



# Commission Agenda Report

To: Chair Marx and Members of the Planning Commission

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Approved by: Bonnie Blue, Planning Director 

Date prepared: August 23, 2018 Meeting date: September 4, 2018

Subject: Local Coastal Program Amendment No. 18-002 and Zoning Text Amendment No. 18-004 Amendments to the Malibu Municipal Code and Title 17 (Zoning) and to the Malibu Local Coastal Program to Update Accessory Dwelling Unit Regulations

Applicant: City of Malibu  
Location: Citywide

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**RECOMMENDED ACTION:** 1) Provide recommendations on the proposed Accessory Dwelling Unit (ADU) regulations (Attachments 1 and 2); and 2) Direct staff to prepare a resolution for adoption with a recommendation to City Council on the amendments.

**DISCUSSION:** On June 11, 2018, the City Council adopted Resolution No. 18-28 initiating amendments to the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) regarding accessory dwelling units, which are currently known as second units. On July 17, 2019, staff presented Local Coastal Program Amendment (LCPA) No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004 to update ADU regulations consistent with recent changes in State law to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) of the City Council. ZORACES considered the proposed amendments and provided recommendations to staff as discussed later in this report.

The full text of the draft amendments can be found in Attachments 1 (LCPA) and 2 (ZTA) which are presented as redline documents with underlined text representing new text and strike out text representing deleted text. The LCP amendment will require certification by the California Coastal Commission (CCC). CCC staff have indicated that they will process ADU-specific LCPAs as minor or *de minimis* amendments whenever possible. Other than creating a streamlined permit process and reconciling terminology between State law and local ordinances, the proposed amendments would not make substantive changes to the way the City currently addresses second units in terms of size, number allowed on a property, parking, view and coastal resources protection and other key standards.

## *Legislative History*

In 2016 in an effort to increase affordable housing opportunities, the State of California adopted three laws regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs): SB 1069, AB 2299 and AB 2406. JADUs are units created inside an existing house. These laws went into effect in 2017. The new regulations are intended to reduce the regulatory, physical and financial barriers to constructing ADUs, which are seen as an opportunity for providing affordable housing. See California Department of Housing and Community Development (HCD) *Accessory Dwelling Unit Memorandum* included as Attachment 3 for further details on new State law.

SB 2299 and SB 1069 made changes to local agencies' authority to regulate second units. The most notable provisions include amended provisions for types of units and sizes, reduced parking, approval process and timelines, and utility requirements. It is important to note that State law still authorizes local agencies to adopt additional restrictions to regulate ADUs, as long as the additional restrictions do not conflict with regulations established in State law. AB 2406 (JADUs), which was adopted after SB 1069 and AB 2299, was enacted to authorize local governments to permit junior accessory dwelling units to encourage the construction of smaller units, which often result in more affordable housing options, for seniors, young adults, and others who are affected by the affordable housing shortage in California.

As part of the amendment process, the terminology in the LCP and MMC pertaining to "second units," will be changed to "accessory dwelling units". As defined in the LCP and MMC, second units contain cooking facilities. Guest houses, sometimes referred to as "guest units," which by definition do not include cooking facilities, are also allowed in the City, but staff is not proposing any changes to guest unit/guest house regulations.

### *ADU Regulations - Relationship to Coastal Act/LCP*

In general, State legislation pertaining to ADUs is intended to supersede a city's regulations for secondary dwelling units. However, as noted in one of two memoranda issued by CCC and included as Attachment 4, the State legislation does not supersede the requirements of the California Coastal Act. Therefore, ADUs are still subject to permitting requirements under the Coastal Act, and where a local government has a certified LCP, it is subject to that LCP. When the Legislature amended the law relative to ADUs, it included in the statute that the new regulations should not be interpreted to "supersede or in any way alter or lessen the effect or application of the California Coastal Act...except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units." (Gov. Code 65852.2 subd. (j)). Since the City of Malibu has a certified LCP, the LCP still applies, but ADUs must be processed administratively, meaning, without a public hearing, but still pursuant to a coastal development permit (CDP).

*ADU Processing*

The Government Code (Section 65852.3(a)(3)) requires that the City consider an application for an ADU ministerially without a public hearing within 120 days after receiving a complete application. However, the LCP requires second units to be processed with a CDP. Staff is proposing create a new CDP type to accomplish this in a streamlined way, similar to the OWTS-only ACDPs that staff administratively approves and reports to the Commission.<sup>1</sup> A new Section 13.30 would be added to LIP Chapter 13 for ADU CDP processing, with separate findings that focus on the ministerial nature of ADUs similar to those required for the OWTS-only projects. State law prohibits a public hearing process for ADUs. The ADU CDP would be approved by the Planning Director and reported to the Planning Commission, but because of State law, this CDP would not be eligible for treatment as a regular CDP requiring a public hearing.

*Code Changes for Internal Consistency and ADU regulations*

As part of the amendment process to update the City’s existing second unit standards consistent with State law, various other sections of the Zoning Code and LCP need to be amended for internal consistency and for consistency with the State law. Specifically, the term “second unit” will be replaced with “accessory dwelling unit” wherever it appears. Though no changes to current “guest house” regulations are proposed, as a housekeeping matter, references to the term “guest unit” will be replaced with “guest house” consistent with the existing definition.

Table 1 identifies where changes to the Zoning Code and LCP are proposed relative to the ADU amendment.

Table 1		
MMC Title 17 - Zoning		
Chapter/Section	Section Name	Required Change
Chapter 17.02	Introductory Provision and Definitions	Add definitions for ADU and Car Share and Delete second unit definition
Chapter 17.08	Rural Residential Zone-Permitted Uses	Change second unit reference to ADU
Chapter 17.10	Single Family Zone-Permitted Uses	Change second unit reference to ADU
Chapter 17.12	Multifamily Zone-Permitted Uses	Change second unit reference to ADU
Chapter 17.14	Multifamily Beach Front Zone-Permitted Uses	Change second unit reference to ADU

<sup>1</sup> Local Implementation Plan Sections 13.13 and 13.29

Chapter 17.39	Malibu Coast Estate	Change second unit reference to ADU (2 locations)
Chapter 17.40	Property Development and Design Standards	Add new Section 17.40.045 to incorporate ADU regulations
Chapter 17.45	Citywide View Preservation and Restoration	Change 2 <sup>nd</sup> unit and granny flats to ADU in definition section
Appendix 1	Permitted Uses Table	Delete second units and add ADUs as permitted use in RR, SF, MF, and MFBF zones and change guest unit to guest house
LCP – Land Use Plan (LUP)		
Chapter 3	Marine and Land Resources	Change second unit reference to ADU
Chapter 5	New Development	Change second unit references to ADU (6 locations)  Clarify parking requirements
LCP – Local Implementation Plan (LIP)		
Chapter 2	Definitions	Add definitions for ADU and Car Share and delete second unit definition
Chapter 3 - Q.	Planned Development Zone	Change two references to second unit to ADU and guest unit to guest house
Chapter 3 – 3.6	Residential Development Standards	Delete 2 <sup>nd</sup> unit regulations and incorporate new ADU regulations
Chapter 13	Coastal Development Permits	Add new section (13.30) on permitting ADU's
Appendix 1	Table B – Permitted Uses	Delete second units and add ADUs as permitted use in RR, SF, MF, and MFBF zones and change guest unit to guest house

*Proposed Accessory Dwelling Unit Regulations*

Staff is proposing to define ADU as follows:

Accessory Dwelling Unit – A dwelling unit providing complete independent living facilities for one or more persons that is located on a parcel with another primary, single-family dwelling. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling's location. An accessory dwelling unit may be within the same

structure as the primary unit, in an attached structure, or in a separate structure on the same parcel.

This definition is very similar to the definition provided in the sample ordinance prepared by HCD and the one used by the City of Santa Monica but is streamlined to remove unnecessary language.

Table 2 below provides a comparison of State, Existing City and Proposed City Standards for ADUs. An ADU must also meet the Building Code, and Environmental Health approval is required where a private septic system is being used, which would apply to most portions of Malibu. Most of the standards already applicable to second units will not change. No discretionary approval can be required for an ADU, but ADUs must still meet requirements such as protection of ESHA, bluffs, public views, view corridors, and private primary views.

Table 2 – Comparison of State, Existing City and Proposed Standards			
Standard	State Standard	Existing Malibu Standard	Proposed Standard
Location	<p>Permitted on lots zoned for single-family or multi-family residential</p> <p>ADU must be located on same lot as existing or proposed single-family dwelling</p>	<p>Second units allowed in Rural Residential (RR), Single-family (SF), Multi-family (MF), Multi-family Beach Front (MFBF) zones and Planned Development (PD)</p> <p>Must be located in the approved development area for the site and clustered with primary dwelling to minimize required fuel modification.</p>	<p>No change in zones, clustering requirements for minimizing fuel modification, view corridors or other resource protection standards.</p>
Unit Size	<p><u>Attached</u>: up to 50% of existing living area; maximum 1,200 sq. ft.</p> <p><u>Detached</u>: 1,200 sq. ft. maximum</p>	<p>900 sq. ft. for second unit, with 400 sq. ft. garage; no difference between attached and detached.</p>	<p>Up to 50% of existing living area of primary residence, up to 900 sq. ft. maximum, plus 400 sq. ft. garage; no difference between attached and detached.</p>

Table 2 – Comparison of State, Existing City and Proposed Standards

Standard	State Standard	Existing Malibu Standard	Proposed Standard
Number	Minimum one per lot with an existing or proposed single family dwelling	One second unit per lot with single-family dwelling  Development of second residential unit requires that a primary dwelling unit be developed on the lot prior to or concurrent with the second residential unit.	No change
Passageway <sup>2</sup>	Cannot be required between street and detached ADU	Not addressed	Cannot be required between street and detached ADU
Setbacks	No setback change shall be required for an existing garage that is converted to an ADU, but ADU must meet Building and Fire Codes.  A setback of no more than 5 feet from a side or rear lot line can be required for an ADU that is constructed above a garage  Setbacks for other types of ADUs not addressed	Remodel of existing garage to create a second unit can maintain setbacks with Fire Dept. approval and less than 50% walls demolished  Addition to create a second unit above an existing garage must meet setbacks  New construction of any other types of ADUs must meet setbacks	No change  Addition to create an ADU above an existing garage shall require a setback of no more than 5 feet from side and rear property lines (applicant could provide greater setback if desired)  New construction of any other types of ADUs must meet setbacks

<sup>2</sup> State law uses the term “passageway” which is defined as a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU.

Table 2 – Comparison of State, Existing City and Proposed Standards

Standard	State Standard	Existing Malibu Standard	Proposed Standard
Parking	<p>A maximum of one space is required. Spaces may be provided as covered, uncovered, tandem parking on a driveway or with mechanical lifts. No parking required if the unit is located:</p> <ul style="list-style-type: none"> <li>- Within a 1/2 mile from a public transit stop</li> <li>- Within an historic district</li> <li>- Within an existing primary residence or an existing accessory structure</li> <li>- An area where on-street parking permits are required but are not offered to the occupant of the ADU.</li> <li>- Within one block of a car share service</li> </ul>	<p>One parking space per second unit (enclosed or unenclosed).</p>	<p>One space is required. Spaces may be provided as enclosed, unenclosed, or tandem parking on a driveway. Mechanical lifts not allowed. No parking required if the unit is located:</p> <ul style="list-style-type: none"> <li>- Within a 1/2 mile from a public transit stop as measured by actual walking distance</li> <li>- Within an existing primary residence or an existing accessory structure</li> <li>- An area where on-street parking permits are required but are not offered to the occupant of the ADU</li> <li>- Within one block of a car share service<sup>3</sup></li> </ul>
Fire Sprinklers	<p>ADUs are not required to provide fire sprinklers if they were not required for the principal residence</p>	<p>Fire Department currently requires fire sprinklers in all single-family dwellings, so they would be required in ADU (See Attachment 5)</p>	<p>No change</p>

<sup>3</sup> Car share service is a term from State law. A definition for the City's ordinance is being developed.

Table 2 – Comparison of State, Existing City and Proposed Standards

Standard	State Standard	Existing Malibu Standard	Proposed Standard
Utilities	<p>ADU in existing house cannot be subject to new water connection fee.</p> <p>Connection fees or capacity charges must be proportionate to the impact of the ADU based on either its size or number of plumbing fixtures</p>	Current policy/regulations.	<p>ADU in existing house cannot be subject to new water connection fee.</p> <p>Connection fees or capacity charges must be proportionate to the impact of the ADU based on either its size or number of plumbing fixtures</p>
<p>Garage Conversion -</p> <p>When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, and the City requires replacement parking</p>	Replacement spaces may be located in any configuration on the same lot as the ADU, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or provide with the use of mechanical automobile lifts.	Replacement spaces must meet current code, e.g., if enclosed parking is lost for ADU, it must be replaced with enclosed parking.	Require replacement parking as enclosed, unenclosed, or tandem. Use of mechanical automobile lifts not allowed.
Owner Occupancy of Primary Residence	Not required	Not required	No change
Rental of ADU	ADU may be rented separate from the primary residence but may not be sold or	Second unit cannot be sold separately from primary residence without a subdivision.	ADU cannot be sold or otherwise conveyed separate from the primary

Table 2 – Comparison of State, Existing City and Proposed Standards			
Standard	State Standard	Existing Malibu Standard	Proposed Standard
	otherwise conveyed separate from the primary residence	Can be rented long term or short term.	residence. Can be rented long term or short term.
Deed restriction <sup>4</sup>	Not required	Not required	No change

### *ZORACES Comments*

ZORACES recommended moving forward with the proposed amendment, but had requested additional information on City policy as it relates to obtaining a second address and separate utility meter for an ADU. Building Division staff indicated that the City’s policy is to allow only one address per parcel, so a second unit would not be assigned a separate address. This policy was put in place, in part, to address the issue of rehab and treatment facilities using separate addresses to obtain more than one license on the same property from the State. Building Division staff also indicated that it is Southern California Edison’s policy not to allow second meter without separate addresses.

Another question that was discussed during the ZORACES meeting was whether moveable tiny houses or mobile homes could be utilized for ADUs. An ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007). The use of manufactured housing on a foundation as a residence has been allowed for many years. While tiny houses are a relatively new phenomenon, they could be utilized for an ADU; however, they would need to be on a permanent foundation pursuant to the proposed ordinance.

### *Minimum Size*

As noted in the attached HCD memo, “Local governments may establish minimum and maximum unit sizes. However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.” This section of the Health and Safety Code specifies a minimum size of 150 square feet for an efficiency unit.

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<sup>4</sup> A deed restriction can be placed on the property if the City’s ordinance requires standards such as owner occupancy of the primary residence. This is not currently proposed.

The LCP and Zoning Ordinance define an efficiency dwelling unit as a dwelling unit consisting of not more than one habitable room together with a kitchen or kitchenette and sanitary facilities. The LCP and Zoning Ordinance set the minimum size for a single-family dwelling at 800 square feet.<sup>5</sup> Since State law calls out a minimum size local governments must allow for ADUs (150 square foot efficiency unit), the proposed amendments are silent on minimum ADU size, but include a clarification that the 800 square foot minimum applies to a primary residence.

### *Junior ADU*

The State adopted provisions to allow Junior Accessory Dwelling units (JADUs) to offer homeowners another option to create affordable housing without adding additional utility services or infrastructure because they are essentially repurposed bedrooms. Adopting a JADU ordinance is optional. A JADU is a unit created within an existing or proposed single-family dwelling. It must have separate exterior access and maintain interior access to the rest of the house. An efficiency kitchen is required but separate bathrooms are not; sharing a bathroom with the primary single-family dwelling is allowed. The maximum allowed size of a JADU is 500 square feet. State law does not allow cities to require parking for a JADU but does require that the property owner occupy the primary single-family dwelling.

Due to their limited size and the fact that JADUs are carved out of an existing residence, they are often more affordable by design. Consequently, the Department of Housing and Community Development has indicated they would count the units, if they meet the affordability criteria, towards the City's Regional Housing Needs Assessment (RNHA) requirements. While JADUs would provide the City an opportunity to increase the number of affordable units in the City that could be counted towards the City's RHNA, ZORACES concurred with staff in recommending that the City not move forward with a JADU ordinance at this time since these types of units could be built within existing residences under the proposed ADU ordinance, and would allow the City to maintain the requirement for a one parking space.

However, if the City were to adopt a JADU ordinance, the following provisions would need to be included:

1. Limit the number of JADUs to one per existing single-family residence;
2. Require owner-occupancy of the single-family residence in which the JADU is located;
3. Prohibit the sale of the JADU separate from the sale of the single-family residence;
4. Require the inclusion of an existing bedroom in the JADU;
5. Require that the JADU have a separate entrance with an interior entry to the main living area;
6. Require that the JADU have an efficiency kitchen (sink with a maximum waste line diameter of 1.5 inches; cooking facility with appliances that do not require electrical

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<sup>5</sup> MMC Section 17.40.040(A)(4)(a) and LIP Section 3.6(D)

- service greater than 120 volts or natural or propane gas; food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU);
7. Require an inspection, including the imposition of a fee for that inspection, to determine whether the JADU is in compliance with applicable building standards; and
  8. Require that a covenant be recorded with the County Recorder's Office detailing the restriction on the size and attributes of the JADU as set forth above.

As mentioned previously, the ordinance cannot require additional parking as a condition to grant a permit for JADU. Additionally, JADUs cannot be considered a separate or new dwelling unit for the purposes of water, sewer or power connection fees. No new requirements or connections are needed as these would have already been accounted for in the original permit for the home.

The main differences between a standard ADU located inside a single-family residence as opposed to the JADU would be the size limit of 500 square feet, the ability to have shared bathroom facilities with the main unit, the provisions for a small efficiency kitchen with limited components, requirement for owner occupancy and no required parking.

ENVIRONMENTAL REVIEW: Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption. Furthermore, the Planning Director has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Director determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

CORRESPONDENCE: No written public correspondence has been received to date.

PUBLIC NOTICE: On August 9, 2018 a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties (Attachment 5).

CONCLUSION: Staff recommends that the Planning Commission provide comments on the proposed ZTA to the MMC. At the Planning Commission's direction, staff would then prepare a resolution with the proposed amendments and the Commission's recommendation to the City Council on the ZTA and LCPA.

ATTACHMENTS:

1. LCP amendments (redline)
2. MMC amendments (redline)
3. HCD Accessory Dwelling Unit Memorandum
4. CCC Memoranda on ADUs dated 4/18/17 and 11/20/17
5. California State Fire Marshal Information Bulletin 17-001
6. Public Hearing Notice

# LAND USE PLAN

## CHAPTER 3—MARINE AND LAND RESOURCES

### g. New Development

3.42 New development shall be sited and designed to minimize impacts to ESHA by:

- a. Minimizing grading and landform alteration, consistent with Policy 6.8.
- b. Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.
- c. Limiting the maximum number of structures to one main residence, one ~~second residential structure~~, accessory dwelling unit and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.
- d. Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.
- e. Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.
- f. Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.
- g. Minimizing impacts to water quality, consistent with Policies 3.94—3.155. (Resolution No. 07-04)

## CHAPTER 5—NEW DEVELOPMENT

### 2. Land Use Plan Provisions

The LUP provides parameters for new development within the City. The Land Use Plan Map designates the allowable land use, including type, maximum density and intensity, for each parcel. Land use types include local commercial, visitor serving commercial, residential, institutional, recreational, and open space. The LUP describes the allowable uses in each category.

The commercial development policies provide for pedestrian and bicycle circulation to be provided within new commercial projects in order to minimize vehicular traffic. Visitor serving commercial uses shall be allowed in all commercial zones in the City and shall be given priority over other non-coastal dependent development. Parking facilities approved for office or other commercial developments shall be permitted to be used for public beach parking on weekends and other times when the parking is not needed for the approved uses.

The LUP encourages and provides for the preparation of a specific plan or other comprehensive plan for the Civic Center area. The Land Use Plan Map designates this area for Community Commercial, General Commercial, and Visitor- Serving Commercial uses. By preparing a Specific Plan a wider range and mix of uses, development standards, and design guidelines tailored to the unique characteristics of the Civic Center could be provided for this area as a future amendment to the LCP.

The LUP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence, one ~~second residential structure~~ accessory dwelling unit, and additional accessory structures provided that all such structures are located within the approved development area and clustered to minimize required fuel modification, landform alteration, and removal of native vegetation.

The LUP provides for a lot retirement program designed to minimize the individual and cumulative impacts of the potential buildout of existing parcels that are located in ESHA or other constrained areas and still allow for new development and creation of parcels in areas with fewer constraints. This includes the Transfer of Development Credit (TDC) Program, and an expedited reversion to acreage process. The TDC program will be implemented on a region-wide basis, including the City as well as the unincorporated area of the Santa Monica Mountains within the Coastal Zone. New development that results in the creation of new parcels, or multi-family development that includes more than one unit per existing parcel, except for affordable housing units, must retire an equivalent number of existing parcels that meet the qualification criteria of the program. Finally, an expedited procedure will be implemented to process reversion to acreage maps.

The LUP policies require that land divisions minimize impacts to coastal resources and public access. Land divisions include subdivisions through parcel or tract map, lot line adjustments, and certificates of compliance. Land divisions are only permitted if they are approved in a coastal development permit. A land

division cannot be approved unless every new lot created would contain an identified building site that could be developed consistent with all policies of the LCP. Land divisions must be designed to cluster development, to minimize landform alteration, to minimize site disturbance, and to maximize open space. Any land division resulting in the creation of additional lots must be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created. Certificates of compliance must meet all policies of the LCP.

The LUP policies provide for the protection of water resources. New development must provide evidence of an adequate potable water supply. The use of water wells to serve new development must minimize individual and cumulative impacts on groundwater supplies and on adjacent or nearby streams, springs or seeps and their associated riparian habitats. Water conservation shall be promoted. Reclaimed water may be used for approved landscaping, but landscaping or irrigation of natural vegetation for the sole purpose of disposing of reclaimed water is prohibited.

Communication facilities are provided for as a conditional use in all land use designations. All facilities and related support structures shall be sited and designed to protect coastal resources, including scenic and visual resources. Co-location of facilities is required where feasible to avoid the impacts of facility proliferation. New transmission lines and support structures will be placed underground where feasible. Existing facilities should be relocated underground when they are replaced.

Finally, the New Development policies provide for the protection and preservation of archaeological and paleontological resources. Measures to avoid and/or minimize impacts to identified archaeological and paleontological resources must be incorporated into the project and monitoring must be provided during construction to protect resources.

## **6. Residential Development Policies**

**5.20** All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development.

**5.21** The maximum number of structures permitted in a residential development shall be limited to one main residence, one accessory dwelling unit, ~~second residential structure~~, and accessory structures such as stable, workshop, gym, studio, pool cabana, office, or tennis court provided that all such structures are located within the approved development area and structures are clustered to minimize required fuel modification.

**5.22** ~~Second residential units~~ Accessory dwelling units (guesthouses, granny units, etc.) shall be limited in size to a maximum of 900 square feet. The maximum square footage shall include the total floor area of all enclosed space, including lofts, mezzanines, and storage areas. Detached garages, including garages provided as part of an ~~second residential unit~~ accessory dwelling unit, shall not exceed 400

square feet (2-car) maximum. The area of a garage provided as part of an ~~second residential unit~~ accessory dwelling unit shall not be included in the 900 square foot limit.

**5.23** A ~~minimum~~-maximum of one on-site parking space shall be required for the exclusive use of any ~~second residential unit~~-accessory dwelling unit.

**5.24** New development of an ~~second residential unit~~-accessory dwelling unit or other accessory structure that includes plumbing facilities shall demonstrate that adequate private sewage disposal can be provided on the project site consistent with all of the policies of the LCP.

**5.25** In order to protect the rural character, improvements, which create a suburban atmosphere such as sidewalks and streetlights, shall be avoided in any rural residential designation.

# LOCAL IMPLEMENTATION PLAN

## CHAPTER 2—DEFINITIONS

### 2.1. GENERAL DEFINITIONS

ACCESSORY DWELLING UNIT - a dwelling unit providing complete independent living facilities for one or more persons that is located on a parcel with another primary, single-family dwelling. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling's location. An accessory dwelling unit may be within the same structure as the primary unit, in an attached structure, or in a separate structure on the same parcel.

CAR SHARE SERVICE - for purposes of Section 3.6(N), car share service shall mean ...[DEFINITION TO BE PROVIDED]

~~SECOND UNIT~~—an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. The maximum living area of a second unit shall not exceed 900 square feet, including any mezzanine or storage space. A second unit may include a garage not to exceed 400 sq. ft. The square footage of the garage shall not be included in the maximum living area.

## CHAPTER 3—ZONING DESIGNATIONS AND PERMITTED USES

### Q. Planned Development (PD) Zone

#### 1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in Chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the “Crummer Trust” parcel.

#### 2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the “Malibu Coast Estate Planned Development Map 1” of this LIP.

##### a. Lot Nos. 1—5

- i. One single-family residence per lot.
- ii. Accessory uses (one ~~second~~-accessory dwelling unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
- iii. Domestic animals, kept as pets.
- iv. Landscaping.

##### b. Lot No. 6

- i. Uses and structures maintained by either the owners of Lots 1—5 or the homeowners’ association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.

##### c. Lot No. 7

- i. Parks and public open space, excluding community centers.

- ii. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the Planning Director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.
- iii. Onsite wastewater treatment facilities.

### 3. Lot Development Criteria

All new lots created in Malibu Coast Estate shall comply with the following criteria:

- a. Lot Nos. 1—5
  - i. Minimum lot area: 113,600 square feet (2.60 acres).
  - ii. Minimum lot width: 115 feet.
  - iii. Minimum lot depth: 480 feet.
- b. Lot No. 6
  - i. Minimum lot area: 125,700 square feet (2.88 acres).
  - ii. Minimum lot width: 625 feet.
  - iii. Minimum lot depth: 100 feet.
- c. Lot No. 7
  - i. Minimum lot area: 75,640 square feet (1.74 acres).
  - ii. Minimum lot width: 460 feet.
  - iii. Minimum lot depth: 100 feet.

### 4. Property Development and Design Standards

Development in Malibu Coast Estate shall be subject to all applicable standards of the Malibu LIP, unless otherwise indicated in this LIP Section 3.3(Q). The following development standards shall replace the corresponding development standards otherwise contained in each noted LIP Section for those lots in Malibu Coast Estate.

- a. Lot Nos. 1—5
  - i. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))
    - a) The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

Lot 1 – 10,052 sq. ft.

Lot 2 – 9,642 sq. ft.

Lot 3 – 9,434 sq. ft.

Lot 4 – 9,513 sq. ft.

Lot 5 – 10,990 sq. ft.

- b) Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one-thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.
  - c) Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six foot projection) shall be included in TDSF.
  - d) The development footprint on each lot (Lot Nos. 1—5) shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. Structures on Lot 5 shall be setback a minimum of 190 feet from the edge of the bluff as identified on “Malibu Coast Estate Planned Development Map 1” in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at grade improvements or low profile above-grade improvements for accessory uses not to exceed 10 feet in height.
- ii. Setbacks (Replaces corresponding standards in LIP Section 3.6F)
- a) Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.
  - b) Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.
  - c) Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.
  - d) Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.
- iii. Structure Height (Replaces corresponding standards in LIP Section 3.6(E))
- a) Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet,

as indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. Height is measured from natural or finished grade, whichever is lower.

- b) Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.
  - c) In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.
- iv. Grading (Replaces corresponding standards in LIP Section 8.3(B))
- a) Notwithstanding other provisions of this Code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.
  - b) Non-exempt grading shall be limited to 2,000 cubic yards per lot.
  - c) Net export shall be limited to 3,500 cubic yards per lot.
- v. Impermeable Coverage, Landscaping, and Berm
- a) The impermeable coverage requirement in LIP Section 3.6(I) shall apply.
  - b) In addition to the requirements of LIP Section 3.10, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed 25 feet.
  - c) A natural-looking earthen berm that is 4 feet in height (except for the northernmost 30 foot long portion on Lot 1 that shall be no less than 2 feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.
- vi. Parking (In addition to the parking standards of LIP Section 3.14)
- a) Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide.
  - b) One enclosed or unenclosed parking space for a guest house or ~~second~~-accessory dwelling unit.
- vii. Colors and Lighting (In addition to the standards of LIP Section 6.5(B))

- a) Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.
- b) Lighting must comply with LIP Section 6.5(G).

viii. Permit Required

To insure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1-5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.

long as sufficient parking is provided to serve existing and proposed public access and recreation uses and any adverse impacts to public access and recreation are avoided.

iii. Fencing

With the exception of skate park and sport court fencing and backstops, fences and walls shall not exceed eight feet in height. The fencing and backstops design and materials shall take into consideration view and vista areas, site distance, and environmental constraints.

iv. Temporary Uses

Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Malibu Municipal Code Chapter 17.68. (Ord. 398 § 4, 2015; Ord. 373 § 3, 2013; Ord. 366 § 3(C), 2012; Ord. 364 § 4(A), 2012)

### 3.6. RESIDENTIAL DEVELOPMENT STANDARDS

All single-family and multiple-family residences shall be subject to the following development standards:

D. The minimum floor area of a residential unit shall be as follows:

1. For a single-family residence, not less than 800 square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory structures.
2. For each multi-family dwelling unit, not less than 750 square feet, exclusive of any appurtenant structures.

N. Accessory Structures. Accessory structures identified as being permitted within any zone may be established only if they are clearly accessory to a primary permitted or conditionally permitted use established concurrent with or prior to establishment of accessory use.

1. Second Residential Units

- a. Second residential unit includes a guest house or an accessory dwelling unit ~~second unit~~, as defined in Section 2.1 of the Malibu LIP.
- b. A maximum of one second residential unit may be permitted as an accessory to a permitted or existing single family dwelling. Development of a second residential unit shall require that a primary dwelling unit be developed on the lot prior to or concurrent with the second residential unit.

c. Development Standards

i. Siting

Any permitted second residential unit shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.

ii. Maximum Living Area

The maximum living area of a second residential unit shall not exceed 900 square feet, including the total floor area of all enclosed space, including any mezzanine or storage space. The maximum living area shall not include the area of a garage included as part of the second residential unit.

iii. Parking

- a) A minimum of one on-site parking space shall be provided for the exclusive use of a second residential unit.
- b) One garage not to exceed 400 square feet in size may be permitted as part of a second residential unit.

d. Accessory Dwelling Unit Regulations

- i. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units as defined in the LIP Section 2.1 (General Definitions) and in California Government Code Section 65852.2, or any successor statute in the following residential zones: Rural Residential (RR), Single Family (SF), Multiple Family (MF), Multifamily Beach Front (MFBF) or areas designated for single family residential use as part of a Planned Development (PD) zone and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- ii. CDP required. An accessory dwelling unit coastal development permit (ADU CDP) shall be obtained for an accessory dwelling unit pursuant to LIP Section 13.30.
- iii. The director shall approve, conditionally approve, or deny an ADU CDP application for an accessory dwelling unit that complies with Subsection iv (Development Standards) below within 120 days after receiving a complete application.
- iv. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying zoning district, any applicable overlay district and all other applicable provisions of the LIP including, but not limited to, height, setback, site coverage, and other coastal resource protection development standards; unless the unit is contained within a legal nonconforming structure and the accessory dwelling unit development would comply with LIP section 13.5.
  - a) Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located except as follows:
    - 1. No additional setback shall be required for an existing garage that is remodeled into an accessory dwelling unit provided that the side and rear setbacks comply with required building codes.

2. An addition to create an accessory dwelling unit above an existing garage shall require a setback of not more than five feet from side and rear property lines.
- b) Unit Size. An accessory dwelling unit shall not exceed 50 percent of the existing living area of the primary single family dwelling, whichever is less.
- c) Exterior Access. An accessory dwelling unit shall have independent exterior access from the primary dwelling.
- v. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if sprinklers were not required for the primary dwelling.
- vi. Pathway. A pathway from the street to the entrance of an accessory dwelling unit shall not be required **unless required by the fire department**. For purposes of this section, a pathway means a path that is unobstructed clear to the sky.
- vii. Parking. Parking shall comply with requirements of subsection 1(c)(iii) above and LIP Section 3.14 (Parking Regulations) except as modified below:
- a) Required parking may be provided as tandem parking and/or may be located on an existing driveway. Mechanical lifts shall not be utilized to provide required parking.
- b) No parking shall be required when:
1. The accessory dwelling unit is converted as part of the existing primary residence or existing accessory structure.
  2. The accessory dwelling unit is located within one-half mile (measured by actual walking distance) of a public transit stop with fixed route bus service.
  3. On-street parking permits are required but not offered to the occupant of the accessory dwelling unit
  4. The location of the proposed accessory dwelling unit is within one block of a designated car share pick up and drop off location.
- c) When a required parking space within a garage, carport or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement space may be located in any configuration on the same lot as the accessory dwelling unit including but not limited to as an enclosed, unenclosed or tandem space. The use of mechanical automobile parking lifts shall not be allowed as replacement for required parking.
- viii. Utilities. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating utility connection fees.

- a) State law provides for a new or separate utility connection fee to be required for an accessory dwelling unit that is not contained within the existing primary dwelling unit or within an existing accessory building. The connection fee shall be proportionate to the burden of the accessory dwelling unit based on the accessory dwelling unit size and number of plumbing fixtures.
- b) Conversion of floor area to an accessory dwelling unit within an existing structure with the appropriate meter size shall not be subject to new water connection fees.

ix. Additional requirements for all accessory dwelling units

- a) Sale of units. The accessory dwelling unit shall not be sold separately from the primary dwelling.
- b) Building and Safety Compliance. The accessory dwelling unit shall comply with the same building and safety requirements as the primary dwelling unit in accordance with the California Government Code and California Fire Code.
- c) Foundation. A permanent foundation is required.
- d) Wastewater Approval. The accessory dwelling unit shall comply with all applicable requirements for onsite wastewater treatment systems.

2. Other Accessory Structures

- a. Accessory structures customarily ancillary to single family dwellings including, but not limited to, a stable, workshop, gym, studio, pool cabana, office, sport court, pool, or spa may be permitted as an accessory to a permitted or existing single family dwelling.
- b. Any permitted accessory structure shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.
- c. Permitted development located within or adjacent to parklands that adversely impact those areas may include open space or conservation restrictions or easements over parkland buffer in order to protect resources.

## **Chapter 13 - COASTAL DEVELOPMENT PERMITS**

### **13.30 ACCESSORY DWELLING UNIT COASTAL DEVELOPMENT PERMITS**

#### **13.30.1 Applicability**

These regulations shall apply to all applications for an Accessory Dwelling Unit (ADU) as defined in Chapter 2 of the Malibu LIP (Definitions) that are not exempt pursuant to LIP Section 13.4.1. An application for an Accessory Dwelling Unit Coastal Development Permit (ADU CDP) shall be made to the Planning Director.

A. Applications for ADU CDPs shall be to the Planning Director on forms provided by the Planning Department.

B. The Planning Director shall refer the application to the City's Biologist (except when the ADU is located entirely within the existing primary dwelling unit) and the Environmental Health Administrator for review and verification of the facts in the application and analysis of the design of the proposed ADU.

C. Public notice for an ADU CDP shall be provided in accordance with LIP Section 13.12.2(B) and 13.13.3.

#### **13.30.2 Findings and Permit Issuance**

A. The Planning Director may approve an application for an ADU CDP if all of the following findings can be made:

1. The proposed ADU is consistent with the LCP and all applicable LCP provisions, local laws and regulations regarding ADUs.
2. The dwelling conforms to the development standards and requirements for accessory dwelling units established in LIP Section 3.6(N).
3. Public and utility services including emergency access are adequate to serve both dwellings.
4. The proposed ADU CDP has been conditioned in accordance with the LCP.

B. Upon approving an ADU CDP, the Planning Director shall issue a written document that at a minimum includes the following information:

1. Location of the project;
2. The date of issuance;
3. An expiration date;
4. The scope of work to be performed;
5. Terms and conditions of the permit; and
6. Findings.

### **13.30.3 Reporting of ADU CDPs**

The Planning Director shall report in writing to the Planning Commission at each meeting the ADU CDP permits approved under this section in the same manner as for an administrative permit, consistent with LIP Section 13.13.6, except that the ADU CDP shall not be eligible for treatment as a regular coastal development permit requiring a public public hearing. The ADU CDP shall become effective 5 days after the Planning Commission meeting unless the approval is rescinded by the Planning Director before that date.

## Appendix 1 TABLE B PERMITTED USES

KEY TO TABLE (In addition to a coastal development permit, the following permits are required.)	
<b>P</b>	Permitted use
<b>MCUP</b>	Requires the approval of a minor Conditional Use Permit by the Director
<b>CUP</b>	Requires the approval of a Conditional Use Permit
<b>A</b>	Permitted only as an accessory use to an otherwise permitted use
<b>LFDC</b>	Requires the approval of a Large Family Day Care permit
<b>WTF</b>	Requires the approval of a Wireless Telecommunications Facility
<b>•</b>	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
<b>RESIDENTIAL</b>																
Single-family residential	P	P	P	P	•	•	•	•	•	•	•	•	•	A	•	•
Manufactured homes	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	•	•	CUP	CUP	•	•	•	•	•	•	•	•	•	•	•	•
Second-Accessory dwelling units	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	•	•	•	•	•	•	•	•	•	•	•	•
Mobile home parks	•	•	•	•	P	•	•	•	•	•	•	•	•	•	•	•
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Mobile home as residence during construction	P	P	P	MCUP	•	•	•	•	•	•	•	•	•	•	•	•
Accessory uses (guest units, house, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	•	•	•	•	•	•	•	•	•	•	•	•
Residential care facilities (serving 6 or fewer persons)	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•

Small family day care (serving 6 or fewer persons)	A	A	A	•	•	•	•	•	•	•	•	•	•	•	•	•
<b>USE</b>	<b>RR</b>	<b>SF</b>	<b>MF</b>	<b>MFBF</b>	<b>MHR</b>	<b>CR</b>	<b>BPO</b>	<b>CN</b>	<b>CC</b>	<b>CV-1</b>	<b>CV-2</b>	<b>CG</b>	<b>OS</b>	<b>I</b>	<b>PRF</b>	<b>RVP</b>
<b>RESIDENTIAL (continued)</b>																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	•	•	•	•	•	•	•	•	•	•	•	•	•
Home occupations	P/ MCUP <sup>2</sup>	P/ MCUP <sup>2</sup>	P/ MCUP <sup>2</sup>	P/ MCUP <sup>2</sup>	•	•	•	•	•	•	•	•	•	•	•	•

Notes:

1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O))].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.
16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

**Title 17**

**ZONING**

**Chapters:**

- 17.02        Introductory Provisions and Definitions**
  
- 17.06        Zoning Districts Established**
  
- 17.08        RR Rural Residential District**
  
- 17.10        SF Single Family Density Residential District**
  
- 17.12        MF Multiple Family Residential District**
  
- 17.14        MFBF Multifamily Beach Front District**
  
- 17.39        Malibu Coast Estate Planned Development (PD) District**
  
- 17.40        Property Development and Design Standards**
  
- 17.45        Citywide View Preservation and Restoration**

**Appendix 1 – Permitted Uses Table**

## Chapter 17.02

### INTRODUCTORY PROVISIONS AND DEFINITIONS

#### Sections:

#### 17.02.060 Definitions.

As used in this title:

“Accessory dwelling unit” means a dwelling unit providing complete independent living facilities for one or more persons that is located on a parcel with another primary, single-family dwelling. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling’s location. An accessory dwelling unit may be within the same structure as the primary unit, in an attached structure, or in a separate structure on the same parcel.

“Car share service” for purposes of Chapter 17.40.045, car share service shall mean...  
[DEFINITION TO BE PROVIDED]

~~“Second unit” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.~~

## Chapter 17.08

### RR RURAL RESIDENTIAL DISTRICT

#### Sections:

#### 17.08.020 Permitted uses.

The following uses and structures are permitted in the RR district:

- A. One single-family residence per lot;
- B. Small family day care and residential care facilities serving six or fewer persons;
- C. Accessory uses and structures as follows:
  1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, guest ~~units~~ houses seven hundred fifty (750 square feet maximum), detached garages, barns, pool houses, gazebos, storage sheds, and greenhouses (noncommercial),
  2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,
  3. Domestic animals, kept as pets or for personal use,
  4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,
  5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:
    - a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,
    - b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,
    - c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;
- D. The following agricultural uses; provided, that all buildings or structures used in conjunction therewith shall be located not less than fifty (50) feet from any street or highway or any building used for human habitation:
  1. The raising of horses and other equine, cattle, sheep and goats, including the breeding and training of such animals, on a parcel having an area of not less than one acre and provided that not more than eight such animals per acre of the total ground area be kept or maintained in conjunction with such use,
  2. The grazing of cattle, horses, sheep or goats on a parcel with an area of not less than five acres, including the supplemental feeding of such animals, provided:
    - a. That such grazing is not a part of nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the same premises,
    - b. That no buildings, structures, pens or corrals designed or intended to be used for the housing or concentrated feeding of such stock be used on the premises for such grazing other than racks for supplementary feeding, troughs for watering, or incidental fencing,
  3. Raising of poultry, fowl, birds, rabbits, fish, bees and other animals of comparable nature, provided the subject parcel is a minimum of one acre in size,
  4. The raising of hogs or pigs, provided:
    - a. That the animals are located not less than one hundred fifty (150) feet from any highway and not less than fifty (50) feet from the side or rear lines of any parcel,

- b. That the animals shall not be fed any market refuse or similar imported ingredient or anything other than table refuse from meals consumed on the same parcel of land, or grain,
- c. That no more than two weaned hogs or pigs are kept,
- d. That the subject parcel is a minimum of one acre in size;
- E. Manufactured homes, pursuant to Government Code Section 65852.3;
- ~~F. Second units, pursuant to Government Code Section 65852.2;~~
- ~~F. Accessory Dwelling Units pursuant to Section 17.40.045;~~
- G. Large family day care facilities (serving seven to twelve (12) persons), subject to the provisions of Section 17.66.110;
- H. Private equestrian and/or hiking trails;
- I. Greenhouses on a lot or parcel of land having an area of at least one acre;
- J. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 93 §§ 8, 9, 1993; Ord. 86 § 3, 1993; prior code § 9211)

## Chapter 17.10

### SF SINGLE FAMILY DENSITY RESIDENTIAL DISTRICT

#### Sections:

#### 17.10.020 Permitted uses.

The following uses and structures are permitted in the SF district:

- A. One single-family residence per lot;
- B. Small family day care and residential care facilities serving six or fewer persons;
- C. Accessory uses and structures as follows:
  1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses (seven hundred fifty (750) square feet maximum) and greenhouses (noncommercial),
  2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and noncommercial corrals,
  3. Domestic animals,
  4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,
  5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:
    - a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,
    - b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,
    - c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;
- D. Manufactured homes, pursuant to Government Code Section 65852.3;
- ~~E. Second units, pursuant to Government Code Section 65852.2;~~
- ~~E. Accessory dwelling units pursuant to Section 17.40.045;~~
- F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;
- G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9221)

## Chapter 17.12

### MF MULTIPLE FAMILY RESIDENTIAL DISTRICT

#### Sections:

#### 17.12.020 Permitted uses.

The following uses and structures are permitted in the MF district:

- A. One single-family residence per lot;
- B. Small family day care and residential care facilities involving six or fewer persons;
- C. Accessory uses and structures as follows:
  - 1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses (seven hundred fifty (750) square feet maximum) and greenhouses (noncommercial),
  - 2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,
  - 3. Domestic animals;
- D. Manufactured homes, pursuant to Government Code Section 65852.3;
- ~~E. Second units, pursuant to Government Code Section 65852.2;~~
- ~~E. Accessory dwelling units pursuant to Section 17.40.045;~~
- F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;
- G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9231)

## Chapter 17.14

### MFBF MULTIFAMILY BEACH FRONT DISTRICT

#### Sections:

#### 17.14.020 Permitted uses.

The following uses and structures are permitted in the MFBF district:

- A. One single-family residence per lot;
- B. Expansion up to five hundred (500) square feet of existing multifamily buildings provided the expansion conforms to the provisions of Chapter 17.40;
- C. Accessory uses and structures as follows:
  - 1. Accessory buildings customarily ancillary to single-family and multifamily residences including, but not limited to, detached garages, pool houses, gazebos, storage sheds, guest ~~units~~ houses (seven hundred fifty (750) square feet maximum),
  - 2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts,
  - 3. Domestic animals;
- D. Manufactured homes, pursuant to Government Code Section 65852.3;
- E. ~~Second units, pursuant to Government Code Section 65852.2. (Ord. 151 § 11, 1996; prior code § 92362)~~ Accessory dwelling units pursuant to Section 17.40.045

## Chapter 17.39

### MALIBU COAST ESTATE PLANNED DEVELOPMENT (PD) DISTRICT

#### Sections:

#### 17.39.020 Permitted uses.

#### 17.39.040 Property development and design standards.

#### 17.39.020 Permitted uses.

Lot numbers are as identified on Malibu Coast Estate Planned Development Map 1. The following uses and structures are permitted:

- A. Lot Nos. 1—5.
  1. One single-family residence per lot.
  2. Accessory uses (one ~~second unit~~ accessory dwelling unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the planning director).
  3. Domestic animals, kept as pets.
  4. Landscaping.
- B. Lot No. 6. Uses and structures maintained by either the owners of Lots 1—5 or the homeowners' association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.
- C. Lot No. 7.
  1. Parks and public open space, excluding community centers.
  2. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the planning director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.
  3. Onsite wastewater treatment facilities. (Ord. 398 § 6, 2015)

#### 17.39.040 Property development and design standards.

The following development standards shall replace the corresponding development standards (Sections 17.40.040 and 17.40.080) for Malibu Coast Estate. All requirements of the zoning ordinance, including, but not limited to, Section 17.40.030 that are consistent with the criteria listed below shall remain in effect for those parcels in Malibu Coast Estate.

- A. Lot Nos. 1—5.

1. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K)).

a. The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

Lot 1 —10,052 square feet.

Lot 2 —9,642 square feet.

Lot 3 —9,434 square feet.

Lot 4 —9,513 square feet.

Lot 5 —10,990 square feet.

b. Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.

c. Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six-foot projection) shall be included in TDSF.

d. The development footprint on each lot (Lot Nos. 1—5) shall substantially conform to that indicated on Malibu Coast Estate Planned Development Map 1. Structures on Lot 5 shall be set back a minimum of one hundred ninety (190) feet from the edge of the bluff as identified on Malibu Coast Estate Planned Development Map 1 in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at-grade improvements or low profile above-grade improvements for accessory uses not to exceed ten (10) feet in height.

2. Setbacks (Replaces corresponding standards in Section 17.40.040).

a. Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.

b. Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.

c. Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.

d. Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

3. Structure Height (Replaces corresponding standards in Section 17.40.040).

a. Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately two thousand five hundred (2,500) square feet of the residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than fifteen (15) feet, as indicated on Malibu Coast Estate Planned Development Map 1 of the LIP. Height is measured from natural or finished grade, whichever is lower.

b. Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.

c. In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.

4. Grading (Replaces corresponding standards in Section 17.40.040).

a. Notwithstanding other provisions of this code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.

b. Non-exempt grading shall be limited to two thousand (2,000) cubic yards per lot.

c. Net export shall be limited to three thousand five hundred (3,500) cubic yards per lot.

5. Impermeable Coverage, Landscaping, and Berm.

a. The impermeable coverage requirement in Section 17.40.040 shall apply.

b. In addition to the requirements of Section 17.40.040, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed twenty-five (25) feet.

c. A natural-looking earthen berm that is four feet in height (except for the northernmost thirty (30) foot long portion on Lot 1 that shall be no less than two feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on the Malibu Coast Estate Planned Development Map 1 of the LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.

6. Parking (In addition to the parking standards of Section 17.40.040).

a. Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be eighteen (18) feet long by ten (10) feet wide.

b. One enclosed or unenclosed parking space for a guest ~~house unit~~ or ~~second unit~~ accessory dwelling unit.

7. Colors and Lighting (In addition to the standards of LIP Section 6.5(B)).

a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the planning director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.

b. Lighting must comply with LIP Section 6.5(G).

8. Permit Required. To insure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1—5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.

B. Lot No. 6.

1. Structure Size. The total development square footage of all structures shall not exceed one hundred eighty (180) square feet. The development footprint (gate and guardhouse) shall substantially conform to that indicated on Malibu Coast Estate Planned Development Map 1.

2. Setbacks.

a. Buildings, not including projections permitted in Section 17.40.050, shall maintain a minimum setback of fifty (50) feet from all property lines.

b. Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

3. Structure Height.
  - a. Structure height shall not exceed twelve (12) feet, as measured from natural or finished grade, whichever is lower.
  - b. In no event shall the maximum number of stories above grade be greater than one.
  - c. A basement, cellar or subterranean garage shall not be permitted.
4. Grading (Replaces corresponding standards in Section 17.40.040).
  - a. Notwithstanding other provisions of this code, all grading associated with ingress, egress, including safety access, shall be considered exempt grading.
  - b. Non-exempt grading shall be limited to one thousand (1,000) cubic yards.
  - c. Net export shall be limited to two thousand five hundred (2,500) cubic yards.
5. Impermeable Coverage (Replaces corresponding standard in Section 17.40.040). The impermeable coverage requirement in Section 17.40.040 shall not apply. Up to forty-four thousand (44,000) square feet of impermeable coverage shall be permitted.
6. Parking (In addition to the parking standards of Section 17.40.040). The guardhouse shall not have more than two parking spaces to be used for on duty guards and one additional parking space for service parking. Parking within the property boundaries shall not be located on or obstruct fire department access.
7. Colors and Lighting.
  - a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the planning director prior to issuance of a building permit.
  - b. Lighting must comply with LIP Section 6.5(G).
  - C. Lot No. 7.
    1. Site Design. Grading, setbacks, and facility siting shall be designed to meet the operational programs of the park as defined in the City of Malibu Parks Master Plan. Notwithstanding any other provision of this chapter, grading in all new parks shall be limited to not more than one thousand (1,000) cubic yards per acre, except that grading required for sports fields and skate parks designed to accommodate commonly accepted facility dimensions shall be exempt from these limitations. The facility shall be designed to minimize noise, lighting impacts and disruption to nearby residents.
    2. Parking (In addition to the parking standards of Section 17.47.030). Adequate parking shall be provided to serve the proposed recreational uses. Parking shall be determined by a parking study prepared by a registered traffic engineer and based upon the proposed recreational uses. The planning director shall have the authority to determine the appropriateness of studies or other information used in determining the parking to be required. Where appropriate, off-site parking may be provided and may be counted towards satisfying the on-site parking requirement as long as sufficient parking is provided to serve existing and proposed public access and recreation uses and any adverse impacts to public access and recreation are avoided.
    3. Fencing. With the exception of skate park and sport court fencing and backstops, fences and walls shall not exceed eight feet in height. The fencing and backstops design and materials shall take into consideration view and vista areas, site distance, and environmental constraints.
    4. Temporary Uses. Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Chapter 17.68. (Ord. 398 § 6, 2015)

## Chapter 17.40

### PROPERTY DEVELOPMENT AND DESIGN STANDARDS

#### Section:

#### 17.40.040 Residential development standards.

- A. All single-family and multiple-family residences shall be subject to the following development standards:
4. The minimum floor area of a residential unit shall be as follows:
    - a. For a single-family residence, not less than eight hundred (800) square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory structures.
    - b. For each multifamily dwelling unit, not less than seven hundred fifty (750) square feet, exclusive of any appurtenant structures.

#### 17.40.045 Accessory dwelling unit regulations.

- A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units as defined in Section 17.02.060 (Definitions) and in the California Government Code Section 65852.2, or any successor statute in the following residential zones: Rural Residential (RR), Single Family (SF), Multiple Family (MF), Multifamily Beach Front (MFBF) or areas designated for single family residential use as part of a Planned Development (PD) zone and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Coastal development permit required. An accessory dwelling unit coastal development permit (ADU CDP) shall be obtained for an accessory dwelling unit pursuant to LIP Section 13.30.
- C. The director shall approve, conditionally approve, or deny an application for an accessory dwelling unit that complies with Subsection D (Development standards) within 120 days after receiving a complete application.
- D. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying zoning district, any applicable overlay district and all other applicable provisions of the LCP including but not limited to height, setback, site coverage, and other development standards; unless the unit is contained within a legal nonconforming structure and the accessory dwelling unit would comply with Section 17.60.020.

1. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located except as follows:
  - a. No additional setback shall be required for an existing garage that is **remodeled into an accessory dwelling unit** provided that the side and rear setbacks comply with required **building codes**.
  - b. An addition to create an accessory dwelling unit above an existing garage shall require a setback of not more than five feet from side and rear property lines.
2. Unit Size. An accessory dwelling unit shall not exceed 900 square feet of floor area including any mezzanine or storage space, or 50 percent of the existing living area of the primary **single family dwelling**, whichever is less. A second unit may include a garage not to exceed **400 square feet**. The square footage of the garage shall not be included in the maximum living area.
3. Exterior Access. An accessory dwelling unit shall have independent exterior access from the primary dwelling.
4. Height. An accessory dwelling unit with height over 18 feet shall be demonstrated not to block any primary views pursuant to Section 17.40.040(A)(17).
- E. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if **sprinklers were not required for the primary dwelling**.
- F. Pathway. A pathway from the street to the entrance of an accessory dwelling unit shall not be required **unless required by the fire department**. For purposes of this section, a pathway means a path that is unobstructed clear to the sky.
- G. Parking. Parking shall comply with requirements of **Chapter 17.48 (Off-street Parking and Loading Requirements)** except as modified below:
  1. One parking space required for an attached or detached accessory dwelling unit
  2. Such parking may be provided as tandem parking and/or may be located on an existing driveway. Mechanical lifts shall not be utilized to provide required parking.
  3. No parking shall be required **when**:
    - a. The accessory dwelling unit converted as part of the existing primary residence or existing accessory structure.
    - b. The accessory dwelling units located within one-half mile (measured by actual walking distance) of a public transit stop with fixed route bus service.
    - c. On-street parking permits are required but not offered to the occupant of the accessory dwelling unit
    - d. The location of the proposed accessory dwelling unit is within one block of a designated car share pick up and drop off location.

4. When a **required parking space within a** garage, carport or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, **the replacement space** may be located in any configuration on the same lot as the accessory dwelling unit including but not limited to as **an enclosed, unenclosed** or tandem space. The use of mechanical automobile parking lifts shall not be allowed **as replacement for required parking**.

H. Utilities. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating utility connection fees.

1. State law provides for a new or separate utility connection fee to be required for an accessory dwelling unit that is not contained within the existing primary dwelling unit or within an existing accessory building. The connection fee shall be proportionate to the burden of the accessory dwelling unit based on the accessory dwelling unit size and number of plumbing fixtures.
2. Conversion of floor **area** to an accessory dwelling unit within an existing structure with the appropriate meter size shall not be subject to new water connection fees.

I. Additional requirements for all accessory dwelling units:

1. Existing development. A single-family dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
2. Number of units allowed. Only one accessory dwelling unit **or guest house** may be located on the lot, **but not both**.
3. Siting. An accessory dwelling unit shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.
4. Sale of units. The accessory dwelling unit shall not be sold separately from the primary dwelling.
5. Building and Safety Compliance. The accessory dwelling unit shall comply with the same building and safety requirements as the primary dwelling unit in accordance with the California Government Code and California Fire Code.
6. Foundation. A permanent foundation is required.
- 4.7. Wastewater Approval. **The accessory dwelling unit shall comply with all applicable requirements for onsite wastewater treatment systems.**

## Chapter 17.45

### CITYWIDE VIEW PRESERVATION AND RESTORATION\*

#### Sections:

#### 17.45.030 Definitions.

The following definitions shall apply for purposes of this chapter:

A. "Arbitration" means a voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted.

B. "Arbitrator" means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes decisions for the disputing parties.

C. "Certified arborist" means an individual certified as an arborist by the International Society of Arboriculture (ISA).

D. "Claimant" means a property owner who alleges that foliage is causing a significant obstruction of a primary view.

E. "Environmentally sensitive habitat areas or (ESHA)" as defined as set forth in the certified Malibu LCP Local Implementation Plan.

F. "Foliage" means a woody plant with the potential to obstruct primary views. "Foliage" includes without limitation trees, shrubs, hedges and bushes.

G. "Foliage owner" means a person owning property containing foliage that a claimant alleges is causing a significant obstruction of a protected view.

H. "Hedge" means any plant material, trees, stump growth, or shrubbery planted or grown in a dense continuous line, so as to form a thicket, barrier or the substantial equivalent of a living fence.

I. "Main viewing area" means the ground floor of a commercial, institutional or principal residential structure unless the ground floor of a commercial structure consists of garages, parking areas and storage and unless the primary living area of a principal residential structure is not located on the ground floor. If the ground floor of a commercial structure consists of garages, parking areas and storage, the "main viewing area" means the first habitable floor. If the primary living area of a principal residence is not located on the ground floor, the main viewing area means the primary living area of the principal residence. The "main viewing area" may be an abutting outdoor deck or patio area located at relatively the same elevation as the ground floor of a commercial or institutional structure or a primary living area of a residence, whichever has the superior view corridor. Bedrooms, master bedroom retreats, offices, hallways, closets, laundry rooms, mechanical rooms, bathrooms and garages shall not be considered main viewing areas. Application of a primary view corridor requires an established "main viewing area."

J. "Mediation" means a process of using a neutral third person to facilitate a mutually satisfactory solution to a view dispute.

K. "Mediator" means a neutral third person that assists the claimant and foliage owner in finding a mutually satisfactory solution to a view dispute.

L. "Pre-existing view" means a primary view within the structure's assessed primary view corridor that existed on the date of acquisition of the property or city incorporation, whichever is more recent. If the property was acquired without a developed, legally-habitable structure, a pre-existing view shall mean a primary view that existed as of issuance of a certificate of occupancy or city incorporation, whichever is more recent. The pre-existing view cannot be a result of a natural disaster or a result of illegal activities.

M. "Primary living area" means the living room, family room, dining room, kitchen or a combination thereof.

N. "Primary view" means visually impressive scenes of the Pacific Ocean, offshore islands, the Santa Monica Mountains, canyons, valleys, or ravines, within a primary view corridor.

O. "Primary view corridor" means a one hundred eighty (180) degree view assessed by the planning director or designee from a single fixed location and direction within the main viewing area, at an elevation of five feet as measured from the room floor or on an abutting outdoor deck or patio at any one point within ten (10) feet of the nearest outside wall of the structure as selected by the affected property owner and the city.

P. "Primary view determination" means a process by which the planning director or designee documents the location of a claimant's primary view corridor.

Q. "Principal residence" and "principal residential structure" mean the primary residential structure located on a lot. Guest houses, ~~granny flats and second units and accessory dwelling units~~ are not principal residences or principal residential structures.

R. "Protected tree" as defined in Section 5.2 of the Malibu Local Coastal Program Local Implementation Plan.

S. "Removal" means the destruction or displacement of foliage by cutting or other mechanical method that result in physical transportation of the foliage from its site and/or death of the foliage.

T. "Restorative action" means measures undertaken to eliminate a significant obstruction of a primary view.

U. "Stump growth" means new growth from the remaining portion of a tree trunk, the main portion of which has been cut off.

V. "View preservation permit" means a permit issued by the city, requiring restorative actions on foliage located on a foliage owner's property in order to preserve a claimant's primary view. (Ord. 378 § 3, 2014)

## Appendix 1

### PERMITTED USES TABLE

In the event of a conflict between the table and the text of Title 17, the text shall control.

KEY TO TABLE (In addition to a coastal development permit, the following permits are required.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
SPR	Requires the approval of a Site Plan Review
•	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MH	CR	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
One single-family residence per lot	P	P	P	P	•	•	•	•	•	•	•	•	A <sup>1</sup>	•	•
Manufactured homes pursuant to Government Code § 65852.3	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	•	•	CUP	CUP <sup>2</sup>	•	•	•	•	•	•	•	•	•	•	•
<u>Second units pursuant to Government Code § 65852.2 Accessory dwelling units pursuant to Section 17.40.045</u>	A	A	A	A	•	•	•	•	•	•	•	•	•	•	•
Mobile home parks in existence as of March 28, 1991	•	•	•	•	P	•	•	•	•	•	•	•	•	•	•

USE	RR	SF	MF	MFBF	MH	CR	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•
Mobile home park modifications to number, layout, or density and public or common areas, except for repair and maintenance	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•
Temporary mobile home as residence subject to § 17.40.040(A)(18)	P	P	P	MCUP	•	•	•	•	•	•	•	•	•	•	•
Accessory uses (guest houses <del>units</del> (750 sf max), garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A	A	A	A <sup>3</sup>	•	•	•	•	•	•	•	•	•	•	•

**Notes:**

1. One single-family residence in conjunction with an institutional use and consistent with the provisions of Chapter 17.08.
2. Includes the expansion of over 500 sq. ft. of existing multiple family structures.
3. Barns and corrals not allowed.
4. Subject to Home Occupation Standards Section 17.40.040(A)(19).
5. Public and private hiking trails in CR and I zones and private hiking trails in RR, SF, and MF zones.
6. Accessory uses when part of an educational or non-profit (non-commercial) use.
7. Subject to Section 17.08.020 (D)(2) for RR zone and Section 17.18.030(B)(2) for CR zone.
8. Subject to Section 17.08.020 (C)(5) for RR zone and Section 17.10.020(C)(5) for SF zone.
9. Subject to Section 17.08.020 (D)(1) for RR zone and Section 17.18.030(B)(1) for CR zone.
10. Subject to Section 17.08.030 (B), except that the minimum area required shall be 5 acres.

11. Subject to Section 17.08.020(D)(4) for RR zone and Section 17.18.030(B)(5) for CR zone.
12. Maximum interior occupancy of 125 persons.
13. If exceeding interior occupancy of 125 persons.
14. By hand only.
15. Subject to Section 17.08.040(F).
16. Subject to provisions of Section 17.34.030 when a facility is located within a side or rear yard adjacent to a residentially-zoned parcel.
17. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
18. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
19. Subject to Section 17.26.030(A)(1).
20. Subject to Section 17.08.040(C).
21. Limited to public agency use only (not for private use).
22. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.
23. Residential care facilities for the elderly are limited to operation by a non-profit only.
24. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
25. CUP required unless located in public right-of-way.
26. Subject to Section 17.22.040(N).
27. Subject to Section 17.66.120.

(Ord. 431 § 4, 2018)



Courtesy of Karen Chapple, UC Berkeley

California Department of Housing and  
Community Development *Where Foundations Begin*

# Accessory Dwelling Unit Memorandum

December 2016

EXHIBIT D-1

ATTACHMENT 3



# Table of Contents

<b>Understanding ADUs and Their Importance</b> .....	1
<b>Summary of Recent Changes to Accessory Dwelling Unit Laws</b> .....	3
<b>Frequently Asked Questions: Accessory Dwelling Units</b> .....	7
Should an Ordinance Encourage the Development of ADUs?.....	7
Are Existing Ordinances Null and Void?.....	7
Are Local Governments Required to Adopt an Ordinance? .....	8
Can a Local Government Preclude ADUs? .....	8
Can a Local Government Apply Development Standards and Designate Areas?.....	8
Can a Local Government Adopt Less Restrictive Requirements? .....	9
Can Local Governments Establish Minimum and Maximum Unit Sizes? .....	9
Can ADUs Exceed General Plan and Zoning Densities? .....	9
How Are Fees Charged to ADUs?.....	11
What Utility Fee Requirements Apply to ADUs.....	11
What Utility Fee Requirements Apply to Non-City and County Service Districts? .....	11
Do Utility Fee Requirements Apply to ADUs within Existing Space? .....	11
Does “Public Transit” Include within One-half Mile of a Bus Stop and Train Station? .....	11
Can Parking Be Required Where a Car Share is Available? .....	12
Is Off Street Parking Permitted in Setback Areas or through Tandem Parking? .....	12
Is Covered Parking Required? .....	12
Is Replacement Parking Required When the Parking Area for the Primary Structure is Used for an ADU? .....	12
Are Setbacks Required When an Existing Garage is Converted to an ADU? .....	12
Are ADUs Permitted in Existing Residence and Accessory Space?.....	13
Are Owner Occupants Required? .....	13
Are Fire Sprinklers Required for ADUs?.....	13
Is Manufactured Housing Permitted as an ADU? .....	14
Can an Efficiency Unit Be Smaller than 220 Square Feet?.....	14
Does ADU Law Apply to Charter Cities and Counties? .....	14
Do ADUs Count toward the Regional Housing Need Allocation.....	14
Must Ordinances Be Submitted to the Department of Housing and Community Development? .....	15

**Frequently Asked Questions: Junior Accessory Dwelling Units ..... 16**

    Is There a Difference between ADU and JADU?..... 16

    Why Adopt a JADU Ordinance.....17

    Can JADUs Count towards The RHNA? ..... 17

    Can the JADU Be Sold Independent of the Primary Dwelling?..... 17

    Are JADUs Subject to Connection and Capacity Fees? ..... 17

    Are There Requirements for Fire Separation and Fire Sprinklers? ..... 18

**Resources ..... 19**

    Attachment 1: Statutory Changes (Strikeout/Underline) ..... 19

    Attachment 2: Sample ADU Ordinance ..... 26

    Attachment 3: Sample JADU Ordinance ..... 29

    Attachment 4: State Standards Checklist ..... 32

    Attachment 5: Bibliography ..... 33

# Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

## What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- *Detached*: The unit is separated from the primary structure
- *Attached*: The unit is attached to the primary structure
- *Repurposed Existing Space*: Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units*: Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.

# Summary of Recent Changes to ADU Laws



Courtesy of Karen Chapple, UC Berkeley

The California legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs.

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, the disabled,

and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the Department has prepared this guidance to assist local governments in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a brief summary of the changes for each bill.

## SB 1069 (Wieckowski)

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of provisions that go into effect January 1, 2017.

### Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

## **Fees**

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

## **Fire Requirements**

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

## **ADUs within Existing Space**

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

## **No Total Prohibition**

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

## **AB 2299 (Bloom)**

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.

- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

## **Impact on Existing Accessory Dwelling Unit Ordinances**

AB 2299 provides that any existing ADU ordinance that does not meet the bill's requirements is null and void upon the date the bill becomes effective. In such cases, a jurisdiction must approve accessory dwelling unit based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

## **AB 2406 (Thurmond)**

AB 2406 (Chapter 755, Statutes of 2016) creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance. Adoption of a JADU ordinance is optional.

## **Required Components**

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

## **Prohibited Components**

This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.

## **Fire Safety Requirements**

AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke detectors. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

## **JADUs and the RHNA**

As part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a JADU toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit which is fairly flexible. Local government count units as part of reporting to DOF. JADUs meet these definitions and this bill would allow cities and counties to earn credit toward meeting their RHNA allocations by permitting residents to create less costly accessory units. See additional discussion under JADU frequently asked questions.

# Frequently Asked Questions: Accessory Dwelling Units

## Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

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

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

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

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

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

*(5) California faces a severe housing crisis.*

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

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

*(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.*

*(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.*

## Are Existing Ordinances Null and Void?



Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply “state standards” (See Attachment 5 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to “state standards” and cannot include additional requirements such as those in an existing ordinance. .

## Are Local Governments Required to Adopt an Ordinance?

No, a local government **is not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 5). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

## Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

## Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

## Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>.

## Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

## Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

## How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

## What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

## What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

## Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

## Does “Public Transit” Include within One-half Mile of a Bus Stop and Train Station?

Yes, “public transit” may include a bus stop, train station and paratransit if appropriate for the applicant. “Public transit” includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of “public transit” such as distance to a bus route.

## Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

## Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

## Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

## Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

## Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, "...including,

but not limited to, covered spaces, uncovered spaces, or tandem spaces, or...” Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

## Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, “..within the existing space” includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

## Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

## Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

## Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

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

## Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD’s Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf> .

## Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to “local agencies” which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

## Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

## Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

# Frequently Asked Questions: Junior Accessory Dwelling Units

## Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

### ADUs and JADUs

REQUIREMENTS	ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum
Kitchen	Yes	Yes
Bathroom	Yes	No, Common Sanitation is Allowed
Separate Entrance	Depends	Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions	No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy <i>May</i> Be Required	Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes	Yes
Prohibition on Sale of ADU	Yes	Yes

## Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

## Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

## Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

## Are JADUs Subject to Connection and Capacity Fees?

No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

## Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.

# Resources



Courtesy of Karen Chapple, UC Berkeley

## Attachment 1: Statutory Changes (Strikeout/Underline)

### Government Code Section 65852.2

(a) (1) ~~Any~~ A local agency may, by ordinance, provide for the creation of ~~second~~-accessory dwelling units in single-family and multifamily residential zones. The ordinance ~~may~~ shall do ~~any~~ all of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~-accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second~~-accessory dwelling units on traffic ~~flow~~- flow and public safety.

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

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

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

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

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

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

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

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

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

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

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

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

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing 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, or that it is not permitted anywhere else in the jurisdiction.

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

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of ADUs.~~ permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ADUs. an accessory dwelling unit.

(b) (4) (1) An When existing ordinance governing the creation of an accessory dwelling unit by a local agency which has not adopted an ordinance governing ADUs in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a ADU if the ADU complies with all of the following: that complies with this section.

(A) The unit is not intended for sale and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The ADU is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached ADU shall not exceed 30 percent of the existing living area.

(F) The total area of floorspace for a detached ADU shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements which apply to detached dwellings, as appropriate.

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

~~(2)~~ (5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

~~(3)~~ (6) This subdivision establishes the maximum standards that local agencies shall use to evaluate ~~proposed ADUs on lots~~ a proposed accessory dwelling unit on a lot zoned for residential use ~~which contain~~ that contains an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision~~ subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant~~ owner-occupant or that the property be used for rentals of terms longer than 30 days.

(4) (7) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ADUs an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

~~(5)~~ (8) A ADU which conforms to the requirements of 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 ~~which that is~~ consistent with the existing general plan and zoning designations for the lot. The ADUs accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) (b) No When a local agency shall adopt an ordinance which totally precludes ADUs within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing ADUs within single-family and multifamily zoned areas justify adopting the ordinance. that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

~~(d)~~ (c) A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ accessory dwelling units. No minimum or maximum size for a ~~second~~ an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which~~ that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

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

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

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

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

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

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

(e) Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the

use of the ADU and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street 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, or that it is not permitted anywhere else in the jurisdiction. Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

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

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

(h) Local agencies shall submit a copy of the ~~ordinances~~ ordinance adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

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

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

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

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

(4) ~~Second~~-Accessory dwelling unit means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second~~-An accessory dwelling unit also includes the following:

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

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

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

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (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 ~~second~~-accessory dwelling units.

### **Government Code Section 65852.22.**

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

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

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

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

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

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

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

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

(A) A sink with a maximum waste line diameter of 1.5 inches.

(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

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

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

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

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a

permit pursuant to this section. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

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

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

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

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

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

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

## Attachment 2: Sample ADU Ordinance

### Section XXX1XXX: Purpose

This Chapter provides for accessory dwelling units on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings contribute needed housing to the community's housing stock. Thus, accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single family lots.

### Section XXX2XXX: Applicability

The provisions of this Chapter apply to all lots that are occupied with a single family dwelling unit and zoned residential. Accessory dwelling units do exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

### Section XXX3XXX: Development Standards

#### Accessory Structures within Existing Space

An accessory dwelling unit within an existing space including the primary structure, attached or detached garage or other accessory structure shall be permitted ministerially with a building permit regardless of all other standards within the Chapter if complying with:

1. Building and safety codes
2. Independent exterior access from the existing residence
3. Sufficient side and rear setbacks for fire safety.

#### Accessory Structures (Attached and Detached)

##### General:

1. The unit is not intended for sale separate from the primary residence and may be rented.
2. The lot is zoned for residential and contains an existing, single-family dwelling.
3. The accessory dwelling unit is either attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
4. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
5. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.
6. Local building code requirements that apply to detached dwellings, as appropriate.
7. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
8. No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
9. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

##### Parking:

1. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking, including on an existing driveway or in setback areas, excluding the non-driveway front yard setback.
2. Parking is not required in the following instances:
  - The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations.

- The accessory dwelling unit is located in the WWWW Downtown, XXX Area, YYY Corridor and ZZZ Opportunity Area.
  - The accessory dwelling unit is located within an architecturally and historically significant historic district.
  - When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  - When there is a car share vehicle located within one block of the accessory dwelling unit.
3. Replacement Parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking shall not be required and may be located in any configuration on the same lot as the accessory dwelling unit.

### **Section XXX4XXX: Permit Requirements**

ADUs shall be permitted ministerially, in compliance with this Chapter within 120 days of application. The Community Development Director shall issue a building permit or zoning certificate to establish an accessory dwelling unit in compliance with this Chapter if all applicable requirements are met in Section XXX3XXXX, as appropriate. The Community Development Director may approve an accessory dwelling unit that is not in compliance with Section XXX3XXXX as set forth in Section XXX5XXXX. The XXXX Health Officer shall approve an application in conformance with XXXXXX where a private sewage disposal system is being used.

### **Section XXX5XXX: Review Process for Accessory Structure Not Complying with Development Standards**

An accessory dwelling unit that does not comply with standards in Section XXX3XX may be permitted with a zoning certificate or an administrative use permit at the discretion of the Community Development Director subject to findings in Section XXX6XX

### **Section XXX6XXX: Findings**

- A. In order to deny an administrative use permit under Section XXX5XXX, the Community Development Director shall find that the Accessory Dwelling Unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.
- B. In order to approve an administrative use permit under Section XXX5XXX to waive required accessory dwelling unit parking, the Community Development Director shall find that additional or new on-site parking would be detrimental, and that granting the waiver will meet the purposes of this Chapter.

### **Section XXX7XXX: Definitions**

- (1) "Living area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
- (2) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:
- (A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (3) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(4) (1) "Existing Structure" for the purposes of defining an allowable space that can be converted to an ADU means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

## Attachment 3: Sample JADU Ordinance

(Lilypad Homes at <http://lilypadhomes.org/>)

### Draft Junior Accessory Dwelling Units (JADU) – Flexible Housing

#### Findings:

1. Causation: Critical need for housing for lower income families and individuals given the high cost of living and low supply of affordable homes for rent or purchase, and the difficulty, given the current social and economic environment, in building more affordable housing
2. Mitigation: Create a simple and inexpensive permitting track for the development of junior accessory dwelling units that allows spare bedrooms in homes to serve as a flexible form of infill housing
3. Endangerment: Provisions currently required under agency ordinances are so arbitrary, excessive, or burdensome as to restrict the ability of homeowners to legally develop these units therefore encouraging homeowners to bypass safety standards and procedures that make the creation of these units a benefit to the whole of the community
4. Co-Benefits: Homeowners (particularly retired seniors and young families, groups that tend to have the lowest incomes) – generating extra revenue, allowing people facing unexpected financial obstacles to remain in their homes, housing parents, children or caregivers; Homebuyers - providing rental income which aids in mortgage qualification under new government guidelines; Renters – creating more low-cost housing options in the community where they work, go to school or have family, also reducing commute time and expenses; Municipalities – helping to meet RHNA goals, increasing property and sales tax revenue, insuring safety standard code compliance, providing an abundant source of affordable housing with no additional infrastructure needed; Community - housing vital workers, decreasing traffic, creating economic growth both in the remodeling sector and new customers for local businesses; Planet - reducing carbon emissions, using resources more efficiently;
5. Benefits of Junior ADUs: offer a more affordable housing option to both homeowners and renters, creating economically healthy, diverse, multi-generational communities;

#### Therefore the following ordinance is hereby enacted:

This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 and subject to different provisions under fire safety codes based on the fact that junior accessory dwelling units do not qualify as “complete independent living facilities” given that the interior connection from the junior accessory dwelling unit to the main living area remains, therefore not redefining the single-family home status of the dwelling unit.

- A) *Development Standards.* Junior accessory dwelling units shall comply with the following standards, including the standards in Table below:
- 1) *Number of Units Allowed.* Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Precise Development Plan. A junior accessory dwelling unit may only be located on a lot which already contains one legal single-family dwelling.
  - 2) *Owner Occupancy:* The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling, except when the home is held by an agency such as a land trust or housing organization in an effort to create affordable housing.
  - 3) *Sale Prohibited:* A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

- 4) *Deed Restriction:* A deed restriction shall be completed and recorded, in compliance with Section B below.
- 5) *Location of Junior Accessory Dwelling Unit:* A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include conversion of an existing bedroom.
- 6) *Separate Entry Required:* A separate exterior entry shall be provided to serve a junior accessory dwelling unit.
- 7) *Interior Entry Remains:* The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.
- 8) *Kitchen Requirements:* The junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:
  - a) A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,
  - b) A cooking facility with appliance which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas, and
  - c) A food preparation counter and storage cabinets that are reasonable to size of the unit.
- 9) *Parking:* No additional parking is required beyond that required when the existing primary dwelling was constructed.

**Development Standards for Junior Accessory Dwelling Units**

SITE OR DESIGN FEATURE	SITE AND DESIGN STANDARDS
Maximum unit size	500 square feet
Setbacks	As required for the primary dwelling unit
Parking	No additional parking required

- B) *Deed Restriction:* Prior to obtaining a building permit for a junior accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior accessory dwelling unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Department stating that:
  - 1) The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;
  - 2) The junior accessory dwelling unit is restricted to the maximum size allowed per the development standards;
  - 3) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or housing organization in an effort to create affordable housing;
  - 4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.
- C) *No Water Connection Fees:* No agency should require a water connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.
- D) *No Sewer Connection Fees:* No agency should require a sewer connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard

may be assessed.

- E) *No Fire Sprinklers and Fire Attenuation*: No agency should require fire sprinkler or fire attenuation specifications for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.

#### **Definitions of Specialized Terms and Phrases.**

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

- (1) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

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

## Attachment 4: State Standards Checklist (As of January 1, 2017)

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.	65852.2(a)(1)(D)(ii)
	Accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.	65852.2(a)(1)(D)(iv)
	Total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage.	65852.2(a)(1)(D)(vii)
	(Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)

\* Other requirements may apply. See Government Code Section 65852.2

## Attachment 5: Bibliography

### Reports

#### [ACCESSORY DWELLING UNITS: CASE STUDY](#) (26 pp.)

By United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

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

#### [THE MACRO VIEW ON MICRO UNITS](#) (46 pp.)

By Bill Whitlow, et al. – Urban Land Institute (2014)  
Library Call #: H43 4.21 M33 2014

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

#### [RESPONDING TO CHANGING HOUSEHOLDS: Regulatory Challenges for Micro-units and Accessory Dwelling Units](#) (76 pp.)

By Vicki Been, Benjamin Gross, and John Infranca (2014)  
New York University: Furman Center for Real Estate & Urban Policy  
Library Call # D55 3 I47 2014

This White Paper fills two gaps in the discussion regarding compact units. First, we provide a detailed analysis of the regulatory and other challenges to developing both ADUs and micro-units, focusing on five cities: New York; Washington, DC; Austin; Denver; and Seattle. That analysis will be helpful not only to the specific jurisdictions we study, but also can serve as a model for those who want to catalogue regulations that might get in the way of the development of compact units in their own jurisdictions. Second, as more local governments permit or encourage compact units, researchers will need to evaluate how well the units built serve the goals proponents claim they will.

#### [SCALING UP SECONDARY UNIT PRODUCTION IN THE EAST BAY: Impacts and Policy Implications](#) (25 pp.)

By Jake Webmann, Alison Nemirow, and Karen Chapple (2012)  
UC Berkeley: Institute of Urban and Regional Development (IURD)  
Library Call # H44 1.1 S33 2012

This paper begins by analyzing how many secondary units of one particular type, detached backyard cottages, might be built in the East Bay, focusing on the Flatlands portions of Berkeley, El Cerrito, and Oakland. We then investigate the potential impacts of scaling up the strategy with regard to housing affordability, smart growth, alternative transportation, the economy, and city budgets. A final section details policy recommendations, focusing on regulatory reforms and other actions cities can take to encourage secondary unit construction, such as promoting carsharing programs, educating residents, and providing access to finance.

## SECONDARY UNITS AND URBAN INFILL: A literature Review (12 pp.)

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

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

## YES, BUT WILL THEY LET US BUILD? The Feasibility of Secondary Units in the East Bay (17 pp.)

By Alison Nemirow and Karen Chapple (2012)  
UC Berkeley: IURD  
Library Call # H44.5 1.1 Y47 2012

This paper begins with a discussion of how to determine the development potential for secondary units, and then provides an overview of how many secondary units can be built in the East Bay of San Francisco Bay Area under current regulations. The next two sections examine key regulatory barriers in detail for the five cities in the study (Albany, Berkeley, El Cerrito, Oakland, and Richmond), looking at lot size, setbacks, parking requirements, and procedural barriers. A sensitivity analysis then determines how many units could be built were the regulations to be relaxed.

## YES IN MY BACKYARD: Mobilizing the Market for Secondary Units (20 pp.)

By Karen Chapple, J. Weigmann, A. Nemirow, and C. Dentel-Post (2011)  
UC Berkeley: Center for Community Innovation.  
Library Call # B92 1.1 Y47 2011

This study examines two puzzles that must be solved in order to scale up a secondary unit strategy: first, how can city regulations best enable their construction? And second, what is the market for secondary units? Because parking is such an important issue, we also examine the potential for secondary unit residents to rely on alternative transportation modes, particular car share programs. The study looks at five adjacent cities in the East Bay of the San Francisco Bay Area (Figure 1) -- Oakland, Berkeley, Albany, El Cerrito, and Richmond -- focusing on the areas within ½ mile of five Bay Area Rapid Transit (BART) stations.

## **Journal Articles and Working Papers:**

### BACKYARD HOMES LA (17 pp.)

By Dana Cuff, Tim Higgins, and Per-Johan Dahl, Eds. (2010)  
Regents of the University of California, Los Angeles.  
City Lab Project Book.

### DEVELOPING PRIVATE ACCESSORY DWELLINGS (6 pp.)

By William P. Macht. Urbanland online. (June 26, 2015)  
Library Location: Urbanland 74 (3/4) March/April 2015, pp. 154-161.

### GRANNY FLATS GAINING GROUND (2 pp.)

By Brian Barth. Planning Magazine: pp. 16-17. (April 2016)  
Library Location: Serials

### "HIDDEN" DENSITY: THE POTENTIAL OF SMALL-SCALE INFILL DEVELOPMENT (2 pp.)

By Karen Chapple (2011)  
UC Berkeley: IURD Policy Brief.  
Library Call # D44 1.2 H53 2011

California's implementation of SB 375, the Sustainable Communities and Climate Protection Act of 2008, is putting new pressure on communities to support infill development. As metropolitan planning organizations struggle to communicate the need for density, they should take note of strategies that make increasing density an attractive choice for neighborhoods and regions.

### HIDDEN DENSITY IN SINGLE-FAMILY NEIGHBORHOODS: Backyard cottages as an equitable smart growth strategy (22 pp.)

By Jake Wegmann and Karen Chapple. Journal of Urbanism 7(3): pp. 307-329. (2014)

Abstract (not available in full text): Secondary units, or separate small dwellings embedded within single-family residential properties, constitute a frequently overlooked strategy for urban infill in high-cost metropolitan areas in the United States. This study, which is situated within California's San Francisco Bay Area, draws upon data collected from a homeowners' survey and a Rental Market Analysis to provide evidence that a scaled-up strategy emphasizing one type of secondary unit – the backyard cottage – could yield substantial infill growth with minimal public subsidy. In addition, it is found that this strategy compares favorably in terms of affordability with infill of the sort traditionally favored in the 'smart growth' literature, i.e. the construction of dense multifamily housing developments.

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

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

### ADUS AND LOS ANGELES' BROKEN PLANNING SYSTEM (4 pp.)

By CARLYLE W. Hall. The Planning Report. (April 26, 2016).  
Land-use attorney Carlyle W. Hall comments on building permits for accessory dwelling units.

## **News:**

### HOW ONE COLORADO CITY INSTANTLY CREATED AFFORDABLE HOUSING

By Anthony Flint. The Atlantic-CityLab. (May 17, 2016).

In Durango, Colorado, zoning rules were changed to allow, for instance, non-family members as residents in already-existing accessory dwelling units.

### NEW HAMPSHIRE WINS PROTECTIONS FOR ACCESSORY DWELLING UNITS (1 p.)

NLIHC (March 28, 2016)

Affordable housing advocates in New Hampshire celebrated a significant victory this month when Governor Maggie Hassan (D) signed Senate Bill 146, legislation that allows single-family homeowners to add an accessory

dwelling unit as a matter of right through a conditional use permit or by special exception as determined by their municipalities. The bill removes a significant regulatory barrier to increasing rental homes at no cost to taxpayers.

[NEW IN-LAW SUITE RULES BOOST AFFORDABLE HOUSING IN SAN FRANCISCO](#). (3 pp.)

By Rob Poole. Shareable. (June 10, 2014).

The San Francisco Board of Supervisors recently approved two significant pieces of legislation that support accessory dwelling units (ADUs), also known as “in-law” or secondary units, in the city...

[USING ACCESSORY DWELLING UNITS TO BOLSTER AFFORDABLE HOUSING](#) (3 pp.)

By Michael Ryan. Smart Growth America. (December 12, 2014).



legislation. Currently certified provisions of LCPs, including specific LCP ADU sections currently in place, are not superseded by Government Code section 65852.2 and continue to apply to CDP applications for ADUs. Any conflicts between those LCP provisions and the new statutory requirements as they apply to *local permits other than CDPs*, however, may cause confusion that unnecessarily thwarts the Legislature's goal of encouraging ADUs. Government Code section 65852.2 expressly allows local governments to adopt local ordinances that include criteria and standards to address a wide variety of concerns, including potential impacts to coastal resources, and thus the coastal resource context applicable to any particular local government jurisdictional area needs to be addressed in any proposed LCP ADU sections. Coastal Commission staff anticipates that LCP amendments to implement the ADU legislation will reconcile Coastal Act requirements with the ADU statutes, thus allowing accomplishment of the Legislature's goals both with respect to coastal protection and encouragement of ADUs.

When evaluating what specific changes to make to an LCP, consider whether amendments to the land use plan component of the LCP are necessary in order to allow proposed changes to the implementation plan component. LCP amendments that involve purely procedural changes, that do not propose changes in land use, and/or that would have no impact on coastal resources may be eligible for streamlined review as minor or de minimis amendments. (Pub. Resources Code, § 30514, subd. (d); Cal. Code Regs., § 13554.)

## 2) Review of ADU Applications

- A) **Check CDP History for the Site.** The ADU statutes apply to residentially zoned lots that currently have a legally established single-family dwelling. Determine whether a CDP was previously issued for development of the lot and whether that CDP limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. In such cases, previous CDP requirements must be understood in relation to the proposed ADU, and they may restrict the proposal. If an ADU application raises questions regarding a Coastal Commission CDP, including if an amendment to a CDP issued by the Coastal Commission may be necessary, instruct the applicant to contact the appropriate district office of the Coastal Commission.
  
- B) **Determine Whether the Proposed ADU Qualifies As Development.** The Coastal Act's permitting requirements apply to development performed or undertaken in the coastal zone. (Pub. Resources Code, § 30600, subd. (a).) Minor changes to an existing legally established residential structure that do not involve the removal or replacement of major structural components (e.g., roofs, exterior walls, foundations) and that do not change the size or the intensity of use of the structure do not qualify as development with the meaning of the Coastal Act. A junior ADU that complies with the requirements of an ordinance enacted pursuant to Government Code section 65852.22 generally will not constitute development because it will not change the building envelope and because it must contain at least one bedroom that was previously part of the primary residence. Such minor changes do not require a Coastal Act approval such as a CDP or waiver unless specified in a previously issued CDP for existing development on the lot. If questions arise regarding whether a

proposed ADU qualifies as development, please contact the appropriate district office of the Coastal Commission.

**C) If the Proposed ADU Qualifies As Development, Determine Whether It Is Exempt.**

Improvements such as additions to existing single-family dwellings are generally exempt from Coastal Act permitting requirements except when they involve a risk of adverse environmental effects as specified in the Coastal Commission's regulations. (Pub. Resources Code, § 30610, subd. (a); Cal. Code Regs., tit. 14, § 13250.) Improvements that qualify as exempt development under the Coastal Act and its implementing regulations do not require Coastal Act approval unless required pursuant to a previously issued CDP. (Cal. Code Regs., tit. 14, § 13250, subd. (b)(6).)

An improvement does not qualify as an exempt improvement if the improvement or the existing dwelling is located on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan, or within 50 feet of the edge of a coastal bluff. Improvements that involve significant alteration of land forms as specified in section 13250 of the Commission's regulations also are not exempt. In addition, the expansion or construction of water wells or septic systems are not exempt. Finally, improvements to structures located between the first public road and the sea or within 300 feet of a beach or the mean high tide line are not exempt if they either increase the interior floor area by 10 percent or more or increase the height by more than 10 percent. (Cal. Code Regs., tit. 14, § 13250, subd. (b).)

To qualify as an exempt improvement to a single-family dwelling, an ADU must be contained within or directly attached to the existing single-family structure. "[S]elf-contained residential units," i.e., detached residential units, do not qualify as part of a single-family residential structure and construction of or improvements to them are therefore not exempt development. (Cal. Code Regs., tit. 14, § 13250, subd. (a)(2).) Again, if questions arise regarding CDP exemption requirements, please contact the appropriate district office of the Coastal Commission.

**D) If the Proposed ADU Is Not Exempt From CDP Requirements, Determine Whether A CDP Waiver is Appropriate.**

If a proposed ADU qualifies as an improvement to a single-family dwelling but is not exempt, a local government may waive the requirement for a CDP if the LCP includes a waiver provision and the proposed ADU meets the criteria for a CDP waiver. Such provisions generally allow a waiver if the local government finds that the impact of the ADU on coastal resources or coastal access would be insignificant. (See Cal. Code Regs., tit. 14, § 13250, subd. (c).) In addition, they generally allow a waiver if the proposed ADU is a detached structure and the local government determines that the ADU involves no potential for any adverse effect on coastal resources and that it will be consistent with the Chapter 3 policies of the Coastal Act. (See Pub. Resources Code, § 30624.7.) Some LCPs do not provide for waivers, but may allow similar expedited approval procedures. Those other expedited approval procedures may apply. If an LCP does not include provisions

regarding CDP waivers or other similar expedited approvals, the local government may submit an LCP amendment to authorize those procedures.

- E) **If a Waiver Would Not Be Appropriate, Review CDP Application for Consistency With Certified LCP Requirements.** If a proposed ADU constitutes development, is not exempt, and is not subject to a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act, except that no local public hearing is required. (Gov. Code, § 65852.2, subd. (j).) Provide the required public notice for any CDP applications for ADUs, and process the CDP application according to LCP requirements. Once a final decision on the CDP application has been taken, send the required final local action notice to the appropriate district office of the Coastal Commission. (Cal. Code Regs., tit. 14, §§ 13565-13573.) If the ADU qualifies as appealable development, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Resources Code, § 30603.)

**CALIFORNIA COASTAL COMMISSION**

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TO: Planning Directors of Coastal Cities and Counties  
FROM: John Ainsworth, Executive Director  
RE: Implementation of New Accessory Dwelling Unit Law  
DATE: November 20, 2017

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On April 18, 2017, we circulated a memo intended to help local governments interpret and implement new state requirements regarding regulation of “accessory dwelling units” (ADUs) in the coastal zone. Following the enactment of AB 2299 (Bloom) and SB 1069 (Wiekowski), changes to Government Code 65852.2 now impose specific requirements on how local governments can and cannot regulate ADUs, with the goal of increasing statewide availability of smaller, more affordable housing units. Our earlier memo was intended to help coastal jurisdictions and members of the public understand how to harmonize the new ADU requirements with LCP and Coastal Act policies. This memo is meant to provide further clarification and reduce confusion about whether and how to amend LCPs in response to these changes.

Although Government Code Section 65852.2(j) states that it does not supersede or lessen the application of the Coastal Act, it would be a mistake for local governments with certified LCPs to interpret this as a signal that they can simply disregard the new law in the coastal zone. The Commission interprets the effect of subdivision (j) as preserving the authority of local governments to protect coastal resources when regulating ADUs in the coastal zone, while also complying with the standards in Section 65852.2 to the greatest extent feasible. In other words, ADU applications that are consistent with the standards in Section 65852.2 should be approved administratively, provided they are also consistent with Chapter 3 of the Coastal Act as implemented in the LCP. Where LCP policies and ordinances are already flexible enough to implement the provisions of Section 65852.2 directly, local governments should do so. Where LCP policies directly conflict with the new provisions or require refinement, those LCPs should be updated to be consistent with the new ADU statute to the greatest extent feasible while still complying with Coastal Act requirements.

Bear in mind that Section 65852.2 still preserves a meaningful level of local control by authorizing local governments to craft policies that address local realities. It allows local governments to designate areas where ADUs are allowed based on criteria such as the adequacy of public services and public safety considerations. It also explicitly allows local governments to adopt ordinances that impose certain standards, including but not limited to standards regarding height, setbacks, lot coverage, zoning density, and maximum floor area. In the coastal zone, local governments can incorporate such standards in LCP policies in order to protect Chapter 3 resources while still streamlining approval of ADUs.

Therefore, the Commission reiterates its previous recommendation that local governments amend their LCPs accordingly, using Section 65852.2 as a blueprint for crafting objective

standards related to design, floor area, parking requirements and processing procedures for ADUs in a manner that protects wetlands, sensitive habitat, public access, scenic views of the coast, productive agricultural soils, and the safety of new ADUs and their occupants. Depending on the individual LCP, such amendments might include:

- Updating the definition of an ADU (variously referred to in existing LCPs as second units, granny units, etc.)
- Implementing an administrative review process for ADUs that includes sufficient safeguards for coastal resources
- Re-evaluating the minimum and maximum ADU floor area and related design standards
- Specifying that ADUs shall not be required to install new or separate utility connections
- For ADUs contained within existing residences or accessory structures, eliminating local connection fees or capacity charges for utilities, water and sewer services.
- Providing for ministerial approval of Junior Accessory Dwelling Units (JADUs)
- Clarifying that no more than one additional parking space per bedroom is required
- Eliminating off-street parking requirements for ADUs located within a ½ mile of public transit, an architecturally significant historic district, an existing primary residence or accessory structure, one block of a car share vehicle, or where on-street parking permits are required but not offered to the occupant of an ADU

This is just a partial list, as specific changes will depend on existing LCP policies as well as unique local resource constraints. See our earlier memo for additional recommendations.

We are currently conducting a survey to identify the number of local governments which have already initiated the amendment process. For those that have not, Commission staff strongly urges those jurisdictions to do so in the very near future.

To expedite the process, the Commission will process ADU-specific LCPAs as minor or de minimis amendments whenever possible. We realize that procedural requirements for public review and participation can be time consuming, and will strive to complete the Commission's review process expeditiously. In the interim, we urge local governments to consider which provisions of Section 65852.2 might be implemented administratively, through existing procedures, definitions, or variances. Because each LCP is distinct and unique to its particular jurisdiction, some are inherently more flexible than others. We strongly suggest applying any existing discretion in a manner that conforms to Section 65852.2 as well as your LCP.

We acknowledge that because of the nature of our state/local partnership the Commission cannot compel local governments to undertake these amendments. The foregoing advice is offered in the spirit of our mutual goals and responsibilities of preserving both Coastal Act objectives and local control of planning and permitting decisions. We are grateful that the Legislature elected to preserve the integrity of the Coastal Act when it passed these bills. We are also mindful that this did not reflect any intent to discourage ADUs in the coastal zone, but rather to ensure that new ADU incentives are implemented in a way that does not harm coastal resources. In order to maintain the Legislature's continued support for this approach, and avoid the imposition of unilateral coastal standards for ADUs in the future, it is essential to demonstrate that these housing policies can and will be responsibly implemented in the coastal zone.

My staff and I remain ready and available to assist in this effort.



## California State Fire Marshal Information Bulletin 17-001

Issued: January 24, 2017

### Automatic Residential Fire Sprinkler System Requirements for Accessory Dwelling Units

Senate Bill 1069, Wieckowski (Chapter 720, Statutes of 2016) Land use: zoning, amends section 65852 of the Government Code to provide reform and incentives to facilitate and expedite the construction of affordable housing. The law was created to allow the construction of additional dwelling units associated with existing housing. An accessory dwelling unit may be attached or unattached to the existing house. The changes in the statute affect the automatic residential fire sprinkler system requirements for accessory dwelling units by exempting the requirement in some situations, noted below.

The Government Code is part of California statute and the bill has an effective date of January 1, 2017. The statute takes precedence over local regulations or ordinances. The information on SB 1069 can be found at:  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1069](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1069)

#### Automatic Residential Fire Sprinkler System Requirements

The California Residential Code section R313.2 requires automatic residential fire sprinkler systems in one and two family dwellings:

**R313.2 One- and two-family dwellings automatic fire systems.** An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings.

**Exception:** An automatic residential fire sprinkler system shall not be required for *additions* or *alterations* to existing buildings that are not already provided with an automatic residential sprinkler system.

## Information Bulletin 17-001 (Continued)

Senate Bill 1069 adds the following exception for automatic residential fire sprinkler systems if all the following conditions exist:

- The unit meets the definition of an Accessory Dwelling Unit in the Government Code (section 65852.2).
- The existing primary residence is not required to have an automatic residential sprinkler system.
- The accessory detached dwelling unit does not exceed 1,200 square feet in size.
- The unit is on the same lot as the primary residence.

The statute prohibits local authorities from requiring automatic residential sprinkler systems for accessory dwelling units unless they are required for the primary dwelling unit.

The following information is provided for clarification:

- Automatic residential sprinkler systems are required in all new homes including those built with an accessory dwelling unit.
- New accessory dwelling units must have an automatic residential sprinkler system when the existing house has an automatic residential sprinkler system.
- Existing houses without an automatic residential sprinkler system adding an accessory dwelling unit are not required to provide an automatic residential sprinkler system.

Addition considerations:

- Existing houses that increase the square footage while adding an attached accessory dwelling unit may exceed an automatic residential sprinkler system threshold ordinance based on a local ordinance. If the local authority has an ordinance that applies to all houses and requires fire sprinklers when the square footage exceeds the prescribed amount, the local authority may then require an automatic residential sprinkler system to the entire house including the accessory dwelling unit.
- New detached accessory dwelling units are required to comply with the standards for fire protection such as water supply and fire department access. Automatic residential sprinkler systems provide construction options for the owner by providing different ways to complying with the fire protection requirements.



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**PLANNING DEPARTMENT**  
**NOTICE OF PUBLIC HEARING**

Recipient Info

**NOTICE OF PUBLIC HEARING**

The Malibu Planning Commission will hold a public hearing on **TUESDAY, September 4, 2018, at 6:30 p.m. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA**, for the project identified below.

**ZONING TEXT AMENDMENT NO. 18-004 AND LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002** - An amendment to Title 17 (Zoning) of the Malibu Municipal Code and the Local Coastal Program modifying regulations pertaining to accessory dwelling units, also known as second units, to bring existing regulations into compliance with State law

**LOCATION:** Citywide  
**APPLICANT:** City of Malibu  
**CASE PLANNER:** Bonnie Blue, Planning Director, [bblue@malibucity.org](mailto:bblue@malibucity.org) (310) 456-2489, ext. 258

The Planning Director has analyzed the project proposal described herein. The California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Director determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: <http://www.malibucity.org/agendacenter>. Related documents are available for review at City Hall during regular business hours. You will have an opportunity to testify at the public hearing; written comments, which shall be considered public record, may be submitted any time prior to the beginning of the public hearing. If the City's action is challenged in court, testimony may be limited to issues raised before or at the public hearing.

BONNIE BLUE, Planning Director

Publish Date: August 9, 2018