City Council
AGENDA REPORT

DATE: 01/11/2023

AGENDA OF: 01/24/2023

DEPARTMENT: Planning & Community Development

SUBJECT: Extension of Urgency Ordinance Relating to Accessory Dwelling Units (ADUs), Junior ADUs, and Associated Changes to Permitting Required by State Law (PL)

RECOMMENDATION: Motion to:

1) Adopt an urgency ordinance to extend the term of the previously-adopted urgency ordinance for a term of twelve months in accordance with the allowances in State Law; and

2) Direct staff to proceed with developing a regular ordinance that addresses the same state code changes.

BACKGROUND: During a regularly scheduled meeting of the Santa Cruz City Council held on December 13, 2022, the attached urgency ordinance regulating accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) was adopted by the City Council for an initial term of 45 days. Two new State laws relating to the review and permitting of ADUs, AB 2221 and SB 897, each contained a clause requiring that local governments comply with their provisions no later than January 1, 2023, or else the local ADU ordinance would become null and void in favor of the State law. For this reason, an urgency ordinance was adopted before that date as a regular ordinance is forthcoming.

DISCUSSION: As explained in the attached materials from the previous hearing, City staff recommended that the City Council adopt the urgency ordinance pursuant to Government Code section 65858 (requiring at least a 4/5 vote) in order to maintain the City's codes and requirements for ADUs. Staff further recommends that the urgency ordinance remain in effect until the regular ordinance can be adopted and take effect. The urgency ordinance has been in effect since it was adopted on December 13, 2022, and can be extended for up to another twenty-two months and fifteen days by the City Council. Staff believes that an extension of twelve months will provide ample time to complete the community engagement, drafting of a regular ordinance incorporating the required State Laws, and a public hearing before the Planning Commission in advance of returning to City Council for final adoption of the proposed ADU code amendments. At the time the City Council approves the regular ordinance, the urgency ordinance will be rescinded.

Next Steps. Beginning within the next several weeks, staff will conduct community outreach related to these new state law changes as well as a few known outstanding items related to ADUs. These additional items could include:

- ADU owner occupancy requirements in existing ADUs,
- Further expansion of JADU development standard allowances,
- Implementing AB 587 (which would allow ADUs and associated single-family detached residences to be developed by a non-profit housing developer and sold separately as part of a tenants-in-common ownership structure), and
- Addressing other topics or clarifications that have arisen during recent ADU project applications.

Staff currently anticipates returning to the Planning Commission and City Council with formal ordinance amendments in the summer of 2023.

The urgency ordinance does not include sections of the Santa Cruz Municipal Code that are implementing regulations of the Local Coastal Program, so approval by the Coastal Commission is not necessary for the urgency ordinance or any subsequent regular ordinance.

Health in All Policies. The proposed amendments are consistent with the Health in All Policies pillars of equity, public health, and sustainability in that they meet state requirements that seek to expand housing opportunities and provide a variety of housing types that help better serve the needs the community.

Environmental Review. The proposed ordinance amendments are exempt from the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines which specifically exempts any local ordinance implementing sections 65852.1 and 65852.2 of the Government Code.

FISCAL IMPACT. ADUs are treated as residential additions by the County Tax Assessor. Therefore, only the value of the ADU is reassessed, not the value of the entire home. The proposed code modifications have the potential to increase the production of ADUs, which could increase property values and property taxes. Depending on the costs associated with providing services to new residents, the net fiscal effects of new ADUs would vary over both the short- and long-term.

Prepared by:	**Submitted by:**	**Approved by**:
Sarah Neuse Senior Planner	Lee Butler, AICP, LEED AP Director of Planning & Community Development	Matt Huffaker City Manager
Matt VanHua, AICP Principal Planner		

ATTACHMENTS:
1) City Council Agenda Materials of December 13, 2022

ORDINANCE NO.

EXTENSION OF AN URGENCY ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING CHAPTER 24.16 OF THE CITY OF SANTA CRUZ MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS

BE IT ORDAINED by the City of Santa Cruz as follows:

Section 1. Purpose

A. Pursuant to Government Code Section 65858, on December 13, 2022, the City Council passed ordinance 2022-22 by unanimous vote as an urgency measure, an interim ordinance to protect the public safety, health and welfare for an initial term of no more than forty-five days;

B. Because the December 13, 2022 urgency ordinance hearing was noticed pursuant to Government Code Section 65090, Government Code Section 65858 grants the City Council the power to extend said ordinance by up to twenty-two months and fifteen days beyond the initial forty-five day term of the urgency ordinance;

Section 2. Effective Date and Expiration Date.

This urgency ordinance took effect on December 13, 2022, and shall remain in effect until January 24, 2024, unless rescinded or further extended before that date.

PASSED FOR ADOPTION as an urgency ordinance this 24th day of January, 2023, by the following vote:

AYES:
NOES:
ABSENT:
DISQUALIFIED:

APPROVED: _____
Fred Keeley, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2023- and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

_____
City Clerk Administrator

City Council
AGENDA REPORT

DATE: December 1, 2022

AGENDA OF: December 13, 2022

DEPARTMENT: Planning & Community Development

SUBJECT: Municipal Code Amendments Relating to Accessory Dwelling Units (ADUs), Junior ADUs, and Associated Changes to Permitting Required by State Law (PL)

RECOMMENDATION: Motion to:

1) Adopt an urgency ordinance making specified changes in Chapter 24.16 of the Municipal Code related to ADUs and Junior ADUs in response to recent state code changes; and

2) Direct staff to proceed with developing a regular ordinance that addresses the same state code changes.

BACKGROUND: The California State Legislature brought forward several bills in 2022 relating to the review and permitting of accessory dwelling units (ADUs) on various types of property. On September 28th of this year, the Governor signed into law Assembly Bill (AB) 2221 and Senate Bill (SB) 897, amending the section of the California Government Code related to ADUs and Junior Accessory Dwelling Units (JADUs) (Government Code Sections 65852.2 and 65852.22). Additionally, SB 897 made amendments to Section 17980.12 of the State Health and Safety Code. The new laws take effect on January 1, 2023.

AB 2221 and SB 897 contain a clause that requires that local governments comply with all provisions of the state law no later than the effective date at the risk of the entire local ADU ordinance becoming null and void in favor of the state law. For this reason, staff is recommending an urgency ordinance be adopted while a regular ordinance is drafted and proceeds through the community engagement process and the required hearing with the Planning Commission.

DISCUSSION: The amendments proposed at this time are those that are necessary to bring the City's ADU regulations in line with the requirements of state law. These required amendments fall broadly into three categories: 1) ADU development standards (heights, setbacks, etc.); 2) permit processing; and 3) clarifications to standards for JADUs.

As shown in this report's ordinance amendment attachments, the proposed ADU ordinance will make the following amendments to the current regulations:

1) ADU Development Standard Amendments

a) The allowed height of a New Construction, Detached ADU is clarified to allow heights of 16 to 22 feet based on the setback rather than by the number of stories, as discussed below in more detail.
b) The rear setback for ADUs above 16' in height is reduced to 4' (previously 10').
c) The setback for an attached ADU is reduced to 4' (previously the same as the primary dwelling).
d) Requirements as part of allowing ADUs in front setbacks have been added.
e) Existing design standards for ADUs have been made purely objective, or have been deleted where they could not be made fully objective.
f) Clarifications relating to requirements for fire sprinklers have been added – an ADU cannot trigger the requirement that the main dwelling include fire sprinklers.

2) Permit Processing Amendments

a) The City shall require a demolition permit for a detached garage that is being replaced with an ADU be reviewed concurrently with the application to build an ADU and the City shall issue both permits at the same time.
b) The City shall not require that notice be provided for the demolition of a detached garage to be repaced with an ADU unless the property is located within a historic district.
c) The City's code has been unclear as to when ADUs can be included in multi-family projects. That issue is clarified as part of the Objective Standards and Zoning Ordinance modifications that are being considered under the second reading at this same, December 13, 2022 hearing. Using those proposed changes as the base, language is added with these amendments that further clarifies that ADUs can be proposed and constructed at the same time as any new residential development and that ADUs proposed concurrently with other development would be approved as part of the larger project, not subject to the state-mandated processing timelines for ADUs but subject to the state-mandated timelines for the larger project.
d) The City cannot require the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit.
e) The City cannot deem the construction of an accessory dwelling unit as a Group R occupancy change under the local building code, except as specified under state law. Therefore, construction of an accessory dwelling unit cannot trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

3) Junior ADU Amendments

a) Text has been added to clarify that JADUs must include internal circulation with the primary dwelling when a bathroom is not included within the space of the JADU.

ADU Height Standards

The new state laws require that jurisdicitons allow the minimum height of a detached, new construction ADU meeting 4-foot setback requirements to be 18 feet to 20 feet depending on roof requirements and proximity to transit. The previous minimum height set by the state was 16 feet. The City of Santa Cruz already allows a maximum height of 22 feet for two-story ADUs with side and rear setbacks of 4 feet or greater. The City also already allows a maximum height of 16 feet for single story ADUs that are setback 0 to 4 feet. State law makes no distinction between the number of stories and height, only that a minimum 4 foot side or rear setback is required to up to 20 feet in height for an ADU. Staff recommends keeping the City's existing 22

foot height allowance for ADUs meeting setback requirements and removing height standards based on stories (as the state has done).

This means that the height maximum of 22 feet remains for an ADU conforming to the 4 foot side and rear setback and keeping the 16 foot height maximum for ADUs with side and rear setbacks of less than 4 feet. Other existing design standards that relate to the mass and shape of an ADU's second story conform to state law and remain in the ordinance. The proposed ordinance meets the new state laws while continuing to provide flexibility that supports the development of ADUs and imposing development standards when ADUs have side and rear setbacks smaller than 4 feet.

Urgency Ordinance. Due to language contained in the legislation, any local ordinance that is not in compliance with the state law as of January 1, 2023 will be void until such time as a conforming ordinance becomes effective. City staff is recommending that the City Council adopt this urgency ordinance pursuant to Government Code section 65858 (requiring at least a 4/5 vote) in order to maintain the City's codes and requirements for ADUs. Staff recommends that the urgency ordinance remain in effect until the regular ordinance becomes effective. The ordinance is attached to this report in both track changes and clean versions. The ordinance findings are included in the clean version of the ordinance as the City Council must find that this ordinance is necessary as an emergency measure for preserving the public peace, health, and safety.

An urgency ordinance does not require review by Planning Commission and may be introduced and adopted at the same meeting, and it shall take effect immediately upon its adoption. The urgency ordinance will initially be effective for 45 days and will then require Council to approve an extension to allow for completion of the regular ordinance.

Community Outreach. Based on the short timeline provided for in the legislation and the fact that the proposed amendments are exclusively limited to those required under state legislation, community outreach for these amendments was limited.

Staff has compiled email addresses of stakeholders interested in ADU legislation from prior outreach efforts, and those individuals have been notified of the state law changes. Information is also available on the City's recently updated ADU webpage. Additional outreach will take place as part of the future work on the regular ordinance.

Next Steps. Should the urgency ordinance be approved by City Council (needing a five-vote majority), the urgency ordinance would remain effective for up to 45 days. Because this hearing was noticed, the urgency ordinance can be extended by Council vote a further 22 months and 15 days, pursuant to Government Code Section 65858(b). In January, staff will request that the City Council extend the urgency ordinance until the regular ordinance can take effect.

Beginning in early 2023, staff will conduct community outreach related to these new state law changes as well as a few known outstanding items related to ADUs. These additional items could include:

- Owner occupancy requirements in existing ADUs,
- Further expansion of JADU allowances,
- Implementing AB 587 (which would allow ADUs and SFDs to be developed by a non-profit housing developer and sold separately as part of a tenants-in-common ownership structure), and

- Addressing other topics that have come up in project applications or were otherwise not accounted for in the state legislation.

Staff currently anticipates returning to the Planning Commission and City Council with formal ordinance amendments in the spring of 2023.

The proposed edits are not in sections of the code that are implementing regulations of the Local Coastal Program, so approval by the Coastal Commission is not necessary for the urgency ordinance or a subsequent, regular ordinance.

Health in All Policies. The proposed amendments are consistent with the Health in All Policies pillars of equity, public health, and sustainability in that they meet state requirements that seek to expand housing opportunities and provide a variety of housing types that help better serve the needs the community.

Environmental Review. The proposed ordinance amendments are exempt from the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines which specifically exempts any local ordinance implementing sections 65852.1 and 65852.2 of the Government Code.

FISCAL IMPACT. ADUs are treated as residential additions by the tax assessor. Therefore, only the value of the ADU is reassessed, not the value of the entire home. The proposed code modifications have the potential to increase the production of ADUs, which would increase property values and which can lead to additional property taxes. Because of the costs associated with providing services to new residents, Proposition 13, and different sizes and quality of new ADUs, the net fiscal effects of new ADUs would vary over both the short- and long-term.

Prepared by:	**Submitted by:**	**Approved by**:
Matt VanHua, AICP Principal Planner	Lee Butler, AICP, LEED AP Director of Planning & Community Development	Matt Huffaker City Manager

ATTACHMENTS:
1) Proposed ADU Urgency Ordinance, clean Copy
2) Proposed ADU Urgency Ordinance, track changes copy
3) Relevant text of AB 2221 and SB 897

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING CHAPTER 24.16 OF THE CITY OF SANTA CRUZ MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS TO CONFORM TO STATE REQUIREMENTS

BE IT ORDAINED by the City of Santa Cruz as follows:

Section 1. Findings.

A. Pursuant to Article XI, Section 7 of the California Constitution, the City of Santa Cruz ("City") may make and enforce all regulations and ordinances using its police powers.

B. The regulation and facilitation of the development of accessory dwelling units is a vital component of the City's housing strategy.

C. The legislation, Assembly Bill 2221 and Senate Bill 897, signed by Governor Newsom on September 28th of this year requires the City to make certain amendments to the local regulations governing the development of accessory dwelling units.

D. The state legislation contains a clause that would invalidate the City's local accessory dwelling unit regulations if they do not conform to the requirements of the new state law on or before January 1, 2023.

E. The local standards for accessory dwelling units will facilitate the development of accessory dwelling units within the City and are necessary for maintaining orderly growth and development patterns.

F. Pursuant to Government Code Section 65858, the City Council based on theat least a four-fifths vote, may adopt as an urgency measure, an interim ordinance to protect the public safety, health and welfare.

G. Based upon the above-described facts and circumstances, and for these same reasons, the City Council finds that this ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and therefore that it may be introduced and adopted at one and the same meeting and shall take effect immediately upon its adoption, consistent with the City Charter Section 608.

Section 2. Subsection 24.16.130 – Permit Procedures of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.130 PERMIT PROCEDURES.

1. Accessory dwelling units shall be principally permitted uses within the zoning districts specified in Section 24.16.120 and subject to the development standards in Section 24.16.140 et seq.

2. Accessory dwelling units on substandard lots shall not be required to obtain a design permit unless they are associated with the construction of a new single-family dwelling per Section 24.08.400 et seq.

3. An accessory dwelling unit replacing a detached garage shall receive review and issuance of a demolition permit concurrently with the review and issuance of the permit for the accessory dwelling unit.

4. City shall issue a ministerial building permit for an accessory dwelling unit or junior accessory dwelling unit without discretionary review or a hearing, consistent with the provisions of this chapter and state law, within sixty days of submittal of a complete building permit application, unless provided otherwise. The sixty-day review period shall not apply when:

a. Additional administrative or discretionary review is required under applicable provisions of the Santa Cruz Municipal Code or otherwise allowed by state law.

i. Applications to construct accessory dwelling units shall be subject only to ministerial permitting processes to the extent necessary to allow construction of an accessory dwelling unit conforming to the size limits stated in Section 24.16.140(3). Applications that propose to locate an accessory dwelling unit on a parcel or portion of a parcel triggering additional administrative or discretionary review shall only be relieved of the requirement for those reviews when no alternative site plan or project proposal can be created which would allow the creation of an up to eight-hundred-square-foot accessory dwelling unit that would not trigger additional reviews;

b. If the permit application to create an accessory dwelling unit or junior accessory dwelling unit is submitted with a permit application to create a new single-family or multi-family dwelling on the same lot or parcel; or

c. When the applicant seeks a delay, in which case the sixty-day time period shall be tolled for the period of the delay.

5. Construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, except as specified under state law. Construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing single-family or multifamily dwelling.

6. The City 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, building code violations, or unpermitted structures unless they

present a threat to public health and safety and are affected by the construction of the accessory dwelling unit.

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

8. Applications to construct accessory dwelling units on properties that are designated as historic resources by the city, the state of California, or by the National Register of Historic Places shall show substantial compliance with the guidelines of the Secretary of the Interior for development on such properties.

9. Applications to construct accessory dwelling units on properties that are subject to the Citywide Creeks and Wetlands Plan shall demonstrate compliance with the requirements established in that plan for such properties, as implemented by Section 24.08.2100 et seq.

10. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant in accordance with the 60-day time period set forth in Section 24.16.130 (4) above.

Section 3. Subsection 24.16.140 – Development Standards of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.140 DEVELOPMENT STANDARDS.

All accessory dwelling units, both new construction and conversion, must conform to the following requirements:

1. Number of Accessory Dwelling Units per Parcel.

    a. For parcels zoned for and including a proposed or existing single-family home: One accessory dwelling unit shall be allowed for each parcel. Each parcel may also include a junior accessory dwelling unit conforming to the standards set forth in Section 24.16.170.

    b. For parcels developed with an existing multifamily structure(s): Two new construction and at least one conversion accessory dwelling unit shall be allowed on each parcel. Up to twenty-five percent of the number of existing dwellings in the structure may be added as conversion accessory dwelling units. When the twenty-five percent limit

results in a fraction of a unit, the total number of accessory dwelling units that may be added shall be determined by rounding the fraction up to the next whole number.

i. For the purposes of this section, multifamily structures are those that contain more than one dwelling unit, including but not limited to duplexes, triplexes, apartment buildings, and condominium buildings.

2. Parking. No off-street parking shall be required for any accessory dwelling unit outside of the Coastal Zone. Any parking spaces, covered or uncovered, removed in order to create an accessory dwelling unit shall not be required to be replaced outside the Coastal Zone. For properties within the Coastal Zone, parking requirements are contained in Section 24.12.240(1)(w).

3. Unit Size.

a. The floor area for new construction detached accessory dwelling units shall not exceed ten percent of the net lot area or eight hundred fifty square feet for a studio or one-bedroom ADU, or one thousand square feet for an ADU with more than one bedroom, whichever is greater, and no detached new construction ADU shall exceed a maximum of one thousand two hundred square feet of habitable area.

b. The floor area for new construction accessory dwelling units attached to the principal residential use on the property shall not exceed fifty percent of the existing habitable floor area of the principal residential use on the property, or eight hundred fifty square feet for a studio or one-bedroom ADU, or one thousand square feet for an ADU with more than one bedroom, whichever is greater.

c. The floor area for conversion accessory dwelling units shall not be limited, subject to compliance with Section 24.16.142.

d. Accessory units that utilize alternative green construction methods that cause the exterior wall thickness to be greater than normal shall be accommodated by calculating the unit square footage size in a manner that accounts for the difference between the square footage of the proposed structure and the square footage of a traditional frame house.

e. Stairways which provide access to accessory dwelling units do not count toward the floor area of an accessory dwelling unit when the stairs are not part of the conditioned space, the stairs do not include any other rooms or room-like areas that would function as habitable floor area for the ADU, and there is a fire-rated entry door at the top of the stairs at the entrance to the accessory dwelling unit.

4. Existing Development on Lot. One of the following conditions must be present in order to approve an application to create an accessory dwelling unit:

a. One or more single-family dwellings exists on the lot or will be constructed in conjunction with the accessory dwelling unit;

b. The lot contains an existing multifamily structure, as defined in subsection (1)(b)(i), or a multifamily structure that will be constructed concurrently and in conjunction with the accessory dwelling unit.

5. Rear Yard Lot Coverage. In no case shall any accessory dwelling unit be limited in size based on rear yard lot coverage requirements contained in Section 24.12.140(5). In the application of Section 24.12.140(5), accessory dwelling units shall count toward the limit on allowable coverage by other accessory structures.

6. Nonconforming Setbacks.The following standards apply to accessory dwelling units located outside the standard side and rear yard setbacks for the zone district in which they are proposed:

a. The entrance to the accessory dwelling unit shall face the interior of the lot unless the accessory dwelling unit is directly accessible from an alley, a public street, or the Monterey Bay Sanctuary Scenic Trail.

b. Windows which face an adjoining residential property shall be designed to obscure views of neighboring yards by ADU occupants, including transom windows, translucent glass, or other methods; alternatively, fencing or landscaping shall be required to provide screening.

7. Alley or Rail Trail Orientation. When an accessory dwelling unit is adjacent to an alley or the Monterey Bay Sanctuary Scenic Trail, the accessory dwelling unit is encouraged to be oriented toward the alley or trail with the front access door and windows facing the alley. Parking provided off the alley shall maintain a twenty-four-foot back-out which includes the alley. Fences shall be three feet, six inches tall along the alley. However, higher fencing up to eight feet can be considered in unusual design circumstances, subject to review and approval of the zoning administrator.

8. Occupancy.

a. For accessory dwelling units permitted between January 1, 2020, and January 1, 2025, owner occupancy shall not be required and no land use agreement requiring owner occupancy shall be recorded or enforced on properties containing these units.

b. For accessory dwelling units permitted on or before December 31, 2019, or on or after January 1, 2025, the property owner or an adult member of the property owner’s immediate family, limited to the property owner’s spouse, adult children, parents, or siblings, and subject to verification by the city, must occupy either the primary or accessory dwelling as his or her principal place of residence except under circumstances as established by resolution by the city council that may allow the property owner or the executor or trustee

of the property owner's estate to apply to the city council for approval of a temporary change in use allowing both units to be rented for a period of no more than two years with a possible extension of one year by the planning director if circumstances warrant. Upon the expiration of the rental period, the property owner and/or the property owner's immediate family member, as specified above, shall reoccupy the property, or the property owner shall cease renting one of the units, or shall demolish the accessory dwelling unit, or shall sell the property to a buyer who will reside on the property. A fee to cover the costs of processing such a request shall be in an amount established by resolution by the city council.

c. For purposes of this chapter, the property owner is the majority owner of the property as shown in the most recent Santa Cruz County assessor's roll.

d. If there is more than one property owner of record, the owner with the majority interest in the property shall be deemed the property owner for purposes of this chapter. Any property owner of record holding an equal share interest in the property may be deemed the majority property owner if no other property owner owns a greater interest. (For example, if the property is owned by two people, each with a fifty percent interest, either of the two owners may be deemed the property owner for purposes of the owner occupancy requirement. If three people own the property, each with a thirty-three and one-third percent interest, any one of the three may be deemed the property owner for purposes of the owner occupancy requirement.)

e. Notwithstanding subsection (8)(a), the community development director, in consultation with the city manager and city attorney, shall be authorized to promulgate regulations intended to legalize accessory dwelling units which are nonconforming solely by virtue of the fact that the property owner has failed to comply with subsection (8)(b)'s owner occupancy requirement, including but not limited to regulations providing for the amortization of the nonconformity by specifying a period of time within which the absentee owner must either establish occupancy or discontinue the accessory dwelling unit use of the property, or alternatively sell the property, and regulations providing for the recordation of land use agreements specifying the terms of amortization.

f. Accessory dwelling unit properties shall be used for long-term residential purposes, for rentals of terms longer than 30 days. Accessory dwelling unit properties may neither be used on a transient occupancy basis nor for short-term/vacation rental purposes. Within condominium or townhouse properties that contain an accessory dwelling unit associated with a specific individual unit and not the larger common condominium or townhouse complex, neither the accessory dwelling unit nor the associated condominium or townhouse unit shall be used as a short-term rental.

i. Exception. A legal accessory dwelling unit property that had legal status prior to November 10, 2015, and was in use as a short-term/vacation rental prior to that date, and for which the owner remits transient occupancy tax in compliance with Chapter 3.28 in full in a timely manner for the use of the property as short-term/vacation rental purposes, may continue the use. The owner must meet the owner occupancy requirement of this code.

9. Connections Between Units. At the discretion of the planning director, accessory dwelling units may be permitted to create direct access between units, or common access to a shared garage, laundry room, or storage area; provided, that each unit meets the definition of dwelling unit found in Section 24.22.320.

10. Building Code Requirements. The accessory dwelling unit shall meet the requirements of the California Building Standards Code, including the alternative means and methods section as prescribed therein.

11. Municipal Code Requirements. All accessory dwelling units shall meet the objective design standards set forth in this Code, including landscape and tree removal and/or replacement requirements, which may require discretionary review.

12. Large Home Design Permit. The square footage of an accessory dwelling unit shall not be counted with the square footage of the single-family home in determining whether a large home design permit is required.

Section 4. Subsection 24.16.141 – New Construction Accessory Dwelling Unit Development Standards of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.141 NEW CONSTRUCTION ACCESSORY DWELLING UNIT DEVELOPMENT STANDARDS.

1. Setbacks for New Construction Detached Accessory Dwelling Units.

a. The side yard and rear yard setbacks for a new construction detached single-story accessory dwelling unit shall not be less than three feet and the distance between buildings on the same lot must be a minimum of six feet.

b. Any portion of a new construction accessory dwelling unit that is over sixteen feet in height shall provide side setbacks of at least four feet and rear setbacks of at least four feet.

c. If any portion of a new construction accessory dwelling unit is located in front of the principal structure, then the front yard setbacks shall be the same as those required for single-family homes in the zoning district. A smaller front setback shall be granted only if

needed to accommodate an accessory dwelling unit of up to 800 square feet. In this case, the front setback and the clear corner triangle area (as defined in Section 24.22.202) shall be maximized while maintaining required separation between structures.

2. Setbacks for New Construction Attached Accessory Dwelling Units. New construction attached accessory dwelling units shall provide a side setback of at least four feet and meet the same front setback required for the principal structure, either the single-family dwelling or the multi-family structure, by the zoning district, except that any requirement for an additional setback based on height over fifteen feet shall not apply to the portion of the structure that contains the accessory dwelling unit. A smaller front setback shall be granted only if needed to accommodate an accessory dwelling unit of up to 800 square feet, and the front setback and the clear corner triangle area (as defined in Section 24.22.202) shall be maximized while still accommodating an accessory dwelling unit of up to 800 square feet.

3. Building Height and Stories.

a. A detached new construction accessory dwelling unit shall meet one of the following standards, with height measured to the roof peak:

i. Any accessory dwelling unit that is built within four feet of a side and rear property line shall be subject to a height limit of sixteen feet.

iii. Any other accessory dwelling unit shall be subject to a height limit of twenty-two feet.

b. Any two-story detached new construction accessory dwelling unit shall place access stairs, decks, entry doors, and windows toward the interior of the lot, an alley, road, or the Monterey Bay Sanctuary Scenic Trail, if applicable. Second-story windows shall be oriented to obscure views of neighboring yards by accessory dwelling unit occupants by using transom windows, translucent glass, or other methods. These requirements do not apply to accessory dwelling units that conform to the setbacks required for the primary structure on the parcel.

c. An attached new construction accessory dwelling unit may occupy any level of the principal single-family dwelling and must comply with the height standard established for single-family homes in the zone district except as noted in subsection (3).

d. If the design of the principal structure has special roof features that should be matched on the detached accessory dwelling unit to enhance design compatibility, the maximum allowed building height of the accessory dwelling unit may be exceeded in order to include such similar special roof features, subject to review and approval of the zoning administrator as part of the review of the building permit application.

4. Substandard Lots. When a new construction accessory dwelling unit is proposed on a substandard residential lot, as defined in Section 24.22.520, the following design standards shall apply, but shall not serve to limit the accessory dwelling unit to a size of less than eight hundred square feet:

a. The maximum allowable lot coverage for all structures shall be forty-five percent. Lot coverage shall include the footprints of the first floor, garage (attached and detached), decks and porches (greater than thirty inches in height and not cantilevered), and any second-story cantilevered projection (enclosed or open) beyond two and one-half feet. Decks under thirty inches in height or fully cantilevered with no vertical support posts do not count toward lot coverage for this purpose. Second-story enclosed cantilevered areas that project less than thirty inches from the building wall do not count toward lot coverage. For such areas that project more than thirty inches from the building wall, only the floor area that projects more than thirty inches shall be counted as lot coverage. Lot coverage requirements must permit an accessory dwelling unit up to 800 square feet.

b. The floor area for all second stories shall not exceed fifty percent of the first floor area for all structures, except in cases where the first floor area of the structure to which a second story is being added constitutes thirty percent or less of the net lot area.

5. Large Home Design Permit. Accessory dwelling units, both attached and detached, conversion and new construction, shall not contribute to the need for a large home design permit and, consistent with Section 24.16.130, shall be subject only to ministerial review. The city reserves the right to delay action on an application to build an accessory dwelling unit until such time as the permits for the primary residential use on the parcel have been approved.

Section 5. Subsection 24.16.170 – Junior Accessory Dwelling Units of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.170 JUNIOR ACCESSORY DWELLING UNITS.

1. Notwithstanding any other regulation or definition of this code, a junior accessory dwelling unit shall be permitted on parcels in zones where single-family dwellings are an allowed use and where single-family structures exist or are proposed on the site, and where the owner of the property occupies the property as their primary place of residence.

2. For the purposes of this section, “junior accessory dwelling unit” shall have the same meaning as defined in Section 65852.22 of the California Government Code.

3. Junior accessory dwelling units must be attached to a single-family dwelling, may be created in any part of an existing or proposed single-family dwelling, and may be created in an addition to a single-family dwelling.

4. Junior accessory dwelling units may be no larger than five hundred square feet in size.

5. Junior accessory dwelling units shall contain, at a minimum, the following features:

    a. An exterior entrance separate from that of the primary home.

    b. A cooking facility with appliances.

    c. A food preparation counter and storage cabinets of reasonable size in relation to the size of the junior accessory dwelling unit.

6. Junior accessory dwelling units may include separate sanitation facilities or may share sanitation facilities with the primary dwelling. Where sanitation facilities are shared with the primary dwelling, the junior accessory dwelling unit shall have access to the primary dwelling through internal circulation and shall not be required to exit the structure in order to reach the entrance to the primary dwelling.

7. Junior accessory dwelling units that contain all the required features of a dwelling unit will not be required to maintain an interior connection between the junior accessory dwelling unit and the primary dwelling. Junior accessory dwelling units that do not contain all the required features of a dwelling unit will be required to maintain an interior connection between the junior accessory dwelling unit and the primary dwelling unit.

8. A deed restriction pursuant to Section 24.16.150 shall be required and recorded on the parcel.

Section 6. Effective Date and Expiration Date.

This urgency ordinance shall take effect immediately and shall expire 45 days from the date of its adoption, unless further extended by action of the City Council or replaced by a regular ordinance amending the same code sections.

PASSED FOR ADOPTION as an urgency ordinance this 13th day of December, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____

Sonja Brunner, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2022-_____
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

_____
City Clerk Administrator

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING CHAPTER 24.16 OF THE CITY OF SANTA CRUZ MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS TO CONFORM TO STATE REQUIREMENTS

BE IT ORDAINED by the City of Santa Cruz as follows:

Section 2. Subsection 24.16.130 – Permit Procedures of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.130 PERMIT PROCEDURES.

1. Accessory dwelling units shall be principally permitted uses within the zoning districts specified in Section 24.16.120 and subject to the development standards in Section 24.16.140 et seq.

2. Accessory dwelling units on substandard lots shall not be required to obtain a design permit unless they are associated with the construction of a new single-family dwelling per Section 24.08.400 et seq.

3. An accessory dwelling unit replacing a detached garage shall receive review and issuance of a demolition permit concurrently with the review and issuance of the permit for the accessory dwelling unit.

~~3~~4. City shall issue a ministerial building permit for an accessory dwelling unit or junior accessory dwelling unit without discretionary review or a hearing, consistent with the provisions of this chapter and state law, within sixty days of submittal of a complete building permit application, unless provided otherwise. The sixty-day review period shall not apply when:

a. Additional administrative or discretionary review is required under applicable provisions of the Santa Cruz Municipal Code or otherwise allowed by state law.

i. Applications to construct accessory dwelling units shall be subject only to ministerial permitting processes to the extent necessary to allow construction of an ~~single-story~~ accessory dwelling unit conforming to the size limits stated in Section 24.16.140(3). Applications that propose to locate an accessory dwelling unit on a parcel or portion of a parcel triggering additional administrative or discretionary review shall only be relieved of the requirement for those reviews when no alternative site plan or project proposal can be created which would allow the creation of an up to eight-hundred-square-foot accessory dwelling unit that would not trigger additional reviews;

b. If the permit application to create an accessory dwelling unit or junior accessory dwelling unit is submitted with a permit application to create a new single-family or multi-family dwelling on the same lot or parcel; or

c. When the applicant seeks a delay, in which case the sixty-day time period shall be tolled for the period of the delay.

5. Construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, except as specified under state law. Construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing single-family or multifamily dwelling.

6. The City 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, building code violations, or unpermitted structures unless they present a threat to public health and safety and are affected by the construction of the accessory dwelling unit.

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

~~4~~8. Applications to construct accessory dwelling units on properties that are designated as historic resources by the city, the state of California, or by the National Register of Historic Places shall show substantial compliance with the guidelines of the Secretary of the Interior for development on such properties.

~~5~~9. Applications to construct accessory dwelling units on properties that are subject to the Citywide Creeks and Wetlands Plan shall demonstrate compliance with the requirements established in that plan for such properties, as implemented by Section 24.08.2100 et seq.

10. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant in accordance with the 60-day time period set forth in Section 24.16.130 (4) above.

Section 3. Subsection 24.16.140 – Development Standards of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.140 DEVELOPMENT STANDARDS.

All accessory dwelling units, both new construction and conversion, must conform to the following requirements:

1. Number of Accessory Dwelling Units per Parcel.

    a. For parcels zoned for and including a proposed or existing single-family home: One accessory dwelling unit shall be allowed for each parcel. Each parcel may also include a junior accessory dwelling unit conforming to the standards set forth in Section 24.16.170.

    b. For parcels developed with an existing multifamily structure(s): Two new construction and at least one conversion accessory dwelling unit shall be allowed on each parcel. Up to twenty-five percent of the number of existing dwellings in the structure may be added as conversion accessory dwelling units. When the twenty-five percent limit results in a fraction of a unit, the total number of accessory dwelling units that may be added shall be determined by rounding the fraction up to the next whole number.

        i. For the purposes of this section, multifamily structures are those that contain more than one dwelling unit, including but not limited to duplexes, triplexes, apartment buildings, and condominium buildings.

2. Parking. No off-street parking shall be required for any accessory dwelling unit outside of the Coastal Zone. Any parking spaces, covered or uncovered, removed in order to create an accessory dwelling unit shall not be required to be replaced outside the Coastal Zone. For properties within the Coastal Zone, parking requirements are contained in Section 24.12.240(1)(w).

3. Unit Size.

    a. The floor area for new construction detached accessory dwelling units shall not exceed ten percent of the net lot area or eight hundred fifty square feet for a studio or one-bedroom ADU, or one thousand square feet for an ADU with more than one bedroom, whichever is greater, and no detached new construction ADU shall exceed a maximum of one thousand two hundred square feet of habitable area.

    b. The floor area for new construction accessory dwelling units attached to the principal residential use on the property shall not exceed fifty percent of the existing habitable floor area of the principal residential use on the property, or eight hundred fifty square feet for a studio or one-bedroom ADU, or one thousand square feet for an ADU with more than one bedroom, whichever is greater.

    c. The floor area for conversion accessory dwelling units shall not be limited, subject to compliance with Section 24.16.142.

d. Accessory units that utilize alternative green construction methods that cause the exterior wall thickness to be greater than normal shall be accommodated by calculating the unit square footage size in a manner that accounts for the difference between the square footage of the proposed structure and the square footage of a traditional frame house.

e. Stairways which provide access to accessory dwelling units do not count toward the floor area of an accessory dwelling unit when the stairs are not part of the conditioned space, the stairs do not include any other rooms or room-like areas that would function as habitable floor area for the ADU, and there is a fire-rated entry door at the top of the stairs at the entrance to the accessory dwelling unit.

4. Existing Development on Lot. One of the following conditions must be present in order to approve an application to create an accessory dwelling unit:

~~1~~a. One or more single-family dwellings exists on the lot or will be constructed in conjunction with the accessory dwelling unit;

~~2~~b. The lot contains an existing multifamily structure, as defined in subsection (1)(b)(i), or a multifamily structure that will be constructed concurrently and in conjunction with the accessory dwelling unit.

5. Rear Yard Lot Coverage. In no case shall any accessory dwelling unit be limited in size based on rear yard lot coverage requirements contained in Section 24.12.140(5). In the application of Section 24.12.140(5), accessory dwelling units shall count toward the limit on allowable coverage by other accessory structures.

6. Nonconforming Setbacks.The following standards apply to accessory dwelling units located outside the standard side and rear yard setbacks for the zone district in which they are proposed:

a. The entrance to the accessory dwelling unit shall face the interior of the lot unless the accessory dwelling unit is directly accessible from an alley, a public street, or the Monterey Bay Sanctuary Scenic Trail.

b. Windows which face an adjoining residential property shall be designed to obscure views of neighboring yards by ADU occupants, including transom windows, translucent glass, or other methods; alternatively, fencing or landscaping shall be required to provide screening.

7. Alley or Rail Trail Orientation. When an accessory dwelling unit is adjacent to an alley or the Monterey Bay Sanctuary Scenic Trail, the accessory dwelling unit is encouraged to be oriented toward the alley or trail with the front access door and windows facing the alley. Parking provided off the alley shall maintain a twenty-four-foot back-out which includes the alley. Fences shall be three feet, six inches tall along the alley. However, higher fencing up to

eight feet can be considered in unusual design circumstances, subject to review and approval of the zoning administrator.

8. Occupancy.

a. For accessory dwelling units permitted between January 1, 2020, and January 1, 2025, owner occupancy shall not be required and no land use agreement requiring owner occupancy shall be recorded or enforced on properties containing these units.

b. For accessory dwelling units permitted on or before December 31, 2019, or on or after January 1, 2025, the property owner or an adult member of the property owner's immediate family, limited to the property owner's spouse, adult children, parents, or siblings, and subject to verification by the city, must occupy either the primary or accessory dwelling as his or her principal place of residence except under circumstances as established by resolution by the city council that may allow the property owner or the executor or trustee of the property owner's estate to apply to the city council for approval of a temporary change in use allowing both units to be rented for a period of no more than two years with a possible extension of one year by the planning director if circumstances warrant. Upon the expiration of the rental period, the property owner and/or the property owner's immediate family member, as specified above, shall reoccupy the property, or the property owner shall cease renting one of the units, or shall demolish the accessory dwelling unit, or shall sell the property to a buyer who will reside on the property. A fee to cover the costs of processing such a request shall be in an amount established by resolution by the city council.

c. For purposes of this chapter, the property owner is the majority owner of the property as shown in the most recent Santa Cruz County assessor's roll.

d. If there is more than one property owner of record, the owner with the majority interest in the property shall be deemed the property owner for purposes of this chapter. Any property owner of record holding an equal share interest in the property may be deemed the majority property owner if no other property owner owns a greater interest. (For example, if the property is owned by two people, each with a fifty percent interest, either of the two owners may be deemed the property owner for purposes of the owner occupancy requirement. If three people own the property, each with a thirty-three and one-third percent interest, any one of the three may be deemed the property owner for purposes of the owner occupancy requirement.)

e. Notwithstanding subsection (8)(a), the community development director, in consultation with the city manager and city attorney, shall be authorized to promulgate regulations intended to legalize accessory dwelling units which are nonconforming solely by virtue of the fact that the property owner has failed to comply with subsection (8)(b)'s owner occupancy requirement, including but not limited to regulations providing for the

amortization of the nonconformity by specifying a period of time within which the absentee owner must either establish occupancy or discontinue the accessory dwelling unit use of the property, or alternatively sell the property, and regulations providing for the recordation of land use agreements specifying the terms of amortization.

f. Accessory dwelling unit properties shall be used for long-term residential purposes, for rentals of terms longer than 30 days. Accessory dwelling unit properties may neither be used on a transient occupancy basis nor for short-term/vacation rental purposes. Within condominium or townhouse properties that contain an accessory dwelling unit associated with a specific individual unit and not the larger common condominium or townhouse complex, neither the accessory dwelling unit nor the associated condominium or townhouse unit shall be used as a short-term rental.

i. Exception. A legal accessory dwelling unit property that had legal status prior to November 10, 2015, and was in use as a short-term/vacation rental prior to that date, and for which the owner remits transient occupancy tax in compliance with Chapter 3.28 in full in a timely manner for the use of the property as short-term/vacation rental purposes, may continue the use. The owner must meet the owner occupancy requirement of this code.

9. Connections Between Units. At the discretion of the planning director, accessory dwelling units may be permitted to create direct access between units, or common access to a shared garage, laundry room, or storage area; provided, that each unit meets the definition of dwelling unit found in Section 24.22.320.

10. ~~Other~~ Building Code Requirements. The accessory dwelling unit shall meet the requirements of the California Building Standards Code, including the alternative means and methods section as prescribed therein.

11. Municipal Code Requirements. All accessory dwelling units shall meet the objective design standards set forth in this Code, including landscape and tree removal and/or replacement requirements, which may require discretionary review.

~~11~~12. Large Home Design Permit. The square footage of an accessory dwelling unit shall not be counted with the square footage of the single-family home in determining whether a large home design permit is required.

Section 4. Subsection 24.16.141 – New Construction Accessory Dwelling Unit Development Standards of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.141 NEW CONSTRUCTION ACCESSORY DWELLING UNIT DEVELOPMENT STANDARDS.

~~1. Design. The design of the accessory dwelling unit shall relate to the design of the principal single-family dwelling by use of the compatible exterior wall materials, window types, door and window trims, roofing materials and roof pitch.~~

~~2~~1. Setbacks for New Construction Detached Accessory Dwelling Units.

a. The side yard and rear yard setbacks for a new construction detached single-story accessory dwelling unit shall not be less than three feet and the distance between buildings on the same lot must be a minimum of six feet.

b. Any portion of a new construction accessory dwelling unit that is over sixteen feet in height shall provide side setbacks of at least ~~five~~four feet and rear setbacks of at least ~~ten~~ four feet.

~~i. Exception: Any two-story accessory dwelling unit oriented toward an alley, street, or the Monterey Bay Scenic Sanctuary Trail shall provide a setback of no less than five feet from the side and rear property lines.~~

c. If any portion of a new construction accessory dwelling unit is located in front of the principal structure, then the front ~~and side~~yard setbacks shall be the same as those required for single-family homes in the zoning district. A smaller front setback shall be granted only if needed to accommodate an accessory dwelling unit of up to 800 square feet. In this case, the front setback and the clear corner triangle area (as defined in Section 24.22.202) shall be maximized while maintaining required separation between structures.

~~3~~2. Setbacks for New Construction Attached Accessory Dwelling Units. New construction attached accessory dwelling units shall provide a side setback of at least four feet and meet the same front setback required for the principal structure, either the single-family dwelling or the multi-family structure, by the zoning district, except that any requirement for an additional setback based on height over fifteen feet shall not apply to the portion of the structure that contains the accessory dwelling unit. A smaller front setback shall be granted only if needed to accommodate an accessory dwelling unit of up to 800 square feet, and the front setback and the clear corner triangle area (as defined in Section 24.22.202) shall be maximized while still accommodating an accessory dwelling unit of up to 800 square feet.

~~4~~3. Building Height and Stories.

~~a. A one-story detached new construction accessory dwelling unit shall be no more than sixteen feet in height measured to the roof peak.~~

~~b~~a. A ~~two-story~~ detached new construction accessory dwelling unit shall meet one of the following standards, with height measured to the roof peak:

i. Any ~~two-story~~ accessory dwelling unit that is built within four feet of a side and rear property line shall be subject to a height limit of sixteen feet.

~~ii. Any two-story accessory dwelling unit that is oriented toward an alley, street, or the Monterey Bay Scenic Sanctuary Trail shall be subject to a height limit of twenty-two feet.~~

iii. Any other ~~two-story~~ accessory dwelling unit shall be subject to a height limit of twenty-two feet.

~~c~~b. Any two-story detached new construction accessory dwelling unit shall place access stairs, decks, entry doors, and windows toward the interior of the lot, an alley, road, or the Monterey Bay Sanctuary Scenic Trail, if applicable. Second-story windows shall be oriented to obscure views of neighboring yards by ~~ADU~~ accessory dwelling unit occupants by using transom windows, translucent glass, or other methods. These requirements do not apply to ~~two-story~~ ~~ADU~~ accessory dwelling units that conform to the setbacks required for the primary structure on the parcel.

~~d~~c. An attached new construction accessory dwelling unit may occupy any level of the principal single-family dwelling and must comply with the height standard established for single-family homes in the zone district except as noted in subsection (3).

~~e~~d. If the design of the principal structure has special roof features that should be matched on the detached accessory dwelling unit to enhance design compatibility, the maximum allowed building height of the accessory dwelling unit may be exceeded in order to include such similar special roof features, subject to review and approval of the zoning administrator as part of the review of the building permit application.

~~5~~4. Substandard Lots. When a new construction accessory dwelling unit is proposed on a substandard residential lot, as defined in Section 24.22.520, the following design standards shall apply, but shall not serve to limit the accessory dwelling unit to a size of less than eight hundred square feet:

a. The maximum allowable lot coverage for all structures shall be forty-five percent. Lot coverage shall include the footprints of the first floor, garage (attached and detached), decks and porches (greater than thirty inches in height and not cantilevered), and any second-story cantilevered projection (enclosed or open) beyond two and one-half feet. Decks under thirty inches in height or fully cantilevered with no vertical support posts do not count toward lot coverage for this purpose. Second-story enclosed cantilevered areas that project less than thirty inches from the building wall do not count toward lot coverage. For such areas that project more than thirty inches from the building wall, only the floor area that projects more than thirty inches shall be counted as lot coverage. Lot coverage requirements must permit an accessory dwelling unit up to 800 square feet.

b. The floor area for all second stories shall not exceed fifty percent of the first floor area for all structures, except in cases where the first floor area of the structure to which a second story is being added constitutes thirty percent or less of the net lot area.

~~c. Continuous long walls parallel to the side property line with narrow side yards shall be minimized.~~

~~d. Landscaping shall be required at least for front yard areas.~~

~~e. Structures, landscaping or other features shall incorporate methods to lessen the visibility of garages on a street facade.~~

~~6~~5. Large Home Design Permit. Accessory dwelling units, both attached and detached, conversion and new construction, shall not contribute to the need for a large home design permit and, consistent with Section 24.16.130, shall be subject only to ministerial review. The city reserves the right to delay action on an application to build an accessory dwelling unit until such time as the permits for the primary residential use on the parcel have been approved.

Section 5. Subsection 24.16.170 – Junior Accessory Dwelling Units of Part 2: Accessory Dwelling Units of Chapter 24.16 – Affordable Housing Provisions of Title 24 – Zoning Ordinance of the City of Santa Cruz Municipal Code is hereby amended as follows:

24.16.170 JUNIOR ACCESSORY DWELLING UNITS.

1. Notwithstanding any other regulation or definition of this code, a junior accessory dwelling unit shall be permitted on parcels in zones where single-family dwellings are an allowed use and where single-family structures exist or are proposed on the site, and where the owner of the property occupies the property as their primary place of residence.

2. For the purposes of this section, "junior accessory dwelling unit" shall have the same meaning as defined in Section 65852.22 of the California Government Code.

3. Junior accessory dwelling units must be attached to a single-family dwelling, may be created in any part of an existing or proposed single-family dwelling, and may be created in an addition to a single-family dwelling.

4. Junior accessory dwelling units may be no larger than five hundred square feet in size.

5. Junior accessory dwelling units shall contain, at a minimum, the following features:

a. An exterior entrance separate from that of the primary home.

b. A cooking facility with appliances.

c. A food preparation counter and storage cabinets of reasonable size in relation to the size of the junior accessory dwelling unit.

6. Junior accessory dwelling units may include separate sanitation facilities or may share sanitation facilities with the primary dwelling. Where sanitation facilities are shared with the primary dwelling, the junior accessory dwelling unit shall have access to the primary dwelling through internal circulation and shall not be required to exit the structure in order to reach the entrance to the primary dwelling.

7. Junior accessory dwelling units that contain all the required features of a dwelling unit will not be required to maintain an interior connection between the junior accessory dwelling unit and the primary dwelling. Junior accessory dwelling units that do not contain all the required features of a dwelling unit will be required to maintain an interior connection between the junior accessory dwelling unit and the primary dwelling unit.

8. A deed restriction pursuant to Section 24.16.150 shall be required and recorded on the parcel.

AB-2221 Accessory dwelling units.(2021-2022)

As Amends the Law Today

SECTION 1.

Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, is amended to read:

65852.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

(viii) Local building code requirements that apply to detached dwellings, 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)* 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~~ *approve or deny an* application to create *or serve* an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the ~~local~~ *permitting* agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create *or serve* an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create *or serve* a new single-family *or multifamily* dwelling on the lot, the permitting agency may delay ~~acting on~~ *approving or denying* the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency ~~acts on~~ *approves or denies* the permit application to create *or serve* the new single-family *or multifamily* dwelling, but the application to create *or serve* the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not ~~acted upon~~ *approved or denied* the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation *or service* of an accessory dwelling unit.

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

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

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

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

~~(7)~~ *(6)* 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)~~ *(7)* 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.

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

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

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

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

(b) *(1)* When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create *or serve* an

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

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

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

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

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

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

(i) 850 square feet.

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

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, *front setbacks,* and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit 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~~ *onstreet* 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 and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

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

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

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

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

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

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

(ii) A height limitation of 16 feet.

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

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

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

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

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

(4) A local agency may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (8) of subdivision (a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) An efficiency unit.

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

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

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

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

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

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

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

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

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

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

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

(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,~~ *(2),* a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

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

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

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

SB-897 Accessory dwelling units: junior accessory dwelling units.(2021-2022)

SEC. 2.5.

Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, is amended to read:

65852.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. *The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.*

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

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

permit application to create the new single-family *or multifamily* dwelling, but the application to create *or serve* the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not ~~acted upon~~ *approved or denied* the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

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

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

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

~~(4)~~ *(6)* An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

~~(5)~~ *(7)* No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

~~(6)~~ *(8) (A)* This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, ~~including any owner-occupant requirement, except that~~ *except that, subject to subparagraphs (B) and (C),* a local agency may require ~~that the property be used for rentals of terms longer than 30 days.~~ *an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.*

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

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

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

~~(7)~~ *(9)* A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

~~(8)~~ *(10)* An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) *(1)* When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create *or serve* an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall ~~act on~~ *either approve or deny* the application to create *or serve* an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the ~~local~~ *permitting* agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create *or serve* an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create *or serve* a new single-family *or multifamily* dwelling on the lot, the permitting agency may delay ~~acting on~~ *approving or denying* the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency ~~acts on~~ *approves or denies* the permit application to create *or serve* the new single-family *or multifamily* dwelling, but the application to create *or serve* the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not ~~acted upon~~ *approved or denied* the completed application within 60 days, the application shall be deemed approved.

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

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

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

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

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

(i) 850 square feet.

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

(C) Any *requirement for a zoning clearance or separate zoning review or any* other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, *front setbacks,* and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit ~~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) Any height limitation that does not allow at least the following, as applicable:

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

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

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

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

(d) Notwithstanding any other law, ~~a local agency,~~ *and* whether or not ~~it~~ *the local agency* 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~~ *all* of the following ~~instances:~~ *shall apply:*

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

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

~~(2)~~ *(B)* ~~The~~ *Where the* accessory dwelling unit is located within an architecturally and historically significant historic district.

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

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

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

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

(2) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted

structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

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

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

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

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

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

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

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

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

(ii) A height limitation ~~of 16 feet.~~ *as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).*

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

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

(D) *(i)* Not more than two accessory dwelling units that are located on a lot that has an existing *or proposed* multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height ~~limit of 16 feet and four-foot~~ *limitation in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and* rear yard and side ~~setbacks.~~ *setbacks of no more than four feet.*

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

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

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. *The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.*

(4) A local agency may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (8) of subdivision (a).

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

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

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

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

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

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

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

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~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 *shall supersede a conflicting local ordinance. This section* does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

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

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

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

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

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

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

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

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

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

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

(A) An efficiency unit.

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

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

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

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

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

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

(7) “Objective standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

~~(7)~~ *(8)* “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

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

~~(8)~~ *(10)* “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

~~(9)~~ *(11)* “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

~~(10)~~ *(12)* “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

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

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

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

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

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

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

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

SEC. 4.

Section 65852.22 of the Government Code is amended to read:

65852.22.

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

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

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

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

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

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

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence. *For purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.*

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

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

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

(A) A cooking facility with appliances.

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

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

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

(c) *(1)* An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall ~~act on~~ *either approve or deny* the application to create *or serve* a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create *or serve* a junior accessory dwelling unit is submitted with a permit application to create *or serve* a new single-family dwelling on the lot, the permitting agency may delay ~~acting on~~ *approving or denying* the permit application for the junior accessory dwelling unit until the permitting agency ~~acts on~~ *approves or denies* the permit application to create *or serve* the new single-family dwelling, but the application to create *or serve* the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

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

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

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

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

~~(f)~~ *(g)* This section shall not be construed to prohibit a local agency from adopting an ordinance or ~~regulation,~~ *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)~~ *(h)* If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

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

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

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

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

SEC. 5.

Section 65852.23 is added to the Government Code, to read:

65852.23.

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

(1) The accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.

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

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

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

SEC. 6.

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

17980.12.

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

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

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

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

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

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

~~(3)~~ *(4)* The enforcement agency shall grant an application described in paragraph (2) if the enforcement agency determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

~~(4)~~ *(5)* The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph ~~(3).~~ *(4).*

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

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