EXHIBIT A

RESOLUTION NO. PC-2020-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AMENDMENTS TO CHAPTERS 18.08, 18.28, 18.32, 18.36, 18.44, 18.46, 18.84, 18.88, AND 18.106 OF THE PLEASANTON MUNICIPAL CODE TO COMPLY WITH STATE LEGISLATION FOR ACCESSORY DWELLING UNITS [CASE P20-0412]

WHEREAS, effective January 1, 2020, Assembly Bill 671, Senate Bill 13, Assembly Bill 68, Assembly Bill 881, and Assembly Bill 587 amended Sections 65583, 65852.2, 65852.22, and 65852.26 of the Government Code, added Sections 17980.12 and 50504.5 to the Health and Safety Code, and Assembly Bill 670 added Section 4751 to the Civil Code, changing the requirements for local governments related to accessory dwelling units and junior accessory dwelling units; and

WHEREAS, State law provides that a local agency may adopt an ordinance that provides a ministerial approval for accessory dwelling units in any zone that allows residential use, and junior accessory dwelling units in any zone that allows a one-family residence, subject to applicable development standards; and

WHEREAS, the proposed amendments to the Pleasanton Municipal Code implement the requirements of state law and add local policies that are within the scope of the state law; and

WHEREAS, the proposed code amendments are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant Public Resources Code Section 21080.17 and categorically exempt per CEQA Guidelines Section 15303.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pleasanton, based on the entire record of proceedings, including the oral and written staff reports and all public comment and testimony:

Section 1: The Planning Commission hereby recommends to the City Council approval of Case P20-0412, Amendments to Chapters 18.08, 18.28, 18.32, 18.36, 18.44, 18.84, and 18.106 of the Pleasanton Municipal Code to comply with state legislation for accessory dwelling units, as shown in Exhibit A to this resolution.

Section 2: This resolution shall become effective 15 days after its passage and adoption.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on October 28, 2020 by the following vote:

Ayes: Commissioners
Noes: Commissioners
Absent: Commissioners
Abstain: Commissioners

ATTEST:

_____ _____

Ellen Clark
Secretary, Planning Commission

Herb Ritter
Chair

APPROVED AS TO FORM:

_____

Julie Harryman
Assistant City Attorney

EXHIBIT A

TITLE 18
ZONING

CHAPTER 18.08 DEFINITIONS

18.08.016 Accessory dwelling units.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons **and is located on a lot with one or more proposed or existing primary residences**. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the one-family **or multifamily** dwelling ~~is~~ **are** situated. An accessory dwelling unit also includes the following:

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

B. A manufactured home, as defined in Section 18007 of the California Health and Safety Code. (Ord. 2161 § 1, 2017)

18.08.268 Junior accessory dwelling units.

"Junior accessory dwelling unit" means an area not exceeding 500 square feet in size **excluding any shared sanitation facility with the primary residential unit** that is entirely contained within the space of **a proposed or** existing ~~detached~~ **one-family** residential dwelling unit. It shall include its own separate ~~interior and~~ exterior entrance~~s~~, sink, cooking appliance, counter surface **for food preparation**, and storage cabinets **of reasonable size in relation to the size of the junior accessory dwelling unit** ~~that meet minimum building code standards. The cooking facility shall have appliances that do not require electrical service greater than 120 volts, or natural or propane gas~~. The junior accessory unit may share a bathroom with the existing residential dwelling unit or may have its own bathroom. (Ord. 2161 § 1, 2017)

CHAPTER 18.28 A AGRICULTURAL DISTRICT

18.28.030 Permitted uses.

The following uses shall be permitted in the A district:

A. ~~One-family dwellings and accessory dwelling or junior accessory dwelling units. Not more than one dwelling unit and an accessory dwelling unit or junior accessory dwelling unit, shall be permitted on each site.~~ **One-family dwellings, accessory dwelling and junior accessory dwelling units. Accessory dwelling and junior accessory dwelling units shall meet the requirements in Chapter 18.106 of this title.**

18.28.080 Design review.

All uses shall be subject to design review as prescribed in Chapter 18.20 of this title **except for accessory dwelling units as provided in Chapter 18.106**. Applicants are advised to confer with the zoning administrator before preparing detailed plans.

CHAPTER 18.32 R-1 ONE -FAMILY RESIDENTIAL DISTRICTS

18.32.030 Permitted uses.

The following uses shall be permitted in the R-1 districts:

H. Accessory dwelling ~~or~~ **and** junior accessory dwelling units meeting the requirements in Chapter 18.106 of this title.

18.32.090 Design review.

All uses shall be subject to design review as prescribed in Chapter 18.20 of this title **except for accessory dwelling units as provided in Chapter 18.106**. Applicants are advised to confer with the zoning administrator before preparing detailed plans.

CHAPTER 18.36 RM MULTI-FAMILY RESIDENTIAL DISTRICTS

18.36.030 Permitted uses.

The following uses shall be permitted in the RM multi-family residential districts:

H. Accessory dwelling ~~or~~ **and** junior accessory dwelling units meeting the requirements in Chapter 18.106 of this title.

18.36.110 Design review.

All uses shall be subject to design review as prescribed in Chapter 18.20 of this title **except for accessory dwelling units as provided in Chapter 18.106**. Applicants are advised to confer with the zoning administrator before preparing detailed plans.

CHAPTER 18.44 C COMMERCIAL DISTRICTS

18.44.080 Permitted and conditional uses.

B. Multi-family dwellings and mixed-use development shall be permitted in the C-C district provided that there shall be not less than 1,000 square feet of site area per dwelling unit, and provided that dwelling units not located above a permitted nonresidential use shall be subjected to the requirements for usable open space per dwelling unit of the RM-1,500 district, or, if applicable, the Core Area Overlay district. **When proposed with existing one-family or multifamily dwellings, accessory dwelling and/or junior accessory dwelling units, as applicable, meeting the requirements in Chapter 18.106 of this title are permitted.**

Yards and courts at and above the first level occupied by dwelling units shall be as required by Section 18.84.100 of this title, except that where no side or rear yard is required for a nonresidential use on the site, no side or rear yard need be provided except when required by the Building Code for adjoining walls with openings.

18.44.140 Design review.

All uses in the C districts involving exterior changes, uses, or improvements shall be subject to design review as prescribed in Chapter 18.20 of this title **except for accessory dwelling units as provided in Chapter 18.106**. Applicants are advised to confer with the zoning administrator before preparing detailed plans

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18.84.010 Basic requirements for all sections.

The zoning schedule provided in Table 18.84.010 located at the end of this chapter prescribes the basic site, yard, bulk, usable open space and screening and landscaping regulations that shall apply in the districts as indicated in the schedule. These basic requirements are defined and supplemented by additional requirements and exceptions prescribed in subsequent sections of this chapter. **Notwithstanding these requirements, accessory dwelling units shall meet the standards in Chapter 18.106.**

CHAPTER 18.84 SITE, YARD, BULK, USABLE OPEN SPACE AND LANDSCAPING REGULATIONS

Table 18.84.010
Site Development Standards for Zoning Districts in Pleasanton

ZONING DISTRICT	MINIMUM LOT SIZE			*MINIMUM YARDS*			SITE AREA PER DWELLING UNIT	GROUP USABLE OPEN SPACE PER DWELLING UNIT 18.84.170	BASIC FLOOR AREA LIMIT (% OF SITE AREA)	MAXIMUM HEIGHT OF MAIN STRUCTURE 18.84.140	CLASS 1 ACCESSORY STRUCTURES 18.84.160		
	Area	Width 18.84.050	Depth	*Front 18.84.080*	*One Side/ Both Sides 18.84.090*	*Rear 18.84.090*					Maximum Height 18.84.140	Minimum Distance to Side Lot Line	Minimum Distance to Rear Lot Line
A	5 acre	300 ft	---	*30 ft*	*30 ft; 100 ft*	50 ft	---	---	---	30 ft	30 ft**	30 ft**	30 ft**
R-1-40,000	40,000 sq ft 18.84.040	150 ft	150 ft 18.84.060	*30 ft*	*5 ft; 50 ft*	30 ft	40,000 sq ft	---	25%	30 ft	15 ft**	20 ft**	20 ft**
R-1-20,000	20,000 sq ft 18.84.040	100 ft	125 ft 18.84.060	*25 ft*	*5 ft; 30 ft*	25 ft	20,000 sq ft	---	30%	30 ft	15 ft**	3 ft**	5 ft**
R-1-10,000	10,000 sq ft 18.84.040	80 ft	100 ft 18.84.060	*23 ft*	*5 ft; 20 ft*	20 ft	10,000 sq ft	---	40%	30 ft	15 ft**	3 ft**	5 ft**
R-1-8,500	8,500 sq ft 18.84.040	75 ft	100 ft 18.84.060	*23 ft*	*5 ft; 15 ft*	20 ft	8,500 sq ft	---	40%	30 ft	15 ft**	3 ft**	5 ft**
R-1-7,500	7,500 sq ft 18.84.040	70 ft	100 ft 18.84.060	*23 ft*	*5 ft; 14 ft*	20 ft	7,500 sq ft	---	40%	30 ft	15 ft**	3 ft**	5 ft**
R-1-6,500	6,500 sq ft 18.84.040	65 ft	100 ft 18.84.060	*23 ft*	*5 ft; 12 ft*	20 ft	6,500 sq ft	---	40%	30 ft	15 ft**	3 ft**	5 ft**
RM-4,000	8,000 sq ft	70 ft	100 ft 18.84.060	*20 ft*	*7 ft; 16 ft*	30 ft	4,000 sq ft 18.84.030(E)	---	40%	30 ft	15 ft**	3 ft**	3 ft**
RM-2,500	7,500 sq ft	70 ft	100 ft 18.84.060	*20 ft*	*8 ft; 20 ft*	30 ft	2,500 sq ft 18.84.030(E)	400 sq ft	50%	30 ft	15 ft**	3 ft**	3 ft**
RM-2,000	10,000 sq ft	80 ft	100 ft 18.84.060	*20 ft*	*8 ft; 20 ft*	30 ft	2,000 sq ft 18.84.030(e)	350 sq ft	50%	30 ft	15 ft**	3 ft**	3 ft**

ZONING DISTRICT	MINIMUM LOT SIZE			*MINIMUM YARDS*			SITE AREA PER DWELLING UNIT	GROUP USABLE OPEN SPACE PER DWELLING UNIT 18.84.170	BASIC FLOOR AREA LIMIT (% OF SITE AREA)	MAXIMUM HEIGHT OF MAIN STRUCTURE 18.84.140	CLASS 1 ACCESSORY STRUCTURES 18.84.160		
	Area	Width 18.84.050	Depth	*Front 18.84.080*	*One Side/ Both Sides 18.84.090*	*Rear 18.84.090*					Maximum Height 18.84.140	Minimum Distance to Side Lot Line	Minimum Distance to Rear Lot Line
RM-1,500	10,500 sq ft	80 ft	125 ft 18.84.060	*20 ft*	*8 ft; 20 ft*	30 ft	1,500 sq ft 18.36.060 18.84.030(E)	300 sq ft	50%	30 ft	15 ft**	3 ft**	3 ft**
C-C	---	---	---	*18.84.130*	*18.84.130*	---	1,000 sq ft *18.44.080 18.84.030E*	150 sq ft	300%	40 ft *18.84.150*	40 ft** *18.84.150*	--- **	--- **
MU-D	---	---	---	*18.84.130*	*18.84.130*	---	1,000 sq ft *18.44.080 18.84.030E*	150 sq ft	300%	46 ft *18.84.150*	46 ft** *18.84.150*	---	---
MU-T	10,000 sq ft	80 ft	100 ft	20 ft	10 ft; 20 ft	10 ft	1,000 sq ft *18.44.080 18.84.030E*	150 sq ft	125%	36 ft	15 ft**	3 ft**	3 ft**

** ~~In the R-1 and RM districts, accessory~~ **Accessory** dwelling units **shall meet the development standards identified in Chapter 18.106.** ~~constructed above a detached garage may exceed 15 feet in height and shall not exceed 25 feet in height as measured from the lowest grade adjacent to the structure to the highest ridge or top of the structure.~~

18.84.150 Height limits—Exceptions.

E. In the R-1 district**,** ~~and the~~ RM district, **MU district, and the C-C district,** ~~second~~ **accessory dwelling** units ~~located above a garage may exceed the 15-foot height limit for accessory structures. Second units~~ constructed above a detached garage ~~in those districts~~ may not exceed 25 feet in height as measured from the lowest grade adjacent to the structure to the highest ridge or top of the structure.

Chapter 18.46 MU Mixed Use Districts

18.46.090 Design review.

All exterior modifications (e.g., signs, landscape, additions, and other exterior building modifications) in the MU districts shall be subject to design review as prescribed in Chapters 18.20 and 18.74 of this title **except for accessory dwelling units as provided in Chapter 18.106**.

Chapter 18.88 OFF-STREET PARKING FACILITIES

18.88.030 Schedule of off-street parking space requirements.

A. Dwellings and Lodgings.

1. ~~Single~~ **One**-family dwelling units shall have at least two parking spaces. ~~Accessory dwelling units shall adhere to the parking requirements in Section 18.106.~~

8. Accessory dwelling units shall adhere to the parking requirements in Section 18.106.

CHAPTER 18.106 ACCESSORY AND JUNIOR ACCESSORY DWELLING UNITS

* Prior ordinance history: Ord. 1812 § 1, 2000.

18.106.010 Purpose.

Accessory and junior accessory dwelling units are a valuable form of housing in the city. These units meet the city's general plan housing policies related to: attaining a variety of housing types; providing housing stock to lower income households; including lower income housing units within market rate housing projects; providing alternative, nontraditional means suited to the community to fill lower and moderate income housing needs; meeting the city's share of regional housing needs; providing a means to assist homeowners in financing the acquisition of a home; and providing security to homeowners living alone.

The further purpose of this chapter is to comply with the requirements of State law. To do so, this chapter identifies those zoning districts where an accessory dwelling unit or junior accessory dwelling unit meeting enumerated standards to ensure neighborhood compatibility is a permitted use in that district.

18.106.020 Use requirements **and review process**.

A. Accessory dwelling units and junior accessory dwelling units are permitted uses in the R-1 one family residential district, RM multi-family residential district, planned unit developments zoned for residential uses**, MU mixed use districts, C-C central commercial district,** and A agricultural district, if the ~~original~~ **primary** unit is a **proposed or existing** legal ~~single~~ **one**-family dwelling unit **or existing legal multifamily development** and the accessory dwelling unit meets all of the standards set forth in Section 18.106.060 of this chapter and the applicable site standards in Section 18.106.040 of this chapter for attached accessory dwelling units**,** ~~and in~~ Section ~~18.106.050~~ **18.106.045** of this chapter for detached accessory dwelling units**, Section 18.106.050 of this chapter for accessory dwelling unit(s) resulting from conversion of existing space in multifamily development,** or Section 18.106.070 of this chapter for junior accessory dwelling units. ~~A public hearing for design review purposes only shall be held if required by Chapter 18.20 of this title.~~

B. For purposes of this section:

1. A one-family development is defined as a property, site or parcel that contains one dwelling unit (other than an accessory dwelling unit), where the primary dwelling unit is detached and/or separated from any adjacent dwelling unit other than an accessory

dwelling unit. A property, site or parcel containing multiple detached single family dwellings on the same lot shall also be considered a one-family development.

2. A multifamily development is defined as building(s) or structure(s) to house more than one household within separate dwelling units, including units having attached or shared walls.

3. A development project that has both one-family and multifamily units on the same lot shall be defined as a multifamily development.

4. In a development project that has both one-family and multifamily housing types, regulations applicable to one-family developments shall apply to the one-family housing types and regulations applicable to multifamily development shall apply to multifamily housing types, irrespective of whether those one-family or multifamily units are each located on their own lot or a common parcel.

C. Subject to meeting the regulations of this section, accessory dwelling units and junior accessory dwelling units as defined in Chapter 18.08 shall be allowed on a parcel in the following quantities:

1. In one-family developments, both of the following are permitted:

a. One accessory dwelling unit in addition to the primary residential unit. The accessory dwelling unit may be attached or detached and may be the result of new construction or existing space that is converted.

b. One junior accessory dwelling.

2. In the multifamily developments, one of the following are permitted:

a. Non-habitable portions of the existing main structure are permitted to be converted to an accessory dwelling unit. A minimum of one such accessory dwelling unit is permitted. The maximum number of such accessory dwelling units shall not exceed 25 percent of the existing multifamily dwelling units located within each multifamily structure. A fraction of 0.5 or more is rounded up and a fraction that is less than 0.5 is disregarded. In development projects that have both one-family and multifamily housing types, 25 percent shall apply only to the multifamily units, and any one-family units that are within a multifamily development but are own their own parcel are subject to regulations applicable to accessory dwelling units for one-family developments. If the multifamily unit is eligible for an accessory dwelling unit, the accessory dwelling unit resulting from the conversion of space may be located in either the multifamily unit or in the one-family unit.

b. A maximum of two detached accessory dwelling units are permitted. The two accessory dwelling units may be attached to one another but must be detached from all existing structures.

D. For purposes of this section, "Statewide Exemption Accessory Dwelling Unit Standards" are: 800 square feet maximum in size, 16 feet maximum in height, and four-foot minimum setbacks from side and rear property lines.

~~B.~~ **E. The city will act on an application to create an accessory dwelling unit or junior accessory dwelling unit within 60 days from receiving a complete application if there is an existing one-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or junior accessory dwelling unit is submitted with a permit application to create a**

new one-family dwelling, the city may delay acting on the permit application for the accessory dwelling unit or junior accessory dwelling unit until the city acts on the permit application to create the new one-family dwelling. In any case, and notwithstanding the requirements of this title, the application to create the new accessory dwelling units or junior accessory dwelling unit shall be considered without discretionary review or hearing. ~~The~~ **An** application for an accessory dwelling or junior accessory dwelling unit shall ~~be submitted to the planning division prior to the application for a building permit to the building division and shall~~ include:

1. Plot plan (drawn to scale) showing the dimensions of the lot on which the accessory dwelling or junior accessory dwelling unit will be located; the location and dimensioned setbacks of all existing and proposed structures on the proposed site; **any existing trees proposed to be removed;** all easements; building envelopes; and parking for the project site.

2. Floor plans of the entire structure with each room dimensioned and the resulting floor area calculated. The use of each room shall be identified.

3. Elevation drawings of existing and proposed elevations, showing all relevant details of the proposed construction, including but not limited to: dimensions; materials and colors with notation demonstrating that the proposed accessory dwelling unit matches the design of the existing structure; and any other special characteristics of the project.

4. A table detailing the lot size, existing home square footage (with and without the garage), square footage of the proposed accessory dwelling unit, and the floor area ratio.

~~C.~~ **F.** ~~When the site development regulations of this chapter (e.g., height, setback, size of the accessory dwelling or junior accessory dwelling unit) conflict with specific regulations in a planned unit development or specific plan for second units (not simply regulations for general class I accessory structures), the planned unit development and specific plan shall control.~~

Development standards set forth in a planned unit development or specific plan shall apply to any accessory dwelling unit that exceeds the Statewide Exemption Accessory Dwelling Unit Standards except that any such planned unit development or specific plan standard cannot be applied if it would either: (1) result in a conflict with standards set forth by the state for accessory dwelling units; or (2) preclude an accessory dwelling unit that meets the applicable requirements of state law or this chapter.

18.106.030 Density and growth management program.

A. An accessory dwelling or junior accessory dwelling unit shall not be considered in applying the growth management program in Chapter 17.36 of this code.

B. An accessory dwelling or junior accessory dwelling unit is not considered to increase the density of the lot upon which it is located **and is a residential use that is consistent with the existing general plan and zoning designation for the lot.**

18.106.040 Standards for attached accessory dwelling—Height limitations, setbacks, open space, and other regulations.

Attached accessory dwelling units shall meet the requirements in Section 18.106.060 of this chapter and the following requirements:

~~A. Attached accessory dwelling units shall be subject to the maximum height, and the minimum front, rear, and side yard requirements of the main structure.~~

A. Except for an attached accessory dwelling unit that meets the Statewide Exemption Accessory Dwelling Unit Standards in Section 18.106.020, attached accessory dwelling units shall be subject to the maximum height, and the minimum front, rear, and side yard requirements of the main structure. Only in instances when complying with the front yard setback for the main structure precludes an accessory dwelling unit shall the accessory dwelling unit be permitted to encroach into the front yard setback but this encroachment shall be limited only to the extent necessary to accommodate the accessory dwelling unit. No setbacks are required for a legally existing living area that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.

Height of the attached accessory dwelling unit is measured vertically from the average elevation of the natural grade or finished grade, whichever is lower, of the ground covered by the accessory dwelling unit to the highest point of the structure including parapet or to the coping of a flat roof, to the deck line of a mansard roof, or to the mean height between eaves and ridges for a hip, gable, or gambrel roof. Accessory dwelling units are limited to two stories. An accessory dwelling unit proposed on the second story shall meet the objective standards for second-story accessory dwelling units identified in Section 18.106.060(C)(2).

~~B. The gross floor area of an attached accessory dwelling unit greater than a 150 square foot efficiency unit shall not exceed 50 percent of the gross floor area of the existing main dwelling unit, with a maximum increase in floor area of 1,200 square feet. In this instance, the gross floor area of the existing main dwelling unit is the size of the unit prior to the accessory dwelling unit addition/conversion.~~

B. The gross floor area of an attached accessory dwelling unit shall not exceed 50 percent of the gross floor area of the existing main dwelling unit, with a maximum increase in floor area of 1,200 square feet. The gross floor area of the existing main dwelling unit is to be calculated based on the size of the unit prior to the accessory dwelling unit/conversion. In no case shall this requirement necessitate an accessory dwelling unit to be less than: (1) a 150 square foot efficiency unit; (2) 850 square feet if the accessory dwelling unit is a studio or one-bedroom unit; or (3) 1,000 square feet if the accessory dwelling unit is two or more bedrooms.

C. An accessory dwelling unit that does not meet any of the Statewide Exemption Accessory Dwelling Unit Standards defined in Section 18.106.020 shall comply with applicable floor area ratio maximums, minimum open space requirements, and any other applicable development regulations established by this section and the zoning district or planned unit development in which the property is located.

~~C~~ **D**. Except as modified by this chapter, all other regulations embodied in the zoning of the property for main dwellings shall apply to the development of attached accessory dwelling units.

18.106.045 ~~18.106.050~~ Standards for detached accessory dwelling units ~~—~~Height limitations, setbacks, open space, and other regulations.

Detached accessory dwelling units shall meet the requirements in Section 18.106.060 of this chapter and the following requirements:

A. Detached accessory dwelling units shall not exceed ~~15~~ **16** feet in height and shall be limited to one-story structures, except that a detached accessory unit may be constructed above a detached garage, provided the garage meets the minimum setback requirements of the site's zoning district**,** ~~and~~ the accessory dwelling unit is not less than 5 feet from the side and rear property lines**, and the accessory dwelling unit meets the objective standards for second-story accessory dwelling units identified in Section 18.106.060(C)(2)**. Accessory dwelling units constructed above a detached garage shall not exceed **two stories in all zoning districts and are limited to** 25 feet in height in the R-1 district**,** and the RM district, **MU district, and the C-C district,** and shall not exceed 30 feet in the A district. Height is measured from the lowest grade adjacent to the structure to the highest ridge or top of the structure.

B. **Where a detached accessory dwelling unit, or a portion thereof, would be constructed in exactly the same location and to exactly the same dimensions as a legal accessory structure, the accessory dwelling unit may maintain the same setbacks as the existing structure, with no minimum setback required. All other detached accessory dwelling units shall be located a minimum of 4 feet from side and rear property lines.**

~~All other detached accessory dwelling units shall be subject to the following minimum setback requirements:~~

~~Zoning District~~	~~Side Yard Setback~~	~~Rear Yard Setback~~
~~One-family residential lots in the R-1-40,000 district and in planned unit developments which follow the site development standards of the R-1-40,000 district~~	~~20 feet~~	~~20 feet~~
~~All other lots~~	~~5 feet[1]~~	~~10 feet~~

~~**Note:**~~

~~[1] Side yard setback shall be a minimum of 10 feet on the street side of a corner lot.~~

C. The gross floor area of a detached ~~second unit~~ **accessory dwelling unit** shall not exceed 1,200 square feet**, except where such unit results from conversion of an existing accessory building, in which case it may exceed this size limit**.

D. An accessory dwelling unit that does not meet any of the Statewide Exemption Accessory Dwelling Unit Standards defined in Section 18.106.020 shall comply with applicable floor area ratio maximums, minimum open space requirements, and any other applicable development regulations established by this section and the zoning district or planned unit development in which the property is located.

~~D~~ **E**. Except as modified by this chapter, all other regulations embodied in the zoning of the property for class I accessory structures shall apply to the development of detached accessory dwelling units on one-family residential lots **and multifamily residential lots**.

18.106.050 Standards for accessory dwelling units resulting from converting existing space in multifamily developments—Height limitations, setbacks, open space, and other regulations.

Accessory dwelling units resulting from the conversion of existing space in multifamily developments shall meet the requirements in Section 18.106.060 of this chapter and the following requirements:

A. Expansions of the subject building not directly a part of the accessory dwelling unit shall be subject to the maximum height, and the minimum front, rear, and side yard requirements of the for the main structure, as applicable for the zoning district.

B. Existing space in the multifamily development that is converted to an accessory dwelling unit shall be limited to space that is not habitable space. Space that may be converted includes but is not limited to: storage rooms, boiler rooms, passageways, attics, basements, or garages. In no case shall the conversion of space to an accessory dwelling unit result in the elimination of access necessary to maintain safe ingress or egress per the Building and Fire Code.

C. Except as modified by this chapter, all other regulations embodied in the zoning of the property for multifamily dwellings shall apply to the development of accessory dwelling units resulting from the conversion of existing space.

18.106.060 Required standards for all accessory dwelling units.

All accessory dwelling units shall meet the following standards:

A. **Owner occupancy for the primary dwelling or the accessory dwelling unit is not required.** ~~Only one other residential unit shall be permitted on a lot with an accessory dwelling unit. If the owner occupies the primary residential unit, the owner may rent the accessory dwelling unit to one party. If the owner occupies the accessory dwelling unit, the owner may rent the primary residential unit to one party. The owner may rent both the primary residential unit and the accessory dwelling unit together to one party who may not further sublease any unit(s) or portion(s) thereof. The owner shall be a signatory to any lease for the rented unit, for which the city may reasonably require a copy of to verify compliance with this chapter, and shall be the applicant for any permit issued under this chapter.~~ **A property owner may rent both the primary residential unit and the accessory dwelling to one party or separate parties, as long as the rental periods are longer than thirty days.**

B. The accessory dwelling unit shall not be sold or held under a different legal ownership than the primary residence; nor shall the lot containing the accessory dwelling unit be subdivided.

C. In addition to the other requirements of this chapter, the following objective standards shall apply to accessory dwelling units:

1. Additions to accessory structures of 150 square feet or less beyond the existing physical dimensions to accommodate ingress/egress to an accessory dwelling unit are allowed. Additions to accessory structures greater than 150 square feet necessitate that the proposed accessory dwelling unit meet the maximum size required by Section 18.106.045.

2. The following standards apply to accessory dwelling units proposed as a second-story accessory dwelling unit:

a. The exterior stairway proposed to serve the accessory dwelling unit shall not be visible from the public right of way on the frontage abutting the front yard upon completion of the construction of the accessory dwelling unit. Where the project includes planting of vegetation for screening an exterior stairway, the assessment of visibility may take into account the mature height of vegetation that has been planted but has not yet reached full maturity at completion of construction.

b. All new windows may be operable, but at least one of the following measures must be implemented for new second-story windows in an accessory dwelling unit that are 25 feet or less from a property line: (1) the proposed window of the accessory dwelling unit is positioned such that the window sill is at least five feet above finished floor; or (2) the proposed window of the accessory dwelling unit utilizes frosted or obscured glass in the glazing portion of the window.

As used in this Section, frosted or obscure glass is glass which is patterned or textured such that objects, shapes, and patterns beyond the glass are not easily distinguishable.

3. No balconies or upper-story decks shall be allowed for an accessory dwelling unit, except for decorative/faux balconies without decks that match the primary dwelling structure.

4. The following parking standards apply to accessory dwelling units:

a. One additional off-street parking space on the lot shall be made continuously available to the occupants of the accessory dwelling unit. Required parking may be provided as tandem, or may be located in setbacks, but not in the front yard setback unless on the driveway.

b. When a garage, carport, or covered parking structure is demolished in conjunction with construction of an accessory dwelling unit or is converted to an accessory dwelling unit, those offstreet parking spaces are not required to be replaced.

c. Parking for an accessory dwelling unit shall not be required if the accessory dwelling unit is:

- **located within a one-half mile of public transit.**
- **located within an architecturally and historically significant historic district.**
- **located in part of an existing primary residence or an existing accessory structure.**
- **located in an area requiring on-street parking permits, but not offered to the occupant of the accessory dwelling unit; or**
- **located within one block of a car share vehicle.**

d. Parking shall not be required if the city finds that parking is not feasible due to site topography or would create fire or life-safety conditions.

5. Accessory dwelling units shall incorporate roof and exterior wall material, building color(s), and trim that matches the primary dwelling structure to the maximum extent feasible.

6. If garage space is converted to an accessory dwelling unit, at the option of the property owner, the existing garage door(s) may either be left in place, or removed and infilled such that the wall appears integrated with rest of the home, with the same exterior wall material, building color, and trim as the primary dwelling structure.

7. With the objective of retaining the appearance of a one-family residence, the entry door to an attached accessory dwelling unit proposed on a property with a one-family development shall be located on a different façade than the door to the primary residence.

8. The square footage of the primary residence and accessory dwelling unit(s) combined cannot exceed the maximum floor area ratio requirement for the lot, except that the maximum floor area ratio may not reduce the square footage of an accessory dwelling unit to less than 800 square feet if the accessory dwelling unit is 16 feet or less in height and located at least 4 feet from side and rear property lines.

9. The accessory dwelling unit shall have access to at least 80 square feet of open space on the lot, except that this open space requirement may not reduce the square footage of an accessory dwelling unit to less than 800 square feet if the accessory dwelling unit is 16 feet or less in height and located at least 4 feet from side and rear property lines.

~~C. The following parking standards shall apply to accessory dwelling units:~~

~~1. One additional off-street parking space on the lot shall be made continuously available to the occupants of the accessory dwelling unit. Required parking may be:~~

~~a. provided as tandem; or~~

~~b. located in setbacks, but not in the front yard setback unless on the driveway.~~

~~2. Parking for an accessory dwelling unit shall not be required if the accessory dwelling unit is:~~

~~a. located within a one-half mile of public transit.~~

~~b. located within an architecturally and historically significant historic district.~~

~~c. located in part of an existing primary residence or an existing accessory structure.~~

~~d. located in an area requiring on-street parking permits, but not offered to the occupant of the accessory dwelling unit; or~~

~~e. located within one block of a car share vehicle.~~

~~3. Parking shall not be required if the city finds that parking is not feasible due to site topography or would create fire or life-safety conditions.~~

~~4. When code required parking for the primary residence's garage, carport or covered parking is eliminated in conjunction with the construction or conversion of an accessory dwelling unit, the replacement space(s) shall be located on the same lot as the primary and accessory dwelling unit. With the approval of the community development director or his/her designee, the parking may be configured in a flexible manner so as not to burden the creation of the accessory dwelling unit. The location and~~

~~configuration of parking is subject to the review and approval of the director of community development, and may be located and configured in such a manner to facilitate the accessory dwelling unit.~~

~~D. The square footage of the primary residence and ADU combined cannot exceed the maximum floor area ratio requirement for the lot.~~

~~E. The accessory dwelling unit shall have access to at least 80 square feet of open space on the lot.~~

~~F.~~ **D.** The resident owner shall install address signs that are clearly visible from the street during both daytime and evening hours and which plainly indicate that two separate units exist on the lot, as required by the fire marshal. The resident owner shall obtain the new street address for the accessory dwelling unit from the engineering department.

~~G.~~ **E.** Adequate roadways, public utilities and services shall be available to serve the accessory dwelling unit. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges for sewer and water. Installation of a separate direct connection between an accessory dwelling unit contained within an existing structure and the utility shall not be required. Accessory dwelling units not within an existing structure shall be required to install a new or separate utility connection and be charged a connection fee and/or capacity charge. These charges shall be proportionate to the burden imposed by the accessory dwelling unit on the water or sewer system based upon either its size or number of plumbing fixtures as determined by the city.

~~H.~~ **F.** The owner of the lot on which an accessory dwelling unit is located shall participate in the city's monitoring program to determine rent levels of the accessory dwelling units being rented.

~~I.~~ **G.** The accessory dwelling unit shall not create an adverse impact on any real property that is listed in the California Register of Historical ~~Places~~ **Resources**.

~~J.~~ **H.** The accessory dwelling unit shall comply with other zoning and building requirements generally applicable to residential construction in the applicable zone where the property is located.

~~K. A restrictive covenant shall be recorded against the lot containing the accessory dwelling unit with the Alameda County recorder's office prior to the issuance of a building permit from the building division stating that:~~

~~The property contains an approved accessory dwelling unit pursuant to Chapter 18.106 of the Pleasanton Municipal Code and is subject to the restrictions and regulations set forth in that chapter. These restrictions and regulations generally address subdivision and development prohibitions, owner occupancy and lease requirements, limitations on the size of the accessory dwelling unit, parking requirements, and participation in the city's monitoring program to determine rent levels of the accessory dwelling units being rented. Current restrictions and regulations may be obtained from the city of Pleasanton planning division. These restrictions and regulations shall be binding upon any successor in ownership of the property.~~

18.106.070 Required standards for all junior accessory dwelling units.

All junior accessory dwelling units shall meet the following standards:

A. The junior accessory dwelling unit shall be located entirely within the existing structure of the detached ~~single~~ **one**-family residence and shall have its own separate interior and exterior entrances.

B. The junior accessory dwelling unit shall not exceed 500 square feet in area. The square footage of the primary residence and ADU combined cannot exceed the maximum floor area ratio requirement for the lot.

C. The junior accessory dwelling unit shall include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. Gas and 220v circuits shall not be allowed. The junior accessory dwelling unit may share a bathroom with the primary residence or may have its own bathroom.

D. Parking shall not be required for a junior accessory dwelling unit. When code-required parking for the primary residence's garage is eliminated and/or modified, in conjunction with the creation of a junior accessory dwelling unit, the replacement space(s) shall be located on the same lot as the primary unit. With the approval of the community development director or designee, the parking may be configured in a flexible manner so as not to burden the creation of the junior accessory dwelling unit. The location and configuration of the replacement parking is subject to the review and approval of the director of community development, and may be located and configured in such a manner to facilitate the junior accessory dwelling unit.

E. Additional water, sewer and power connection fees shall not be required.

F. Only one other residential unit **and one other accessory dwelling unit** shall be permitted on a lot with a junior accessory dwelling unit. If the owner occupies the primary residential unit, the owner may rent the junior accessory dwelling unit to one party. If the owner occupies the junior accessory dwelling unit, the owner may rent the primary residential unit to one party. The owner may rent both the primary residential unit and the junior accessory dwelling unit together to one party who may not further sublease any unit(s) or portion(s) thereof. **In any case, the rental period shall be longer than 30 days.** The owner shall be a signatory to any lease for the rented unit, for which the city may reasonably require a copy of to verify compliance with this chapter, and shall be the applicant for any permit issued under this chapter.

G. The junior accessory dwelling unit shall not be sold or held under a different legal ownership than the primary residence, nor shall the lot containing the junior dwelling unit be subdivided.

H. The resident owner shall install address signs that are clearly visible form the street during both daytime and evening hours and which plainly indicate that two separate units exist on the lot, as required by the fire marshal. The resident owner shall obtain the new street address for the junior accessory dwelling unit form the engineering department.

I. Except as modified by this chapter, all other regulations embodied in the zoning of the property for main dwellings shall apply to the development of junior accessory units.

J. The owner of the lot on which the junior accessory dwelling unit is located shall participate in the city's monitoring program to determine rent levels of the junior accessory dwelling unit being rented.

K. The junior accessory dwelling unit shall comply with the other zoning and building requirements generally applicable to residential construction in the applicable zone where the property is located.

~~L. A restrictive covenant shall be recorded against the lot containing the junior accessory dwelling unit with the Alameda County recorder's office prior to the issuance of a building permit form the building division stating that:~~

~~The property contains an approved junior accessory dwelling unit pursuant to Chapter 18.106 of the Pleasanton Municipal Code and is subject to the restrictions and regulations set forth in that Chapter. These restrictions and regulations generally address subdivision and development prohibitions, owner occupancy and lease requirements, limitations on the size of the junior accessory dwelling unit, parking requirements, and participation in the city's monitoring program to determine rent levels of the junior accessory dwelling unit being rented. Current restrictions and regulations may be obtained from the city of Pleasanton planning division. These restrictions and regulations shall be binding upon any successor in ownership of the property.~~

EXHIBIT B

Government Code §65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
(D) Require the accessory dwelling units to comply with all of the following:
(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.
(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as

otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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

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

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

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

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

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.
(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:
(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.
(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:
(i) 850 square feet.
(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.
(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.
(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:
(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.
(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
(5) When there is a car share vehicle located within one block of the accessory dwelling unit.
(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:
(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.
(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:
(i) A total floor area limitation of not more than 800 square feet.
(ii) A height limitation of 16 feet.
(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.
(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or

capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

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

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

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

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

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

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

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

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

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

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
(j) As used in this section, the following terms mean:
(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
(5) "Local agency" means a city, county, or city and county, whether general law or chartered.
(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.
(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1) The accessory dwelling unit was built before January 1, 2020.
(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2019, Ch. 659, Sec. 1.5. (AB 881) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions. See later operative version added by Sec. 2.5 of Stats. 2019, Ch. 659.)

Government Code §65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
(D) Require the accessory dwelling units to comply with all of the following:
(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an

accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
(viii) Local building code requirements that apply to detached dwellings, as appropriate.
(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process

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

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

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

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

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

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

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling

unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

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

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

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

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

(i) 850 square feet.

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

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

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

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

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

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

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

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

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

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

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
(ii) The space has exterior access from the proposed or existing single-family dwelling.
(iii) The side and rear setbacks are sufficient for fire and safety.
(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:
(i) A total floor area limitation of not more than 800 square feet.
(ii) A height limitation of 16 feet.
(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.
(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).
(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily

dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

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

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

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

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

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

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

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

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After

adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:
(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
(j) As used in this section, the following terms mean:
(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) “Neighborhood” has the same meaning as set forth in Section 65589.5.
(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
(8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
(9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
(10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1) The accessory dwelling unit was built before January 1, 2020.
(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o) This section shall become operative on January 1, 2025.

(Repealed (in Sec. 1.5) and added by Stats. 2019, Ch. 659, Sec. 2.5. (AB 881) Effective January 1, 2020. Section operative January 1, 2025, by its own provisions.)

Health and Safety Code §17980.12.

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:
(A) The accessory dwelling unit was built before January 1, 2020.
(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.
(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.
(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).
(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.
(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

(Added by Stats. 2019, Ch. 653, Sec. 3. (SB 13) Effective January 1, 2020. Repealed as of January 1, 2035, by its own provisions.)

Government Code §65583.

The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency

shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:
(i) The maximum number of beds or persons permitted to be served nightly by the facility.
(ii) Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.
(iii) The size and location of exterior and interior onsite waiting and client intake areas.
(iv) The provision of onsite management.
(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
(vi) The length of stay.
(vii) Lighting.
(viii) Security during hours that the emergency shelter is in operation.
(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.
(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.
(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to

remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

(7) An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on the capacity necessary to accommodate the most recent homeless point-in-time count conducted before the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.

(8) An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local

multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.
(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.
(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.
(C) The analysis shall identify public and private nonprofit corporations known to the local government that have legal and managerial capacity to acquire and manage these housing developments.
(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs that can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program that have not been legally obligated for other purposes and that could be available for use in preserving assisted housing developments.
(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.
(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.
(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that

there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.
(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.
(3) Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).
(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.
(5) Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.
(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.
(7) Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2.

(8) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.
(9) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.
(10) (A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:
(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.
(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.
(iii) An assessment of the contributing factors for the fair housing issues identified under clause (ii).
(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.
(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.
(B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect before August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.
(C) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.
(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a)

by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.
(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit toward its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.
(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:
(A) How the joint facility will meet the jurisdiction's emergency shelter need.
(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.
(C) The amount and source of the funding that the jurisdiction contributes to the facility.
(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.
(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:
(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.
(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.
(f) The deadline for completing required rezoning pursuant to subparagraph (A) of paragraph (1) of subdivision (c) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low- and very low income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:
(1) The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state, federal, or local agency.
(2) The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory constraints.
(3) The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.
The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for

citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)). Design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, "housing development project" means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing

cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.
(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

(Amended by Stats. 2019, Ch. 658, Sec. 1.5. (AB 671) Effective January 1, 2020.)

Healthy and Safety Code §50504.5.

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

(Added by Stats. 2019, Ch. 658, Sec. 2. (AB 671) Effective January 1, 2020.)

Government Code §65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:
(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:
(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.
(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.
(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:
(A) A cooking facility with appliances.
(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.
(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.
(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a

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

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

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

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

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

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

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

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

(Amended by Stats. 2019, Ch. 655, Sec. 2. (AB 68) Effective January 1, 2020.)

Government Code §65852.26.

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:
(1) The property was built or developed by a qualified nonprofit corporation.
(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.
(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.
(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.
(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.
(b) For purposes of this section, the following definitions apply:
(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.
(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(Added by Stats. 2019, Ch. 657, Sec. 1. (AB 587) Effective January 1, 2020.)

Civil Code §4751.

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

(Added by Stats. 2019, Ch. 178, Sec. 2. (AB 670) Effective January 1, 2020.)

THE CITY OF PLEASANTON

EXHIBIT C
Planning Commission Agenda Report

June 24, 2020
Item 5

SUBJECT: P20-0412

APPLICANT: City of Pleasanton

PURPOSE: Consider amendments to Chapters 18.08, 18.20, 18.28, 18.32, 18.36, 18.44, 18.84, and 18.106 of the Pleasanton Municipal Code to comply with state legislation for accessory dwelling units

LOCATION: Citywide

GENERAL PLAN/ SPECIFIC PLAN/ ZONING: Various

EXHIBITS:

A. Draft resolution with proposed amendments to the Pleasanton Municipal Code
B. Adopted California Government Code Section 65852.2, Health and Safety Code Section 17980.12, Government Code Section 65583, Health and Safety Code Section 50504.5, Government Code Section 65852.22, Government Code Section 65852.26, Civil Code Section 4751

STAFF RECOMMENDATION

Staff recommends that the Planning Commission discuss the draft amendments to the Pleasanton Municipal Code (PMC) and adopt a resolution recommending approval of Case P20-0412 to the City Council with the proposed amendments shown in Exhibit A. At this particular meeting, however, staff is not requesting the Planning Commission take action on the draft amendments, to ensure an opportunity for the Commission to receive public comments, discuss and provide any needed direction.

EXECUTIVE SUMMARY

In 2019, the Governor signed into state law six different bills (Senate Bill 13, Assembly Bill 68, Assembly Bill 881, Assembly Bill 670, Assembly Bill 587, and Assembly Bill 671) that change the regulations for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). These new rules build upon the changes to law regarding ADUs enacted in 2017, and still have the overall objective of encouraging the construction of ADUs. Since local ADU ordinances are required to be in conformance with state law, amendments to the City's existing regulations are proposed, to match the new requirements for ADUs and JADUs.

Along with the draft amendments, staff has identified several key topics for discussion for and direction by the Planning Commission. Amendments to the zoning chapter of the PMC require

review and recommendation from the Planning Commission to the City Council. Accordingly, the key topics for discussion and the draft amendments are before the Planning Commission for its consideration and recommendation.

BACKGROUND

For the past several years, the State has adopted a series of new laws intended to encourage the production of ADUs, principally by reducing regulatory barriers to property owners being able to construct these units. In 2017, the City updated the PMC in response to a significant set of changes in state law governing ADUs. An additional series of regulations were adopted by the State in 2019, effective in January 2020, for which additional updates to the PMC are required.

ADUs, also known as granny flats, in-law units, and second dwelling units, are often cited as a beneficial form of housing provided they are constructed legally and meet applicable standards. ADUs are conducive to: on-site independent living space for family members or aging relatives, a convenient place of residence for care givers, a way for less-abled or aging homeowners to stay in their homes, or simply as another option for rental housing. Other benefits include providing a source of affordable housing, while maintaining the character of single-family neighborhoods, and providing a source of rental income to offset the cost of buying or owning a home. ADUs and JADUs cannot be subdivided and subsequently sold separately from the primary dwelling.

Unlike a duplex, an ADU is subordinate to the single-family dwelling in both function and design. ADUs are permitted in various forms. An ADU may be completely within an existing single-family home. Or an ADU may be built as an extension of a single-family dwelling or as a detached unit. And with the latest update to the state law, an ADU may now be located within a multifamily structure or as a detached unit within a multifamily development.

JADUs must be completely within the walls of a single-family dwelling and must have an entrance into the unit from inside the main dwelling as well as an entrance to the JADU from the outside.

While much of the new legislation effective January 1, 2020 regarding ADUs is complex and difficult to interpret, it is clear on its intent: provide greater flexibility for the construction and conversion of existing space to ADUs or JADUs, limit the imposition of impact fees, and streamline approvals by eliminating discretionary review of ADUs and JADUs.

The draft amendments to the PMC included as Exhibit A are proposed to implement the state law within the context of the City's existing regulations while retaining the City's authority over ADU and JADUs to the maximum extent permitted by state law.

SUMMARY OF STATE LAW AND PROPOSED PMC AMENDMENTS

The full text of the state law is attached to this report as Exhibit B and is summarized below. These various requirements are reflected in various sections of the draft PMC amendments, included as Exhibit A.

A significant change in the new state law is that ADUs are now permitted for both single-family and multifamily properties. The summary below outlines some of the key concepts that inform the draft PMC amendments; outlines proposed standards applicable to single-family

development (both attached and detached ADUs); standards applicable to ADUs within multifamily developments; standards applicable to Junior ADUs; and then outlines a series of generally-applicable requirements that would apply for all types of ADU.

1. Key Concepts in new ADU laws

Major concepts that inform the structure and content of the proposed PMC amendments include:

a. Minimum ADU Standards

A key concept in the new state law is that of "Minimum ADU Standards," which are the minimum size, heights and setbacks that local ordinances must allow for, including a size of at least 800 square feet; side and rear setbacks of four feet; and a height of at least 16 feet. Staff interprets this provision of state law to mean that an accessory dwelling unit that does not meet any one of the Minimum ADU Standards (i.e. is larger than 800 square feet, taller than 16 feet, or proposes less than four foot setbacks) must, with some limited exceptions[1], then also comply with applicable development regulations established by the PMC, and the zoning district or planned unit development in which the property is located (e.g. floor area ratio maximums, minimum open space requirements, setbacks, etc.) This concept is reflected in the various regulations outlined below.

b. Application of Standards by Use, versus Zoning District

While state law makes mention of zoning districts that allow single-family or multifamily residential dwelling uses, the majority of the law is structured to rely on the existing use of the property to determine which standards are to be applied (i.e. regardless of zone, interpretation of the ADU regulations are based on whether a property contains single-family or multifamily development).[2] Therefore, staff proposes definitions to distinguish between single-family and multifamily development, and apply regulations accordingly (with some limited exceptions) instead of identifying standards by zoning districts.[3] Please see section titled, *Defining Single-Family and Multifamily Development* in this report for further discussion on this topic.

c. Objective Standards

The City's current regulations make ADUs subject to the same design review standards and procedures as other types of development. The new state law makes it clear that any form of discretionary review for ADUs is disallowed, including processes such as design review, and preclude application of anything other than strictly objective standards and ministerial approval procedures. With this limitation, and while recognizing the high value placed in Pleasanton on

[1] State law provides that if the ADU is: (1) the result of the conversion of existing living space or an existing accessory structure; or (2) the result of removing and replacing a structure of the same footprint, the existing non-conforming setback(s) may be retained.

[2] It should be noted that, for the most part, existing land use correlates closely with zoning – Single-family zoning districts predominantly contain single-family developments and multifamily zoning districts contain multifamily developments of various types. However, this is not universally true in Pleasanton, particularly in multifamily residential districts, where a range of housing types, from apartments, to townhomes and compact/small-lot detached single-family residences are often found.

[3] In Pleasanton, the PMC sections for single-family and multifamily districts identify ADU and JADUs as permitted uses; single-family districts include the R-1 and A districts; multifamily zoning districts include the RM and MU districts. The Central-Commercial (C-C) District also allows multifamily dwellings and thus in accordance with the new state law, must now also allow ADUs; JADUs would be allowed in existing single-family dwellings.

neighborhood compatibility, design quality, and minimization of neighbor impacts, the proposed PMC amendments incorporate a series of objective standards (specific, measurable and verifiable parameters), to ensure that impacts of ADUs are minimized. See "Discussion" Section below for more detail on this topic.

2. Single Family ADUs

a. Number of Permitted ADUs *[see Exhibit A, PMC 18.106.020(C)]*

On a property with single-family development, the new regulations allow an ADU plus a JADU in addition to a primary residential unit on a parcel with a single-family use. Therefore, a property containing a single-family use could have up to three units: the primary residential unit, a JADU, and an ADU.

b. Attached Single-Family ADUs *[see Exhibit A, PMC 18.106.040]*

The following standards apply to attached ADUs on single-family developments (i.e., an ADU that is within an addition to the primary residence, or constructed within a portion of the existing residence).

(i) Height and Setbacks

The state law does not specify height and setback requirements for attached ADUs beyond those established as Minimum ADU Standards. Staff proposes that attached ADUs be subject to the maximum height and the minimum setback requirements of the main structure. However, consistent with State law, an attached ADU that is less than 16 feet in height and less than 800 square feet may be located 4-feet from property lines even if the setbacks for the zoning district require greater setbacks.

Another exception to minimum setbacks specified in state law is that no setbacks are required for a legally existing living area that is converted to an ADU or to a portion of an ADU. For example, if a legally-existing portion of a residence is 3 feet from a side property line where a minimum of 5 feet is required and this portion of the residence is converted to an ADU, the ADU would be compliant with setback requirements per state law since no setbacks are required for the ADU.

Staff also proposes that an attached ADU must meet a series of prescribed objective design standards; these are outlined further in the *Proposed Objective Standards* section of this report.

(ii) Square Footage

The maximum floor area of an attached single-family ADU would be the greater of the following:

1. 800 square feet; or
2. 850 square feet for a studio or one-bedroom and 1,000 square feet for a two- or more-bedroom unit; or
3. 50 percent of the gross floor area of the existing main dwelling unit, with a maximum increase in floor area of 1,200 square feet.

Staff would like to recognize that the above square footage limitations appear to blend together several different concepts, such as overall maximum square footage and number of bedrooms, in addition to factoring in the size of the existing primary dwelling. And, on a

practical level, since the PMC applies the greater of the three maximum sizes listed, a maximum of 1,200 square feet will be allowed in many instances, consistent with the maximum ADU size currently allowed in the PMC. Nonetheless, this approach mirrors the (difficult to interpret and apply) state law such that the proposed amendments to the PMC are consistent with these different variables and limitations, while at the same time upholding the standards currently in the PMC.

Despite this, it is important to reiterate that, the PMC would require that an attached ADU exceeding any of the Minimum ADU Standards comply with applicable development regulations for the zoning district or PUD in which it is located; thus application of floor-area-ratio maximums, minimum open space requirements etc. may further restrict the above-listed maximums, although in no case can the ADU be restricted to less than 800 square feet.

c. Detached Single-Family ADUs *[see Exhibit A, PMC 18.106.045]*
The changes proposed to the PMC related to detached ADUs principally pertain to square footage maximums, as well as requiring second-story ADUs to meet objective standards.

(i) Height
The maximum height for a detached ADU is 16 feet, consistent with the Minimum ADU Standards (one foot greater than the existing height maximum of 15 feet); detached ADUs are limited to one-story. In the current and revised PMC, an exception is provided for an ADU proposed above a detached garage, in which case the maximum height is 25 feet in the R-1, RM, and MU districts and 30 feet in the A district (the 25-foot height limit currently exists for the R-1 and RM districts and is proposed to be carried forward to the MU District). ADUs proposed above a detached garage in the C-C District would be limited to 40 feet, which is the existing height limit for accessory structures.

The provision to allow ADUs above detached garages was added as part of the modified ADU regulations adopted by the City in 2013 and no change to the overall height limits (or to the setback requirements) is proposed. The detached ADU above a garage would, however, need to meet objective standards (see the section titled, *Proposed Objective Design Standards,* intended to address such issues as neighbor privacy and compatibility with existing buildings).

(ii) Setbacks
Detached ADUs are required to be located a minimum of 4 feet from side and rear property lines if they are proposed as one-story structures up to 16 feet in height. If proposed above a garage, the ADU must be at least 5 feet from side and rear property lines, even in the C-C District where no setbacks are required for accessory structures. For corner lots, a 10-foot street side setback would be required (consistent with the current PMC) in situations where the ADU does not meet any one of the Minimum ADU Standards. An ADU that meets all of the Minimum ADU Standards could have a 4-foot setback, even on the street side of a corner lot.

The new state law indicates that no setbacks may be required when either of the following types of structures are converted to an ADU: (1) a legal, existing accessory structure; or (2) a non-conforming structure when the ADU is constructed in the same location and with the same dimensions as the non-conforming existing structure. This is more permissive than the existing requirement since the PMC currently indicates no setbacks are required for existing *garages*

that are converted to ADUs; the new state law applies to all accessory structures (not only garages).

(iii) Square Footage
The maximum floor area of a detached ADU is the greater of the following:

1. 800 square feet; or
2. 850 square feet for a studio or 1-bedroom and 1,000 square feet for a two or more-bedroom unit; or
3. 1,200 square feet.

As mentioned above, as drafted, the PMC would require that a detached ADU exceeding any of the Minimum ADU Standards must comply with applicable floor-area-ratio maximums, minimum open space requirements, and any other applicable development regulations established by the PMC and the zoning district or planned unit development in which the property is located, which may further restrict these maximums but in no case can the ADU be restricted to less than 800 square feet.

3. Multifamily ADUs
The new state law permits ADUs within multifamily developments; however, it does not define what is to be considered a multifamily development. As mentioned previously, since the rules applicable to single-family and multifamily ADUs are quite different, the amendments include a definition of multi-family development that would clearly distinguish between single-family (generally considered to only include detached housing types) and multifamily development, encompassing most types of attached units, including apartments, condominiums, townhomes and similar units. This approach is outlined in more detail in the Discussion section, below.

a. Number of Permitted ADUs *[see Exhibit A, PMC 18.106.020(C)]*
On multifamily properties, non-habitable portions of the existing structure(s), such as storage rooms, garages, and attics, are permitted to be converted to ADU(s). The modifications to the PMC indicate that a minimum of one such accessory dwelling unit is permitted, and the maximum number of such accessory dwelling units must not exceed 25 percent of the existing multifamily dwelling units located in the *development project*, whichever is greater.

Staff's interpretation of state law is to apply 25% of the existing multifamily units in the *development project* to allow for an aggregated total across a development[4]. In development projects that have both single-family and multifamily housing types, staff proposes that the "25%" apply only to the multifamily units; any single-family units within the same development,

[4] Staff did not interpret state law as being 25% of the units on the *parcel* since a single multifamily development may traverse multiple parcels, or to mean 25% of units in the *building* since a development may consist of multiple buildings. The maximum number of permitted ADUs for a given multifamily development will vary depending on the configuration of the development; in one type of development applying 25% of the existing multifamily units in the *development project* may yield a greater maximum number of ADUs over applying 25% to the units in the *building* and the converse would be true in a different development. However, staff expects that consistently utilizing any one of the approaches to establish the maximum number of ADUs will "even out" once aggregated across various development types in the city. Applying the 25% rule to the *development project* would facilitate tracking of the ADUs in each development, making the state law easier to administer, and is therefore staff's recommended approach.

and located on its own separate parcel, would be subject to regulations applicable to ADUs for single-family developments.

Finally, a maximum of two additional detached accessory dwelling units are permitted if they meet a minimum rear and side yard setback of four feet, and a maximum height of 16 feet.[5]

b. ADUs resulting from Conversion of Space *[see Exhibit A, PMC 18.106.050]*
The draft PMC amendment includes the following development standards for ADUs resulting from conversion of space in an existing multifamily building.

(i) Limitation on Space that May be Converted
While State law provides a series of examples of non-habitable space that may be converted to an ADU, including storage rooms, boiler rooms, passageways, attics, basements, or garages, staff proposes to include language that prohibits the conversion of space to an accessory dwelling unit if it results in the elimination of an existing on-site amenity such as a laundry facility, gymnasium, community room, etc.

(ii) Height and Setbacks
ADUs resulting from converted space that also require expansion in multifamily development would be subject to the maximum height and the minimum setback requirements of the main structure.

(iii) Square Footage
In most situations, the size of an ADU resulting from conversion of existing space will be limited to the existing size of the space. In order to place a limit on size, the PMC amendments propose that the maximum floor area of an ADU resulting from converting existing space in multifamily developments be 1,200 square feet.

c. Detached ADUs on Multifamily Developments *[see Exhibit A, PMC 18.106.045]*
As noted, a maximum of two detached ADUs are permitted in multifamily developments, in addition to ADUs resulting from conversion of existing space. Since state law treats all detached ADUs similarly, the same development standards are proposed for detached units on multifamily properties as those outlined for single-family detached ADUs, above.

4. Junior Accessory Dwelling Units *[see Exhibit A, PMC 18.106.070]*
Changes related to JADUs are less extensive when compared to those related to ADUs. However, there are a few key modifications related to JADUs:

- As mentioned in this report, one primary dwelling unit, one ADU, and one JADU may be proposed on the same property with a single-family residence.
- When code-required parking in the primary residence's garage is eliminated or modified in conjunction with the creation of a JADU, no replacement parking is required.
- The City may still require owner-occupancy in the single-family residence in which the JADU is located. In other words, the owner may reside in either the remaining portion of the dwelling or the newly created JADU but may not rent out both to different parties.
- The rental period for a JADU must be longer than 30 days.

[5] For example: A multifamily property with eight apartments could build a total of four ADUs – two resulting from conversion of existing space such as a garage and an attic area; plus two additional units elsewhere on the property that conform to the above-noted development standards.

5. Other Requirements *[see Exhibit A, PMC 18.106.060]*

a. Review Authority and Process

City permits for ADUs and Junior ADUs must be reviewed and acted on ministerially (i.e., no public hearings can be required); and action must be taken within 60 days of the receipt of a complete application, and the 60-day window begins on the date of a submittal, provided it is complete. The amendments to the PMC reflect revised submittal requirements since discretionary review is no longer permitted. Please also refer to the section titled, *Proposed Objective Standards* in this report.

b. Owner Occupancy

The City's current regulations require that the owner of a property with an ADU occupy either the primary residence or the ADU and that a deed restriction be recorded which reflects this requirement. New state laws remove the City's ability to enforce this provision for ADUs that are approved between January 1, 2020 to January 1, 2025. Therefore, the text of the PMC is proposed to be modified accordingly. Note that the owner occupancy requirements and deed restrictions that exist for ADUs approved *before* January 1, 2020, remain enforceable.

c. Additions to Accessory Structures for Ingress/Egress

State law allows small (less than 150 square feet) additions beyond the same physical dimensions to accessory structures to accommodate ingress/egress to the ADU. That is, if an ADU is within the existing space of an accessory structure, up to 150 additional square feet is permitted if the expansion is limited to accommodating ingress and egress.

d. Short-term Rentals

Per the new state law, no short-term rentals (less than 30 days) are allowed in an ADU. This approach is consistent with existing City policy that does not allow for short-term rentals.

e. Parking

The state law carries over a number of provisions from prior ADU legislation, including that only one parking space for an ADU is required, and that parking for a new ADU is not required at all, if the ADU is:

1. located within a one-half mile of public transit;
2. located within an architecturally and historically significant historic district;
3. located in part of an existing primary residence or an existing accessory structure;
4. located in an area requiring on-street parking permits, but not offered to the occupant of the accessory dwelling unit; or
5. located within one block of a car share vehicle.

State law also already reflected in the PMC is that off-street parking for an ADU is permitted in setbacks areas (but not in the front yard setback unless on the driveway) or through tandem parking, and that parking will not be required if the City finds that it is not feasible due to topography or would create fire and life safety concerns.

An important new provision of state law now is that replacement parking may not be required when a garage, carport, or covered parking is converted to an ADU. This is now reflected in the proposed changes to the PMC.

f. Impact Fees

Under the new law, the City is not allowed to charge impact fees for ADUs that are less than 750 square feet in size but may impose fees on larger units in proportion to the primary dwelling on a square footage basis. Staff will propose an amendment to the City's Master Fee Schedule to comply with this requirement, for approval by City Council.

g. Non-conforming Zoning Conditions

As a condition for ministerial approval for an ADU or JADU, the City is not permitted to require correction of non-conforming zoning conditions. For example, if an ADU does not comply with a zoning requirement such as floor-area-ratio (FAR), approval of the ADU cannot require that the square footage of the ADU be reduced to comply with the maximum permitted FAR as a condition for approval of the ADU.

h. Fire Sprinklers

If not required for the primary residence, fire sprinklers may not be required for an ADU.

DISCUSSION: CONSIDERATIONS FOR PLEASANTON

The requirements of state law apply uniformly throughout Pleasanton. Below is a discussion of the application of state law in several key areas that staff feels may be of particular interest to the Planning Commission or on which staff is seeking input from the Commission. These include: Planned Unit Developments; objective standards for second story ADUs in single-family and multifamily developments and above a detached garage; and the appearance of garage conversions.

Planned Unit Developments

Many areas of Pleasanton are zoned *Planned Unit Development*, or PUD. One of the purposes of the PUD zoning district is to allow for customized development standards for properties, particularly those that may have unique circumstances. For example, some of the PUDs in the areas west of Foothill Road have prescribed building envelopes or development areas. Development outside of these areas is typically prohibited to preserve natural open space and view corridors, maintain large separation between homes, and reduce the area of hillsides that are graded. In some instances, building envelopes are defined to avoid areas of unstable slopes or sensitive resources. With the new legislation, however, the requirements established by project-specific PUDs are generally preempted. For example, a homeowner may propose a detached ADU four feet from the property line, even if the ADU is outside the graded building envelope. Notwithstanding this general preemption, if the detached ADU is greater than 16 feet in height or greater than 800 square feet, the City may enforce the requirements of the PUD; that is, in the example above, the City may require that the ADU be constructed within the approved graded building envelope.

Other Locally-Adopted Ordinances

The City maintains the ability to enforce certain locally-adopted laws. For example, state law allows local jurisdictions to limit locations of ADUs based on public health and safety issues: e.g., if the ADU is proposed within a fault line or geologically-unstable area, or a protected creek setback, the City could make public health and safety findings in order to require the ADU to be constructed outside of those areas. Similarly, staff believes the City may enforce its Heritage Tree Ordinance, if the proposed ADU would require removal of a tree or otherwise threaten the health of the tree, staff may deny the application or require the ADU to be relocated to not threaten the tree.

Defining Single-Family and Multifamily Development *[see Exhibit A, PMC 18.106.020(B)]*
State law for ADUs applies to both single-family and multifamily developments in varying ways.

The PMC amendments in Exhibit A to this report propose that for purposes of the ADU ordinance, a single-family development is that which contains only one dwelling unit and is completely separated from any other unit (except an ADU). In practical terms, this means that a single-family residence would not share a wall or walls with adjacent units, irrespective of whether the unit is on the same lot, or a separate, adjacent lot (such as a "duet"-type configuration, in which two units may share a wall, but where each unit is on a separately-owned lot). In contrast, a multifamily building or structure is designed to accommodate more than one household in two or more separate housing units, distinguished from single-family development by attached or shared walls. Applying this distinction would generally mean that multifamily apartment units, condominiums, duets (two attached units under separate ownership), attached townhomes/rowhouses, and two-, three-, and four-plexes are considered multifamily.

Staff recommends this approach since it is customarily how single-family and multifamily developments are thought of, is consistent with the state law which provides differentiated standards for single- and multi-family ADUs, and makes application of the state law for ADUs relatively simple and uniform across various development types. Further, this approach, which sets a proportion of total units eligible to construct an ADU in across a multi-family developments, would have the benefit of reducing the impact to these typically denser residential areas, particularly with respect to parking, open-space, and common area amenities that contribute to neighborhood livability.

Objective Standards *[see Exhibit A, PMC 18.106.060(C)]*
In addition to standards specific to attached and detached ADUs, the PMC currently identifies required standards for all accessory dwelling units. Some of these standards are mentioned above in this report, such as owner-occupancy and parking.

Absent a design review process to require materials for an ADU to match that of the primary dwelling, staff proposes a standard to require exactly this; that the ADU incorporate roof and exterior wall material, building color, trim to match the primary dwelling structure to the maximum extent feasible.

And, with the objective of maintaining the appearance of a single-family home from the public right-of-way, staff proposes to add a requirement that the entrance to an ADU is located on the side or rear of the single-family dwelling.

One set of standards staff wanted to bring to the specific attention of the Planning Commission are those related to second-story ADUs, discussed directly below.

a. Second-Story ADUs: Objective Standards and Review Process *[see Exhibit A, PMC 18.106.060(C)(2)]*

Property owners of single-family homes sometimes propose to construct a second-story addition that would contain an ADU, or propose to construct a two-story accessory structure such as a detached garage with an ADU above. Currently, additions and alterations to single-family homes and accessory structures greater than 10 feet in height (e.g., second story

additions) require approval via Administrative Design Review, which entails a notice to surrounding neighbors and allows for their comment and review, and, if requested by a neighbor or appealed, involve a public hearing.

In the Administrative Design Review process, the City considers the overriding objectives of state law to facilitate (not preclude) ADUs, while at the same time factoring in considerations such as height, setbacks, lot coverage, and potential impacts to neighbors. When, upon receiving project notification, neighbors raise concerns, staff try to facilitate a compromise to address concerns (e.g., adjustments to window location or screening to address privacy concerns). The Zoning Administrator typically reviews and approves Administrative Design Review applications, and if filed, an appeal of the Zoning Administrator's decision is referred to the Planning Commission for consideration.

The new state law, however, requires ministerial approval of ADUs and prevents local jurisdictions from imposing standards that would disallow an ADU of at least 800 square feet, up to 16 feet in height, and with 4-foot side and rear setbacks (Minimum ADU Standards). Therefore, the City may not require Administrative Design Review for these ADUs, or refer them to the Zoning Administrator, Planning Commission, or City Council. Further, although the state law is not explicit on this point, staff believes it would also be problematic to require discretionary review, even for ADUs that exceed the Minimum ADU Standards. Instead, where a second-story ADU is proposed, staff proposes that the ordinance include a series of objective standards that would be applicable to second-story ADUs in both single-family and multifamily development, and to ADUs proposed above a detached garage. These standards will meet the intent of state law while also ensuring that new ADUs will mitigate potential impacts to neighbors.

(i) Proposed Objective Standards for Second Story ADUs

The following objective standards would apply to accessory dwelling units proposed on a second story of an existing primary residential unit, multifamily development, or detached garage, and are proposed to include:

1. An accessory dwelling unit proposed as a second-story addition to a main structure must meet setback, height, floor-area-ratio, building separation and other development standards applicable to the main structure for the zoning district within which the accessory dwelling unit is proposed.

2. An accessory dwelling unit constructed above a detached garage must meet the standards identified in Section 18.106.045.

3. The accessory dwelling unit must be designed such that operable windows or windows required for emergency egress face away from the neighboring property(ies) that share property lines with the subject property when proposed on a lot with a single-family residence, and must face the existing multifamily dwellings when proposed on a lot with a multifamily development. Facades of the accessory dwelling unit that face neighboring properties with shared property lines may only have clerestory windows (i.e. with a window sill height at least 6 feet above finished floor). If strict application of the preceding requirements would not allow the unit to meet Building or Fire Code requirements for egress or ventilation and the windows facing neighboring properties that share property lines with the subject property are proposed where the sill height is

less than 6 feet above finished floor, the glazed portion of the windows must be of obscured glass.

4. The exterior stairway proposed to serve the accessory dwelling unit shall not be visible from the public right of way on the frontage abutting the front yard.

5. No balconies or upper-story decks shall be allowed for the accessory dwelling unit.

b. Garage Conversions – Appearance from the Public Right-of-Way *[see Exhibit A, PMC 18.106.060(C)(5)]*

New state laws make it easier to convert existing garages into ADUs because no replacement parking is required to be provided. In considering the aesthetic outcomes of these conversions, staff explored whether it would be preferable to require the garage door to remain, or to be removed and that wall refinished in a manner that blends into the rest of the home (possibly with a front door to the ADU).

Although prominent garage doors are a feature that the City will often seek to visually minimize in new developments, they are nonetheless a common feature of most single-family homes and neighborhoods in Pleasanton. It is possible that removing garage doors altogether may make these homes seem out-of-place relative to their neighbors, or if a garage door is replaced by an ADU entry door, result in a single-family home appearing more like a duplex. If a garage door is left in place, suitable framing, insulation and interior finishes can be used to successfully convert the garage space to living space.

At this time, staff recommends the choice to remove/refinish a garage-door wall, or leave the garage door in place, be left to the applicant subject to some objective standards (i.e. using materials and finishes to match the home). Further, irrespective of whether the garage door is replaced or not, and as mentioned above, the entrance to the ADU would be required to be located on the side or rear of the single-family residence, such that the home still appears as a single-family home from the public right-of-way. However, this topic may warrant discussion by the Planning Commission and thus is included as a discussion topic.

DISCUSSION POINTS

A. *Does the Planning Commission have any questions or comments, in general, with the proposed application and interpretation of state law with respect to ADUs?*

B. *Does the Planning Commission agree with staff's proposed objective standards for second story ADUs?*

C. *Does the Planning Commission have a preference for the treatment of garage doors where the garage space is converted to an ADU?*

PUBLIC NOTICE

Notification of this code amendment has been published in The Valley Times and was noted in the Pleasanton Weekly as an upcoming agenda item for the June 24, 2020, Planning Commission meeting. At the time this report was prepared, staff has not received comments regarding the proposed code amendments. Staff has, however, received numerous inquiries from the public, interested in ADUs and standards specific to Pleasanton.

ENVIRONMENTAL ASSESSMENT

The proposed code amendments are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant Public Resources Code Section 21080.17 and categorically exempt per CEQA Guidelines Section 15303.

SUMMARY/CONCLUSION

The proposed text amendments will facilitate the development of ADUs and bring the PMC into compliance with State law. Staff recommends that the Planning Commission discuss the topics identified in the agenda report, consider the proposed text amendments, and provide a recommendation to the City Council.

Primary Authors: Shweta Bonn, Senior Planner, 925-931-5611 or sbonn@cityofpleasantonca.gov

Reviewed/Approved By:
Melinda Denis, Planning and Permit Center Manager
Ellen Clark, Director of Community Development
Julie Harryman, Assistant City Attorney

Amendment to Title 18 of the Pleasanton Municipal Code
Consider amendments to Chapters 18.08, 18.20, 18.28, 18.32, 18.36, 18.84, and 18.106 of the Pleasanton Municipal Code to comply with state legislation for accessory dwelling units.

Senior Planner Shweta Bonn presented the specifics of the item in the Agenda Report.

Commissioner Allen inquired about the owner occupancy requirement and the reason for the sunset date of January 1, 2025. Community Development Director Ellen Clark responded there was no specific reason provided but it was probably an attempt of the State to balance the interests and desires of many different cities; it was a trial period in which the State could end the requirement after five years or extend it longer.

Commissioner Brown referenced information provided on one of the presentation slides regarding Accessory Dwelling Units (ADU) colors and materials which matched those of the primary residence and inquired if that would be considered an unnecessary barrier. Assistant City Attorney Julie Harryman explained there was room for objective design standards if they were included in advance, as this requirement would not result in discretionary review of the ADU but more of a simple review. Ms. Clark further clarified an outside legal expert was consulted, who noted the requirement was defensible and quite common in many ADU ordinances; it ensured ADUs would fit in with the existing home and the neighborhood without being too onerous.

Commissioner Balch referenced information from one of the presentation slides and asked for clarification on the maximum allowable square footage for different types of ADUs. He did not understand the reason 800 square feet was described as the maximum when the points below it identified 850 square feet and even 1,200 square feet to be the maximum in some cases. Commissioner Brown echoed this confusion. Ms. Bonn explained, although admittedly unclear, the language of the square footage was an attempt to mirror the wording of the State law.

Commissioner Balch stated he thought staff could find a clearer way to define these standards. He then asked staff to clarify if they expected to go back to deed restricted ADUs after the five-year period when the new law was over. Ms. Clark confirmed that was staff's understanding, they could not require deed restrictions for the next five years, however, barring the state extending these laws indefinitely, deed restrictions would resume in 2025. Commissioner Balch expressed concern over having three different groups of criteria depending on when the ADU was approved. Commissioner Balch referenced Exhibit B on Page 9 and suggested clarification, rather than introducing ambiguity. He questioned whether ADU deed restrictions would not be enforceable for a period then go back to being enforced. Ms. Clark explained any ADU approved prior to January 1, 2020, was enforceable and there would be a gap during the five-year period when ADUs were not deed restricted for owner occupancy. Commissioner Allen stated the legislature could remove the sunset at some point in time. Commissioner Balch stated it was conceivable there could be three different groups: prior to January 1, 2020; the five-year trial period; and following the five-year sunset.

Commissioner Pace inquired if a property with an existing free standing ADU could add another ADU, in addition to a Junior ADU (JADU), which would lead to two livable spaces being turned into four. Ms. Clark clarified it was possible for multifamily homes but not the case for single-family homes.

Commissioner Brown referenced measurements on page 3 of the agenda report, stating he did not believe they were an accurate representation of the requirements. He then expressed confusion with verbiage on pages 6 and 7 of the agenda report and asked staff to clarify the reason laundry rooms, gyms, and living spaces were included as items that could not be converted to ADUs in multifamily dwellings. He expressed concern it might be too restrictive because those spaces were sometimes underutilized. Ms. Clark explained the measurements were accurate; if an ADU were to exceed any of those standards, the City would have the ability to apply typical zoning and development standards to the structure. She then clarified those items were amenities which benefitted the entirety of multifamily units and staff's concern that their conversion would not be consistent with the development's original approval.

Commissioner O'Connor inquired if an ADU added to an existing, non-conforming structure, could be built to an existing, legal non-conforming setback. He then asked for clarification on the standards for windows and if the main structure already had windows which overlooked into a neighbor's property, whether those same windows would be allowable on an ADU. He expressed concern over this standard, stating if the main structure already had a view of the neighbor's property, it did not make sense to restrict the ADU, especially as it could impact the cross ventilation of the ADU, which would most likely be a small space. He also mentioned the restrictions could impact three of four facades, if the ADU was a corner property, which might look unappealing. Lastly, he expressed concern it could become very restrictive. Ms. Bonn confirmed the state law allowed an ADU be built to an existing, legal nonconforming setback if it maintained the footprint and dimensions of the legal nonconforming structure. Regarding windows, she confirmed the windows would have to be six feet above the finished floor or have obscured glass. Ms. Clark further noted, it might be reasonable to develop exceptions for existing windows to allow for those windows to be the same size, shape, and height.

Commissioner Balch inquired about the minimum and maximum size allowable for JADUs. Ms. Bonn explained it was a minimum of 150 square feet for an efficiency unit and up to 500 square feet, per State law. Commissioner Balch further clarified anything up to 500 square feet and within the home was a JADU, and the State has determined an ADU ranges from 800 square feet up to 1,200 square feet. Regarding a second story ADU, he mentioned staff's recommendation did not allow for a balcony, however, he inquired about instances where there might be Juliette balconies on the house. He then requested staff reconsider the restriction on balconies, as the ADU might have better symmetry with the house if it also had a Juliette balcony. Ms. Clark agreed to consider the suggestion and clarified the restriction was made while keeping in mind ADUs that would face a neighbor's property.

Commissioner Allen asked and confirmed if an ADU was over 800 feet it would fall under standard zoning requirements. She also referenced the height restrictions on page 5 of the agenda report, stating if an ADU was built in the C-C District at the 40-foot maximum height, it could be taller than an existing primary structure. Ms. Bonn confirmed and explained the 40-foot height limit proposed for ADUs is the same as the maximum height for accessory structures in the C-C District, and this approach to mirror maximum ADU height with maximum accessory structure height was what was done when ADUs above detached garages were established. Commissioner Allen questioned whether the standard should be updated for the C-C district to reflect an ADU could be 40 feet high, or as high as the primary structure, whichever was less. She then asked how staff would keep track of ADUs built in multifamily units, as there was a restriction only 25-percent of these units could have ADUs. Ms. Clark stated staff would need to establish a tracking system, similar to how large family daycares

were previously tracked, and could potentially be done through the City's Geographic Information System (GIS) to maintain the specific locations.

Chair Ritter confirmed the matter would come back to the Planning Commission and its recommendation forwarded to the City Council. He explained the State then approves the City's regulations. Ms. Clark confirmed the Planning Commission would make a recommendation to the Council; the Council would adopt an ordinance, then California Department of Housing and Community Development (HCD) would review for consistency with State law. Chair Ritter expressed concern the more restrictive regulations might be objected by the State. Ms. Clark stated staff felt the regulations were within the State regulations.

THE PUBLIC HEARING WAS OPENED

Staff confirmed there were no speaker cards received on this item.

THE PUBLIC HEARING WAS CLOSED

Discussion Point A: Does the Planning Commission have any questions or comments, in general, with the proposed application and interpretation of state law with respect to ADUs?

Commissioner Allen thanked staff for integrating complex information in the clearest way possible. She reiterated her concern about the height of accessory structures in the C-C District and stated it was not her preference to allow all of those who have deed restricted ADUs to be required to change those restrictions under the new law; they came in under certain assumptions and have met that assumption. If the legislature pushed out the sunset date of 2025, she would be open to allowing everyone to follow the same rules for consistency but would prefer deciding following the five year period. She was in agreement with other Commissioners about the confusing language on the bottom of page 4 regarding square footage.

Commissioner Balch echoed Commissioner Allen's comments about how staff interpreted and represented the information. He pointed out the language on page 11 and suggested it as a better way of communicating square footage standards. He also mentioned staff interpreted the State law well, and the purpose of the law was to build more ADUs. He was not sure about keeping the deed restricted class of ADUs, stating he had never seen a prohibition/restriction "grandfathered" versus an approval/entitlement.

Commissioner Brown expressed his appreciation of staff taking complicated language and putting into clearer terms, however, he mentioned he would like to see a different language used to convey square footage requirements, particularly for detached ADUs. He then referenced correspondence received by Mike Carey and stated he understood the concern yet did not know if it was right to enforce the standards that were imposed prior to the new law.

Commissioner O'Connor stated he was in agreement with Commissioner Allen. He continued by stating he was concerned about removing existing restrictions previously put in place and then having to reinstate them at the end of five years. He was also in agreement with Commissioner Allen on the height of ADUs in the C-C District.

Chair Ritter stated he was in agreement if staff could utilize some of the language used by the State to help guide some of the decisions. He encouraged the Commissioners and staff to think about what the State was trying to accomplish with the new laws, explaining it was to create more housing and if too many restrictions were imposed, then the City would not be following the intent of the State. He also encouraged staff to use the State's wording within the ordinance whenever possible, which would give the City more latitude in its discussion versus just adding more words to the state's concepts and making it more complex, while losing the intent.

In regard to Commissioner Allen's previous comment referencing height, Commissioner Balch asked staff whether it was conceivable to have an 800-square-foot ADU, if the only allowable space was at the top of an existing multi-family residence. Ms. Clark clarified the requirement was to ensure the City's ordinance allowed for a unit of those minimum standards to be built. Commissioner Balch requested more clarification about the 40-foot requirement. Ms. Clark stated it could, in theory, result in some structures being taller than others, if allowed to be built vertically, and admitted there was complexity to the question and the different allowable standards for accessory units and ADUs. She advised that staff would come up with a recommendation for the next meeting.

Commissioner Balch expressed his support for additional discussion at the next meeting and asked how ADUs were measured. Ms. Bonn provided further clarification stating the Pleasanton Municipal Code (PMC) required ADUs be measured differently than primary structures; with primary structures measured from ground to the mean height between eaves and ridges and ADUs measured from the ground to the top of the structure. Commissioner Balch requested staff review the method of measurement and determine whether it impacts Commissioner Allen's request to have ADUs be 40 feet tall, or the height of the primary structure, whichever was less.

Commissioner Brown inquired whether the measurement of the ADU to the peak of the roof was defined in the State guidelines. Ms. Clark responded it was defined in the PMC, not State guidelines. Commissioner Brown further inquired whether the City's requirement to allow 16 feet was in compliance with the State. Ms. Clark clarified as long as the City's standards are is reasonable and consistent, there should not be an issue with the City's proposal, and the State would require a change if it did not think the ordinance complied with the law. Ms. Bonn further explained the method of measuring accessory structures from the ground to the top of the structure was established by a previous Director of Community Development and codified in 2012. Commissioner Brown suggested the standard was acceptable for some accessory structures, but an ADU was supposed to be habitable.

Commissioner Pace mentioned the State was likely to continue changing the legislation and it would be beneficial when creating the City's ordinance to adhere as closely as possible to the language the State had outlined to make things easier on staff with future potential changes by the State.

Commissioner Balch inquired about the number of deed restricted ADUs built before January 1, 2020. Ms. Bonn responded 22 ADUs were approved in the last five years and the restriction required the owner to live in the primary home or ADU. Chair Ritter asked why: staff speculated that it may have been out of a desire to preserve single family neighborhoods that are principally owner-occupied. Commissioner Balch wondered if PUDs restrict the amount of

owners vs rentals in a neighborhood and how that would factor in to ADUS and how it would be tracked.

Commissioner Allen asked if the new ordinance allowing 25-percent of the units in multifamily units to have ADUs prevented HOAs from making the restriction lower. Ms. Bonn confirmed.

Commissioner Balch expressed his support of letting people with deed restricted ADUs convert to the new rules as there were only 22 and Chair Ritter agreed. Commissioner Allen requested staff ensure there were only 22 ADUs in the City of Pleasanton that had been deed restricted.

Discussion Point B: Does the Planning Commission agree with staff's proposed objective standards for second story ADUs?

Commissioner O'Connor reiterated his concern about the restrictions on second story windows on ADUs. He did not want the approved ordinance eventually getting kicked back from the State because of window standards. Chair Ritter asked if the State provided specific guidelines regarding windows and Ms. Clark indicated the State regulations did not outline window regulations. She explained staff decided on these standards, in the absence of being able to conduct design review, because they were the most common points of contention between neighbors. Commissioner O'Connor suggested looking at each unit individually instead of applying blanket standards.

Commissioner O'Connor referenced the condition around second-story windows, stating it could become too restrictive if it became part of the regulation. Commissioner Balch inquired whether Commissioner O'Connor was referencing the side windows. Commissioner O'Connor responded the proposed regulations might be too restrictive. Commissioner Balch referenced a previously approved ADU, potentially a JADU, where neighbors had concerns over the second-story windows. Commissioner Allen recalled additional screening was imposed to help mitigate the privacy concerns as a result of the windows. Ms. Clark responded it was difficult to develop a single standard that met all the necessary requirements and staff could further look into how to make adjustments to respond to some of the concerns. Commissioner O'Connor stated the concern was to prevent being too restrictive where the State would respond over how restrictive the ordinance had become. Commissioner Allen confirmed that obscured glass windows could still be operable.

Discussion Point C: Does the Planning Commission have a preference for the treatment of garage doors where the garage space is converted to an ADU?

Commissioner Pace stated that either approach would preserve the look and feel of the neighborhoods, while honoring the legislature.

Commissioner O'Connor stated he did not have a preference as long as it did not change the look of the structure and ensuring it did not look like a duplex.

Commissioner Brown stated either style was acceptable.

Commissioner Balch agreed and indicated he was amenable to either style.

Commissioner Allen also agreed and indicated she would like to leverage ADUs over time to count for Regional Housing Needs Allocation (RHNA) numbers. She then stated it would be beneficial to promote ADUs. Ms. Clark stated ADUs were already counted towards moderate-income housing for the City's RHNA based on a survey conducted of rental spaces and properties throughout Pleasanton. She also mentioned it may change but if the rental prices remained consistent, they could continue to be counted. Commissioner Balch further clarified that counting it towards RHNA was why ADUs were required to have a separate address.

Commissioner Balch requested future discussion of height restrictions and clarification on the minimum square footage.

Commissioner Brown suggested consideration of whether it was necessary to prevent conversion of unused shared spaces in multifamily.

Commissioner Balch moved to continue the item to the July 8 Planning Commission meeting.
Commissioner Pace seconded the motion.

ROLL CALL VOTE:

AYES:	**Commissioners Allen, Balch, Brown, O'Connor, Pace and Ritter**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

EXHIBIT D

Planning Commission Agenda Report

July 8, 2020
Item 5

SUBJECT: P20-0412

APPLICANT: City of Pleasanton

PURPOSE: Consider amendments to Chapters 18.08, 18.28, 18.32, 18.36, 18.44, 18.84, and 18.106 of the Pleasanton Municipal Code to comply with state legislation for accessory dwelling units

LOCATION: Citywide

GENERAL PLAN/ SPECIFIC PLAN/ ZONING: Various

EXHIBITS:

A. Draft resolution with proposed amendments to the Pleasanton Municipal Code
B. Adopted California Government Code Section 65852.2, Health and Safety Code Section 17980.12, Government Code Section 65583, Health and Safety Code Section 50504.5, Government Code Section 65852.22, Government Code Section 65852.26, Civil Code Section 4751
C. Planning Commission Agenda Report dated June 24, 2020 (without attachments)
D. Draft minutes of the June 24, 2020 Planning Commission meeting (included as Item 3 in this agenda packet)

STAFF RECOMMENDATION

Staff recommends that the Planning Commission discuss the draft amendments to the Pleasanton Municipal Code (PMC) and adopt a resolution recommending approval of Case P20-0412 to the City Council with the proposed amendments shown in Exhibit A.

EXECUTIVE SUMMARY

In 2019, the Governor signed into law six different bills (Senate Bill 13, Assembly Bill 68, Assembly Bill 881, Assembly Bill 670, Assembly Bill 587, and Assembly Bill 671) that change the regulations for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). These new rules build upon the changes to law regarding ADUs enacted in 2017, and still have the overall objective of encouraging the construction of ADUs. Since local ADU ordinances are required to be in conformance with state law, amendments to the City's existing regulations are proposed, to match the new requirements for ADUs and JADUs.

The Planning Commission reviewed the proposed amendments to the PMC and discussed several key elements of the proposed changes at its June 24, 2020, meeting. Enclosed as Exhibit A to this report is the draft ordinance amending the PMC, reflective of the Planning Commission's discussion, which is being provided to the Commission for its consideration and recommendation to City Council.

BACKGROUND

At its June 24, 2020, meeting, the Planning Commission reviewed draft amendments to the PMC intended to implement state law that took effect January 2020 (please refer to the agenda report for this meeting, enclosed to this report as Exhibit C for background). To facilitate the Commission's review, staff suggested three discussion questions. Below is a brief summary of the general consensus among the Commission members regarding the discussion questions; draft minutes for the meeting are referenced as Exhibit D in this report (included as Item 3 in this agenda packet).

A. *Does the Planning Commission have any questions or comments, in general, with the proposed application and interpretation of state law with respect to ADUs?*

The Planning Commission had the following comments:

- Expressed a desire to simplify the City's ordinance and adhere to the basic requirements of the state law as much as possible, without adding unnecessary complexity.
- Noted that language regarding maximum permitted square footage for ADUs was confusing and overly complex and directed staff to clarify and simplify this section.
- Requested staff to consider modifying the maximum permitted height for ADUs in the Central-Commercial (C-C) District – proposed to be consistent with the generally allowable height limit for accessory structures, 40 feet - such that the height of the ADU was less than or the same as the primary structure.
- Requested clarification and background information on deed restrictions and owner-occupancy requirements for ADUs and sought more information on the total number of such deed-restricted ADUs.
- One Planning Commissioner questioned whether an existing amenity space in a multifamily development (e.g. a recreation room) should be allowed to be converted to an ADU, particularly if it was not being utilized often. The draft ordinance called for limiting conversion of these types of spaces.

B. *Does the Planning Commission agree with staff's proposed objective standards for second story ADUs?*

The Planning Commission indicated that the objective standards for upper windows in two-story ADUs were too restrictive as proposed and directed staff to draft more flexible standards that would 1) Account for existing windows and 2) Allow more flexibility on placement and size of new windows. One Commissioner also commented that a provision for decorative balconies should be added to the standards.

C. *Does the Planning Commission have a preference for the treatment of garage doors where the garage space is converted to an ADU?*

The Planning Commission concurred with staff's recommendation, that the property owner should be allowed to decide whether to keep a garage door or to infill its space with colors and materials to match the primary dwelling unit when a garage space is converted to an ADU.

DISCUSSION

The following discussion points are follow-up to the Planning Commission's June 24, 2020, meeting.

ADU Square Footage

In response to Planning Commission's direction to simplify language regarding maximum permitted square footage, staff proposes the following revisions to Section 18.106.040(B) and Section 18.106.045(C) for attached and detached ADUs respectively:

> *Attached ADUs, PMC 18.106.040(B):*
> The gross floor area of an attached accessory dwelling unit shall not exceed 50 percent of the gross floor area of the existing main dwelling unit, with a maximum increase in floor area of 1,200 square feet. The gross floor area of the existing main dwelling unit is to be calculated based on the size of the unit prior to the accessory dwelling unit/conversion. In no case shall this requirement necessitate an accessory dwelling unit to be less than: (1) a 150 square foot efficiency unit; (2) 850 square feet if the accessory dwelling unit is a studio or one-bedroom unit; or (3) 1,000 square feet if the accessory dwelling unit is two or more bedrooms.
>
> *Detached ADUs, PMC 18.106.045(C):*
> The gross floor area of a detached accessory dwelling unit shall not exceed 1,200 square feet.

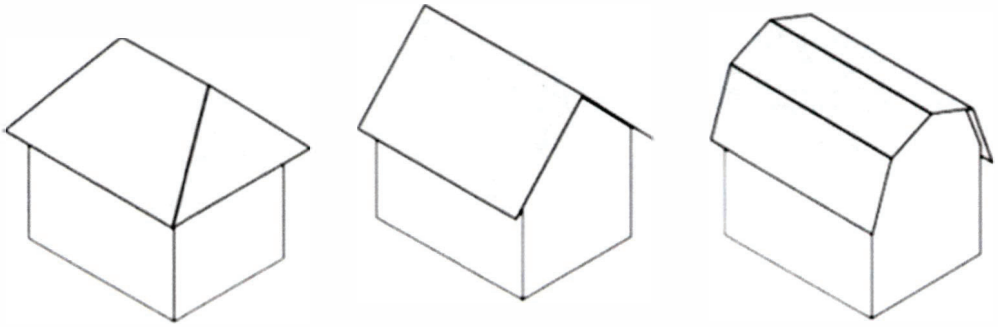
Staff believes this language is consistent with the state law. It more clearly states that the actual maximum allowable increase in square footage is not to exceed 50 percent of the existing square footage. Since the allowable ADU size based on the 50 percent calculation could vary widely, depending on the size of the primary unit, the text clarifies that the maximum size allowable would be 1,200 square feet, and that an 850 or 1,000 square foot unit must be allowed, even if it would exceed the 50 percent limit.

Maximum Permitted ADU Height in the C-C District

The maximum permitted height for ADUs in the C-C District was originally proposed to be 40 feet, consistent with the maximum height for the principal structure and with the maximum height for all accessory structures in the C-C District. As noted during the June 24 Planning Commission meeting, the method of height measurement per the PMC differs between principal structures (the main building on a site) and accessory structures.

According to the PMC, the height of a principal structure is measured from the "average elevation of the natural grade of the ground covered by the structure to the highest point of the structure." However, roof types such as hip, gable, or gambrel roofs are measured to the "mean height between eaves and ridges." This allows the protruding elements of the roof (e.g., the sloping and peak elements of a gabled roof) to exceed the maximum height for purposes of articulation along the roofline, with the bulk of the building height at or below the maximum permitted height. The illustration in Figure 1 shows hip, gable, and gambrel roof styles.

Figure 1: Roof Styles

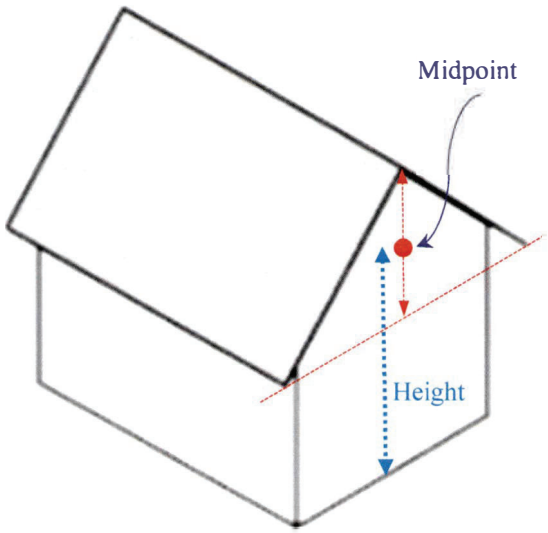


Hip Roof | Gable Roof | Gambrel Roof

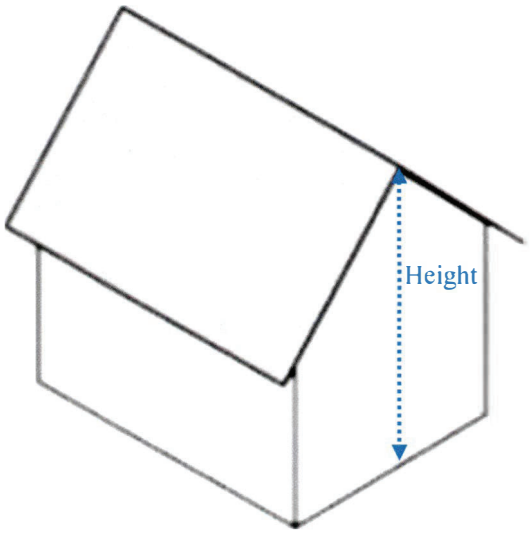
Accessory structures (including ADUs) are measured from the "lowest grade adjacent to the structure to the highest ridge or top of structure." The height measurement for principal structures and accessory structures is shown in Figure 2. Unlike principal structures, no part of the roof of an ADU may exceed the maximum permitted height. Therefore, even if the height limitations are the same numerical value for a principal structure and an accessory structure, the height of the accessory structure will appear less once constructed because this method of height measurement does not allow any portion of the roof to exceed the height limit.

This approach to measuring the height of accessory structures is a long-standing interpretation dating to the 1990s and was codified to the PMC in 2012. Further, the Downtown Specific Plan Task Force reviewed this methodology in April 2018, and supported staff's recommendation to retain this methodology. Staff continues to propose retaining this methodology for height measurement for consistency and to avoid potentially creating nonconforming heights throughout the city.

Figure 2: Height Measurement



Height Measurement, Principal Structures
(Not proposed to change)



Height Measurement, Accessory Structures
(Not proposed to change)

Nonetheless, recognizing the intent of the Planning Commission's comments, to ensure that ADUs remain compatible in height with existing primary structures, staff proposes to limit the maximum height for ADUs above detached garages in the C-C District, to a maximum height of 25 feet. This height limit is consistent with the existing height limit for ADUs above detached garages in the R-1 (One-family residential) and R-M (Multi-family residential) districts, and consistent with the height limit for ADUs above detached garages proposed for the MU (Mixed-use) District. This approach would allow for uniformity across zoning districts that also include a mix of one- and two-story buildings today, and would continue to allow flexibility, for example, to build an ADU over a garage and retain on-site parking. Combined with the height methodology, a 25-foot height limit (instead of a 40-foot height limit) is expected to result in ADUs above garages in the C-C District that are consistent with massing and scale more typically seen in residential neighborhoods.

Owner Occupancy Requirement and Deed Restrictions

As mentioned in the agenda report for the June 24 meeting, the City's current regulations require that the owner of a property with an ADU occupy either the primary residence or the ADU. New state laws remove the City's ability to enforce this provision for ADUs that are approved between January 1, 2020 to January 1, 2025. The Planning Commission requested staff provide background information on deed restrictions and owner-occupancy requirements.

Generally, Chapter 18.106 of the PMC, which provides regulations related to ADUs, has been modified intermittently to comply with state law and to provide more flexibility when warranted. As a notable example, the City modified the PMC to indicate that *both* the primary residence and the ADU could be rented to a *single* party in 2018. Staff estimates that deed restrictions became common practice for ADUs in the mid-1990s and were made a requirement in the

PMC in the early 2000s[1]. Therefore, not all properties with an accessory dwelling unit also have a deed restriction on file with the City.

In 2003, City Council directed that deed restrictions for ADUs include generic language and refer to the PMC for current regulations. Accordingly, the PMC currently indicates the following language be included in a deed restriction for an ADU[2]:

> "The property contains an approved accessory dwelling unit pursuant to Chapter 18.106 of the Pleasanton Municipal Code and is subject to the restrictions and regulations set forth in that chapter. These restrictions and regulations generally address subdivision and development prohibitions, owner occupancy and lease requirements, limitations on the size of the accessory dwelling unit, parking requirements, and participation in the city's monitoring program to determine rent levels of the accessory dwelling units being rented. Current restrictions and regulations may be obtained from the city of Pleasanton planning division. These restrictions and regulations shall be binding upon any successor in ownership of the property."

As directed by City Council, the language in the deed restriction itself does not specify the owner-occupancy requirements. If the Planning Commission desires to remove owner-occupancy requirements for ADUs approved *before* January 1, 2020, the language in the PMC [specifically Section 18.106.060(A)] related to the owner-occupancy requirement would be modified, as would the language in the PMC related to deed restrictions. However, the requirement specifically for the deed restriction would remain since the deed restriction serves to inform a future purchaser about limitations other than just the owner-occupancy requirement.

The analysis for several of the Senate and Assembly bills that led to the amendment of state law included the following points regarding owner-occupancy requirements:

- Parties supportive of retaining the owner-occupancy requirement indicating that removing the owner-occupancy requirement "would incentivize operating the property as a commercial enterprise and could have the unintended effect of large-scale investors purchasing many single-family homes and adding ADUs, thus operating more like a property management company, not a homeowner seeking some additional income."

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[1] As an example, in the Carlton Oaks and Walnut Hills neighborhoods (located near Interstate 680, Foothill Road, and Bernal Avenue), ADUs were constructed as part of the original Planned Unit Development. Conditions of approval for the project required, among other things, owner occupancy of either the primary unit or the ADU. In other developments known to have ADUs, primarily those where a long time has elapsed since ADU approval, staff was not able to locate a deed restriction, condition of approval, CC&Rs, or other document requiring owner occupancy of either the principal unit or the ADU. However, as mentioned in this report, the deed restriction typically indicates that the ADU is subject to the requirements of the PMC, and it is the PMC (not the deed restriction) that stipulates the owner occupancy requirement.

[2] In order to make clear the City's compliance with current state law requirements, the amendments to the PMC propose to add the following language:

> Restrictive covenants for accessory dwelling units approved between January 1, 2020 and January 1, 2025 shall not include a provision requiring owner occupancy of the primary dwelling or the accessory dwelling unit.

After the June 24 Planning Commission meeting, staff also modified the language in PMC Section 18.106.060(A) such that it refers to ADUs approved both before and after January 1, 2020.

- Parties opposed to owner-occupancy requirements indicating that deed restrictions can "preclude the lender from occupying the property if lenders must foreclose on the property."

At this time, particularly since it is uncertain whether the state law will be amended to prohibit owner-occupancy permanently, staff recommends retaining the owner-occupancy requirement related to ADUs approved prior to January 1, 2020. If the owner-occupancy provision is permanently removed in state law, the PMC could be amended at that time to indicate that all properties with ADUs, including those approved prior to January 1, 2020, do not require either the principal residence or the ADU to be owner-occupied.

Conversion of Existing Amenities in Multifamily Developments

As mentioned in this report, a Commissioner at the June 24 meeting suggested that multifamily developments not be prohibited from converting certain amenity areas to an ADU(s), particularly if that amenity is not well-used. Amenities such as laundry rooms, gyms, and community halls serve to provide a convenient facility to residents and are oftentimes negotiated during the approval process of multifamily development. Without reliable prescriptive measures to determine the level of use of a particular amenity, and assuming the amenity is used at least some of the time by a proportion of residents, staff proposes to retain language proposed in the PMC related to prohibiting amenity areas to be converted to ADUs.

Windows in Second Story ADUs

The Planning Commission asked staff to make the requirements for windows on second story ADUs more flexible by factoring in existing windows and allowing more flexibility on placement and size of new windows.

The standards for windows in second story ADUs are intended to address two elements: new second story windows potentially overlooking (or looking into) an adjacent residence; and into an adjacent private yard. For adjacent residences, the PMC establishes separation requirements between structures on adjacent properties, in addition to typical setback requirements. These separations range from 17 to 20 feet, depending on the relative number of stories of the adjacent structures.[3] These standards apply to accessory structures and would be applicable to second story ADUs, whether attached or detached.

The following standards are proposed to address these two conditions. They seek to allow flexibility where windows are not directly facing an adjacent residence or private yard. They would not be required the distance between the ADU and an existing structure is more than 25 feet, or when facing a yard, the ADU is more than 15 feet from the shared property line.

Windows in an ADU Proposed as a Second-Story Addition to a Main Structure, or within a detached ADU

The following standards are proposed:

- At least one of the following measures must be implemented for new windows facing any neighboring residence that is less than 25 feet from the proposed ADU:

[3] Specifically, two, two-story structures must be separated by a minimum of 20 feet, whereas a single-story and a two-story structure must be separated by at least 17 feet.

1. Offset the edge of the proposed windows of the ADU by four feet to the edge of an adjoining neighbor's second-story window, such that the windows do not directly face each other;
2. Position the proposed window of the ADU such that the window sill is at least five feet above finished floor;
3. Utilize obscured glass in the glazing portion of the window.

Note: All windows may be operable.

- For windows facing the private yard of an adjacent residence, where the shared property line is less than 15 feet from the respective wall of the ADU, then either measures 2 or 3, above, should be implemented.

Decorative Balconies in Second Story ADUs

An exception for decorative balconies is now included in PMC Section 18.106.060(C)(2) as follows:

> No balconies or upper-story decks shall be allowed for the accessory dwelling unit, except for decorative/faux balconies without decks that match the primary dwelling structure.

Other Modifications to the PMC

Staff made the following additional clarifying changes to the PMC amendments since the June 24 meeting:

- Added the word, "attached" to the standard for an ADU entry door to be located on the side or rear of a single-family residence (since the entry door to a detached ADU would be located on the ADU itself, not on the single family home, and the detached ADU would be setback from the street far enough not to make the existing home appear as a duplex). The modified version of PMC 18.106.060(C)(6) is as follows (with text added since the June 24 meeting in underline):

> With the objective of retaining the appearance of a single-family residence, the entry door to an attached accessory dwelling unit proposed on a property with a single-family development shall be located on the side or rear of the single-family residence.

- The June 24 staff presentation included an example showing a single-family and multifamily development type on a single parcel. In this example, there was one single-family residence and a two-unit apartment building behind the residence, resulting in one ADU that could result from the conversion of existing space (25% of the two multifamily units, rounded up), and two detached units. The amendments to the PMC enclosed with this agenda report make clear staff's interpretation that the ADU resulting from the conversion of space could be in *either* the single-family residence or in the multifamily units (i.e., that it is not limited to only space in the multifamily units). The modified version of PMC 18.106.020(C)(2)(a) is as follows (with text added since the June 24 meeting in underline):

> Non-habitable portions of the existing main structure are permitted to be converted to an accessory dwelling unit. A minimum of one such accessory dwelling unit is permitted. The maximum number of such accessory dwelling units shall not exceed 25 percent of the existing multifamily dwelling units located in the development

project. A fraction of 0.5 or more is rounded up and a fraction that is less than 0.5 is disregarded. In development projects that have both single-family and multifamily housing types, 25 percent shall apply only to the multifamily units, and any single-family units that are within a multifamily development but are own their own parcel are subject to regulations applicable to accessory dwelling units for single-family developments. If the multifamily unit is eligible for an accessory dwelling unit, the accessory dwelling unit resulting from the conversion of space may be located in either the multifamily unit or in the single-family unit.

- The text leading to the standards for second story ADUs in Section 18.106.060(C) was simplified.

- Removed "attached or detached" at the beginning of Section 18.106.060(C)(4) to simplify the text (omission of this phrase implies the standards applies to both attached and detached ADUs):

  ~~Attached and detached~~ accessory dwelling units shall incorporate roof and exterior wall material, building color(s), trim that matches the primary dwelling structure to the maximum extent feasible.

- Modified reference in PMC sections 18.106.040(A) and 18.106.045(A) to say, 18.106.060(C)(2). This is to correct a reference error.

PUBLIC NOTICE AND PUBLIC COMMENTS

Notification of this code amendment has been published in The Valley Times as an upcoming agenda item for the July 8, 2020, Planning Commission meeting. The Planning Commission continued its meeting of June 24, 2020 to a date certain of July 8, 2020. As part of the June 24, 2020, meeting, the Planning Commission received an email from a local developer advocating to eliminate enforcement of deed restrictions that require owner occupancy for ADUs approved before January 1 of this year. At the time this report was prepared, staff has not received additional comments regarding the proposed code amendments. Staff does, however, continue to receive numerous inquiries from the public, interested in ADUs and standards specific to Pleasanton.

ENVIRONMENTAL ASSESSMENT

The proposed code amendments are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant Public Resources Code Section 21080.17 and categorically exempt per CEQA Guidelines Section 15303.

SUMMARY/CONCLUSION

The proposed text amendments will facilitate the development of ADUs and bring the PMC into compliance with State law. Staff recommends that the Planning Commission discuss the topics identified in the agenda report, consider the proposed text amendments, and provide a recommendation to the City Council.

Primary Authors: Shweta Bonn, Senior Planner, 925-931-5611 or sbonn@cityofpleasantonca.gov

Reviewed/Approved By:
Melinda Denis, Planning and Permit Center Manager
Ellen Clark, Director of Community Development
Julie Harryman, Assistant City Attorney

Amendment to Title 18 of the Pleasanton Municipal Code
Consider amendments to Chapters 18.08, 18.20, 18.28, 18.32, 18.36, 18.84, and 18.106 of the Pleasanton Municipal Code to comply with state legislation for accessory dwelling units.

Senior Planner Shweta Bonn presented the specifics of the item in the Agenda Report.

Commissioner Balch referenced a slide in the presentation and inquired about the decision process for offset windows, not looking into the neighbor's yard. Ms. Bonn agreed that the simulations in the presentation did not capture every vantage point and there were infinite configurations where the proposed objective standards might not entirely mitigate privacy impacts. Commissioner Balch asked the next steps if the neighbor complained as the window was already set five feet above the floor. Ms. Bonn clarified that the owner would only have to utilize one of the mitigation techniques: offsetting the window by four feet; situating the window more than five feet above the floor; or obscuring the glass. Commissioner Balch expressed concern with potential subjectivity.

Commissioner Pace expressed appreciation for the work of staff.

Chair Ritter asked and confirmed whether there was any deviation from the State requirement for efficiency units and the reason for allowing 150-square-foot minimum. He expressed concern with the ordinance complying with State law as the law states the City shall not establish minimum square feet. Ms. Bonn clarified that the 150-sqaure-foot minimum was as defined by the State for an efficiency unit according to the City's Chief Building Official and the proposal was consistent with the Pleasanton Municipal Code (PMC). Chair Ritter then inquired if having the window of a second story Accessory Dwelling Unit (ADU) five feet above the ground was the recommendation for all windows. Ms. Bonn again clarified that one of the three measures would be required for windows in second story ADUs: the four-foot offset, five feet above the floor, or obscured glass. Chair Ritter expressed concern through an example of a neighbor who might purchase a shed and put it close to where the proposed ADU would go to prevent it from being built. Ms. Clark explained that the condition would be evaluated, based on conditions in place at the time the ADU was submitted. Though she felt it was unlikely, she agreed that it was possible a neighbor could preemptively erect new structures. Ms. Bonn further clarified the language in the ordinance addressed windows facing the neighbor's residence, not an accessory structure. She also offered to strengthen the language to avoid future issues. In response to Chair Ritter, Ms. Clark stated whether to do away with previously imposed conditions, with respect to owner-occupancy, would be a policy decision of the Commission.

Commissioner Brown inquired about obscured windows and whether it was defined or subjective. Ms. Bonn stated the definition would need to be added. Ms. Clark stated staff would have to come up with a precise definition. Commissioner Brown expressed concern with owners attempting "do it yourself" (DIY) window tinting. He also inquired about the State's reasoning for ending the owner-occupancy provisions in 2025. Ms. Clark assumed the five-year period was an effort by the legislature to seek a compromise for groups with differing positions on the topic. Commissioner Brown asked for clarification on the different types of deed restricted ADUs. Ms. Bonn explained the three categories: deed restrictions that expressly indicated the owner-occupancy requirements; deed restrictions referring to the owner-occupancy requirements identified in the PMC; and properties that have the owner occupancy requirement identified in a different instrument such as Covenants, Codes, and

Restrictions (CC&Rs) or project conditions of approval. Commissioner Brown expressed concern with the use of sheds not requiring a building permit as an ADU. Ms. Clark stated it would be difficult, since an ADU would require electrical, plumbing and a proper foundation, all of which required a building permit.

Ms. Clark informed the Commissioners of the public comments received via email, including correspondence from Mr. Mike Carey regarding owner occupancy regulations. She also noted a comment received just prior to the start of the meeting from Californians for Home Ownership, stating the proposed ordinance was inconsistent with State law. Given the nature of these latter comments, Ms. Clark recommended that the Planning Commission receive public comments, discuss the currently proposed draft ordinance, then continue the item to allow staff the opportunity to review the late correspondence and determine if further revisions were necessary.

Commissioner Pace asked if the matter could be brought back as a Consent item if there were not substantial changes. Ms. Clark confirmed that the matter could come back on the Consent Calendar in that case.

Chair Ritter discussed the short time frame with the holiday weekend and agreed with continuing the matter following Commission comments.

THE PUBLIC HEARING WAS OPENED

Staff confirmed there were no requests to speak on the item.

THE PUBLIC HEARING WAS CLOSED

Commissioner Allen commended staff on synthesizing the previous meeting's discussion. She indicated support for the recommendations, although the issue of owner occupancy was somewhat unclear due to the lack of clarity on the State's future actions. She stated she was amenable to eliminating the deed restrictions for the 22 ADUs built after 2003 but requested the City make individual notifications to those communities, especially the Carlton Oaks and Walnut Hill developments. She also expressed support for the window recommendations though she was concerned with the additional flexibility and open to revisiting the matter if there were issues or neighbor complaints.

Commissioner Balch expressed appreciation for the revised language regarding square footage limitations. He mentioned support for the way staff addressed balconies. He expressed confusion as to why staff recommended a 25-foot height maximum for ADUs above detached garages in the Central-Commercial District, as he thought the discussion at the prior meeting focused on the height maximum being no higher than the primary residence. He expressed concern with potential inconsistency in neighborhoods with higher elevation limits. In terms of deed restrictions, he stated he understood the item on title referring to the PMC and was amenable to retaining that as a disclosure item but was concerned by not changing the deed restrictions on the 22 ADUs. He suggested a uniform standard and discussed potential differences in homeowner's associations. He stated the windows were somewhat subjective, but he could support the recommendation without a definition of opaque.

Commissioner Brown concurred with Commissioner Balch and did not want to prohibit ADUs approved prior to the change in State law and wanted to keep the PMC consistent. With regards to amenity spaces, he reiterated his opinion not to restriction ADUs in those spaces. He stated he would like a definition for opaqueness. He also complemented staff on its straightforward scenarios depicted with graphics and suggested similar graphics to be added to the PMC.

Chair Ritter expressed his agreement with Commissioner Balch regarding the deed restricted ADUs and recommended replacing Section 18.106.060.A with the Civil Code Section 4751. He expressed concern with the separation requirement between structures and suggested just requiring windows five-foot-high above the finished floor of the ADU or opaque windows on a second story ADU, and not including the 4-foot offset option.

Commissioner Balch suggested allowing a default option for five-foot, opaque windows.

Chair Ritter agreed with the concept of limiting the words in the code and matching the State regulations.

Commissioner Allen inquired as to which rules would be the standard between the eliminated deed restrictions for the 22 units and the HOA rules. Ms. Clark noted that there were in fact more than 22 deed restricted units – the smaller number just reflected those approved in the last five years or so.

Commissioner Balch inquired about CC&R's in a Planned Unit Development (PUD).

Assistant City Attorney Julie Harryman explained the legislation, Civil Code, referenced by Mike Carey, indicating that Homeowner's Associations (HOAs) could not have CC&R's restricting ADUs.

Commissioner Allen inquired whether an HOA could retain the owner-occupancy requirement even if the City removed it. Ms. Harryman stated she did not think the bill addressed that, but rather than any deed, CC&Rs prohibiting the building of an ADU was prohibited. Commissioner Allen concurred with her colleagues on simplicity but again suggested individual notification to the residential communities of Carlton Oaks and Walnut Hill.

Commissioner Balch stated he had seen CC&Rs that were illegal under current State law. He asked why current City notifications would not be sufficient to notify the residential communities of Carlton Oaks and Walnut Hill. Commissioner Allen explained she had thought there were only 22 units that would be impacted before she had all the information and did not think the citizens of Pleasanton were thoroughly informed of the Commission's consideration. She suggested the upcoming notice list the specifics under discussion. Commissioner Balch explained the existing public notification in the Valley Times and expressed concern with limiting notice to specific neighborhoods. Commissioner Allen agreed there might be risk and requested the next public notice in the Valley Times reference the sublevel of discussion.

Ms. Harryman explained there were many more than 22 deed restricted ADUs in the City and further explained the legislative bill previously referenced, Civil Code Section 4751, was written in such a way that would make it illegal for HOAs to have an owner occupancy requirement, even though it was not directly stated.

Commissioner Pace expressed his agreement with Commissioner Balch regarding the current public notification process, stating it was adequate and separate public notices for different neighborhoods created cost and liability.

Commissioner Allen expressed her support of the City's current public noticing standards and requested addition information on the specific language and topics being discussed. She then inquired about the number of deed restricted ADUs in the City. Commissioner Balch explained that there were a large number of ADUs with various kinds of deed restrictions but after the language change in the PMC in 2003 there had only been 22. Ms. Clark further clarified staff estimated 200 ADUs in the City with some sort of owner-occupancy requirement. Commissioner Balch inquired how many were from PUDs with CC&R's and Ms. Clark responded she did not have that data and it would likely require extensive research.

Commissioner Balch expressed his opinion that HOAs would continue to enforce their rules until they were directly challenged. Chair Ritter mentioned the State law regarding deed restrictions being void and unenforceable and the Commission would need to consider how to develop appropriate language. Commissioner Balch also expressed concern with the way the ordinance was worded, and potential for future modifications in five years.

Commissioner Balch asked for further clarification regarding where the language surrounding the conversion of amenities was developed. Ms. Clark explained that the State law listed, non-exhaustively, specific spaces that could be converted into ADUs and the City wanted to list some spaces that would be protected, in the interests of maintaining the livability of these projects. Commissioner Brown reiterated his desire to allow under-utilized amenities to be converted, spaces controlled by an HOA and needing agreeance from the residents for conversion.

Ms. Clark summarized the consensus of the Commission but requested clarification on the off-set window requirement and the conversion of amenities.

Chair Ritter stated he did not support the separation requirement for off-set windows. Commissioners Allen and Balch concurred with requiring obscured windows and five-foot height.

Commissioner Balch expressed his indecision regarding the conversion of amenities.

Commissioner Allen suggested retaining the prohibition of converting amenity space to ADUs, with the possibility of individual consideration.

Chair Ritter concurred with Commissioner Allen but expressed concern with going against the State's intent. Ms. Clark stated the detail was more specific than the State law suggested, and the State could reject the standard, but it was intended to protect amenities from needlessly being converted to ADUs.

Commissioner Brown explained that he brought the issue up as an attempt to be objective; if the State were to allow the conversion of a boiler room, he found it unlikely they would disallow the conversion of a pool room just because it was not specifically listed. Ms. Clark stated staff would further review the regulation and ensure it was defensible.

Commissioner Balch inquired if any of the Commissioners were concerned about the 25-foot height restriction. Commissioner Allen stated she could support the recommendation because it was simple and consistent. She stated she would have been open to stating ADUs should be no higher than the primary residence, but she was amenable with the current proposal. Commissioner Balch stated the ADU would always be a few feet shorter than the primary residence based on the means of measuring ADUs and primary residences. Ms. Clark explained staff's decision on the 25-foot height maximum to address Commissioner Allen's concern about neighborhood uniformity. It could also provide an opportunity for parking under the ADU, which would benefit neighborhoods.

Chair Ritter expressed his desire to give Exhibit A to the stakeholders obtaining permits, as they were familiar with the process and the challenges and could provide valuable feedback. Ms. Clark informed Chair Ritter the goal was to make handouts and guides to assist people in interpreting the complicated rules.

Commissioner Allen moved to continue the item to a date uncertain.
Commissioner Balch seconded the motion.

ROLL CALL VOTE:

AYES:	**Commissioners Allen, Balch, Brown, Pace and Ritter**
NOES:	**None**
ABSENT:	**Commissioner O'Connor**
ABSTAIN:	**None**

EXHIBIT E

CALIFORNIANS FOR HOMEOWNERSHIP

MATTHEW GELFAND, COUNSEL
MATT@CAFORHOMES.ORG
TEL: (213) 739-8206

July 8, 2020

SUPPLEMENTAL MATERIAL
Provided to the Planning Commission
After Distribution of Packet

Date Distributed: 7-8-20 SA

VIA EMAIL

Planning Commission
City of Pleasanton
200 Old Bernal Ave.
Pleasanton, CA 94566
Email: c/o Stefanie Ananthan (sananthan@cityofpleasantonca.gov)

RE: July 8, 2020 Planning Commission Meeting, Agenda Item 5.

To the Planning Commission:

Californians for Homeownership is a 501(c)(3) non-profit organization devoted to using legal tools to address California's housing crisis. I am writing as part of our work monitoring local compliance with California's laws regarding accessory dwelling units (ADUs).

At your July 8 meeting, you will consider an ordinance intended to address recent changes to state ADU law. If the City adopts a compliant ADU ordinance, it will be able to maintain certain local controls on ADU development. Unfortunately, the ordinance requires very significant changes to bring it into compliance with state law. We urge you to continue this item to allow staff to consult with staff at the state Department of Housing and Community Development (HCD), the agency that now has regulatory authority over the state ADU laws. *See* Gov. Code §§ 65852.2(h), (i). We have copied HCD staff on this letter to allow them to follow our discussion with the City.

Our concerns include:

- The draft ordinance treats attached single-family homes on independent lots, such as townhomes, as multifamily dwellings. The Government Code and other provisions of California law consistently treat townhomes as single-family homes, making the distinction between "attached" and "detached" single-family homes where the Legislature has chosen to do so. It has not done so here. The draft ordinance must be adjusted to treat townhomes like single-family properties—meaning that each is entitled to develop an ADU and a JADU.

- The draft ordinance prohibits standard ADUs (including attached ADUs and conversions of livable space) in connection with multifamily buildings, which appears to reflect a

525 S. Virgil Avenue
Los Angeles, CA 90020

misunderstanding regarding the structure of state ADU law. While it is true that many owners of multifamily dwellings will choose to develop the special multifamily ADU types provided by subdivision (e) of Government Code Section 65852.2, an applicant may instead choose to develop a single ADU under *subdivision (a)*. As of January 1, 2020, subdivision (a) has been modified to replace references to "single-family dwelling" with "primary dwelling."

- The ordinance applies different setback rules to attached and detached ADUs, which is inconsistent with state law. The rule applying the City's typical zoning standards for setbacks to attached ADUs is unlawful. For an ADU that is not a conversion or rebuild, whether attached or detached, the maximum side and rear setbacks are four feet. Gov. Code § 65852.2(a)(1)(D)(vii). These limits on local setback rules are separate and apart from the special rules regarding the permitting of an 800 square foot ADU with 4-foot setbacks under Government Code Section 65852.2(c)(2)(C), so the City's special provision for "Minimum Accessory Dwelling Units" does not solve this problem.

- The proposed "street side" setback is also unlawful. State law's setback provisions apply to all side setbacks, not just those that the City deems appropriate. And, again, these limits on local setback rules are separate and apart from the special rules regarding the permitting of an 800 square foot ADU with 4-foot setbacks under Government Code Section 65852.2(c)(2)(C).

- The ordinance provides that planned unit development standards override the City's ADU ordinance where there is a conflict, except for units subject to Government Code Section 65852.2(c)(2)(C). This provision is unlawful because it overrides provisions in the ADU ordinance that are mandatory under state law regardless of whether an ADU falls within Government Code Section 65852.2(c)(2)(C). *See also* Gov. Code Section 65852.2(a)(5) ("No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a" permit to develop an ADU.).

- The draft ordinance imports the limits on cooking appliances in an efficiency kitchen from the prior version of Government Code Section 65852.22. Although it is unclear, it may also require the maintenance of an interior connection to the main dwelling. These limits have been eliminated from state law. *See* AB 68 (Ting) § 2. Under Government Code Section 65852.2(e)(1)(A), a locality must allow the development of a JADU that meets the requirements of the revised Section 65852.22, not a more restrictive local definition.

- The draft ordinance does not provide the required special treatment for the categories of ADUs listed in Government Code Section 65852.2(e)(1). These ADUs must be ministerially permitted "notwithstanding" the provisions allowing cities to pass local ADU ordinances, meaning that these ADUs must be approved without applying any local development standards, such as front-yard setbacks and size limits not specifically identified in Section 65852.2(e). According to guidance from HCD, these ADUs "do[] 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," and HCD has issued non-compliance letters to cities that have improperly applied local development standards to these ADUs. To assist the City in crafting appropriate language, we are providing (below) example language based on ordinances adopted

by other cities.

- Proposed Municipal Code Section 18.106.050 appears intended to account for the streamlined ADU category described in Government Code Section 65852.2(e)(1)(C). But it improperly prohibits the conversion of any "existing on-site amenity" into an ADU. This provision is so vague as to be meaningless. But it is also unlawful. California is in the midst of a housing crisis of historic proportions, and ADUs are a critical part of the Legislature's effort to address that crisis. *See* Gov. Code § 65852.150(a). The purpose of Section 65852.2(e)(1)(C) is to substitute the Legislature's preference for housing for local governments' preference for providing non-housing residential amenities.

We hope this information is helpful to you as you work to develop the City's ADU ordinance. We would like to be part of that process. To that end, we request that the City include us on the notice list for all future public meetings regarding the City's ADU policies, and we request that this letter be included in the correspondence file for those meetings.

Sincerely,

Matthew Gelfand

cc: City of Pleasanton
Shweta Bonn, Senior Planner (by email to sbonn@cityofpleasantonca.gov)
Melinda Denis, Planning Manager (by email to mdenis@cityofpleasantonca.gov)
Ellen Clark, Dir. of Comm. Dev. (by email to eclark@cityofpleasantonca.gov)
Julie Harryman, Esq., Asst. City Atty. (by email to jharryman@cityofpleasantonca.gov)

California Department of Housing and Community Development
Greg Nickless, Housing Policy Analyst (by email to greg.nickless@hcd.ca.gov)

Example Language For Government Code Section 65852.2(e)(1) ADUs

Units Subject to Limited Standards.

Notwithstanding [the other sections of the local ADU ordinance], accessory dwelling unit and junior accessory dwelling unit permits shall be issued based solely on the standards set forth in this section and all applicable Building Code standards, as follows:

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

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

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

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

(4) The JADU complies with the requirements of Section 65852.22.

(b) Detached ADUs. One detached, new construction, ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The ADU may be combined with a JADU described in subsection (a)(1) of this section. A local agency may impose the following conditions on the accessory dwelling unit:

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

(2) A height limitation of 16 feet.

(c) Multifamily Dwelling ADUs

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

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

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

(e) Rentals of ADU and JADU permitted pursuant to this section shall be for a term longer than 30 days.

(f) Installation of fire sprinklers are not required in an ADU or JADU if sprinklers are not required for the primary residence.

(g) ADUs and JADUs permitted under this section shall not be required to install a new or separate utility connection directly between the ADU and the utility nor shall a related connection fee or capacity be charged unless the ADU or JADU is proposed to be constructed with a new single-family home.