



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Amy J. Bodek, AICP
Director

May 22, 2018

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**HEARING ON THE ACCESSORY DWELLING UNITS ORDINANCE
PROJECT NO. 2017-004091
ADVANCE PLANNING CASE NO. RPPL2017006692
(ALL SUPERVISORIAL DISTRICTS) (3-VOTES)**

SUBJECT

The recommended action is to approve the Accessory Dwelling Units (ADU) Ordinance. The ordinance implements California Government Code Section 65852.2 by providing case processing procedures and development standards for ADUs.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

1. Find that the adoption of the ordinance is exempt from California Environmental Quality Act (CEQA) reporting requirements pursuant to Section 21080.17 of the Public Resources Code;
2. Indicate the intent to approve the ADU Ordinance (RPPL2017006692), as recommended by the Regional Planning Commission (Commission), and with modifications as proposed by staff; and
3. Instruct County Counsel to prepare the necessary final documents for the ADU Ordinance and bring them back to the Board of Supervisors (Board) for consideration.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

An accessory dwelling unit, commonly known as an ADU, granny flat, or second unit, is a dwelling unit with a full kitchen and bathroom that is accessory to a primary single-family residence. ADUs can only be established on properties where there is an existing or proposed primary single-family

home. They are usually lower in cost to produce than a new single-family home because additional land purchase is not necessary, and they are typically smaller in size than the primary unit. The additional unit also can provide homeowners with rental income and additional space for household members, caregivers, etc.

Both the County of Los Angeles (County) and State of California (State) have recognized the role of ADUs in addressing the housing affordability crisis. In 2016, as part of the County's Homeless Initiative Strategy F4, the Board directed the Department of Regional Planning (DRP) to expedite "review and approval processes to facilitate the development of second units on single-family lots in the unincorporated areas of the County."

On January 1, 2017, after the passage of Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, new State laws took effect which nullifies the County's 2004 Second Unit Ordinance and the 2015 Living Suites Ordinance. The State laws changed the official name of these dwelling units from "second" to "accessory" to emphasize their accessory nature; placed limits on the parking and setbacks local jurisdictions could require for ADUs; and exempted ADUs created from conversions of "existing space" in single-family homes and accessory structures from most local development standards. The latter provided a pathway to legalizing existing unpermitted ADUs, so that they can be inspected for life safety issues and preserved as housing.

State law allows local jurisdictions to designate areas where ADUs may be permitted and to impose certain local development standards, such as height limits, that are not established by the State.

The County's draft ADU Ordinance complies with State law, and also addresses community concerns over the potential impacts of additional development. The following is a summary of the major policies of the draft ADU Ordinance, which is included as Attachment 2.

Applicability

Under State law, ADUs are a permitted accessory use to a primary single-family home wherever single-family homes are permitted by right, with the following local exceptions in the County's draft ADU Ordinance:

- Limited access within Very High Fire Hazard Severity Zones (VHFHSZs): State law allows local jurisdictions to identify areas where ADUs are not appropriate due to safety concerns. The County's draft ADU Ordinance prohibits the construction of new ADUs and the conversion of existing spaces to ADUs within VHFHSZs with substandard roads and/or limited access.

At its hearing on January 24, 2018, the Commission discussed how to limit ADUs in VHFHSZs in subdivisions with a single means of access. The Commission discussed allowing ADUs in such scenarios if the number of single-family lots that have been approved is less than the maximum of 75, per Section 21.24.020. However, due to provisions in State law that specify that ADUs are accessory structures that do not count towards dwelling unit density, staff alternatively recommends prohibiting ADUs on lots in VHFHSZs with a single means of access to a highway. This change is reflected in Attachment 2.

- Within 200 feet of publicly dedicated open space in any Fire Hazard Severity Zone.

Size

In accordance with State law, the County's draft ADU Ordinance permits ADUs that range in size from 150 square feet to 1,200 square feet, with the following local exceptions:

- Where there are conflicting floor area requirements in Community Standards Districts (CSDs) and specific plan regulations;
- In Hillside Management Areas, ADUs are limited in floor area and distance from the primary residence.

Maximum Height

State law is silent on height limits for ADUs. The County's draft ADU Ordinance permits a maximum height limit for ADUs of 25 feet, with the following exceptions:

- Where there are conflicting height requirements in CSDs and specific plan regulations;
- Near adopted scenic roads, ADUs are limited to a maximum height limit of 18 feet or the height of the primary residence, whichever is less; or
- Existing space conversions.

Parking

In accordance with State law, the County's draft ADU Ordinance does not require parking for ADUs that meet any of the following criteria:

- Located within a one-half-mile of public transit;
- Located in an architecturally and historically significant historic district;
- When the ADU is part of an existing primary residence or existing accessory structure;
- When on-street parking permits are required but not offered to the ADU occupant; or
- When there is a car share vehicle located within one block of the ADU.

In all other scenarios, one dedicated on-site parking space will be required for the ADU. The ordinance contains language clarifying that this parking may be provided on an existing driveway if the garage, carport or covered parking structure was demolished or rendered unusable in conjunction with the construction of an ADU.

Setbacks

State law prohibits a setback for garage and other "existing space" conversions, and limits the setbacks for an ADU constructed over a garage to five feet. The County's draft ADU Ordinance implements these provisions by requiring a five-foot setback for all ADUs that are not created entirely within an existing space.

Prohibition on Short-Term Rentals

The proposed ADU Ordinance prohibits the rental of ADUs for periods of less than 30 consecutive days. To enforce this provision, staff recommends the addition of a requirement to record a covenant to this effect, which is reflected in Attachment 2.

Implementation of Strategic Plan Goals

The ADU Ordinance supports the County's Strategic Plan, Goal I: Make Investments that Transform Lives; Strategy I.1.5: Increase Affordable Housing Throughout L.A. County, by providing and preserving a cost-efficient source of quality housing in single-family neighborhoods.

FISCAL IMPACT/FINANCING

Adoption of the ADU Ordinance will not result in any significant new costs to DRP or other County departments and agencies. The cost of reviewing ADUs will be recovered by applicant fees.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Government Code Section 65852.2 was enacted in 1982 and has been amended several times to encourage the creation of second/ADUs while maintaining some flexibility for local governments to regulate ADUs via ordinance. State standards apply if local jurisdictions do not adopt an implementing ordinance in accordance with State law.

In 2003, State law established a ministerial review process for ADUs in residential zones; provided that an ADU does not count towards residential density calculations; and established the maximum development standards by which local jurisdictions could regulate ADUs if they did not adopt a local ordinance.

In recognition of the State's housing affordability crisis, and the relatively small number of ADUs permitted under existing ordinances, the State Legislature made changes to the law to further reduce local zoning barriers to ADUs. These changes took effect on January 1, 2017.

Between 2004, when the County adopted its Second Unit Ordinance, and the end of 2016, DRP approved 663 second units. This is a small number compared to the tens of thousands of single-family zoned lots in the unincorporated areas. In 2017, DRP approved 345 applications under the less restrictive State standards, demonstrating the potential of more flexible regulations to result in additional ADUs.

The proposed ADU Ordinance will reduce regulatory barriers and facilitate the production of lower-cost housing consistent with Policy 1.2 and Policy 3.1 of the County's adopted and State-certified Housing Element.

The Commission conducted public hearings on the ADU Ordinance on November 29, 2017, and January 24, 2018. A public hearing before the Board is required pursuant to Section 22.232.040.B.1 of the County Code. Required notice has been given pursuant to the procedures and requirements set forth in Section 22.222.180 of the County Code. In addition, over 600 members of the public have been notified via email. The notification list is provided in Attachment 6.

ENVIRONMENTAL DOCUMENTATION

The project has been determined to be exempt from CEQA reporting requirements pursuant to Section 21080.17 of the Public Resources Code, which states, "This division does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code."

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the proposed ADU Ordinance will not significantly impact County services.

Should you have any questions, please contact Connie Chung or Ayala Scott in the General Plan Development and Housing Section at (213) 974-6417, or cchung@planning.lacounty.gov and ascott@planning.lacounty.gov.

The Honorable Board of Supervisors

5/22/2018

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Amy Bodek". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Amy J. Bodek, AICP

Director

AJB:MC:AS:ems

c: Executive Office, Board of Supervisors
Arts Commission
Chief Executive Office
Community Development Commission
County Counsel
Fire Department
Parks and Recreation
Public Health
Public Library
Public Works
Sheriff Department

**COUNTY OF LOS ANGELES
DEPARTMENT OF REGIONAL PLANNING**

PROJECT SUMMARY

PROJECT DESCRIPTION: Proposed Accessory Dwelling Units (ADU) Ordinance

REQUEST: Approval and adoption of the ADU Ordinance.

LOCATION: Countywide (unincorporated areas)

STAFF CONTACT: Ms. Connie Chung, Ms. Ayala Scott at (213) 974-6417

RPC HEARING DATE(S): November 29, 2017 and January 24, 2018

RPC RECOMMENDATION: Approval and recommendation to the Board to consider adoption of the ADU Ordinance.

MEMBERS VOTING AYE: Commissioners Louie, Moon, Smith, Shell, and Modugno,

MEMBERS VOTING NAY: None

MEMBERS ABSENT: None

MEMBERS ABSTAINING: None

KEY ISSUES: The proposed ADU Ordinance consists of development standards and case processing procedures for ADUs. The ordinance reflects recent changes in State law, pursuant to Section 65852.2 of the California Government Code.

If the County does not adopt an ordinance regulating ADUs in compliance with State law, the County must process ADU applications under State standards and cannot designate locally-appropriate areas or development standards for ADUs.

MAJOR POINTS FOR: The proposed ADU Ordinance complies with State law and provides additional lower-cost housing options while protecting public safety, community character and natural resources.

MAJOR POINTS AGAINST:

The Ordinance would not entirely prohibit ADUs in fire hazard areas, where communities are concerned over the potential impacts to emergency services and evacuation.

The Ordinance does not provide protections for the impact of ADUs on existing or proposed animal keeping facilities. Public Health Code requires certain separations between animal keeping facilities and habitable structures. An ADU could restrict a neighboring property's ability to maintain or establish an animal keeping facility due to setback requirements.

ORDINANCE NO. _____

An ordinance amending Title 22 (Planning and Zoning) of the Los Angeles County Code related to accessory dwelling units.

The Board of Supervisors of the County of Los Angeles hereby ordains as follows:

SECTION 1. Section 22.14.010 is hereby amended to read as follows:

Section 22.14.010 (A)

...

Accessory dwelling unit. A dwelling unit with independent exterior access that is either attached to, located within the existing living area, or detached from and located on the same lot as a single-family residence. This term includes a senior citizen residence, a second unit, and an accessory dwelling unit approved prior to [date], provided the unit complies with the provisions of Section 22.140.630 (Accessory Dwelling Units). This term also includes a manufactured home, as defined in Section 18007 of the California Health and Safety Code. An accessory dwelling unit is accessory to a primary single-family residence; does not count toward the allowable density for the lot upon which it is located; is a residential use that is consistent with the existing general plan and zoning designation for the lot; and includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

...

SECTION 2. Section 22.14.190 is hereby amended to read as follows:

Section 22.14.190 (S)

...

Second unit. See "Accessory dwelling unit." ~~A dwelling unit, as authorized by Section 22.140.550 (Second Units), that is either attached to or located on the same lot as an existing single-family residence. This term includes a manufactured home, as defined in Section 18007 of the California Health and Safety Code, and an efficiency living unit, as described in Section 11.20.370 in Title 11 (Health and Safety Code) of the County Code. The following terms are defined solely for the purpose of Section 22.140.550 (Second Units):~~

~~*Building site.* Building site shall have the same term as in Section 21.08.040 (Building Site) in Title 21 of the County Code.~~

~~*Rural area.* An area for which the maximum density permitted by this Title 22 or by the General Plan, whichever is less, is one dwelling unit or less per acre.~~

~~Urban area. An area for which the maximum density permitted by this Title 22 or by the General Plan, whichever is less, is greater than one dwelling unit per acre.~~

...

Senior citizen residence. See "Accessory dwelling unit."

...

SECTION 3. Section 22.14.200 is hereby amended to read as follows:

...

Section 22.14.200 (T)

Two-family residence. A building containing two dwelling units, other than a single-family residence with an attached ~~second~~ accessory dwelling unit. This term includes "duplex."

...

SECTION 4. Section 22.16.030 is hereby amended to read as follows:

22.16.030 Land Use Regulations for Zones A-1, A-2, O-S, R-R, and W

...

2. Accessory Uses. Table 22.16.030-C, below, identifies the permit or review required to establish each accessory use.

TABLE 22.16.030-C:ACCESSORY USE REGULATIONS FOR AGRICULTURAL, OPEN SPACE, RESORT AND RECREATION, AND WATERSHED ZONES						
	A-1	A-2	O-S	R-R	W	Additional Regulations
...						
Accessory dwelling units	SPR	SPR	-	-	-	Section 22.140.630
...						
Second units						
<i>In compliance with Section 22.140.540.D.1</i>	SPR	SPR	-	-	-	Section 22.140.540
<i>In compliance with Section 22.140.540.D.2</i>	CUP	CUP	-	-	-	Section 22.140.540
...						

SECTION 5. Section 22.18.030 is hereby amended to read as follows:

22.18.030 Land Use Regulations for Zones R-A, R-1, R-2, R-3, R-4, and R-5

...

2. Accessory Uses. Table 22.18.030-C, below, identifies the permit or review required to establish each accessory use.

TABLE 22.18.030-C: ACCESSORY USE REGULATIONS FOR RESIDENTIAL ZONES								
	R-A	R-1	R-2	R-3	R-4	R-5	Additional Regulations	
...								
Accessory dwelling units	SPR	SPR	SPR	SPR	SPR	-	Section 22.140.630	
...								
Second units								
<i>In compliance with Section 22.140.540.D.1</i>	SPR	SPR	SPR	SPR	SPR	-	Section 22.140.540	
<i>In compliance with Section 22.140.540.D.2</i>	CUP	CUP	CUP	CUP	CUP	-	Section 22.140.540	
...								

...

SECTION 6. Section 22.18.060 is hereby amended to read as follows:

22.18.060 Development Standards and Regulations for Zone RPD

...

H. ~~Second Units~~ Accessory dwelling units. ~~Second~~ Accessory dwelling units within an existing planned residential development are subject to Section 22.140.~~6540~~ (~~Second~~ Accessory Dwelling Units).

SECTION 7. Section 22.24.030 is hereby amended to read as follows:

22.24.030 Land Use Regulations for Rural Zones

...

- 3. **Accessory Uses.** Table 22.24.030-C, below, identifies the permit or review required to establish each accessory use:

TABLE 22.24.030-C:ACCESSORY USE REGULATIONS FOR RURAL ZONES			
	C-RU	MXD-RU	Additional Regulations
	...		
<u>Accessory dwelling units</u>	SPR	-	<u>Section 22.140.630</u>
	...		

...

SECTION 8. Section 22.46.030 is hereby amended to read as follows:

22.46.030 Administration

Specific Plans and associated regulations shall be administered in accordance with Article 8, Chapter 3, Division 1, Title 7 and other applicable provisions of the California Government Code. Such plans and regulations may reference existing provisions and procedures of this Title 22 or they may develop different administrative procedures to use in the implementation of the Specific Plan. Except as otherwise expressly provided in a Specific Plan, property may be used for any purpose and subject to all of the standards and requirements of the basic zone. Where the regulations of a Specific Plan differ from the provisions of the basic zone, with the exception of qualified projects allowed by Chapter 22.120 (Density Bonuses and Affordable Housing Incentives) and Chapter 22.166 (Housing Permits), such regulations shall supersede the provisions of the basic zone as specified in the Specific Plan. Specific Plan regulations shall apply to accessory dwelling units as follows:

- A. Specific Plan regulations shall only apply to accessory dwelling units not described in Section 22.140.630.G.3.a.(1) and 22.140.630.G.3.a.(2).
- B. Where the regulations in Section 22.140.630 (Accessory Dwelling Units) are contrary to the provisions in a Specific Plan regulating the same matter, the provisions in Section 22.140.630 shall prevail, except for Section 22.140.630.G.2 (Maximum Floor Area) and Section 22.140.630.G.3 (Height).

...

SECTION 9. Section 22.102.030 is hereby amended to read as follows:

22.102.030 Exemptions

...

B. Additions or modifications to existing residences; ~~provided, however, that such additions or modifications do not increase the number of families that can be housed in said residences.~~

...

SECTION 10. Section 22.110.030 is hereby amended to read as follows:

22.110.030 Accessory Buildings

The following accessory buildings are permitted in required yards:

...

C. **Accessory Dwelling Units in Rear and Side Yards.** ~~Accessory dwelling units may be used within required rear and side yards as provided in Section 22.140.630.~~

D.C. **Other Accessory Buildings in Rear Yards.** Other one-story accessory buildings permitted in the zone, excluding guest houses or any other building designed or used for living or sleeping purposes, may be used within a required rear yard, provided that:

...

E.D. **Replacement of Open Space.** The Director may modify Subsection D.3, above, and approve buildings or other roofed structures covering an area in excess of 50 percent of a required rear yard, provided that:

...

SECTION 11. Section 22.112.060 is hereby amended to read as follows:

22.112.060 Required Parking Spaces

...

A. Required Parking Spaces. Table 22.112.060-A, below, identifies the minimum number of parking spaces required for each use.

TABLE 22.112.060-A:MINIMUM REQUIRED PARKING SPACES	
<i>Use</i>	<i>Number of Spaces</i>
...	
Residential uses ⁴	
Accessory dwelling units ^{10,11}	1 uncovered standard space per unit
...	

TABLE 22.112.060-A:MINIMUM REQUIRED PARKING SPACES	
<i>Use</i>	<i>Number of Spaces</i>
Second units ¹⁰	1 standard space per second unit with fewer than two bedrooms or 2 standard spaces per second unit with two or more bedrooms.
Single-family residences ¹¹	2 covered standard spaces per unit.
...	
<p><u>10: When a garage, carport or covered parking structure is demolished or rendered unusable in conjunction with the construction of an accessory dwelling unit, any parking spaces required for the primary residence may be provided as covered spaces, uncovered spaces, or tandem spaces. A parking space for a second unit may be located in tandem with a space serving the existing single-family residence if the design is necessary to provide the required number of spaces for both units, and if either space may be accessed from the driveway without moving an automobile parked in the other space. In addition, notwithstanding the parking requirements for single-family dwelling units specified above, if tandem parking is provided, one of the spaces for the single-family residence may be uncovered.</u></p> <p><u>11: See additional ADU parking provisions in Section 22.140.630.G.6.</u></p>	

...

SECTION 12. Section 22.112.040 is hereby amended to read as follows:

22.112.040 General Standards and Measurements

...

C. **Residential and Agricultural Zones.** Except as otherwise specified in this Title 22, the following standards apply in all Residential and Agricultural Zones:

...

SECTION 13. Section 22.140.290 is hereby amended to read as follows:

22.140.290 Home-Based Occupations

...

C. **Development Standards.** Home-based occupations shall comply with the following standards:

1. The home-based occupation shall be demonstrably secondary and incidental to the ~~primary~~ dwelling unit and shall not change the character and appearance of the dwelling unit.

...

5. Only one home-based occupation is permitted per dwelling unit. A primary dwelling unit may not be used for a home-based occupation if there is a home-based occupation in an accessory dwelling unit on the same lot.

...

SECTION 14. The Section headings for Chapter 22.140 are hereby amended to read as follows:

Sections:

...

Section 22.140.530 Scrap Metal Processing Yards

Section 22.140.540 ~~Second Units (Reserved)~~

Section 22.140.630 Accessory Dwelling Units

...

SECTION 15. Section 22.140.540 is hereby amended to read as follows:

22.140.540 Second Units (Reserved)

~~A. Purpose. This Section is to provide for the development of second units in Residential and Agricultural Zones with appropriate development restrictions, pursuant to Section 65852.2 of the California Government Code. Nothing in this Section shall preclude the development of multiple single-family residences pursuant to Title 21 (Subdivisions) of the County Code in lieu of and as an alternative to the procedures set forth in this Section and Section 65852.2 of the California Government Code.~~

~~B. Definitions. Specific terms used in this Section are defined in Division 2 (Definitions) under "Second units."~~

~~C. Applicability.~~

~~1. This Section applies to second units in all zones where permitted.~~

~~2. All regulations of the zone and any supplemental district or specific plan in which the second unit is located shall apply, except as follows:~~

~~a. Where the regulations within this Section are contrary to regulations established by any zone, district, or specific plan, the more restrictive regulation shall apply;~~

~~b. Notwithstanding Subsection C.2.a, above, the parking requirements in Chapter 22.112 (Parking) for second units shall supersede those regulations established by any zone, district, or specific plan;~~

~~c. No zone, district, or specific plan regulation that requires discretionary review or hearing to establish a second unit shall apply; and~~

~~d. No zone, district, or specific plan regulation that prohibits a second unit shall apply.~~

~~D. Prohibited Areas. A second unit is prohibited if any part of its building site is located:~~

- ~~1. Within a Significant Ecological Area;~~
- ~~2. On land with a natural slope of 25 percent or more; or~~
- ~~3. Within the boundaries of a noise zone, as described in Chapter 22.76 (Noise Insulation Program).~~

~~**E. Application Requirements.** A second unit is permitted in any area that is not prohibited under Subsection D, above, provided that the applicant obtains one of the following:~~

- ~~1. **Ministerial Site Plan Review.** A Ministerial Site Plan Review (Chapter 22.186) application is required if the second unit's building site is located:
 - ~~a. Outside of a Very High Fire Hazard Severity Zone, as defined in Section 223-V of Title 32 (Fire Code) of the County Code; and~~
 - ~~b. Within an area that is served by a public sewer system; and~~
 - ~~c. Within an area that is served by a public water system; or~~~~
- ~~2. **Conditional Use Permit.** A Conditional Use Permit (Chapter 22.158) application is required if the second unit's building site does not meet all of the location criteria described in Subsection E.1, above.~~

~~**F. Additional Application Materials.**~~

~~1. **Ministerial Site Plan Review.** A second unit that requires a Ministerial Site Plan Review (Chapter 22.186) application shall submit the following materials:~~

- ~~a. Verification by public sewer and public water purveyors, that the sewer and water facilities in the area are adequate to meet the demands of the second unit and all other properties served by the same sewer and water facilities.~~
- ~~b. If any portion of an exterior wall of the first story of the second unit will be located more than 150 feet from fire apparatus access, verification by the Fire Department that there exists a fire apparatus access road, as provided in Section 902.2.1 of Title 32 (Fire Code) of the County Code.~~
- ~~c. Evidence that the applicant is an owner occupant of the single family residence located on the same lot on which the second unit is proposed.~~

~~2. **Conditional Use Permit.** A second unit that requires a Conditional Use Permit (Chapter 22.158) application shall submit the following materials:~~

- ~~a. **Application within a Very High Fire Hazard Severity Zone.** For a proposed second unit in a Very High Fire Hazard Severity Zone:
 - ~~i. Preliminary verification, with conditions as applicable, by the Departments of Fire and Public Works that the existing single family residence and second unit will be adequately protected against fire hazard; and~~~~

ii. ~~For a second unit within 200 feet of a nature preserve, wildlife habitat, park, forest, or similar area, owned by a public agency or non-profit organization, conceptual approval by the Fire Department of a fuel modification plan that does not extend into these areas.~~

b. ~~Application in Area with No Public Sewer System.~~ For a proposed second unit within an area that is not served by a public sewer system, preliminary verification, with conditions as applicable, by the Department of Public Health that a private sewer system may be installed for the second unit in accordance with the guidelines of that department.

c. ~~Application in Area with No Public Water System.~~ For a proposed second unit within an area that is not served by a public water system, preliminary verification, with conditions as applicable, by the Fire Department, Public Health, and Public Works that the existing or proposed water supply to the site will be adequate to serve, both the existing single family residence and the second unit.

d. ~~All Applications.~~ An assumption of risk, waiver of liability, and covenant not to sue by the applicant and the property owner, if different, and their successors for the County, its agents, officers, and employees, for damages resulting from approval of, or imposition of conditions on, a Conditional Use Permit pursuant to this Section.

G. Use Restrictions.

1. ~~A second unit may be developed on a lot that contains not more than one single-family residence.~~

2. ~~No more than one second unit is permitted on any lot.~~

3. ~~A second unit may not be separately sold from the primary single-family residence on the same lot, but it may be used as a rental unit.~~

4. ~~A second unit within an Equestrian District shall be located at least 35 feet from any side or rear property line, unless the unit is attached to and entirely within the outside horizontal dimensions of an existing single-family residence.~~

5. ~~A second unit shall not be permitted on a lot where either of the following exists:~~

a. ~~A mobilehome or residence for use by a caretaker and his immediate family; or~~

b. ~~A guest house.~~

H. ~~Development Standards.~~ A second unit shall comply with the following development standards:

1. ~~Single-Family Residence Standards.~~ A second unit shall comply with Section 22.140.580 (Single-Family Residences), except Section 22.140.580.B (Minimum Building Width) and Section 22.140.580.C (Minimum Floor Area) shall be superseded by this Subsection H.

2. ~~Street Frontage.~~ The lot on which the second unit is located shall take vehicular access from a street or highway with a right-of-way of at least 50 feet in width.

3. ~~Minimum Floor Area.~~ The minimum floor area shall be 220 square feet.

4. ~~Maximum Floor Area.~~ The maximum floor area shall vary depending on the location and size of the lot as follows:

a. In urban areas:

- i. ~~600 square feet, for lots less than 6,000 square feet in size.~~
- ii. ~~800 square feet, for lots between 6,000 square feet and 7,499 square feet in size.~~
- iii. ~~1,000 square feet, for lots between 7,500 square feet and 9,999 square feet in size.~~
- iv. ~~1,200 square feet, for lots 10,000 square feet or larger in size.~~

b. In rural areas: ~~1,200 square feet.~~

~~5. **Height.** The maximum height of a second unit shall be as follows:~~

a. In urban areas:

- i. ~~17 feet for detached units.~~
- ii. ~~20 feet for attached units, with the following exceptions: (1) Any portion of the structure that is set back more than 20 feet from the front property line may have an additional foot in height for every additional foot of setback, up to a maximum of 35 feet in height; and~~
~~(2) Any portion of the structure that is set back more than five feet from the side property line may have an additional foot in height for every additional foot of setback, up to a maximum of 35 feet in height;~~

b. ~~In rural areas: 35 feet.~~

~~6. **Minimum Lot Size.** The minimum size of a lot on which a second unit is developed shall be as follows:~~

- a. ~~In urban areas, a net area of 5,000 square feet, except that this standard shall not apply to an attached second unit that is added as a second story and is entirely within the outside horizontal dimensions of the existing structure.~~
- b. ~~In rural areas, a gross area of one acre.~~

~~7. **Maximum Lot Coverage—Urban Areas.** In urban areas, the maximum lot coverage for all buildings shall be 40 percent.~~

~~8. **Required Yards—Rural Areas.** In rural areas, each lot on which a second unit is developed shall have front, side, and rear yards of not less than 35 feet in depth.~~

~~I. **Covenant.** Any application for a second unit shall be submitted only by the owner-occupant of the single family residence on the property where the second unit is proposed. Thereafter, either the single family residence or the second unit shall be owner-occupied in perpetuity. A covenant shall be filed with the Registrar-Recorder/County Clerk that states the owner-occupant agrees to the terms and also states that any violation thereof shall be subject to Enforcement Procedures (Chapter 22.242). This covenant shall run with the land.~~

~~J. **Modification.** The requirements in Subsection H, above, may be modified upon approval of a Variance (Chapter 22.194) application.~~

...

SECTION 16. Section 22.140.630 is hereby added as follows:

22.140. 630 Accessory Dwelling Units

A. Purpose. This Section is to provide for the development of accessory dwelling units with appropriate development restrictions, pursuant to Section 65852.2 of the California Government Code.

B. Applicability.

1. The provisions of this Section shall supersede other Title 22 provisions regulating the same matter, except as follows:
 - a. Community Standards District regulations shall apply as specified in Section 22.300.020.B.2 (Accessory Dwelling Units).
 - b. Specific Plan regulations shall apply as specified in Section 22.46.030 (Administration).
 - c. This Section shall not apply to the Coastal Zone, where the accessory dwelling unit regulations in the applicable Local Coastal Program shall control.

C. Permitted Areas. Accessory dwelling units are permitted where single-family residences are permitted with a Ministerial Site Plan Review (Chapter 22.186), except in the following areas:

1. Very High Fire Hazard Severity Zones, where a lot:
 - a. Has a single means of access to a highway; or
 - b. Does not front a County-approved vehicular roadway that is at least 24 feet in unobstructed width; or
 - c. Does not front a County-approved vehicular roadway that is 24 feet wide as measured from the subject property until it reaches the nearest publicly-maintained road; or
 - d. Contains a Hillside Management Area and does not front a County-approved vehicular roadway that is paved with concrete or asphalt;
2. In any Fire Hazard Severity Zone, within 200 feet of publicly dedicated open space;
3. The Topanga subarea of the Santa Monica Mountains North Area Community Standards District (Chapter 22.336);

4. The unincorporated area north and west of the area described in subsection (3) above, between Old Topanga Canyon Road, the City of Calabasas and the City of Los Angeles;
5. Lots that are only accessible from Lobo Canyon Road or Triunfo Canyon Road.

D. Application Requirements. An approved Ministerial Site Plan Review (Chapter 22.186) is required to establish an accessory dwelling unit that is located in a permitted area as provided in Subsection C, above.

E. Timeline for Decision. Complete applications for an accessory dwelling unit shall be approved or denied by the Department within 120 days.

F. Use Restrictions.

1. An accessory dwelling unit may be developed if the lot:
 - a. Contains at least one legally established detached primary single-family residence; or
 - b. Will have at least one new detached primary single-family residence permitted concurrently with the accessory dwelling unit.
2. No more than one accessory dwelling unit is permitted on any lot.
3. An accessory dwelling unit shall not be separately sold from the primary single-family residence on the same lot.
4. An accessory dwelling unit may be used as a rental unit for a period of at least 30 consecutive days. The applicant shall record in the office of the county recorder, an agreement to this effect as a covenant running with the land for the benefit of the County of Los Angeles, and the covenant shall also declare that any violation thereof shall be subject to the enforcement procedures of Chapter 22.242 (Enforcement Procedures). Recordation of the covenant must occur prior to issuance of a certificate of occupancy by the County.
5. An accessory dwelling unit shall not be permitted on a lot where there exists a habitable accessory structure, excluding a pool house.
6. An accessory dwelling unit shall not be used for a home-based occupation if there is a home-based occupation in the primary single-family residence.

G. Development Standards.

1. **Single-Family Residence Standards.** An accessory dwelling unit shall comply with Section 22.140.580 (Single-Family Residences), except Section 22.140.580.B (Minimum Building Width) and Section 22.140.580.C (Minimum Floor Area) shall be superseded by this Subsection G.
2. **Floor Area.**
 - a. An accessory dwelling unit shall have a minimum floor area of 150 square feet, with one habitable room with a minimum floor area of 70 square feet.
 - b. The maximum floor area for an accessory dwelling unit shall be 1,200 square feet, except:
 - i. For attached accessory dwelling units, the additional floor area shall not exceed 50 percent of the primary habitable area at the time of application submittal, with a maximum increase in floor area of 1,200 square feet.
 - ii. Within a Hillside Management Area, the additional floor area for an attached or detached accessory dwelling unit shall not exceed 50 percent of the primary habitable area at the time of application submittal, with a maximum floor area of 800 square feet.
3. **Height.** The maximum height of an accessory dwelling unit shall be:
 - a. 25 feet, except:
 - i. For accessory dwelling units created entirely within the existing space¹ of an accessory structure, the maximum height shall be equal to the maximum height of the accessory structure.
 - ii. For accessory dwelling units created entirely within the existing space of a primary single-family residence, the maximum height shall be equal to the height of the primary residence.
 - iii. For accessory dwelling units not described in subsection (1) or (2) above, and within 200 feet of an adopted route with scenic qualities,

¹ For the purposes of this section, "existing space" refers to an ADU created entirely within the building envelope of the primary single-family residence or accessory structure that was legally established prior to the accessory dwelling unit.

Scenic Route, Scenic Drive, or Scenic Highway, the maximum height shall be equal to the height of the primary single-family residence, or 18 feet, whichever is less.

4. Distance From Primary Residence. The distance between the detached accessory dwelling unit and the primary single-family residence shall be as follows:

- a. A minimum of 6 feet; and,
- b. In Hillside Management Areas, a maximum of 25 feet, unless the accessory dwelling unit is created entirely within the existing space of an accessory structure.

5. Required Yards. The minimum side and rear yard depths of an accessory dwelling unit shall be as follows:

- a. For accessory dwelling units created entirely within the existing space of a primary single-family residence or accessory structure, no yards are required.
- b. For accessory dwelling units not created entirely within the existing space of a primary single-family residence or accessory structure, the yards for the accessory dwelling unit shall be five feet.
- c. Accessory dwelling units shall not encroach into the required front yard of the primary single-family residence.

6. Parking. Parking shall be provided in accordance with Chapter 22.112 (Parking), with the following exceptions:

- a. Parking for the accessory dwelling unit shall not be required in any of the following instances, pursuant to California Government Code Section 65852.2(d):
 - i. The accessory dwelling unit is located within one-half mile of public transit.
 - ii. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - iii. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

- iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- v. When there is a car share vehicle located within one block of the accessory dwelling unit.
- b. If a garage, carport or covered parking structure is demolished or rendered unusable in conjunction with the construction of an accessory dwelling unit, preexisting designated vehicular access to the garage, carport or covered parking structure from the street shall not be considered part of the front yard for the purposes of this subsection.

H. Release of Owner-Occupancy Covenant. The County of Los Angeles releases its interest in any covenant for an accessory dwelling unit that required owner-occupancy in perpetuity of either the primary single-family residence or the accessory dwelling unit that is located on the same lot, recorded in the office of the county recorder, running with the land for the benefit of the County of Los Angeles.

SECTION 17. Section 22.172.020 is hereby amended to read as follows:

22.172.020 Regulations Applicable

...

2. Additions may be made to a building nonconforming due to use and/or standards which is designed for and used as a residence without requiring any additional parking space or driveway paving; provided, that such additions neither increase the number of dwelling units in such structure, nor occupy the only portion of an area which can be used for required parking space or access thereto. Notwithstanding the foregoing, a ~~second~~ an accessory dwelling unit in compliance with Chapter ~~22.106.540~~ 22.140.630 (~~Second Units~~) (Accessory Dwelling Units) may be developed on a lot containing a single-family residence nonconforming due to standards, provided that where the single-family residence is nonconforming due to parking standards, sufficient parking shall be provided to ensure that both the single-family residence and the ~~second~~ accessory dwelling unit comply with the applicable provisions of Chapter 22.112 (Parking) and Section 22.140.630.G.6 (Parking).

...

SECTION 18. Section 22.172.050 is hereby amended to read as follows:

22.172.050 Termination Conditions and Time Limits

...

D. **Exception.** The termination periods enumerated in this Section shall not apply to one-family and two-family dwellings, or to accessory dwelling units.

...

SECTION 19. Section 22.300.020 is hereby amended to read as follows:

...

B. Additional Regulations.

1. Density Bonuses and Affordable Housing. Qualified projects allowed by Chapter 22.120 (Density Bonuses and Affordable Housing Incentives) and Chapter 22.166 (Housing Permits) shall supersede any contrary provisions as specified in any CSD.

2. Accessory Dwelling Units. CSD regulations shall apply to accessory dwelling units as follows:

a. CSD regulations shall only apply to accessory dwelling units not described in Section 22.140.630.G.3.a.(1) and 22.140.630.G.3.a.(2).

b. Where the regulations in Section 22.140.630 (Accessory Dwelling Units) are contrary to the provisions in a CSD regulating the same matter, the provisions in Section 22.140.630 shall prevail, except for Section 22.140.630.G.2 (Maximum Floor Area) and Section 22.140.630.G.3 (Height).

...

**SUMMARY OF PROCEEDINGS
REGIONAL PLANNING COMMISSION**

**ACCESSORY DWELLING UNITS ORDINANCE
PROJECT NO. 2017-004091-(1-5)**

November 29, 2017

At the public hearing on November 29, 2017, staff provided a historical overview of accessory dwelling units (ADUs) in the unincorporated areas of Los Angeles County, where ADUs have been permitted since 2004 as “second units.” Staff presented recent changes to State law that limit local regulations on ADUs, such as parking requirements, setbacks and conversions of existing spaces, such as garages to ADUs. These changes to State law nullified the County’s Second Unit Ordinance on January 1, 2017.

Staff introduced the draft Accessory Dwelling Units Ordinance, which implements and complies with current State law while also using the authority granted to local jurisdictions to designate areas where ADUs may be prohibited due to safety concerns. The draft ordinance also imposes local development standards as allowed by State law.

Discussion

Nine individuals testified at the hearing and nine comment letters were received. Highlights include: concerns regarding the impacts of ADUs on single-family neighborhood character, infrastructure, water, drainage, parking, traffic, and services, as well as overcrowding in fire-prone areas with limited access. Additional concerns were raised about the potential impact of the setbacks in the ADU Ordinance on horsekeeping. There was also an inquiry about whether Section 8 vouchers could be used in garage conversions, as well as a request for additional time to review the draft ordinance. One comment letter suggested ways to make the ordinance less restrictive and two other commenters expressed interest in building an ADU.

During the discussion, staff was directed to report back to the Commission on which ADU regulations are set by State law and which ones may be determined by local ordinances; the feasibility of allowing two ADUs on lots with alley frontage; how infrastructure for ADUs

will be provided; distancing requirements between horsekeeping structures and ADUs; how tenant protections and Section 8 requirements would apply to an ADU; and whether prefabricated or tiny homes could be allowed as ADUs.

The Commission continued the hearing to January 24, 2018.

January 24, 2018

At the public hearing on January 24, 2018, staff presented a report back on the issues raised at the November 29 hearing, as well as revisions to the draft ordinance. The revisions included a prohibition on ADUs in the Topanga community and areas along Triunfo Canyon Road and Lobo Canyon Road; a prohibition on ADUs on lots that contain Hillside Management Areas and do not front a paved road; a prohibition on short-term rentals of ADUs; and edits for clarity and consistency with Title 22. The Commission closed the public hearing and recommended the ADU ordinance to the Board of Supervisors for approval.

Discussion

Seven individuals testified at the hearing and eight comment letters were received. Two speakers spoke in support of ADUs. Others expressed concerns over the impacts of ADUs on services such as trash pickup, code enforcement, parking, infrastructure, water supply, and habitat, as well as fire hazards and emergency egress in areas with limited access. Speakers also raised concerns that Community Standards District and homeowner association regulations would be superseded by the ADU ordinance, and that the ordinance did not adequately protect horsekeeping rights. One commenter pointed to the need to protect public open space and conservation easements from fuel modification, and another comment letter expressed support for ADUs as a source of housing.

The Commission asked staff to clarify the ADU parking provisions in State law and which areas of the County would be impacted if the ordinance were to require ADU parking. There was also a discussion of how ADUs could be limited in subdivisions with a single means of access that are subject to a dwelling unit cap in fire-prone areas. The Commission discussed allowing ADUs in subdivisions where the number of approved single-family lots is below a cap of 75. Staff identified provisions in State law that specify that ADUs are accessory structures that do not count towards dwelling unit density.

Before closing the public hearing, the Commission directed staff to add the following provisions to the Accessory Dwelling Unit Ordinance: require ADU parking pursuant to California Government Code Section 65852.2(d); prohibit ADUs within 200 feet of public open space, if fuel modification is required; place a maximum height of 18 feet or the height of the primary residence, whichever is less, for ADUs in scenic roads; and prohibit ADUs in subdivisions that were subject to a cap of 75 units if the maximum number of single-family lots on a single means of access has been approved.

RESOLUTION

REGIONAL PLANNING COMMISSION

COUNTY OF LOS ANGELES

WHEREAS, the Regional Planning Commission of the County of Los Angeles has conducted a duly noticed public hearing on November 29, 2017 and January 24, 2018 to consider amendments to Title 22 (Zoning Ordinance) of the Los Angeles County Code establishing development standards and case processing procedures for accessory dwelling units (ADUs); and

WHEREAS, the Commission finds as follows:

1. Los Angeles County is facing a housing affordability crisis;
2. ADUs are a source of lower-cost housing in single family neighborhoods, and can provide rental income and/or additional living space for homeowners;
3. In 2016, the State Legislature passed and the Governor approved Assembly Bill 2299 (Chapter 735, Statutes of 2016), and Senate Bill 1069 (Chapter 720, Statutes of 2016), which amended Section 65852.2 of the Government Code and changes the requirements for local governments relating to ADUs;
4. State law provides that a local agency may adopt an ordinance that provides a ministerial approval for ADUs in areas zoned to allow single family or multifamily uses, subject to certain development standards;
5. The proposed ordinance implements State ADU law and provides for the ministerial approval of ADUs that meet applicable development standards in zones where single family uses are permitted through a ministerial process;
6. The proposed ordinance adds local policies that are within the scope of the State law, including height and size limits;
7. State law requires that local parking requirements for ADUs not exceed one parking space per unit or per bedroom, whichever is less;
8. State law prohibits local parking requirements for ADUs that meet any of the following criteria: located within a half-mile of public transit; located in an architecturally and historically significant historic district; when the ADU is part of an existing primary residence or existing accessory structure; when on-street parking permits are required but not offered to the ADU

occupant; or when there is a car share vehicle located within one block of the ADU;

9. The proposed ordinance requires one parking space for an ADU except where parking requirements are prohibited in State law;
10. State law allows local jurisdictions to designate areas where accessory dwelling units may be prohibited, based on health and safety risks;
11. The proposed ordinance protects public safety by prohibiting ADUs, including those created entirely within existing structures, in Very High Fire Hazard Severity Zones (VHFHSZs) where the lot is located within a subdivision subject to a 75 unit cap, with a single means of access to a highway; or does not front on a vehicular roadway that is at least 24 feet wide from the subject property to the nearest publicly-maintained street; or both contains Hillside Management Areas and does not front a County-approved vehicular roadway that is paved with concrete or asphalt;
12. The proposed ordinance also protects public safety by prohibiting ADUs, including those created entirely within existing structures, in the following areas: where zoning does not permit a single family use through a ministerial approval; and areas with known safety concerns, including fire and evacuation chokepoints, specifically in the Topanga subarea of the Santa Monica Mountains North Area Community Standards District; in the unincorporated area north and west of the Topanga subarea of the Santa Monica Mountains North Area Community Standards District, between Old Topanga Canyon Road, the City of Calabasas and the City of Los Angeles; and lots that are only accessible from Lobo Canyon Road or Triunfo Road;
13. The proposed ordinance protects natural resources by prohibiting ADUs within 200 feet of publicly dedicated open space, if fuel modification is required;
14. State law allows local jurisdictions to prohibit short-term rental of ADUs;
15. The proposed ordinance provides that an ADU may be used as a rental unit for a period of at least 30 consecutive days;
16. The proposed ordinance protects viewsheds by limiting the height of ADUs to 18 feet, or the height of the primary residence, whichever is less,

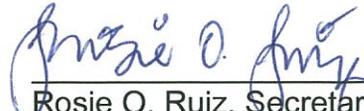
within 200 feet of adopted routes with scenic qualities, Scenic Routes, Scenic Drives and Scenic Highways;

17. State ADU law does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976, except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units;
18. The California Coastal Commission has certified Local Coastal Programs for the Santa Monica Mountains, Marina del Rey, and Santa Catalina Island;
19. The proposed ordinance does not apply to the Coastal Zone and defers to the LCP for accessory dwelling unit regulations;
20. The proposed ordinance promotes the construction of new ADUs and conversion of existing spaces to ADUs, while ensuring adequate access and compatibility with surrounding land uses;
21. The proposed ordinance is consistent with and is supportive of policies of the Los Angeles County General Plan, including the Housing Element, to promote more affordable housing and to efficiently utilize existing infrastructure and services; and
22. The proposed ordinance is statutorily exempt from the provisions of the California Environmental Quality Act as provided in Section 21080.17 of the Public Resources Code.

THEREFORE, BE IT RESOLVED THAT the Regional Planning Commission recommends to the Board of Supervisors of the County of Los Angeles as follows:

1. That the Board hold a public hearing to consider the proposed amendment to Title 22 of the Los Angeles County Code (the Zoning Ordinance), to regulate ADUs;
2. That the Board find that this project is exempt from the provisions of the California Environmental Quality Act; and
3. That the Board adopt an ordinance containing the proposed amendments to Title 22 (the Zoning Ordinance), and determine that they are compatible with and supportive of the goals and policies of the Los Angeles County General Plan.

I hereby certify that the foregoing resolution was adopted by a majority of the voting members of the Regional Planning Commission of the County of Los Angeles on January 24, 2018.



Rosie O. Ruiz, Secretary
Regional Planning Commission
County of Los Angeles

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By 

Jill Jones
Senior Deputy County Counsel
Property Division

Attachment 5
Government Code 65852.2



State of California

GOVERNMENT CODE

Section 65852.2

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

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

(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.

(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 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 use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached or located within the living area of the proposed or existing primary dwelling or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total 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 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.

(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 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 a 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, 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).

(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 shall be considered 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. 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, 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 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 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 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.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No 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 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.

(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 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) 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.

(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 the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in 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.

(B) For an accessory dwelling unit that is not described in 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 or the number of its plumbing fixtures, 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.

(i) 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) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and

sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

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

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

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

(6) "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.

(j) 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.

(Amended by Stats. 2017, Ch. 602, Sec. 1.5. (AB 494) Effective January 1, 2018.)