



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: May 17, 2017

REPORT NO. PC-17-043

HEARING DATE: May 25, 2017

SUBJECT: An amendment to the City's Municipal Code and Local Coastal Program to modify the Companion Unit Regulations, Process 5

SUMMARY

Issue: Should the Planning Commission recommend City Council approval of the proposed amendments to both the Land Development Code and the Local Coastal Program to modify the City's Companion Unit regulations?

Staff Recommendation: Recommend City Council approval of the proposed amendments modifying the Companion Unit regulations, including adding a Junior Unit category and regulations.

City Strategic Plan Goal and Objectives:

Goal #3: Create and sustain a resilient and economically prosperous City.

Objective #1: Create dynamic neighborhoods that incorporate mobility, connectivity, and sustainability.

Code Monitoring Team (CMT): On March 8, 2017, the Code Monitoring Team voted 7-2-1 to recommend approval of the proposed code changes with the following condition:

- That both Companion Units and Junior Units require a minimum 30 day rental period. (Note: The members were roughly divided on the 30 day minimum rental period and that Companion Units be owner occupied.)

Technical Advisory Committee (TAC): On March 8, 2017, the Technical Advisory Committee voted 8-0-0 to approve the Code Monitoring Team recommendation.

Community Planners Committee (CPC): On April 25, 2017, the Community Planners Committee voted to 18-4-1 to approve the proposed changes with the following modifications:

- Clearly define Floor Area Ratio (FAR), clarify bedrooms allowed, replacement parking for garage conversion must be enclosed, remove Transit Priority Area (TPA) as a parking exemption, remove MF zones, premises must be owner occupied, rentals must be 30 days or more and clarify that Mini Dorm regulations apply.

Environmental Review:

The proposed amendments are Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15282 (h), which exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. The provisions in the ordinance pertaining to junior units (implementing the provisions of Government Code Section 65852.22) are consistent with the original Land Development Code Environmental Impact Report (EIR) No. 96-0333/SCH No. 96081056, certified by City Council on November 18, 1997, Resolution No. 98-288.

Housing Impact Statement:

The proposed amendments would apply to all Community Plans City-wide. The proposed amendments reduce the development regulations, thereby increasing housing availability. All projects would be subject to the Companion Unit and Junior Unit Regulations (Chapter 14, Article 1, Division 3 of the San Diego Municipal Codes, Attachment 4) and the General Plan. Construction of alternative housing will provide affordable housing opportunities with reduced parking requirements.

BACKGROUND

Over the past decade, new housing development has not kept pace with job or population growth, resulting in housing costs that have increased at a much faster rate than income levels. With a growing population and a county median home price well over \$500,000, more and more families are finding it increasingly difficult to find an affordable place to live in San Diego. Additionally, many economic analysts have reported that the single greatest threat to our region's economy is the high cost of local housing.

Aside from the traditional market-rate construction, there are alternative housing models that contribute to addressing home supply and affordability such as accessory dwelling units, also referred to as companion units, granny flats and second units. The San Diego Municipal Code refers to Accessory Dwelling Units (ADUs) as Companion Units (CUs). These units can be integrated into existing single-family or multi-family properties designed in a variety of ways, including converting a portion of an existing house, adding to the existing house, converting an existing garage, or constructing a new detached structure.

To encourage development of ADUs, Governor Jerry Brown, Jr. signed into law three bills (SB 1069, AB 2299 and AB 2406, Attachments 1-3) that went into effect on January 1, 2017. These bills provide homeowner's the opportunity to construct CUs on their residential property with reduced requirements to parking, zoning setbacks, fire sprinklers, public utilities and fees. AB 2406, referred to as "Junior Accessory Dwelling Units (JUs)," is an optional bill that local governments have the option of adopting as an ordinance.

Companion Unit and Junior Unit Benefits:

- *Low cost to build and affordable-by-design.* CUs and JUs require no public subsidy and cost anywhere from \$10,000 for a simple bedroom conversion to \$200,000 for a high-end companion unit.
- *Provide income to homeowners.* The housing crisis has increased displacement immensely, which has threatened our diverse communities by driving out young families, and seniors

on a fixed income. CUs and JUs not only create a new stream of income, but could also ensure a safety net in the event of job loss or death of a spouse.

- *Environmentally friendly.* CUs and JUs have a low-carbon footprint, using less water, electricity and construction materials. Additionally, legislation that encourages CUs and JUs near transit hubs promotes healthy communities and eco-friendly walkable development.
- *Flexibility for changing households.* The makeup of today's households is rapidly changing. CUs and JUs are perfect for college students, seniors, and small families that would like to live on the same lot as family/friends, yet maintain their independence.

DISCUSSION

The proposed CU amendments are necessary to comply with the new state regulations.

State Mandates:

- Attached CUs are not to exceed 50% of the primary residence's habitable area, maximum of 1,200sf.
- Detached CUs cannot exceed 1,200 square feet.
- No required setbacks for existing garages converted to CUs.
- CUs above a garage require a 5-foot setback from the side and rear yards.
- No additional parking is required provided the CU is:
 - Located within ½ mile of public transit.
 - Within an architecturally and historically significant historic district.
 - Part of an existing primary residence or an existing accessory structure.
 - In an area where on-street parking permits are required but not offered to the CU.
 - Located within one block of a car share area.
- Fire sprinklers are not required for CUs if not required for the primary residence.
- Existing structures (attached/detached) converted to CUs with the appropriate meter size are not subject to additional water/sewer fees.

In addition to introducing the code changes necessary to be in compliance with the state's mandate, the proposed amendments below incorporate additional incentives designed to further reduce local development regulations in order to help promote the construction of CUs.

Additional Incentives:

- The premises does not have to be owner occupied if site contains a CU.
- CU height will not be limited to the current requirement of 15 -17 feet, but will instead require compliance with the height limits specified in the base zone.
- A one-story CU (existing or proposed) may encroach into setbacks for a maximum length of 30 feet.
- No additional parking is required provided the CU is:

- 500 square feet or less.
- Located within a Transit Priority Area.
- One block from a bike shared station.
- Parking ratio has been reduced from 1.0 to 0.5 spaces per bedroom.
- Replacement parking may be in any configuration including lifts.
- A Junior Unit (JU) category has been added in accordance with AB 2406.
 - JU can be a maximum of 500 square feet of the existing primary residence's habitable area.
 - Either the primary residence or the JU must be owner occupied.
 - JU requires interior and exterior access.
 - JU can share bathroom with the primary residence.
 - JU requires efficiency kitchen.
 - No additional parking is required for JU.

ALTERNATIVES

The Planning Commission may recommend to the City Council that it not adopt the Municipal Code amendments or that it adopt the Municipal Code changes with modifications.

CONCLUSION

The proposed amendments to the Municipal Code and the Local Coastal Program, while required to comply with state regulations, also include additional incentives in order to encourage property owner's to construct alternative housing on their property, generate rental income, and provide more housing options for San Diego residents. Although the proposed Municipal Code changes provide reduced requirements to parking and zoning setbacks, CUs and JUs, continue be subject to all applicable development regulations including: lot coverage, floor area ratio, height, hardscape, building spacing, architectural projects, residential high occupancy, rooming house regulations, and the California Building and Fire Codes.

Respectfully submitted,



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MURPHY/EG

- Attachment:
1. Senate Bill 1069
 2. Assembly Bill 2299
 3. Assembly Bill 2406
 4. Draft code amendments
 5. Code update matrix



Senate Bill No. 1069

CHAPTER 720

An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

[Approved by Governor September 27, 2016. Filed with
Secretary of State September 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would additionally find and declare that, among other things, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock, and these units are an essential component of housing supply in California.

The Planning and Zoning Law authorizes the ordinance for the creation of 2nd units in single-family and multifamily residential zones to include specified provisions regarding areas where accessory dwelling units may be located, standards, including the imposition of parking standards, and lot density. Existing law, when a local agency has not adopted an ordinance governing 2nd units as so described, requires the local agency to approve or disapprove the application ministerially, as provided.

This bill would instead require the ordinance for the creation of accessory dwelling units to include the provisions described above. The bill would prohibit the imposition of parking standards under specified circumstances. The bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. The bill would also require the ministerial approval of an application for a building permit to create one accessory dwelling unit within the existing space of a single-family residence or accessory structure, as specified. The bill would prohibit a local agency from requiring an applicant for this permit to install a new or separate utility connection directly between the unit and the utility or imposing a related connection fee or capacity charge. The bill would authorize a local agency to impose this requirement for other accessory dwelling units.

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by AB 2299 that would become operative only

if AB 2299 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65582.1 of the Government Code is amended to read:

65582.1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

- (a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).
- (b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).
- (c) Restrictions on disapproval of housing developments (Section 65589.5).
- (d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).
- (e) Least cost zoning law (Section 65913.1).
- (f) Density bonus law (Section 65915).
- (g) Accessory dwelling units (Sections 65852.150 and 65852.2).
- (h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).
- (i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).
- (j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).
- (k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).
- (l) Limiting moratoriums on multifamily housing (Section 65858).
- (m) Prohibiting discrimination against affordable housing (Section 65008).
- (n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

SEC. 2. Section 65583.1 of the Government Code is amended to read:

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for accessory dwelling units based on the number of accessory dwelling units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted

with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available for rent at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, “committed assistance” means that the city or county enters into a legally enforceable agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. “Committed assistance” does not include tenant-based rental assistance.

(5) For purposes of this subdivision, “net increase” includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, “the time the unit is identified” means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city

or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

SEC. 3. Section 65589.4 of the Government Code is amended to read:

65589.4. (a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The attached housing development is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that an attached housing development shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the attached housing development site has not been rezoned to conform with the most recent adopted general plan.

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction

within five years of the date the application for the attached housing development was deemed complete:

- (i) A general plan.
 - (ii) A revision or update to the general plan that includes at least the land use and circulation elements.
 - (iii) An applicable community plan.
 - (iv) An applicable specific plan.
- (D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

(E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

(d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

(g) This section is applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance, and thus a matter of statewide concern.

(h) For purposes of this section, “attached housing development” means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include an accessory dwelling unit, as defined by paragraph (4) of subdivision (j) of Section 65852.2, or the conversion of an existing structure to condominiums.

SEC. 4. Section 65852.150 of the Government Code is amended to read: 65852.150. (a) The Legislature finds and declares all of the following:

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

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

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

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

(5) California faces a severe housing crisis.

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

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

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

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

SEC. 5. Section 65852.2 of the Government Code is amended to read:

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

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

(B) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, architectural review,

maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(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.

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days of submittal of a complete building permit application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

(b) (1) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall ministerially approve the creation of an accessory dwelling unit if the accessory dwelling unit complies with all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(5) An accessory dwelling unit that conforms to this subdivision 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 units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

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

(d) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions. This subdivision shall not apply to a unit that is described in subdivision (e).

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

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

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

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

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

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

(f) Notwithstanding subdivisions (a) to (e), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

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

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

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

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

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

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

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

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

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

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

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one

or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

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

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

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

SEC. 5.5. Section 65852.2 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency

has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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

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

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

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

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

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

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

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

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

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

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

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

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6. Section 66412.2 of the Government Code is amended to read:

66412.2. This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or accessory dwelling units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

SEC. 7. Section 5.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 2299. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 2299, in which case Section 5 of this bill shall not become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Assembly Bill No. 2299

CHAPTER 735

An act to amend Section 65852.2 of the Government Code, relating to land use.

[Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2299, Bloom. Land use: housing: 2nd units.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. Existing law authorizes the ordinance to designate areas within the jurisdiction of the local agency where 2nd units may be permitted, to impose specified standards on 2nd units, and to provide that 2nd units do not exceed allowable density and are a residential use, as specified.

This bill would replace the term "second unit" with "accessory dwelling unit." The bill would, instead, require the ordinance to include the elements described above and would also require the ordinance to require accessory dwelling units to comply with specified conditions. This bill would require ministerial, nondiscretionary approval of an accessory dwelling unit under an existing ordinance. The bill would also specify that a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

Existing law requires that parking requirements for 2nd units not exceed one parking space per unit or per bedroom. Under existing law, additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the 2nd unit and are consistent with existing neighborhood standards applicable to residential dwellings.

This bill would delete the above-described authorization for additional parking requirements.

By increasing the duties of local officials with respect to land use regulations, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by SB 1069 that would become operative only if SB 1069 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.2 of the Government Code is amended to read:

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

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

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

(C) Notwithstanding subparagraph (B), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(D) 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.

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

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

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

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

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area.

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

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

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

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

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

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

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

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

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

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

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed accessory dwelling units on lots zoned for residential use that contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(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 accessory dwelling units 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 units 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 its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for a accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards.

(d) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(e) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of accessory dwelling units, provided those requirements comply with subdivision (a).

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

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

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

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

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

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

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

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

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

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

SEC. 1.5. Section 65852.2 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a

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

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

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

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

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

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

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

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

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

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

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

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

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

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 1069. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 1069, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Assembly Bill No. 2406

CHAPTER 755

An act to add Section 65852.22 to the Government Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2016. Filed with
Secretary of State September 28, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2406, Thurmond. Housing: junior accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential areas, as prescribed.

This bill would, in addition, authorize a local agency to provide by ordinance for the creation of junior accessory dwelling units, as defined, in single-family residential zones. The bill would require the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements. The bill would prohibit an ordinance from requiring, as a condition of granting a permit for a junior accessory dwelling unit, additional parking requirements.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.22 is added to the Government Code, immediately following Section 65852.2, to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow local jurisdictions the ability to promulgate ordinances that create secure income for homeowners and secure housing for renters, at the earliest possible time, it is necessary for this act to take effect immediately.

Chapter 11: Land Development Reviews
Article 3: Land Development Terms
Division 1: Definitions

§113.0103 Definitions

Companion Unit means an attached or detached dwelling unit that is an accessory use for a single dwelling unit on a residential lot that provides independent living facilities for one or more persons, independent of the primary dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same residential lot.

Junior Unit means a dwelling unit that is 500 square feet, or less, in size and contained entirely within an existing habitable, single dwelling unit. The unit requires a separate exterior entry, with an interior connection to the main living area, and shall include an efficiency kitchen. An efficiency kitchen requires a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances that do not require electrical service of more than 120 volts, or use natural or propane gas, and food preparation counter and storage cabinets. A Junior Unit may include a bathroom, or may share a bathroom with the primary dwelling unit.

Multiple dwelling unit means ~~a building containing~~ two or more dwelling units on a single lot. The term does not include, -companion units, junior units or employee housing.

Transit Priority Area, as defined in California Public Resource Code Section 21099, or any amendment or recodification of any such section, means an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program

Article 1: Separately Regulated Use Regulations

Division 3: Residential Use Category--Separately Regulated Uses

(Added 12-9-1997 by O-18451 N.S.)

§141.0301 **[No change]**

§141.0302 **Companion Units and Junior Units**

~~A Companion units is a and junior units dwelling unit that is an accessory use for a single dwelling unit on a residential lot that provides complete living facilities, including a kitchen, independent of the primary dwelling unit. Companion units~~ are permitted, as a limited use in accordance with Process One in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and Chapter 15, Article 1, Division 4 (General and Supplemental Regulations), subject to the following regulations:

- (a) Before a Building Permit may be issued for a ~~companion junior~~ unit, the record owner shall enter into an agreement with the City in a form that is acceptable to the City Attorney. The agreement shall include the following provisions: that neither the primary dwelling unit nor the ~~companion junior~~ unit may be sold or conveyed separately from each other and that the record owner shall reside in the primary dwelling unit or the ~~companion junior~~ unit. The City will submit the agreement to the County Recorder for recordation. The agreement shall run with the land and be coterminous with the life of the ~~companion junior~~ unit.
- (b) ~~No more than one companion unit is permitted on a premises. A companion unit may not be sold or conveyed separately.~~
- (c) ~~Only one companion unit or junior unit is permitted on a premises. Guest quarters and non-habitable structures shall be permitted in addition to the companion unit or junior unit. All structures shall comply with building spacing requirements in accordance with Section 131.0450.~~
- (e)(d) Within a multiple dwelling unit zone, a companion unit is permitted on any premises that would otherwise be limited to a maximum of ~~one two single dwelling units~~ based on the allowable density and existing area of the premises. ~~Dwelling units on a premises that can accommodate density for multiple dwelling units shall be regulated in accordance with applicable zoning and not subject to Section 141.0302. A companion unit shall be allowed when the maximum base density of the premises is existing or constructed concurrently with the companion unit.~~
- (e) ~~A junior unit shall not exceed 500 square feet and shall be exempt from the parking regulations.~~
- (f) ~~The gross floor area of the companion unit shall be included in the floor area ratio calculation for the premises. The gross floor area for an attached companion unit shall not exceed 50 percent of the existing habitable dwelling unit. A maximum increase of 1,200 square feet is allowed for an attached or detached companion unit.~~
- (d)(g) ~~A companion unit may be attached to or detached from the primary dwelling unit on the premises. No passageway shall be required in conjunction with the construction of a companion unit.~~
- (h) ~~An existing permitted garage or non-habitable accessory structure that is converted to a companion unit may maintain the existing setbacks in compliance with the California Building Code and California Fire Code.~~
- (i) ~~An attached or detached companion unit may encroach within the side and rear yard setbacks up to the property line subject to the following:~~

(1) A one story structure shall not encroach more than a maximum of 30 feet in length;

(2) Companion Units constructed above an existing permitted garage or non-habitable accessory structure, a maximum 5 foot setback is required or the minimum required by the zone, whichever is less.

~~(e)(j)~~ If access from an improved abutting *alley* exists, vehicular access to parking spaces for the *companion unit* shall be from the *alley* unless the *premises* has a garage that accommodates all *off-street parking* required in accordance with this section, except for *premises* located in the Beach Impact Area or any other zones in which vehicular access from the alley is required.

~~(f)~~ If an existing garage is converted to a companion unit, another garage shall be provided on the premises to replace the converted parking spaces.

~~(g)(k)~~ Parking for the entire *premises* shall be brought into compliance with Chapter 14, Article 2, Division 5 (Parking Regulations) and with this section: except as otherwise indicated herein.

~~(h)(l)~~ One standard off-street parking space is required for each bedroom in the companion unit, with a minimum requirement of one parking space per companion unit. Replacement parking shall be provided on the premises when an existing garage is converted to a companion unit or demolished in conjunction with the construction of a companion unit;

(1) The replacement parking space(s) may be located in any configuration, may be within the setback areas and may include covered, uncovered, tandem spaces or mechanical lifts. Each parking space shall provide safe and efficient means of vehicular access to the parking space.

(2) Tandem parking shall be allowed even though the premises is not located within the Residential Tandem Parking Overlay Zone.

~~(i)(m)~~ Off-street parking required by this section shall not be located in the area between the street wall and the front property line. The companion unit shall be exempt from providing parking if any of the following apply:

(1) Unit is 500 square feet or less;

(2) Unit is located within the transit area or a transit priority area;

(3) Unit is located within a designated historical resource area;

(4) Unit is already part of the existing single dwelling unit or an existing permitted habitable dwelling unit;

(5) Unit is located within a residential permit parking district;

(6) Unit is one block from a car shared vehicle station;

(7) Unit is one block from a bike share station.

(j)(n) ~~The gross floor area of the companion unit shall be included in the floor area ratio calculation for the premises.~~ Required off-street parking shall be provided at a 0.5 parking space per bedroom, with a minimum requirement of one parking space per companion unit.

~~(k)~~—The *gross floor area* of the companion unit shall not exceed 700 square feet.

~~(H)(o)~~ One 24-inch box tree shall be planted in the required front *yard* of the *premises* or in the abutting *parkway*. Existing trees that are at least 15 feet high and 15 feet in width may be used to satisfy this requirement.

~~(m)~~—Maximum *structure height* for companion units:

~~(1)~~—For companion units located above a garage or other *accessory building*:

~~(A)~~—The maximum *structure height* for flat-roofed *structures* is 21 feet; and

~~(B)~~—The maximum *structure height* is 30 feet for sloped-roofed *structures* with a roof pitch of at least 3:12 (3 vertical feet to 12 horizontal feet).

~~(2)~~—For detached companion units, not above a garage or other *accessory building*:

~~(A)~~—15 feet without a chimney or flue, or

~~(B)~~—17 feet with a chimney or flue.

~~(n)~~—Companion unit entrances shall not be located on the building *street wall* or within the front 50 percent of the *structure*.

~~(o)(p)~~ Within the Coastal Overlay Zone, *companion units* are subject to the provisions of Chapter 12, Article 6, Division 7.

§126.0303 When a Conditional Use Permit Is Required

(a) Conditional Use Permits Decided by Process Three

Agricultural equipment repair shops

Agriculture-related supplies and equipment sales

Alcoholic beverage outlets (under circumstances described in Section 141.0502)

Assembly and entertainment uses, including places of religious assembly (under circumstances described in Section 141.0602)

Automobile service stations

Bed and breakfast establishments (under circumstances described in Section 141.0603)

Child Care Centers

Commercial stables

Companion units and *junior units*

Continuing care retirement communities

§131.0112 Descriptions of Use Categories and Subcategories

(a) 1 and 2 [no change in text]

(3) Residential Use Category

This category includes uses that provide living accommodations for one or more persons. The residential subcategories are:

(A) *Rooming houses*. *Rooming house* has the same meaning as in San Diego Municipal Code Section 113.0103.

(B) *Mobilehome Parks* — A *premises* with two or more mobilehomes used as dwelling units other than *companion units* and *junior units* or employee housing.

(C) *Multiple Dwelling Units* — Dwelling units where more than one dwelling unit is located on a single *lot*.

(D) *Single Dwelling Units* — Dwelling units where no more than one dwelling unit is located on a *lot*, usually detached, and occupied by a single household unit.

§132.1510 Noise Compatibility

Table 132-15D
Noise Compatibility Criteria

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Aircraft Noise Exposure (dB CNEL)			
	60-65	65-70	70-75	75-80
Separately Regulated Residential Uses				
<i>Boarder & Lodger Accommodations</i>			Classify with primary use	
<i>Companion Units <u>and Junior Units</u></i>	P ²	-	-	-

§132.1535 Previously Conforming

- (a) [no change in text]
- (b) Reconstruction, alteration or expansion of a *previously conforming* use or *structure* may be permitted with a Building Permit as follows:
- (1) *Previously conforming single dwelling units* and associated *companion units and junior units*, as applicable, may be reconstructed, altered or expanded in compliance with the development regulations of the underlying base zone.

2 through 4 [no change in text]

§131.0222 Use Regulations Table for Open Space Zones

Table 131-02B

Use Regulations Table for Open Space Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones					
	1st & 2nd >>	OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹¹⁾ -
	3rd >>	1-	2-	1-	1-		1-
	4th >>	1	1	1	1	2	1
Separately Regulated Residential Uses:							
Boarder & Lodger Accommodations		-	-	-	L		-
Companion Units <u>and Junior Units</u>		-	-	-	CP		-
Continuing Care Retirement Communities		-	-	-	-		-

§131.0322 Use Regulations Table for Agricultural Zones

Table 131-03B

Use Regulations Table for Agricultural Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Separately Regulated Residential Uses					
<i>Boarder & Lodger Accommodations</i>		-		L	
<i>Companion Units <u>and Junior Units</u></i>		-		L	
Continuing Care Retirement Communities		-		-	

§131.0422 Use Regulations Table for Residential Zones

Table 131-04B

Use Regulations Table for Residential Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																							
	1st & 2nd >>	RE-	RS-														RX-		RT-						
	3rd >>	1-	1-														1-		1-						
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4	5
Separately Regulated Residential Uses																									
Boarder & Lodger Accommodations		L	L														L		L						
Companion Units <u>and Junior Units</u>		L	L														L		L						
Continuing Care Retirement Communities		-	-														-		-						

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	RM-											
	3rd >>	1-			2-			3-			4-		5-
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12
Separately Regulated Residential Uses													
<i>Boarder & Lodger Accommodations</i>		L			L			L			L		L
<i>Companion Units <u>and Junior Units</u></i>		L			L			L			L		L
Continuing Care Retirement Communities		C			C			L			L		L

§131.0522 Use Regulations Table for Commercial Zones

Table 131-05B

Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones															
	1st & 2nd >>	CN ⁽¹⁾ -					CR-		CO-						CV-		CP-
	3rd >>	1-					1-	2-	1-	2-	3-	1-	2-	1-	2-	1-	1-
	4th >>	1	2	3	4	5	1	1	1	2	1	2	1	2	1	2	1
Separately Regulated Residential Uses																	
<i>Boarder & Lodger Accommodations</i>		L ⁽²⁾					L	-	L	-	-	-	-	L ⁽²⁾	-	-	-
<i>Companion Units and Junior Units</i>		-					-	-	-	-	-	-	-	-	-	-	-
Continuing Care Retirement Communities		C ⁽²⁾					C	-	C	-	C	-	C	C ⁽²⁾	-	-	-

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																								
	1st & 2nd >>	CC-																								
	3rd >>	1-			2-			3-			4-			5-												
	4th >>	1	2	3	1	2	3	4	5	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5
Separately Regulated Residential Uses																										
Boarder & Lodger Accommodations		L			-			L			L			L												
Companion Units and Junior Units		-			-			-			-			-												
Continuing Care Retirement Communities		C			-			C			C			C ⁽¹⁵⁾												

§131.0622 Use Regulations Table for Industrial Zones

Legend for Table 131-06B
Use Regulations Table for Industrial Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	IP-			IL-			IH-		IS-	IBT-
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>	1	1	1	1	1	1	1	1	1	1
Separately Regulated Residential Uses											
<i>Boarder & Lodger Accommodations</i>		-	-	-	-	-	-	-	-	-	-
<i>Companion Units and Junior Units</i>		-	-	-	-	-	-	-	-	-	-
Continuing Care Retirement Communities		-	-	L ⁽¹⁷⁾	-	-	-	-	-	-	-

§142.0680 Cost Reimbursement District Regulations

(a) though (f)(1) [No change in text]

(f)(2) Notice and Hearing on Formation of Cost Reimbursement District.

A) [No change in text]

(B) The City Clerk shall cause a notice of the hearing, in substantially the following form, to be published once in a newspaper of general circulation in the City at least ten (10) calendar days prior to the hearing:

NOTICE OF HEARING

The City Council of the City of San Diego will hold a public hearing at _____ on _____ at the City Council Chambers on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California, 92101 to consider the establishment of a reimbursement district for the financing of certain public facilities and related improvements within the City otherwise known as the Cost Reimbursement District No. (_____).

Your property is located within the proposed boundaries of the cost reimbursement district and may be subject to a lien to pay a portion of the cost of providing such facilities. If, within a twenty-year period from the date of forming this district, you either file a final map or are issued a building permit, the lien amount will become due and payable. Payment of the lien under these reimbursement proceedings shall not be required in the following circumstances:

(a) [No change in text]

(b) For issuance of a building permit for the addition of accessory structures to an existing dwelling unit provided the accessory structure is not a *companion unit or junior unit*.

(c) through (e) [No change in text]

(f)(2)(C) [No change in text]

(g) [No change in text]

(h) Lien on Property

(1) through (6) [No change in text]

(7) If, during the period following the formation of the cost reimbursement district, any person records a *final map* (subdivision, parcel, or consolidation map) or applies for a building permit for construction on a lot for which a lien for *public improvements* has been established in accordance with section 142.0680, and such person or predecessor in interest has not paid the lien to the City, the established lien shall be paid prior to the earlier of the filing of the *final map* or the issuance of the building permit. Payment of the lien shall not be required in the following circumstances:

(A) For issuance of a building permit for improvements to an existing residential *dwelling unit*.

(B) For issuance of a building permit for the addition of *accessory structures* to an existing *dwelling unit* provided the *accessory structure* is not a *companion unit* or junior unit.

(7)(C) through (E) [No change in text]

§155.0238 Use Regulations Table of CU Zones

Table 155-02C
Use Regulations Table for CU Zones

Use Categories/Subcategories [See Land Development Code Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	CU-									
	3rd >>	1- ⁽¹⁾		2-			3-				
	4th >>	1	2	3	4	5	3 ⁽²⁾⁽¹²⁾	6	7	8	
Separately Regulated Residential Uses											
<i>Boarder & Lodger Accommodations</i>		L		L			L				
<i>Companion Units</i> <u>and Junior Units</u>		L		-			-				
Continuing Care Retirement Communities		C		C			C				

§1510.0303 Single-Family Zone - Permitted Uses

(a) through (b) [no change in text]

(c) Boarder and lodger accommodations; *Companion units* and *junior units*; Family day care homes; Garage, yard and estate sales; Guest quarters and habitable accessory buildings; Home occupations; Community gardens; and Temporary real estate sales offices and model homes as a limited use in accordance with the applicable regulations in Chapter 14, Article 1 (Separately Regulated Use Regulations).

COMPANION UNIT REGULATIONS IN LIGHT OF SB1069

CATEGORY	CURRENT LDC	SENATE BILL – SB1069	PROPOSED CHANGE	Notes
NAMING CAMPAIGN	Companion Unit (CU)	Accessory Dwelling Unit (ADU)	Maintain CU and adding Junior Unit. (current/proposed)	
PERMIT TYPE / PROCESS TIME	Ministerial & Discretionary Process / No set time	Shall include a ministerial process / considered within 120 days	Maintain Ministerial & Discretionary No set time (current) (Average ministerial 90 days)	
OWNER OCCUPANCY REQUIREMENTS	Record owner shall reside on premises	<ul style="list-style-type: none"> • May require record owner to reside on premises • May require that property be used for rentals longer than 30 days 	<ul style="list-style-type: none"> • Junior Units -Record owner shall reside on the premises & agreement required (proposed) • CUs do not have to be owner occupied (proposed) • CU/JU may not be sold or conveyed separately 	
MAXIMUM UNIT # & SIZE	<ul style="list-style-type: none"> • Included in FAR calculation • Not to exceed 700 SF • One per premises 	<ul style="list-style-type: none"> • May impose FAR limits • Shall not exceed 50% of living area • Shall be a maximum of 1,200 SF • Silent on number 	<ul style="list-style-type: none"> • Include FAR in calculation (current) • JU maximum of 500 SF of existing habitable area (proposed) • Attached CU not to exceed 50% of existing habitable area, maximum 1,200 SF. Detached a maximum of 1,200 SF (proposed) • One CU or JU per premises (proposed) • In MF zones, CU/JU allowed where max of two DUs allowed by density (proposed) • Guest quarters and/or non-habitable structures allowed in addition to CU/JU 	
PASSAGEWAY REQUIREMENTS	Silent on passageway requirement	Shall not require a passageway with the construction of CU	No passageway required (clarify)	
HEIGHT REQUIREMENT	<ul style="list-style-type: none"> • 21' for flat roof • 30' sloped • Detached 15' without chimney • 17' with chimney 	Silent	Comply with base zone (proposed)	
SETBACK REQUIREMENTS (GARAGE CONVERSION)	Comply with base zones	Shall not require setbacks for an existing garage that is converted to a CU	Permitted garage or accessory structure conversions may maintain existing setbacks compliant with building & fire codes (proposed)	

COMPANION UNIT REGULATIONS IN LIGHT OF SB1069

CATEGORY	CURRENT LDC	SENATE BILL - SB1069	PROPOSED CHANGE	Notes
SETBACK REQUIREMENTS (COMPANION UNIT & ADDITIONS)	Comply with base zones	Shall not require more than 5' setback from the side & rear lot lines when CU above a garage	<ul style="list-style-type: none"> CU above one story 5' setback from side and rear yards or minimum required by the zone, whichever is less. (proposed) One story CU (existing or proposed) May encroach into setbacks, maximum length of 30' (proposed) 	
PARKING REQUIREMENTS (GARAGE CONVERSIONS)	Requires replacement parking outside setbacks	May require that replacement parking be in any configuration including lifts	Replacement parking is required, may be provided in any configuration including lifts. (Proposed)	
PARKING REQUIREMENTS (COMPANION UNIT)	1 parking space per bedroom, minimum 1 space	<ul style="list-style-type: none"> Shall not be required when: <ul style="list-style-type: none"> Within ½ mile of public transit Within architecture/historic significant district Part of the existing residence or existing ADU When on-street parking permits are required but not offered to ADU There is a car shared vehicle within 1 block Shall not require parking for a Junior Accessory Dwelling Unit of <500 SF (AB 2406). Also requires owner-occupied Shall not exceed 1 space per bedroom, may be tandem, can be within setback areas unless not feasible (topo, fire, safety) May reduce or eliminate parking requirements 	<ul style="list-style-type: none"> Follow state parking exemptions, with the following additions. No parking required when: <ul style="list-style-type: none"> located within Transit Area or Transit Priority Area (proposed) one block of a bike share station (proposed) attached/detached units <500 SF (proposed) Tandem parking allowed on an existing driveway and within setbacks, when feasible (proposed) In all other cases, 0.5 parking space per bedroom, minimum 1 space (proposed) 	
FIRE SPRINKLERS	California Building Standards Codes January 1, 2011 for all new one-and two-family dwellings and townhouses	Shall not require fire sprinklers if not required for the primary unit.	<p>Follow state law (proposed)</p> <ul style="list-style-type: none"> Existing single family homes without an automatic residential fire sprinkler system adding a CU/JU, attached or detached, are not required to provide sprinkler system. If additions are proposed to the SFR and/or CU/JU and the total floor area, (existing plus the new addition), is greater than 3,600 SF and the floor area of the addition exceeds 50% of the floor area of the existing dwelling 	

COMPANION UNIT REGULATIONS IN LIGHT OF SB1069

CATEGORY	CURRENT LDC	SENATE BILL - SB1069	PROPOSED CHANGE	Notes
			it will require fire sprinkler system throughout the structure	
PUBLIC UTILITIES/FEES	Public Utilities	Shall not be considered new dwelling units for fees or capacity for utilities (water/sewer) & not require new or separate utility connection if within the primary unit.	Follow state law (proposed) <ul style="list-style-type: none">Existing converted structures (attached/detached) with appropriate meter size, no fees.Proposed additions (attached/detached), subject to fees	