Mariposa County

AGENDA of the Planning Commission

Edward Walls, Vice-Chair, District I
Tom Sweeney, District II
Mick Herman, District III
Larry Harris, Chair, District IV
John McCamman, District V

MEETING DATE: September 25, 2020
TIME: 9:00 AM
LOCATION: Government Center Board Chambers
Mariposa County Government Center
5100 Bullion Street, Second Floor, Mariposa, CA 95338

PLANNING COMMISSION MEETINGS ARE OPEN TO THE PUBLIC AT THIS TIME

For those who do not wish to attend the meeting in person, the following public comment options continue to be offered during the pandemic pursuant to the Governor’s Executive Order N-29-20, which relaxed certain provisions of the Brown Act to allow a local legislative body to make public meetings accessible telephonically to all public members seeking to observe and address the Commission.

Audio of the meeting will stream on the internet as normal, however, please be advised that it lags 1-4 minutes behind the meeting and is not real-time. Consequently, members of the public who wish to participate in the meeting are invited to do so by submitting written comments (instructions follow) or by joining the teleconference by calling:

1 (224) 501-3412; access code 380-677-133

**Please note that all callers will be limited on their speaking time, and will be muted before and after public comment periods**

Planning Commission commenting process is different than the Board of Supervisors, please see below:

WRITTEN COMMENTS: Written comments may be submitted via U.S. Postal Service, email or may be dropped off at the Planning Department. In your written communication please note in the subject line “PUBLIC COMMENT ITEM #” (insert the item number relevant to your comment) or “PUBLIC COMMENT NON-AGENDA ITEM”.

1) Mail • Send written communication to:
   Mariposa County Planning Department
   PO Box 2039
   Mariposa CA 95338

2) Email • Send an email to the planningdept@mariposacounty.org

3) Drop Off: Written communication can be dropped off at:
   Mariposa County Planning Department
   5100 Bullion Street, 1st Floor
   Mariposa, CA 95338
Should our lobby be closed you can drop off your communication in the drop box outside during the hours of 7am-4pm Monday –Friday.

No matter which of these formats you choose to use for written communication (Mail, Email or Drop Off) please know that in order to ensure distribution to the Commission prior to their consideration of the agenda, and in order for your written comments to be placed into the record it must be received no later than 8:00 a.m. on the day of the meeting.

The law provides the opportunity for the public to be heard on any item within the subject matter jurisdiction of the Commission, either before or during consideration of an item. For items on the agenda, this will be at the time the item is called by the Chair. For all other items, the public comment time at the start of each meeting is appropriate. Speakers are limited to five minutes.

PLEASE SILENCE CELL PHONES.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. MINUTES APPROVAL
   A. Planning Commission – Regular Meeting – August 28, 2020 9:00 AM
4. PUBLIC ADDRESS
   Persons wishing to speak on any item of interest within the subject matter or jurisdiction of the Commission that is not on the agenda.
5. INFORMATION ITEMS
   A. Development Code (Zoning and Subdivision Ordinance) Update - Planning Commission Workshop #2
6. PLANNING COMMISSIONER INFORMATION
7. ADJOURN

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Secretary of the Planning Commission at the contact information shown on this agenda.
Mariposa County
MINUTES of the Planning Commission

ACTION SUMMARY MINUTES-DRAFT

MEETING DATE: August 28, 2020
TIME: 9:00 AM
LOCATION: Government Center Board Chambers
Mariposa County Government Center
5100 Bullion Street, Second Floor, Mariposa, CA 95338

1. CALL TO ORDER

<table>
<thead>
<tr>
<th>Attendee Name</th>
<th>Title</th>
<th>Status</th>
<th>Arrived</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tom Sweeney</td>
<td>District II Planning Commissioner</td>
<td>Excused</td>
<td></td>
</tr>
<tr>
<td>Larry Harris</td>
<td>District IV Planning Commissioner</td>
<td>Present</td>
<td>8:58 AM</td>
</tr>
<tr>
<td>Ed Walls</td>
<td>District I Planning Commissioner</td>
<td>Present</td>
<td>8:58 AM</td>
</tr>
<tr>
<td>Mick Herman</td>
<td>District III Planning Commissioner</td>
<td>Present</td>
<td>8:58 AM</td>
</tr>
<tr>
<td>John McCamman</td>
<td>District V Planning Commissioner</td>
<td>Present</td>
<td>8:58 AM</td>
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</tbody>
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2. MINUTES APPROVAL

A. Planning Commission – Regular Meeting – July 24, 2020 9:00 AM

By Motion of Commissioner Herman, seconded by Commissioner McCamman, the Minutes of July 24, 2020 were approved as presented.

Motion was carried by the following vote:

Result: Adopted [4-0]
Ayes: Harris, Walls, Herman, McCamman

3. PLEDGE OF ALLEGIANCE

The pledge was led by Commissioner Walls.

4. ACTION ITEMS

A. Approve Amended Minutes for June 12, 2020 Due to Clerical Error

Due to a clerical error in the approval of Minutes of June 12, 2020 it was requested that the Planning Commission re-approve the minutes, noting the edits in red.

By Motion of Commissioner Herman, seconded by Commissioner Walls, the Amended Minutes of June 12, 2020 were approved as presented.
Motion was carried by the following vote:

Result: Adopted [4-0]
Ayes: Harris, Walls, Herman, McCamman

5. PUBLIC ADDRESS
Persons wishing to speak on any item of interest within the subject matter or jurisdiction of the Commission that is not on the agenda. None.

6. PUBLIC HEARINGS
A. Public Hearing: Resolution Adopting a Mitigated Negative Declaration and Approving Conditional Use Permit No. 2019-212 with Findings, Conditions and Mitigation Measures; Better Place Forests, Applicant. The Conditional Use Permit Proposes a Memorial Forest, an Alternative to Burial/Interment Options, on Two Contiguous Parcels Totaling 170-Acres, located at 10967 Stout Lane and an Unassigned Address in Coulterville, Also Known as Assessor Parcel Numbers 003-010-0340 and 003-010-0350. Note: This Public Hearing Item was Continued from July 24, 2020. 2020-PCRES-13

Planner: Jessica Carey

Assistant Planner, Jessica Carey, presented the project along with a power point presentation; noting that written public comment that was received after the packet was prepared and distributed, has been provided to the Planning Commissioners and to the public. Carey also noted that the applicants requested, and staff supports two edits. She provided justification. For details see packet materials.

Public Comment was received by Liam McNally (Project Proponent), Scott Roycroft (Project Proponent) and Patrick Emmert (Consulting Forester).

By Motion of Commissioner McCamman, seconded by Commissioner Walls, the Planning Commission adopted a resolution adopting a mitigated negative declaration and approving Conditional Use Permit No. 2019-212 with the recommended findings, conditions and mitigation measures, including the amended conditions:

Condition 1(l) amended to: Days of operation are to be two to seven days a week, depending on the season, with visitation primarily scheduled by reservation

Condition 1(m) amended to: Up to six full time employees

Motion was carried by the following vote:

Result: Adopted [4-0]
Ayes: Harris, Walls, Herman, McCamman

7. PLANNING COMMISSIONER INFORMATION
No Information was received.
8. INFORMATION ITEMS
Information was received from Planning Director Sarah Williams.

9. ADJOURN
There being no further business the meeting was adjourned at 9:45 A.M.

Note: Full audio recordings of the minutes are available from the Planning Department by request or online:

MEETING: September 25, 2020

TO: The Mariposa County Planning Commission

FROM: Sarah Williams, Planning Director

RE: Development Code (Zoning and Subdivision Ordinance) Update - Planning Commission Workshop #2

Development Code (Zoning and Subdivision Ordinance) Update - Planning Commission Workshop #2

The Mariposa County General Plan was adopted in December of 2006. The General Plan provides the long-range vision and policy direction defining what the County is and wants to become. The General Plan’s implementation is described as the “foundation for the future” guiding the County’s growth and development. According to the General Plan, the Board of Supervisors implements the General Plan through development and adoption of ordinances and standards.

Mariposa County, working with Planning Staff and consultants Mintier Harnish and Jacobson & Wack, started a comprehensive update to its Development Code (Zoning and Subdivision Ordinances), to implement the General Plan and to comply with State Law. The project commenced in late March 2019. Significant background work was initially completed, including project kickoff (orientation with planning staff), area tour, and stakeholder interviews. A joint Board of Supervisors and Planning Commission public workshop was conducted on July 25, 2019. This will be the second public workshop for the project and will just involve the Planning Commission.

At the workshop, the Planning Commission will receive a report from the consultants regarding progress on the project. Substantial information is provided regarding current state housing law requirements.

The public is welcomed and encouraged to attend this workshop. The purpose is to provide the commission with information, allow questions regarding status and discuss issues.

Staff Note: The consultant’s contract was amended in June 2019, to include work to develop amended code language for an administrative code compliance ordinance. This work was done separately from the Development Code update. The consultants spent significant time on the code compliance ordinance between June 2019 and October 2019.

BACKGROUND AND HISTORY OF PLANNING COMMISSION ACTIONS:
7/25/2019: The Planning Commission participated in a joint workshop with the Board of Supervisors.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**
This is a workshop, and no formal action is scheduled.

**ATTACHMENTS:**
1. MCZSO_PC 01 PPT_2020 09 17 BG (PDF)
2. MCZSO_Table of Contents_2020 09 16_BG (PDF)
3. January 1 2020 Housing Laws (PDF)
4. ADU TA Handbook Final (PDF)
5. 2019 Housing Bills (PDF)
6. Summary of Recent Housing Legislation 2020 03 04 (PDF)
Purpose

1. Overview of the Development Code Update Process
2. What have we done?
3. Where are we in the Update?
4. Where are we going?
5. Public Comment
1. Development Code Update Process
Why is Mariposa County updating its Ordinances?

- Achieve General Plan consistency
- Create a contemporary Zoning and Subdivision Ordinance
- Reflect changes in State law (i.e., wireless, housing, WELO)
- Make the Ordinances easier to use and implement
- Fix things that vexed staff for years per staff’s fix-it-list
Development Code Preparation Steps

- Administrative Draft
- Staff Review
- Preliminary Draft
- Staff Review
- Public Review Draft
- Staff Review
- Commission and Board Review – Joint Study Session
- Revised Public Review Draft
- Adoption
2. What have we done?
Organization

Approaching the Development Code

- County staff determined a combined Development Code was the best option for this Update. A Development Code combines both the Zoning and Subdivision Ordinances into a single section rather than in different sections of the County Code.

- County staff and the Consultant team prepared a revised Table of Contents for the updated Mariposa County Development Code.
Recognition of Issues and Opportunities
Outreach and the Development Code Foundation


- County staff and the Consultant team facilitated a Board-Commission Study Session in July 25, 2019.

- After the interviews and study session, we finalized a fix-it list identifying needed changes to the Zoning and Subdivision Ordinances in the Development Code.
Update to Title 1

- Revised County Code Title 1, code enforcement and nuisance abatement provisions
- Changes intended to enable more effective administrative enforcement procedures, including:
  - The ability for staff to assess and enforce administrative penalties
  - Eliminate multiple appeals
  - Enhance corrective action enforcement
- Title 1 amendments scheduled for a Commission Hearing on October 9, 2020, and a Board Hearing on October 20, 2020
3. What are we doing right now?
Article 1

Enactment and Applicability

- The Consultant team prepared an Administrative Draft of Article 1 for County staff review in the Fall of 2019. County staff completed their review in December 2019, and the Consultant team will prepare a Preliminary Draft of the Article.

- Article 1 covers:
  - Purpose and Applicability of Development Code
  - Interpretation of Development Code Provisions
  - Zones and Zoning Map
Article 2
Zones, Allowable Uses, and Development Standards

- In December 2019, the Consultant team and County staff began preparation of the Administrative Draft Article 2.

- Article 2 by far is the lengthiest Article in the Development Code and includes:
  - Zoning Purpose Statements
  - Allowable Land Use Tables
  - Development Standards Tables
  - Additional Development Standards and Regulations
As part of the update to Article 2, the Consultant team created revised Allowable Use and Development Standards tables.
Article 2
Zones, Allowable Uses, and Development Standards

- We have synthesized and streamlined allowable uses and permit requirements, focusing on more by-right uses.

- We reviewed all allowable uses in the Zoning Ordinance, Community Plans, and Town Plans to ensure consistent use of terminology.

  *For example instead of using a variety of terms to describe a house (i.e., residence, dwelling, home, house), the term “single-family dwelling” is used throughout.*
Article 3
Regulations Applicable to All Zones

- As of August 2020, the Consultant team has begun preparation of Administrative Draft of Article 3.

- Article 3 covers general development standards, including:
  - Site Planning and Development Standards
  - Parking
  - Signs
  - Accessory Structures
  - Lighting
  - Landscaping
  - Fences, Walls, and Hedges
Commission Discussion

- Any questions on where we are in the Development Code Update Process?
4. Where are we going?
Article 4

Regulations for Specific Land Uses

- Following the completion of Article 3, the Consultant team will prepare an Administrative Draft Article 4.

- Article 4 covers regulations for specific land uses that may include but are not limited to:
  - Accessory Dwelling Units
  - Agritourism
  - Alcoholic Beverage Sales
  - Home Enterprises
  - Rural Event Venues
  - Density Bonus for Affordable Housing
  - Wireless Telecommunication Facilities
Articles 5
Subdivisions

- Following the completion of Article 4, the Consultant team will prepare an Administrative Draft of Article 5.

- Article 5 will cover the following:
  - Tentative Map Filing and Processing
  - Parcel Maps and Final Maps Processing
  - Subdivision Design and Improvements
  - Dedications, Reservations, Exactions, and Exceptions
  - Enforcement of Subdivision Regulations
Articles 6, 7, 8

Administrative and Permit Processing

- Following the completion of Article 5, the Consultant team will prepare Administrative Drafts of Articles 6, 7, and 8.

- These Articles will cover the following topics:
  - Non-Conforming Uses
  - Permit Processing Procedures
  - Site Plan and Design Review
  - Amendments and Appeals
  - Development Agreements
  - Enforcement
Lastly, the Consultant team will prepare Article 9 which will include a comprehensive set of definitions.
Schedule Moving Forward

- Administrative Drafts (Articles 3-9) – Late Winter/Early Spring 2021
- Preliminary Draft (All Articles) – Late Spring 2021
- Public Review Draft – Early Summer 2021
- Commission and Board Joint Study – Summer 2021
- Revised Public Review Draft – Late Summer 2021
- Adoption – Fall 2021
Any questions on where we are going through the remainder of the Development Code Update Process?
5. Public Comment
Thank You
Mariposa County Development Code
Title 17 – Table of Contents

Article 1 – Enactment and Applicability

Chapter 17.02 – Purpose and Applicability of Development Code
17.02.010 - Title
17.02.020 - Purpose and Authority
17.02.030 – Applicability of Development Code
17.02.040 – Relationship to Prior Ordinances
17.02.050 - Relationship to General Plan
17.02.060 - Relationship to Specific Plans and Area Plans
17.02.070 - Relationship to CEQA
17.02.080 – Effect of Development Code Amendments on Project in Process
17.02.090 - Violation Constitutes a Public Nuisance
17.02.100 – Severability, Partial Invalidation of Development Code

Chapter 17.04 – Interpretation of Development Code Provisions
17.04.010 - Purpose and Intent
17.04.020 - Rules of Interpretation
17.04.030 - Procedures for Interpretation
17.04.040 - Uses Not Classified
17.04.050 – Headings and Illustrations

Chapter 17.06 – Zones and Zoning Map
17.06.010 - Purpose and Intent
17.06.020 - Establishment of Zones
17.06.030 - Zoning Map
17.06.040 - Rights-of-way and Vacated Boundary Lines
17.06.050 - Uncertainty of Boundaries
Article 2 – Zones, Allowable Uses, and Development Standards

Chapter 17.10 – Agricultural and Resource Zones (Agriculture Exclusive Zone [AE], General Forest [GF], Mountain Preserve Zone [MP], Timber Exclusive [TE])

17.10.010 - Purpose and Intent
17.10.020 - Land Use Regulations and Allowable Uses
17.10.030 - Development Standards
17.10.040 - Site Design and Architectural Standards
17.10.050 - Other Applicable Regulations

Chapter 17.12 – Residential Zones (Mountain General Zone [MG], Mountain Home Zone [MH], Mountain Transition Zone [MT], Rural Residential Zone [RR])

17.12.010 - Purpose and Intent
17.12.020 - Land Use Regulations and Allowable Uses
17.12.030 - Development Standards
17.12.040 - Site Design and Architectural Standards
17.12.050 - Other Applicable Regulations

Chapter 17.14 – Commercial Zones (Neighborhood Commercial Zone [CN], Resort Commercial Zone [CR])

17.14.010 - Purpose and Intent
17.14.020 - Land Use Regulations and Allowable Uses
17.14.030 - Development Standards
17.14.040 - Site Design and Architectural Standards
17.14.050 - Other Applicable Regulations

Chapter 17.16 – Planning Areas - Area Plans, Community Planning Areas, Special Planning Areas, and Town Planning Areas (Bear Valley, Buck Meadows, Bootjack, Catheys Valley, Coulterville, El Portal, Fish Camp, Foresta, Greeley Hill, Hornitos, Lake Don Pedro, Mariposa, Midpines, Mt. Bullion, Wawona, and Yosemite West)

17.16.010 - Purpose and Intent
17.16.020 - Land Use Regulations and Allowable Uses
17.16.030 - Development Standards
17.16.040 - Site Design and Architectural Standards
17.16.050 - Other Applicable Regulations
Chapter 17.18 – Overlay Zones (Mixed Use [MU], Airport Overlay [AP], Design Review Overlay [DR], Historic Design Review Overlay [HDR], Open Watershed Overlay [OW], Scenic Highway Overlay [SH])

17.18.010 - Purpose and Intent
17.18.020 - Land Use Regulations and Allowable Uses
17.18.030 - Development Standards
17.18.040 - Site Design and Architectural Standards
17.18.050 - Other Applicable Regulations

Chapter 17.20 – Special Purpose Zones

17.20.010 - Purpose and Intent
17.20.020 - Land Use Regulations and Allowable Uses
17.20.030 - Development Standards
17.20.040 - Site Design and Architectural Standards
17.20.050 - Other Applicable Regulations

Article 3 – Regulations Applicable to All Zones

Chapter 17.30 – Site Planning and General Development Standards

17.30.010 - Purpose and Intent
17.30.020 - Height Measurements and Exceptions
17.30.030 - Minimum Parcel Size Standards
17.30.040 - Setback Measurements and Exceptions
17.30.050 - Allowed Projections
17.30.060 - Corner Cut-offs
17.30.070 - Mechanical and Electrical Equipment Screening

Chapter 17.32 – Accessory Structures

17.32.010 - Purpose and Intent
17.32.020 - Permit Requirements
17.32.030 - Exemptions
17.32.040 - Development Standards
17.32.050 - Canopy Structures

Chapter 17.34 – Fences, Hedges, Walls, and Screening

17.34.010 - Purpose and Intent
17.34.020 - Permit Requirements  
17.34.030 - Measurement of Fence, Wall, and Hedge Height  
17.34.040 - Prohibited Fencing Materials  

17.34.050 - Development Standards  
17.34.060 - Wall Design  
17.34.070 - Screening  
17.34.080 - Noise Barrier  

Chapter 17.36 – Landscaping Standards  
17.36.010 - Purpose and Intent  
17.36.020 - Applicability  
17.36.030 - Landscape Plan Required  
17.36.040 - Landscape Requirements  
17.36.050 - Planting Type, Size, and Location  
17.36.060 - Landscape Irrigation and Maintenance  

Chapter 17.38 – Off-Street Parking and Loading Standards  
17.38.010 - Purpose and Intent  
17.38.020 - Permit Requirements  
17.38.030 - Exemptions  
17.38.040 - Off-Street Parking Spaces: Number Required  
17.38.050 - Parking Location  
17.38.060 - Parking Lot Design Standards  
17.38.070 - Compact and Tandem Parking Spaces  
17.38.080 - Shared/Joint Use and Off-site Parking  
17.38.090 - Off-Street Loading Space Requirements  
17.38.100 - Landscape Standards for Parking Lots  
17.38.110 - Parking for Electric and Alternative Fuel Vehicles  
17.38.120 - Bicycle Parking Requirements  

Chapter 17.40 – Sign Standards  
17.40.010 - Purpose and Intent  
17.40.020 - Definitions
17.40.030 - Permit Requirements
17.40.040 - Exempt Signs
17.40.050 - Prohibited Signs
17.40.060 - Temporary Signs
17.40.070 - Number of Permitted Signs and Allowable Sign Area
17.40.080 - General Development Standards - Non-Exempt Signs
17.40.090 - Standards for Specific Sign Types
17.40.100 - Sign Construction and Maintenance
17.40.110 - Removal of Unauthorized Signs on Public Property
17.40.120 - Nonconforming Signs

Chapter 17.42 – Solid Waste and Recycling Enclosures
17.42.010 – Purpose and Applicability
17.42.020 – When Required
17.42.030 – Number and Location
17.42.040 – Development and Design Standards

Chapter 17.44 – Surface Mining and Reclamation
17.44.010 - Purpose and Intent
17.44.020 - Applicability
17.44.030 - Definitions
17.44.040 - General Provisions
17.44.050 - Reclamation Plan Requirements
17.44.060 - Application Process
17.44.070 - Monitoring
17.44.080 - Enforcement

Chapter 17.46 – Performance Standards
17.46.010 - Purpose and Intent
17.46.020 - Dust and Dirt
17.46.030 - Noise and Vibration
17.46.040 - Odors
17.46.050 - Outdoor Light and Glare
Article 4 – Regulations for Specific Land Uses

Chapter 17.60 – Purpose and Applicability

Chapter 17.62 – Specific Uses and Activities

17.62.010 - Accessory Uses
17.62.020 - Accessory Dwelling Units (ADU’s)
17.62.030 - Adult Business/Entertainment Uses
17.62.040 - Agritourism
17.62.050 - Alcoholic Beverage Sales
17.62.060 - Bed and Breakfast Inns
17.62.070 - Commercial Cannabis Facilities (Prohibited in all zones)
17.62.080 - Community Care Facilities
17.62.090 - Cottage Food Operations
17.62.100 - Day Care Facilities
17.62.110 - Emergency Shelters
17.62.120 - Home Enterprises
17.62.130 - Industrial Hemp
17.62.140 - Mineral or Construction Material Processing
17.62.150 - Storage Facility, Personal
17.62.160 - Mobile Food Vendors
17.62.170 - Mobile Home Parks, pre-1976 Mobile Homes
17.62.180 - Model Homes
17.62.190 - Outdoor Dining
17.62.200 - Outdoor Displays and Sales
17.62.210 - Planned or Cluster Residential Development and Preservation of Open Space
17.62.220 - Produce Stands/Markets
17.62.230 - Property Maintenance
17.62.240 - Recreational Vehicle Storage
17.62.250 - Recycling Facilities
17.62.260 - Rural Event Venues
17.62.270 - Rural Home Industry
17.62.280 - Secondary Residences and Guest Houses
17.62.290 - Small Scale Mining
17.62.300 - Storage Facilities
17.62.310 - Temporary Camping
17.62.320 - Temporary Events
17.62.330 - Timeshares
17.62.340 - Transitional and Supportive Housing
17.62.350 - Uses Prohibited in All Zones
17.62.360 - Vacation Rentals
17.62.370 - Vehicle Fueling Stations
17.62.380 – Wineries, Distilleries, and Breweries
17.62.390 - Workforce Housing

Chapter 17.64 – Density Bonuses for Affordable Housing
17.64.010 - Purpose, Intent, and Applicability
17.64.020 - Density Bonus
17.64.030 - Incentives and Concessions
17.64.040 - General Requirements
17.64.050 - Application Requirements
17.64.060 - Findings

Chapter 17.66 – Wireless Telecommunications Facilities Standards
17.66.010 - Purpose and Intent
17.66.020 - Applicability
17.66.030 - Review and Determination
17.66.040 - General Development Standards
17.66.050 - Co-Location Standards
17.66.060 - Ground-Mounted Standards
17.66.070 - Structure-Mounted Standards
17.66.080 - Required Findings for Approval
Article 5 – Subdivisions

Chapter 17.70 – General Provisions

- 17.70.010 - Purpose of Article
- 17.70.020 - Title
- 17.70.030 - Definitions
- 17.70.040 - Authority
- 17.70.050 - Applicability
- 17.70.060 - Conformity to General Plan
- 17.70.070 - Advisory Agency
- 17.70.080 - Type of Subdivision Approval Required (w/Detailed Review Authority Table)
- 17.70.090 - Applications Deemed Approved
- 17.70.100 - Processing Fees
- 17.70.110 - Exceptions to Subdivision Standards
- 17.70.120 - Designation of Remainders
- 17.70.130 - Department and Commission Duties

Chapter 17.72 – Tentative Map Filing and Processing

- 17.72.010 - Purpose and Intent
- 17.72.020 - Tentative Map Preparation, Application Contents
- 17.72.030 - Tentative Map Filing, Initial Processing
- 17.72.040 - Staff Report and Recommendation
- 17.72.050 - Tentative Map Public Hearing and Action
- 17.72.060 - Tentative Map Approval or Denial
- 17.72.070 - Conditions of Approval
- 17.72.080 - Effective Date of Tentative Map Approval
- 17.72.090 - Completion of Subdivision Process
- 17.72.100 - Vesting on Approval of Vesting Tentative Map
- 17.72.110 - Tentative Map Expiration and Extensions
- 17.72.120 - Amendments to Approved Tentative Maps and Conditions
- 17.72.130 - Post Decision Procedures
Chapter 17.74 – Parcel Maps and Final Maps Processing

17.74.010 - Purpose and Intent
17.74.020 - Waiver of Parcel Map
17.74.030 - Final Tract and Parcel Map Form and Content
17.74.040 - Filing and Processing of Final Tract and Parcel Maps
17.74.050 - Final Tract or Parcel Map Approval and Recordation
17.74.060 - Supplemental Information Sheets
17.74.070 - Correction and Amendment of Recorded Maps
17.74.080 - Post Decision Procedures

Chapter 17.76 – Additional Subdivision Procedures

17.76.010 - Purpose and Intent
17.76.020 - Certificates of Compliance
17.76.030 - Lot Line Adjustments
17.76.040 - Parcel Mergers
17.76.050 - Planned Developments
17.76.060 - Reversions to Acreage
17.76.070 - Post Decision Procedures

Chapter 17.78 – Subdivision Design and Improvements

17.78.010 - Purpose and Intent
17.78.020 - Applicability of Design and Improvement Standards
17.78.030 - Subdivision Design Standards
17.78.040 - Road Design Standards
17.78.050 - Subdivision Improvement Requirements
17.78.060 - Sanitary Disposal Requirements -- Stockton Creek Watershed and Mariposa Creek Watershed
17.78.070 - Site Preparation and Grading for Subdivision Construction
17.78.080 - Improvement Plans
17.78.090 - Improvement Agreement Required
17.78.100 - Improvement Security
17.78.110 - Installation of Improvements
Chapter 17.80 – Dedications, Reservations, Exactions, and Exceptions

17.80.010 - Purpose and Intent
17.80.020 - Dedications
17.80.030 - Reservations
17.80.040 - Exactions
17.80.050 - Exceptions

Chapter 17.82 – Enforcement of Subdivision Regulations

17.84.010 - Purpose and Intent
17.84.020 - Violations
17.84.030 - Prohibitions
17.84.040 - Remedies
17.84.050 - Violation -- Penalty

Article 6 – Nonconforming Uses, Structures, and Parcels

Chapter 17.90– General Nonconforming Provisions

17.90.010 - Purpose and Intent
17.90.020 - Establishment of Legal Nonconforming Status
17.90.030 - Continuation and Maintenance
17.90.040 - Continuation of Incidental Nonconformity
17.90.050 - Determination, Extension, and Abatement Procedures
17.90.060 - Revocation of Nonconforming Use or Structure
17.90.070 - No Reversion to Nonconformance

Chapter 17.92 – Nonconforming Uses

17.92.010 - Continuation of Legal Nonconforming Uses
17.92.020 - Nonconforming Uses Eligible for Conditional Use Permit or Other Approval(s)
17.92.030 - Modifications or Expansion of Legal Nonconforming Uses
17.92.040 - Discontinuance of Legal Nonconforming Uses

Chapter 17.94 – Nonconforming Structures
Chapter 17.94 – Nonconforming Structures

17.94.010 - Continuation of Legal Nonconforming Structures
17.94.020 - Modification or Expansion of Legal Nonconforming Structures
17.94.030 - Destruction of Legal Nonconforming Structures
17.94.040 - Residential Exceptions
17.94.050 - Discontinuance of Legal Nonconforming Structures
17.94.060 - Off-site Relocation

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MEMORANDUM

DATE: January 10, 2020

TO: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: Local Agency Accessory Dwelling Units
Chapter 653, Statutes of 2019 (Senate Bill 13)
Chapter 655, Statutes of 2019 (Assembly Bill 68)
Chapter 657, Statutes of 2019 (Assembly Bill 587)
Chapter 178, Statutes of 2019 (Assembly Bill 670)
Chapter 658, Statutes of 2019 (Assembly Bill 671)
Chapter 659, Statutes of 2019 (Assembly Bill 881)

This memorandum is to inform you of the amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Section 65852.2, 65852.22 and Health & Safety Code Section 17980.12) and further address barriers to the development of ADUs and JADUs. (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881).

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

- Development standards shall not include requirements on minimum lot size (Section (a)(1)(B)(i)).
- Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety.
- Eliminates owner-occupancy requirements by local agencies (Section (a)(6) & (e)(1)) until January 1, 2025.
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom (Section (c)(2)(B)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement offstreet parking spaces cannot be required by the local agency (Section (a)(1)(D)(xi)).
• Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Section (a)(3) and (b)).
• Clarifies "public transit" to include various means of transportation that charge set fees, run on fixed routes and are available to the public (Section (j)(10)).
• Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit (Section (f)(3)).
• Defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Section (j)(2)).
• Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law (Section (h)(2)).
• Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m).
• Permits JADUs without an ordinance adoption by a local agency (Section (a)(3), (b) and (e)).
• Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code Section 65852.22).
• Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency (Section (n)).
• Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households (Gov. Code Section 65852.26).
• Removes covenants, conditions and restrictions (CC&R) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).
• Requires local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code Section 65583 and Health and Safety Code Section 50504.5) (Attachment D).

For assistance, please see the amended statutes in Attachments A, B, C and D. HCD continues to be available to provide preliminary reviews of draft ADU ordinances to assist local agencies in meeting statutory requirements. In addition, pursuant to Gov. Code Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact HCD's ADU team at adu@hcd.ca.gov.
ATTACHMENT A

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
(AB 881, AB 68 and SB 13 Accessory Dwelling Units)
(Changes noted in strikeout, underline/italics)

Effective January 1, 2020, 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 criteria that may include, but are not limited to, 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, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. 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 single-family dwelling.
(iii) The accessory dwelling unit is either attached to, or located within the living area of 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) The total floor area of floorspace for an existing primary dwelling shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet, existing primary dwelling.
(v) The total floor area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.
(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
(vii) No setback shall be required for an existing garage 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 five feet from the side and rear lot lines shall be required for an accessory dwelling
unit that is constructed above a garage, 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).

(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) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application 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, within 120 days after receiving the application. 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 that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, 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 subsequent to the effective date of this act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this
subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance 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 zoned for residential use. That includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized used or imposed, including any owner-occupant requirement, except that 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.
(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) within 120 days after receiving the application. (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) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum Any other minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance 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 efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. 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 to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process 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) Accessory dwelling units 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. Accessory dwelling units are constructed with a new single-family dwelling.
(3) 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.
(A) 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.
(B) 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 size—square feet or the number of its plumbing fixtures—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) Local agencies 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. The department may review and comment on this submitted ordinance. 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) 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.

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

(1) “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.

(2) “Local agency” means a city, county, or city and county, whether general law or charter.

(3) For purposes of this section, “neighborhood” has the same meaning as set forth in Section 65589.5.

(4) (1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. 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.

(A) (3) An efficiency unit, “Efficiency unit has the same meaning 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. “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 charter.

(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.

(5) (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.
(6) (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.
(Becomes operative on January 1, 2025)
Section 65852.2 of the Government Code is amended to read (changes from January 1, 2020 statute noted in underline/italic):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) An efficiency unit.

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

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

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

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

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

(6) “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 remain in effect only until January 1, 2025, and as of that date is repealed become operative on January 1, 2025.
Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in strikethrough, underline/italics) (AB 68 (Ting)):

65852.22.
(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:
(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built, 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 existing walls of the structure, and require the inclusion of an existing bedroom, proposed or existing single-family residence.
(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation, 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 sink with a maximum waste line diameter of 1.5 inches.
(B) (A) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas, appliances.
(C) (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 whether the junior accessory dwelling unit is in compliance 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. A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section. 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 the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

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

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

(g) 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 an existing a single-family structure, residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.
Effective January 1, 2020 Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read (changes noted in underline/italics) (SB 13 (Wieckowski)):

17980.12.

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

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

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

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

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

(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.
ATTACHMENT B

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 587 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020 Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.
(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer’s principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) “Qualified buyer” means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) “Qualified nonprofit corporation” means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.
ATTACHMENT C

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 4751 is added to the Civil Code, to read (AB 670 (Friedman)):

4751.
(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.
(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, “reasonable restrictions” means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.
ATTACHMENT D

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6
AB 671 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).
Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 is added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.
(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.
(b) The list shall be posted on the department’s internet website by December 31, 2020.
(c) For purposes of this section, “accessory dwelling unit” has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.
Accessory Dwelling Unit Handbook

September 2020

Where foundations begin
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Understanding Accessory Dwelling Units (ADUs) and Their Importance

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

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

What is an ADU?

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

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

ADUs tend to be significantly less expensive to build and offer benefits that address common development barriers such as affordability and environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land, dedicated parking or other costly infrastructure required to build a new single-family home. Because they are contained inside existing single-family homes, JADUs require relatively
modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one or two-story wood frames, which are also cheaper than other new homes. Additionally, prefabricated ADUs can be directly purchased and save much of the time and money that comes with new construction. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

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

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

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

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

In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in zones that allow single-family and multifamily uses provides additional rental housing, and is an essential component in addressing California’s housing needs. Over the years, ADU law has been revised to improve its effectiveness at creating more housing units. Changes to ADU laws effective January 1, 2020, further reduce barriers, better streamline approval processes, and expand capacity to accommodate the development of ADUs and junior accessory dwelling units (JADUs).

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, people with disabilities, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the California Department of Housing and Community Development (HCD) has prepared this guidance to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a summary of legislation since 2019 that amended ADU law and became effective as of January 1, 2020.

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

Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Sections 65852.2, 65852.22 and further address barriers to the development of ADUs and JADUs) (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881.)

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

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size (Gov. Code, § 65852.2, subd. (a)(1)(B)(i)).
- Clarifies areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services as well as impacts on traffic flow and public safety (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020 and January 1, 2025 ((Gov. Code, § 65852.2, subd. (a)(6)).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet ((Gov. Code, § 65852.2, subd. (c)(2)(B) & (C)).
• Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement off-street parking spaces cannot be required by the local agency (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi)).

• Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, § 65852.2, subd. (a)(3) and (b)).

• Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes and are available to the public (Gov. Code, § 65852.2, subd. (j)(10)).

• Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees (Government Code Section 65852.2, Subdivision (f)(3)); ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 65852.2, subd. (f)(3)).

• Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Gov. Code, § 65852.2, subd. (j)(2)).

• Authorizes HCD to notify the local agency if HCD finds that their ADU ordinance is not in compliance with state law (Gov. Code, § 65852.2, subd. (h)(2)).

• Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs (Gov. Code § 65583.1, subd. (a), and § 65852.2, subd. (m)).

• Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 65852.2, subd. (a)(3), (b), and (e)).

• Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code § 65852.22, subd. (a)(4); Former Gov. Code § 65852.22, subd. (a)(5)).

• Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 65852.2, subd. (n); Health and Safety Code § 17980.12).

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

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

• AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households (Gov. Code § 65852.26).

• AB 670 provides that covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).
AB 671 requires local agencies’ housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code § 65583; Health and Safety Code § 50504.5)
Frequently Asked Questions: Accessory Dwelling Units

1. Legislative Intent

- Should a local ordinance encourage the development of accessory dwelling units?

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

ADU law and recent changes intend to address barriers, streamline approval, and expand potential capacity for ADUs, recognizing their unique importance in addressing California’s housing needs. The preparation, adoption, amendment, and implementation of local ADU

Government Code 65852.150:

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

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

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

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

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

5. California faces a severe housing crisis.

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

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

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

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.
ordinances must be carried out consistent with Government Code, Section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

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

2. Zoning, Development and Other Standards

A) Zoning and Development Standards

- Are ADUs allowed jurisdiction wide?

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

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

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

- Can a local government apply design and development standards?

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

ADUs created under subdivision (e) of Government Code 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.
ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to do so. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with ADU law. Examples of these processes include areas where additional health and safety concerns must be considered, such as fire risk.

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

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

- **Are ADUs permitted ministerially?**

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

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

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

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

Yes. ADUs are allowed within a historic district, and on lots where the primary residence is subject to historic preservation. State ADU law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards do not apply to ADUs proposed pursuant to Gov. Code § 65852.2, subd. (e).
As with non-historic resources, a jurisdiction may impose objective and ministerial standards that are sufficiently objective to be reviewed ministerially and do not unduly burden the creation of ADUs. Jurisdictions are encouraged to incorporate these standards into their ordinance and submit these standards along with their ordinance to HCD. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i) & (a)(5))

B) Size Requirements

- Is there a minimum lot size requirement?

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

What is a Statewide Exemption ADU?

A statewide exemption ADU is an ADU of up to 800 square feet, 16 foot in height and with 4-foot side and rear yard setbacks. ADU law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, ADU law allows the construction of a detached new construction statewide exemption ADU to be combined with a JADU within any zone allowing residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

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

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

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

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

Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unit size for attached or detached ADUs but only if it does not restrict an ADU’s size to less than the standard of at least 850 sq. ft (or at least 1000 square feet. for ADUs with more than one bedroom). Local agencies must not, by ordinance, establish any other minimum or maximum unit sizes, including based on a percentage of the primary dwelling, that precludes a statewide exemption ADU. Local agencies utilizing
percentages of primary dwelling as maximum unit sizes could consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

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

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

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

C) Parking Requirements

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

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

What is Tandem Parking?

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

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

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

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

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

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

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

1. Accessory dwelling unit is located within one-half mile walking distance of public transit.
2. Accessory dwelling unit is located within an architecturally and historically significant historic district.
(3) Accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

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

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

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

D) Setbacks

• Can setbacks be required for ADUs?

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

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

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

E) Height Requirements

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

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

F) Bedrooms

• Is there a limit on the number of bedrooms?

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

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

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

What is “Proportionately”?  

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

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

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

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

• Can school districts charge impact fees?

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

• What types of fees are considered impact fees?

Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home (Gov. Code, § 65852.2, subd. (f) and Government Code § 66000).
Can I still be charged water and sewer connection fees?

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

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

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

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

a. One ADU or JADU per lot within the existing space of a single-family dwelling, or an ADU within an accessory structure that meets specified requirements such as exterior access and setbacks for fire and safety.

b. One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU and may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.

c. Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.

d. Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and 4-foot rear and side yard setbacks.

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

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

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

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

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

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

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

  Yes. An ADU within the existing or proposed space of a single-family dwelling can be expanded 150 square feet beyond the physical dimensions of the structure but shall be limited to accommodating ingress and egress. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs shall conform to setbacks sufficient for fire and safety.

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

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

I) Nonconforming Zoning Standards

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

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

J) Renter and Owner-occupancy

- **Are rental terms required?**

  Yes. Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, § 65852.2, subd. (a)(6) & (e)(4))
• Are there any owner-occupancy requirements for ADUs?

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

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

K) Fire Sprinkler Requirements

• Are fire sprinklers required for ADUs?

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

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

L) Solar Panel Requirements

• Are solar panels required for new construction ADUs?

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

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

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

• Are two JADUs allowed on a lot?

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

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

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

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

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

  No. Only ADUs are allowed to add up to 150 square feet “beyond the physical dimensions of the existing accessory structure” to provide for ingress. (Gov. Code, § 65852.2, subd. (e)(1)(A)(i).) This provision extends only to ADUs and excludes JADUs. A JADU is required to be created within the single-family residence.

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

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

4. Manufactured Homes and ADUs

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

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

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

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

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

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

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

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

  Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires the California Department of Housing and Community Development to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code § 65583 and Health and Safety Code § 50504.5.)

6. Homeowners Association

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

  No. Assembly Bill 670 (2019) amended Section 4751 of the Civil Code to preclude planned developments from prohibiting or unreasonably restricting the construction or use of an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or reasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable. Applicants who encounter issues with creating ADUs within CC&Rs are encouraged to reach out to HCD for additional guidance.
7. Enforcement

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

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

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

8. Other

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

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

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

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

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

  Yes. A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to the California Department of Housing and Community Development (HCD) within 60 days after adoption. After the adoption of an ordinance, the Department may review and submit written findings to the local agency as to whether the ordinance complies with this section. (Gov. Code, § 65852.2, subd. (h)(1))
Local governments may also submit a draft ADU ordinance for preliminary review by the HCD. This provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with the new state ADU law.

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

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

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

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

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

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

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

For the purposes of state ADU law, a structure with two or more attached dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of state ADU law.
Effective January 1, 2020, 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 criteria that may include, but are not limited to, 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, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. 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 primary dwelling or 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.

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

(iv) No setback shall be required in conjunction with the construction of an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage, not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

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

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

(x) 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.

(xii) 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, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(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) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the 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, within 120 days after receiving the application. 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, 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 that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, 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 subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that, 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 upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance 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 zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized used or imposed, except that 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.

(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) within 120 days after receiving the application. 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. 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) (C) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. Any other minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance 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 efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence, and 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 to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, that has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process, 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) of this section, if an ordinance is adopted 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) **Accessory.** An accessory dwelling units unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for the 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.

(A) (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.

(B) (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 size: square feet or the number of its plumbing fixtures, 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) **Local (1) agencies.** 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. The department may review and comment on this submitted ordinance. 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) “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.

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

(3) For purposes of this section, “neighborhood” has the same meaning as set forth in Section 65589.5.

(4) (1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit which 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.

(A) “Efficiency unit” has the same meaning 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.

“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.

(Becomes operative on January 1, 2025)
Section 65852.2 of the Government Code is amended to read (changes from January 1, 2020 statute noted in underline/italic):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

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

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

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

(A) An efficiency unit.

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

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

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

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

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

(6) “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 remain in effect only until January 1, 2025, and as of that date is repealed become operative on January 1, 2025.

Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in strikeout, underline/italics) (AB 68 (Ting)):

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

1. Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built, 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 existing walls of the structure, and require the inclusion of an existing bedroom, proposed or existing single-family residence.
5. Require a permitted junior accessory dwelling unit to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling unit may include a second interior doorway for sound attenuation, 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 sink with a maximum waste line diameter of 1.5 inches.
   B. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas. appliances.
   C. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.
2. This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether, if the junior accessory dwelling unit is in compliance, complies, with applicable building standards.
3. An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section. 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
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 the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

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

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

(g) 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 an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

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

Effective January 1, 2020 Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read (changes noted in underline/italics) (SB 13 (Wieckowski)):

17980.12.

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

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

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

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

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

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

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

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.
Effective January 1, 2020, Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.
(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer’s principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) “Qualified buyer” means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) “Qualified nonprofit corporation” means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.
Effective January 1, 2020, Section 4751 is added to the Civil Code, to read (AB 670 (Friedman)):

4751.  
(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.  
(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, “reasonable restrictions” means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).  
Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 is added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.  
(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.  
(b) The list shall be posted on the department’s internet website by December 31, 2020.  
(c) For purposes of this section, “accessory dwelling unit” has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.
Attachment 2: State Standards Checklist

<table>
<thead>
<tr>
<th>YES/NO</th>
<th>STATE STANDARD*</th>
<th>GOVERNMENT CODE SECTION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unit is not intended for sale separate from the primary residence and may be rented.</td>
<td>65852.2(a)(1)(D)(i)</td>
</tr>
<tr>
<td></td>
<td>Lot is zoned for single-family or multifamily use and contains a proposed or existing dwelling.</td>
<td>65852.2(a)(1)(D)(ii)</td>
</tr>
<tr>
<td></td>
<td>The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing dwelling and located on the same lot as the proposed or existing primary dwelling.</td>
<td>65852.2(a)(1)(D)(iii)</td>
</tr>
<tr>
<td></td>
<td>Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing primary dwelling but shall be allowed to be at least 800/850/1000 square feet.</td>
<td>65852.2(a)(1)(D)(iv), (c)(2)(B) &amp; C)</td>
</tr>
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<td></td>
<td>Total area of floor area for a detached accessory dwelling unit does not exceed 1,200 square feet.</td>
<td>65852.2(a)(1)(D)(v)</td>
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<tr>
<td></td>
<td>Passageways are not required in conjunction with the construction of an accessory dwelling unit.</td>
<td>65852.2(a)(1)(D)(vi)</td>
</tr>
<tr>
<td></td>
<td>Setbacks are not required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.</td>
<td>65852.2(a)(1)(D)(vii)</td>
</tr>
<tr>
<td></td>
<td>Local building code requirements that apply to detached dwellings are met, as appropriate.</td>
<td>65852.2(a)(1)(D)(viii)</td>
</tr>
<tr>
<td></td>
<td>Local health officer approval where a private sewage disposal system is being used, if required.</td>
<td>65852.2(a)(1)(D)(ix)</td>
</tr>
<tr>
<td></td>
<td>Parking requirements do not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway.</td>
<td>65852.2(a)(1)(D)(x)</td>
</tr>
</tbody>
</table>
Attachment 3: Bibliography

**ACCESSORY DWELLING UNITS: CASE STUDY** (26 pp.)


Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

**THE MACRO VIEW ON MICRO UNITS** (46 pp.)

Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

**SECONDARY UNITS AND URBAN INFILL: A Literature Review** (12 pp.)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

**RETHINKING PRIVATE ACCESSORY DWELLINGS** (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

One of the large impacts of single-use, single-family detached zoning has been to severely shrink the supply of accessory dwellings, which often were created in or near primary houses. Detached single-family dwelling zones—the largest housing zoning category—typically preclude more than one dwelling per lot except under stringent regulation, and then only in some jurisdictions. Bureaucratically termed “accessory dwelling units” that are allowed by some jurisdictions may encompass market-derived names such as granny flats, granny cottages, mother-in-law suites, secondary suites, backyard cottages, casitas, carriage flats, sidekick houses, basement apartments, attic apartments, laneway houses, multigenerational homes, or home-within-a-home.
Regulating ADUs in California: Local Approaches & Outcomes (44 pp.)

By Deidra Pfeiffer
Terner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation’s housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting—contribute to these goals. This research helps to fill this gap by using data from the Terner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2) a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging in place. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to help align formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

ADU Update: Early Lessons and Impacts of California’s State and Local Policy Changes (8 p.)

By David Garcia (2017)
Terner Center for Housing and Innovation, UC Berkeley

As California’s housing crisis deepens, innovative strategies for creating new housing units for all income levels are needed. One such strategy is building Accessory Dwelling Units (ADUs) by private homeowners. While large scale construction of new market rate and affordable homes is needed to alleviate demand-driven rent increases and displacement pressures, ADUs present a unique opportunity for individual homeowners to create more housing as well. In particular, ADUs can increase the supply of housing in areas where there are fewer opportunities for larger-scale developments, such as neighborhoods that are predominantly zoned for and occupied by single-family homes.

In two of California’s major metropolitan areas -- Los Angeles and San Francisco -- well over three quarters of the total land area is comprised of neighborhoods where single-family homes make up at least 60 percent of the community’s housing stock. Across the state, single-family detached units make up 56.4 percent of the overall housing stock. Given their prevalence in the state’s residential land use patterns, increasing the number of single-family homes that have an ADU could contribute meaningfully to California’s housing shortage.

Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle and Vancouver (29pp.)

By Karen Chapple et al (2017)
Terner Center for Housing and Innovation, UC Berkeley

Despite government attempts to reduce barriers, a widespread surge of ADU construction has not materialized. The ADU market remains stalled. To find out why, this study looks at three cities in the Pacific Northwest of the United States and Canada that have seen a spike in construction in recent years: Portland, Seattle, and Vancouver. Each city has adopted a set of zoning reforms, sometimes in combination with financial incentives and outreach programs, to spur ADU construction. Due to these changes, as well as the acceleration of the housing crisis in each city, ADUs have begun blossoming.
Accessory Dwelling Units as Low-Income Housing: California’s Faustian Bargain (37 pp.)

By Darrel Ramsey-Musolf (2018)
University of Massachusetts Amherst, ScholarWorks@UMass Amherst

In 2003, California allowed cities to count accessory dwelling units (ADU) towards low-income housing needs. Unless a city’s zoning code regulates the ADU’s maximum rent, occupancy income, and/or effective period, then the city may be unable to enforce low-income occupancy. After examining a stratified random sample of 57 low-, moderate-, and high-income cities, the high-income cities must proportionately accommodate more low-income needs than low-income cities. By contrast, low-income cities must quantitatively accommodate three times the low-income needs of high-income cities. The sample counted 750 potential ADUs as low-income housing. Even though 759 were constructed, no units were identified as available low-income housing. In addition, none of the cities’ zoning codes enforced low-income occupancy. Inferential tests determined that cities with colleges and high incomes were more probable to count ADUs towards overall and low-income housing needs. Furthermore, a city’s count of potential ADUs and cities with high proportions of renters maintained positive associations with ADU production, whereas a city’s density and prior compliance with state housing laws maintained negative associations. In summary, ADUs did increase local housing inventory and potential ADUs were positively associated with ADU production, but ADUs as low-income housing remained a paper calculation.
<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 330</td>
<td>Housing Crisis Act of 2019</td>
<td>accelerate housing production in California by streamlining permitting and approval processes, ensuring no net loss in zoning capacity and limiting fees after projects are approved.</td>
</tr>
<tr>
<td>AB 1763</td>
<td>DB</td>
<td>expands existing density bonus law for 100% affordable housing projects to include unlimited density around transit hubs with an additional three stories or 33 feet of height.</td>
</tr>
</tbody>
</table>

- Requires density bonus for housing development with 100% of the total units, excluding the managers’ units, for lower income households.
- Provides housing development that qualifies for a density bonus under its provisions may include up to 20% of the total units for moderate-income households.
- Generally require that the housing development receive a density bonus of 80%, but would exempt the housing development from any maximum controls on density if it is located within ½ mile of a major transit stop.
- Upon the request of the developer, prohibit a city, county, or city and county from imposing any minimum vehicular parking requirement for a development that consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families and is either a special needs.
<table>
<thead>
<tr>
<th>Bill No.</th>
<th>Sponsor</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB 116</td>
<td>LG</td>
<td>removes the requirement for Enhanced Infrastructure Financing Districts (EIFDs) to receive voter approval prior to issuing bonds</td>
</tr>
<tr>
<td>AB 1485</td>
<td>LG ZO GP CEQA</td>
<td>builds on existing environmental streamlining law and encourage moderate-income housing production.</td>
</tr>
<tr>
<td>AB 1255</td>
<td>LG SG</td>
<td>requires cities and counties to report to the state an inventory of its surplus lands in urbanized areas. The bill then requires the state to include this information in a digitized inventory of state surplus land sites.</td>
</tr>
<tr>
<td>AB 1486</td>
<td>LG HE</td>
<td>expands Surplus Land Act requirements for local agencies, requires local governments to include specified information relating to surplus lands in their housing elements and annual progress reports (APRs), and requires the state Department of Housing and Community Development (HCD) to establish a database of surplus lands, as specified.</td>
</tr>
<tr>
<td>SB 6</td>
<td>SG</td>
<td>requires the State to create a public inventory of local sites suitable for residential development, along with state surplus lands.</td>
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<tr>
<td>SB 751</td>
<td>JPA</td>
<td>creates the San Gabriel Valley Regional Housing Trust to finance affordable housing projects for homeless and low-income populations and address the homelessness crisis in the region.</td>
</tr>
<tr>
<td>AB 1483</td>
<td>LG SG</td>
<td>requires local jurisdiction to publicly share information about zoning ordinances, development standards, fees, exactions, and affordability requirements. The bill also requires the Department of Housing and Community Development to develop and update a 10-year housing data strategy.</td>
</tr>
<tr>
<td>AB 1010</td>
<td>Housing programs</td>
<td>allows duly constituted governing bodies of a Native American reservation or Rancheria to become eligible applicants to participate in affordable housing programs.</td>
</tr>
<tr>
<td>AB 1743</td>
<td>LG</td>
<td>expands the properties that are exempt from community facility district taxes to include properties that qualify for the property tax welfare exemption, and limits the ability of local agencies to reject housing projects because they qualify for the exemption.</td>
</tr>
<tr>
<td>Bill</td>
<td>Code</td>
<td>Description</td>
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<tr>
<td>SB 196</td>
<td>Taxes</td>
<td>enacts a new welfare exemption from property tax for property owned by a Community Land Trust (CLT), and makes other changes regarding property tax assessments of property subject to contracts with CLTs.</td>
</tr>
<tr>
<td>AB 68</td>
<td>ZO</td>
<td>facilitates the development of more ADUs and address barriers to building. The bill reduces barriers to ADU approval and construction, which will increase production of these low-cost, energy-efficient units and add to California’s affordable housing supply.</td>
</tr>
</tbody>
</table>

- Allows two ADUs on a single lot, as well as multiple ADUs on multifamily lots
  - delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size
  - 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
  - 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
- limits certain design requirements that cities can impose on ADUs
  - 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 constructed. This bill would additionally prohibit the imposition of limits on lot coverage, floor area ratio, open space, and minimum...
lot size if they prohibit the construction of an accessory dwelling unit meeting those specifications

➢ requires ADU approvals be completed in 60 days (also covered in SB 13)
  o 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
  o require ministerial approval of an application for a building permit within a residential or mixed-use zone to create the following: (1) one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met; (2) a detached, new construction accessory dwelling unit that meets certain requirements and would
<table>
<thead>
<tr>
<th>Bill</th>
<th>Description</th>
<th>Implications</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB 881</td>
<td>Removes impediments to ADU construction by restricting local jurisdictions’ permitting criteria, clarifying that ADUs must receive streamlined approval if constructed in existing garages, and eliminating local agencies’ ability to require owner-occupancy for five years.</td>
<td>➢ Prohibit a setback requirement 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. The bill would also instead require a setback of no more than 4 feet 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. ➢ 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 (also covered in SB 13).</td>
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<td><strong>AB 587</strong></td>
<td><strong>sale or separate conveyance</strong></td>
<td>provides a narrow exemption for affordable housing organizations to sell deed-restricted land to eligible low-income homeowners.</td>
</tr>
<tr>
<td><strong>SB 13</strong></td>
<td><strong>ZC</strong></td>
<td>Restricts the amount of impact fees that can be charged for ADUs creates a tiered fee structure which charges ADUs more fairly based on their size and location. The bill also addresses other barriers by lowering the application approval timeframe, creating an avenue to get unpermitted ADUs up to code, and enhancing an enforcement mechanism allowing the state to ensure that localities are following ADU statute.</td>
</tr>
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</table>

- prohibit a local agency from requiring the replacement of off-street parking spaces when a garage, carport, or covered parking structure is demolished or converted
- 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. The bill 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
- until January 1, 2025, would prohibit a local agency from imposing an owner-occupant requirement
- prohibits a local agency, special district, or water corporation from imposing any impact fee, as specified, upon the development of an accessory dwelling unit less than 750 square feet, and would require any impact fees to be charged for an accessory dwelling unit of 750 square feet or more to be proportional to the square footage of the primary dwelling unit. The bill would revise the basis for...
calculating the connection fee or capacity charge specified above to either the accessory dwelling unit’s square feet or the number of its drainage fixture unit values, as specified.

➢ 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

➢ prohibit a local agency from establishing a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit, as defined. The bill would also prohibit a local agency from establishing a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than 850 square feet, and 1,000 square feet if the accessory dwelling unit contains more than one bedroom. The bill would also instead prohibit a local agency from establishing 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 dwelling units that prohibit at least an 800 square foot accessory dwelling unit that is
<table>
<thead>
<tr>
<th>Bill</th>
<th>Status</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>AB 671</td>
<td>HE</td>
<td>requires local governments’ housing plans to encourage affordable ADU rentals and requires the state to develop a list of state grants and financial incentives for affordable ADUs.</td>
</tr>
</tbody>
</table>

- at least 16 feet in height and with a 4-foot side and rear yard setbacks.
- define “accessory structure” to mean a structure that is accessory and incidental to a dwelling located on the same lot
- authorize the owner of an accessory dwelling unit built before January 1, 2020, or built on or after January 1, 2020, under specified circumstances, that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for 5 years if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency, subject to specified requirements. The bill would make conforming and other changes relating to the creation of accessory dwelling unit
- until January 1, 2025, would instead prohibit a local agency from requiring an applicant for a permit to be an owner-occupant of either the primary or accessory dwelling unit as a condition of issuing a permit (also covered in AB 881)
- ministerially and without discretionary review, within 60 days after receiving a completed application. The bill would also provide that, if a local agency does not act on the application within that time period, the application shall be deemed approved (also covered in AB 68)
| OTHER | AB 1482 Tenant Protection Act of 2019 | until January 1, 2030, prohibit an owner of residential real property from, over the course of any 12-month period, increasing the gross rental rate for a dwelling or unit more than 5% plus the percentage change in the cost of living, as defined, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions. The bill would prohibit an owner of a unit of residential real property from increasing the gross rental rate for the unit in more than 2 increments over a 12-month period, after the tenant remains in occupancy of the unit over a 12-month period. The bill would exempt certain properties from these provisions. |
| SB 329 | TP | prohibits housing discrimination based on source of income; specifically provide a participant in a housing voucher program an opportunity to receive a thorough and fair vetting when they seek housing |
SUMMARY OF RECENT LEGISLATION

The following is a summary of recent legislation that will affect this Housing Element update.

Additional Housing Element Sites Analysis Requirements: Assembly Bill 879 (2017) and Assembly Bill 1397 (2017)

The 2017 updates to state housing law require additional analysis and justification of the sites included in a jurisdiction’s housing element sites inventory. Analysis is required to demonstrate that non-vacant sites included in one previous housing element inventory and vacant sites included in two previous housing elements can only continue to be counted if subject to a program to allow affordable housing by right. Additionally, legislation has made it more difficult to demonstrate the adequacy of sites by requiring additional analysis of non-vacant sites and additional analysis of infrastructure capacity and by placing size restrictions on all sites.

Affirmatively Furthering Fair Housing: Assembly Bill 686 (2017)

AB 686 requires each city or county to administer its programs and activities relating to housing in a manner to affirmatively further fair housing and not take any action that is inconsistent with this obligation. This means taking actions to overcome patterns of segregation, address disparities in housing needs and access to opportunity, and foster inclusive communities. Housing elements must now, among other things, include an assessment of fair housing practices, examine the relationship of available sites to areas of high opportunity, and include actions to affirmatively further fair housing.

No-Net-Loss Zoning: Senate Bill 166 (2017)

SB 166 amended the No-Net-Loss rule to require that the land inventory and site identification programs in the housing element always include sufficient sites to accommodate the unmet RHNA. When a site identified in the housing element as available to accommodate the lower-income portion of the RHNA is actually developed for a higher income group, the locality must either (1) identify and rezone if necessary an adequate substitute site or (2) demonstrate that the land inventory already contains an adequate substitute site.

By Right Transitional and Permanent Supportive Housing: Assembly Bill 2162 (2018) and Assembly Bill 101 (2019)

AB 2162 requires that jurisdictions change their zoning to provide a “by right” process and expedited review for supportive housing. Zoning regulations must be updated if necessary to prohibit local governments from applying a conditional use permit or other discretionary review to the approval of 100 percent affordable developments that include a percentage of supportive housing units, either 25 percent or 12 units, whichever is greater. The change in the law applies to sites that are zoned for residential use in zones where multifamily and mixed uses are permitted, including in nonresidential zones permitting multifamily use. It also requires developers to include facilities and on-site services for residents of the supportive housing units and to provide the local government with the name of the service provider, staffing levels, and funding sources for the services. AB 101 requires that a Low Barrier Navigation Center development be a use by right in mixed-use zones and nonresidential zones permitting multifamily uses if it meets specified requirements.

The first statewide regulations related to second units or accessory dwelling units (ADUs) passed in 2002. In recent years, multiple bills have added further requirements for local governments related to ADU ordinances. The 2016 and 2017 updates to state law included changes pertaining to the allowed size of ADUs, permitting ADUs by right in at least some areas of a jurisdiction, and parking requirements related to ADUs. More recent bills reduce the time to review and approve ADU applications to 60 days and remove lot size requirements and replacement parking space requirements. AB 68 allows an ADU and a junior ADU to be built on a single-family lot, if certain conditions are met. The State has also removed owner-occupancy requirements for ADUs, created a tiered fee structure that charges ADUs based on their size and location, and prohibits fees on units of less than 750 square feet. In addition, AB 671 requires local governments to include in housing elements plans to incentivize and encourage affordable ADU rentals and requires the State to develop a list of state grants and financial incentives for affordable ADUs.

Density Bonus: Assembly Bill 1763 (2019)

AB 1763 amends California’s density bonus law to authorize significant development incentives to encourage 100 percent affordable housing projects. Developments with 100 percent affordable housing units can receive an 80 percent density bonus from the otherwise maximum allowable density on the site. If the project is within half a mile of a major transit stop, the city may not apply any density limit to the project. In addition to the density bonus, qualifying projects will receive four regulatory concessions, and if the project is within half a mile of a major transit stop, it will also receive a height increase of up to three additional stories (or 33 feet). The 100 percent affordable housing projects are also not subject to any minimum parking requirements.

Affordable Housing Streamlined Approval Process: Senate Bill 35 (2017)

SB 35 creates a streamlined, ministerial entitlement process for qualifying multifamily, urban infill projects in jurisdictions that have failed to approve housing projects sufficient to meet their State-mandated RHNA. Among other requirements, to qualify for streamlining under SB 35, a project must incorporate one of two threshold levels of affordable housing: (1) 10 percent of the project’s units in jurisdictions that have not approved housing projects sufficient to meet their RHNA for above moderate-income housing or have failed to submit an annual progress report as required under state law; or (2) 50 percent of the project’s units in jurisdictions that have not approved housing projects sufficient to meet their RHNA for below moderate-income housing. The Housing Element must describe the City’s processing procedures related to SB 330.

Housing Crisis Act of 2019: Senate Bill 330

SB 330 prohibits cities and counties from enacting a development policy, standard, or condition that would have the effect of: (A) changing the land use designation or zoning to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed on January 1, 2018; (B) imposing or enforcing a moratorium on housing development; (C) imposing or enforcing new design standards established on or after January 1, 2020, that are not objective design standards; or (D) establishing or implementing certain limits on the number of permits issued or the population of the city or county, unless the limit was approved prior to January 1, 2005, in an agricultural county. The Housing Element must describe the City’s processing procedures related to SB 330.
Surplus Land Act Amendments: Assembly Bill 1486 (2019)
AB 1486 refines the Surplus Land Act to provide clarity and further enforcement to increase the supply of affordable housing. The bill requires local governments to include specific information relating to surplus lands in their housing elements and annual progress reports. Local governments are required to provide a list of sites owned by the city or county that have been sold, leased, or otherwise disposed of in the prior year.

Housing Impact Fee Data: Assembly Bill 1483 (2019)
AB 1483 requires local jurisdictions to publicly share information about zoning ordinances, development standards, fees, exactions, and affordability requirements. Local jurisdictions are also required to update such information within 30 days of changes. The Housing Element will report on the City’s compliance with these requirements.

Additional Constraints Analysis: Assembly Bill 879 (2017)
In addition to creating new reporting requirements for annual progress reports, AB 879 amended state law to require the analysis of governmental constraints to include any locally adopted ordinances that directly impact the cost and supply of housing development. The bill also added new requirements for the nongovernmental constraints analysis, including analysis of requests to develop housing at densities below those anticipated, the length of time between receiving approval for a housing development and submittal of an application for building permits, and a description of local efforts to remove nongovernmental constraints.

AB 139 establishes new criteria for evaluating the needs of the homeless population. The analysis must assess the capacity to accommodate the most recent homeless point-in-time count by comparing that to the number of shelter beds available on a year-round and seasonal basis, the number of beds that go unused on an average monthly basis, and the percentage of those in emergency shelters that move to permanent housing. The bill also establishes new parking standards for emergency shelters. Lastly, the bill requires the housing element to include a review of the effectiveness of the housing element goals, policies, and related actions to meeting the jurisdiction’s special housing needs.

Standardization of Sites Inventory Analysis and Reporting: Senate Bill 6 (2019)
SB 6 requires jurisdictions to electronically submit the sites inventory to HCD starting in 2021. HCD will then provide the data to the Department of General Services to create and publish a database of local sites inventories along with a database of state lands declared excess. To facilitate this process, HCD is required to create a standardized form for the sites inventory. The process is already under way and will go into effect for the City’s sixth cycle Housing Element update.

Safety Element to Address Adaptation and Resiliency: Senate Bill 1035 (2018)
SB 1035 requires the safety element to be reviewed and revised to include any new information on fire hazards, flood hazards, and climate adaptation and resiliency strategies. The update must occur upon each revision of the housing element or local hazard mitigation plan.

Evacuation Routes: Senate Bill 99 and AB 747 (2019)
Two recent bills, AB 747 and SB 99, require safety elements to be updated to identify evacuation routes and their capacity, safety, and viability under a range of emergency scenarios and to include information identifying residential developments in hazard areas that do not have at least two emergency evacuation routes.