20-__ 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

ORDINANCE NO. 20-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA REPEALING AND REPLACING ORDINANCE NO. 18-01 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA.

WHEREAS the Planning and Zoning 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 the City Council adopted Ordinance No. 18-01 on June 19, 2018 to regulate ADUs within the City; and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (New ADU Laws) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS the New ADU Laws take effect January 1, 2020 and, if the City's ADU ordinance does not comply with the New ADU Laws, the City's ordinance becomes null and void on that date as a matter of law; and

WHEREAS the City desires to repeal and replace Ordinance No. 18-01 to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 renders Ordinance No. 18-01 null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, design, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety; and

WHEREAS the City Council has reviewed and considered the public testimony and staff report prepared in connection with this Ordinance, including the policy considerations discussed therein, and the consideration and recommendation by the City's Planning Commission; and

WHEREAS, in accordance with the California Environmental Quality Act (Pub. Resources Code §§ 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15000 et seq.), the City has determined that the Ordinance is exempt from environmental review;

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 Zoning Ordinance sections 35-180.6 and 35-325.5, the City Council makes the following findings:

A. 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 is intended to protect and promote the general welfare of homeowners and surrounding communities; and

B. This Ordinance is consistent with the Goleta General Plan/Coastal Land Use Plan and, specifically, Housing Element subpolicy HE 2.7, Encourage Accessory (Second) Residential Units, of the 2015-2023 Housing Element. Additionally, the Ordinance complies in all respect with the State Law and all local law, including, but not limited to the Government Code, Health and Safety Code, Public Resources Code, and the Goleta Municipal Code. 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 (Gov. Code § 65852.2(a)(8)); and

C. The Ordinance is consistent with good zoning and planning practices since it implements the 2015-2023 Housing Element, State Law, and other applicable law in a manned 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 Government Code, which is California's ADU law, which also regulates JADUs, as defined by section 65852.22, and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303

specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot.

SECTION 4. Repeals and Amendments

A. Ordinance No. 18-01 is hereby repealed in its entirety.

B. The following provisions were repealed or amended by Ordinance No. 18-01, and are hereby again repealed or amended:

1. Repeal of Section 35-68.3.9 of Division 4 of Article II of the Coastal Zoning Ordinance

2. Amend Section 35-68.12 of Division 4 of Article II of the Coastal Zoning Ordinance to read as follows:

   Sec. 35-68.12. Maximum Gross Floor Area (Floor Area Ratio or FAR) "None".

3. Repeal of Section 35-70.3.9 of Division 4 of Article II of the Coastal Zoning Ordinance

4. Repeal of Section 35-70.5.2 of Division 4 of Article II of the Coastal Zoning Ordinance

5. Amend Section 35-70.10 of Division 4 of Article II of the Coastal Zoning Ordinance to read as follows:

   Sec. 35-70.10. Maximum Gross Floor Area (Floor Area Ratio or FAR) "None".

6. Repeal of Section 35-71.3.8 of Division 4 of Article II of the Coastal Zoning Ordinance

7. Repeal of Section 35-71.13 of Division 4 of Article II of the Coastal Zoning Ordinance

8. Repeal of Section 35-73.3.9 of Division 4 of Article II of the Coastal Zoning Ordinance

9. Repeal of Section 35-73.4.2(c) of Division 4 of Article II of the Coastal Zoning Ordinance

10. Amend of Section 35-73.10 of Division 4 of Article II of the Coastal Zoning Ordinance to read as follows:

    Sec. 35-73.10. Maximum Gross Floor Area (Floor Area Ratio or FAR) "None".

11. Repeal of Section 35-120.14 of Division 7 of Article II of the Coastal Zoning Ordinance

12. Repeal of Section 35-142 of Division 7 of Article II of the Coastal Zoning Ordinance

13. Repeal of Section 35-179.2.3.f.(2) of Division 11 of Article II of the Coastal Zoning Ordinance

14. Repeal of Section 35-216.3.11 of Division 4 of Article III of the Inland Zoning Ordinance

15. Repeal of Section 35-219.3.8 of Division 4 of Article III of the Inland Zoning Ordinance

16. Repeal of Section 35-219.13.B of Division 4 of Article III of the Inland Zoning Ordinance

17. Repeal of Section 35-291 of Division 7 of Article III of the Inland Zoning Ordinance

18. Repeal of Section 35-321.2.3.f.(2) of Division 10 of Article III of the Inland Zoning Ordinance

SECTION 5. ADU and JADU Regulations.

A. **Purpose.** The purpose of this Ordinance 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 Ordinance 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 Ordinance, 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 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 that total at least 15 square feet in area.

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

5. ***Junior Accessory Dwelling Unit (JADU).*** means 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;

    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.

6. ***Multifamily Dwelling.*** Any structure designed for human habitation that has been divided into two or more legally created independent living quarters.

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

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

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

D. **Permit Requirements.** The following permit requirements apply to ADUs and JADUs under this Ordinance:

1. ***Exempt.*** 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 Ordinance in the following scenarios:

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

(i) Is either:

a. Within the space of a proposed Single-Unit Dwelling;

b. Within the existing space of an existing Single-Unit Dwelling; or

c. 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.

(ii) Has exterior access that is independent of that for the Single-Unit Dwelling.

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

b. *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.

c. *Converted on Multifamily Dwelling Lot:*

(i) Multiple ADUs within 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 converted ADU complies with state building standards for dwellings.

(ii) At least one converted ADU is allowed within an existing Multifamily Dwelling, and up to 25 percent of the existing Multifamily Dwelling units may each have a converted ADU under this subsection.

d. *Detached on Multifamily Dwelling Lot:* No more than two detached ADUs on a lot that has an existing Multifamily Dwelling if each detached ADU satisfies the following limitations:

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

(ii) The total floor area is 800 square feet or smaller.

2. ***Non-Exempt.***

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, 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.

(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.

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

(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 Ordinance.

c. *Processing Time*. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, 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 application to create a JADU is submitted with a permit application to create a new Single-

Unit Dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new Single-Unit Dwelling, but the application to create the 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 ten 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 subsection (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.

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

1. ***Fire Sprinklers.*** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. ***Rental Term.*** No ADU or JADU may be rented for a term that is shorter than 30 days.

3. ***No Separate Conveyance.*** An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the principal 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 Dwelling lot).

4. ***Septic System.*** ADUs or JADUs shall not use an on-site water-treatment system.

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 but before January 1, 2025, is not subject to any owner-occupancy requirement.

c. 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. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the principal 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 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 ADU or JADU may not be sold separately from the principal dwelling.

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

   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 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.

F. **Supplemental Development Standards for ADUs.** The following requirements apply only to ADUs that require a zoning 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 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 dwelling is further limited to 50 percent of the floor area of the existing or proposed principal dwelling.

c. Application of other development standards in this subsection (F), such as lot coverage and setbacks, might further limit the size of the ADU, but no application of other development standards may require the ADU to be less than 800 square feet.

2. ***Lot Coverage.*** No ADU subject to this subsection (F) may exceed ten percent of the total net lot area of the subject lot.

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:

a. 12 feet if located within 25 feet of a rear setback line;

b. 12 feet if located within ten percent of lot width with a minimum of five feet and a maximum of ten feet from an interior side setback line; or

c. 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 must observe the following setback requirements:

a. *Interior Side Setback:* Four feet.

b. *Rear Setback:* Four feet.

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

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

7. ***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.

8. ***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 attached 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) 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. Roof pitch and roof materials for a newly constructed ADU can be different from that of the principal 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 every five linear feet of exterior wall. Alternatively, at least one 24-inch box size plant shall be provided for every ten linear feet of exterior 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.

G. **Development Impact Fees.**

1. No Development Impact Fees are required for an ADU that is less than 750 square feet in floor area.

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

SECTION 6. 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 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.

PASSED, APPROVED, AND ADOPTED this _____day of _____ 2019.

_____
PAULA PEROTTE, MAYOR

ATTEST:

_____
DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:

_____
MICHAEL JENKINS
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. 20-__ 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

Attachment 2

2019 ADU Laws – Assembly Bill 68 (Section 2), Assembly Bill 881 (Sections 1.5 and 2.5), and Senate Bill 13 (Section 3)

Assembly Bill No. 68

CHAPTER 655

An act to amend Sections 65852.2 and 65852.22 of the Government Code, relating to land use.

[Approved by Governor October 9, 2019. Filed with Secretary of State October 9, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 68, Ting. Land use: accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and requires such an ordinance to impose standards on accessory dwelling units, including, among others, lot coverage. Existing law also requires such an ordinance to require the accessory dwelling units to be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size. The bill would revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure, as defined.

(2) Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or 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, and would authorize the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, as specified.

(3) Existing law prohibits the establishment by ordinance of minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, if the limitations do not permit at least an efficiency unit to be constructed.

This bill would instead prohibit the imposition of those limitations if they do not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with 4-foot side and rear yard setbacks to be

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

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

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. 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.

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

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

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

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling

unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

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

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

SEC. 3. (a) Section 1.1 of this bill incorporates certain amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 881. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 65852.2 of the Government Code, and (3) Senate Bill 13 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 881, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

Assembly Bill No. 881

CHAPTER 659

An act to amend, repeal, and add Section 65852.2 of the Government Code, relating to housing.

[Approved by Governor October 9, 2019. Filed with Secretary of State October 9, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 881, Bloom. Accessory dwelling units.

(1) The Planning and Zoning Law provides for the creation of 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 the ordinance to designate areas where accessory dwelling units may be permitted and authorizes the designated areas to be based on criteria that includes, but is not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

This bill would instead require a local agency to designate these areas based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. The bill would also prohibit a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

(2) Existing law requires an ordinance providing for the creation of accessory dwelling units, as described above, to impose standards on accessory dwelling units, including, among other things, lot coverage. Existing law also requires such an ordinance to require that the accessory dwelling units be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size. The bill would revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure, as defined.

(3) Existing law prohibits a local agency from requiring a setback for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. Existing law requires that an accessory dwelling unit that is constructed above a garage have a setback of no more than 5 feet.

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

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

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

(3) "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.

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

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

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

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

(8) "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.

(9) "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) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

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

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

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

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

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

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

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

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

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

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

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

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

(i) 850 square feet.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be

combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

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

(ii) A height limitation of 16 feet.

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

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

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

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

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

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

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

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

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

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

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit

less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

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

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

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

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

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

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

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

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

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

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing

the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

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

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

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

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

(A) An efficiency unit.

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

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

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

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

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

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. Section 65852.2 is added to the Government Code, 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 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.

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

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, as defined in Section 17958.1 of the Health and Safety Code.

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

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

(3) "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.

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

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

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

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

(8) "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.

(9) "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) This section shall become operative on January 1, 2025.

SEC. 2.5. Section 65852.2 is added to the Government Code, to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local

water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

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

approval of accessory dwelling units, unless and until the agency adopts on ordinance that complies with this section.

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

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

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

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

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

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

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

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

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

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

(i) 850 square feet.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A height limitation of 16 feet.

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

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

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

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

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

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

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

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

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

accessory dwelling units. These standards shall not include requirements on minimum lot size.

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

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

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

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

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

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

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

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

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than

30 days, to respond to the findings before taking any other action authorized by this section.

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

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

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

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

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

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

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

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

(A) An efficiency unit.

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

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

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

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

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

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) This section shall become operative on January 1, 2025.

SEC. 3. Sections 1.5 and 2.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 13. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 13, in which case Sections 1 and 2 of this bill shall not become operative.

Senate Bill No. 13

CHAPTER 653

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

[Approved by Governor October 9, 2019. Filed with Secretary of State October 9, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 13, Wieckowski. Accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency, by ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, to provide for the creation of accessory dwelling units in single-family and multifamily residential zones in accordance with specified standards and conditions. Existing law requires any ordinance adopted by a local agency to comply with certain criteria, including that it require accessory dwelling units to be either attached to, or located within, the proposed or existing primary dwelling or detached if located within the same lot, and that it does not exceed a specified amount of total area of floor space.

This bill would, instead, authorize the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The bill would also revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or other structure, and that it does not exceed a specified amount of total floor area.

(2) Existing law generally authorizes a local agency to include in the ordinance parking standards for accessory dwelling units, including authorizing a local agency to require the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. Existing law also prohibits a local agency from imposing parking standards on an accessory dwelling unit if it is located within one-half mile of public transit.

This bill would, instead, prohibit a local agency from requiring the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. The bill would also prohibit a local agency from imposing parking standards on an accessory dwelling unit that is located within one-half mile walking distance of public transit, and would define the term "public transit" for those purposes.

(3) Existing law authorizes a local agency to establish minimum and maximum unit size limitations on accessory dwelling units, provided that the ordinance permits an efficiency unit to be constructed in compliance with local development standards.

and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

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

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

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

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

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

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

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

(o) This section shall become operative on January 1, 2025.

SEC. 3. Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, 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) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

SEC. 4. (a) Sections 1.1 and 2.1 of this bill incorporate amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 68. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends and adds Section 65852.2 of the Government Code, (3) Assembly Bill 881 is not enacted or as enacted does not amend and add that section, and (4) this bill is enacted after Assembly Bill 68, in which case Sections 1, 1.2, 1.3, 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Sections 1.2 and 2.2 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 881. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends and adds Section 65852.2 of the Government Code, (3) Assembly Bill 68 is not enacted or as enacted does not amend and add that section, and (4) this bill is enacted after Assembly Bill 881 in which case Sections 1, 1.1, 1.3, 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Sections 1.3 and 2.3 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by this bill, Assembly Bill 68, and Assembly Bill 881. That section shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2020, (2) all three bills amend and add Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 68 and Assembly Bill 881, in which case Sections 1, 1.1, 1.2, 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 5. 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