

AMENDED IN ASSEMBLY JANUARY 3, 2022

AMENDED IN ASSEMBLY APRIL 6, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 916

Introduced by Assembly ~~Member Salas~~ *Members Salas and Quirk-Silva*

February 17, 2021

An act to amend Section 65852.2 of, and to add Section 65850.02 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 916, as amended, Salas. Zoning: accessory dwelling units: bedroom addition.

The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances that regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes.

This bill would prohibit a city or county legislative body from adopting or enforcing an ordinance requiring a public hearing as a condition of adding space for additional bedrooms or reconfiguring existing space to increase the bedroom count within an existing house, condominium, apartment, or dwelling. The bill would include findings that ensuring adequate housing is a matter of statewide concern and is not a municipal affair, and that the provision applies to all cities, including charter cities.

The Planning and Zoning Law also authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use, as specified.

Existing law provides that an accessory dwelling unit may either be an attached or detached residential dwelling unit, and prescribes the minimum and maximum unit size requirements and height limitations a local agency may establish, including a 16-foot height limitation. Existing law provides that a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation of 16 feet, among other requirements.

This bill would instead authorize a local agency to establish a height limitation of 18 feet for those accessory dwelling units located on a lot that has an existing multifamily and multistory dwelling. The bill would specify that a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation of 18 feet, ~~and that those accessory dwelling units may be attached to each other.~~ feet.

By imposing additional duties on local officials, the 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 65850.02 is added to the Government
- 2 Code, immediately following Section 65850.01, to read:
- 3 65850.02. (a) Notwithstanding any other law, with respect to
- 4 land zoned for residential use, the legislative body of a city or
- 5 county shall not adopt or enforce an ordinance requiring a public
- 6 hearing as a condition of adding space for additional bedrooms or
- 7 reconfiguring existing space to increase the bedroom count within
- 8 an existing house, condominium, apartment, or dwelling.

1 (b) The Legislature finds and declares that ensuring adequate
2 housing is a matter of statewide concern and is not a municipal
3 affair, as that term is used in Section 5 of Article IX of the
4 California Constitution. Therefore, this section applies to all cities,
5 including charter cities.

6 ~~SEC. 2. Section 65852.2 of the Government Code, as amended~~
7 ~~by Section 3.5 of Chapter 198 of the Statutes of 2020, is amended~~
8 ~~to read:~~

9 ~~65852.2. (a) (1) A local agency may, by ordinance, provide~~
10 ~~for the creation of accessory dwelling units in areas zoned to allow~~
11 ~~single-family or multifamily dwelling residential use. The~~
12 ~~ordinance shall do all of the following:~~

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

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

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

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

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

38 ~~(i) The accessory dwelling unit may be rented separate from~~
39 ~~the primary residence, but may not be sold or otherwise conveyed~~
40 ~~separate from the primary residence.~~

- 1 ~~(ii) The lot is zoned to allow single-family or multifamily~~
2 ~~dwelling residential use and includes a proposed or existing~~
3 ~~dwelling.~~
- 4 ~~(iii) The accessory dwelling unit is either attached to, or located~~
5 ~~within, the proposed or existing primary dwelling, including~~
6 ~~attached garages, storage areas or similar uses, or an accessory~~
7 ~~structure is detached from the proposed or existing primary~~
8 ~~dwelling and located on the same lot as the proposed or existing~~
9 ~~primary dwelling.~~
- 10 ~~(iv) If there is an existing primary dwelling, the total floor area~~
11 ~~of an attached accessory dwelling unit shall not exceed 50 percent~~
12 ~~of the existing primary dwelling.~~
- 13 ~~(v) The total floor area for a detached accessory dwelling unit~~
14 ~~shall not exceed 1,200 square feet.~~
- 15 ~~(vi) No passageway shall be required in conjunction with the~~
16 ~~construction of an accessory dwelling unit.~~
- 17 ~~(vii) No setback shall be required for an existing living area or~~
18 ~~accessory structure or a structure constructed in the same location~~
19 ~~and to the same dimensions as an existing structure that is~~
20 ~~converted to an accessory dwelling unit or to a portion of an~~
21 ~~accessory dwelling unit, and a setback of no more than four feet~~
22 ~~from the side and rear lot lines shall be required for an accessory~~
23 ~~dwelling unit that is not converted from an existing structure or a~~
24 ~~new structure constructed in the same location and to the same~~
25 ~~dimensions as an existing structure.~~
- 26 ~~(viii) Local building code requirements that apply to detached~~
27 ~~dwellings, as appropriate.~~
- 28 ~~(ix) Approval by the local health officer where a private sewage~~
29 ~~disposal system is being used, if required.~~
- 30 ~~(x) (I) Parking requirements for accessory dwelling units shall~~
31 ~~not exceed one parking space per accessory dwelling unit or per~~
32 ~~bedroom, whichever is less. These spaces may be provided as~~
33 ~~tandem parking on a driveway.~~
- 34 ~~(II) Offstreet parking shall be permitted in setback areas in~~
35 ~~locations determined by the local agency or through tandem~~
36 ~~parking, unless specific findings are made that parking in setback~~
37 ~~areas or tandem parking is not feasible based upon specific site or~~
38 ~~regional topographical or fire and life safety conditions.~~
- 39 ~~(III) This clause shall not apply to an accessory dwelling unit~~
40 ~~that is described in subdivision (d).~~

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

6 ~~(xii) Accessory dwelling units shall not be required to provide~~
7 ~~fire sprinklers if they are not required for the primary residence.~~

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

10 ~~(3) A permit application for an accessory dwelling unit or a~~
11 ~~junior accessory dwelling unit shall be considered and approved~~
12 ~~ministerially without discretionary review or a hearing,~~
13 ~~notwithstanding Section 65901 or 65906 or any local ordinance~~
14 ~~regulating the issuance of variances or special use permits. The~~
15 ~~permitting agency shall act on the application to create an accessory~~
16 ~~dwelling unit or a junior accessory dwelling unit within 60 days~~
17 ~~from the date the local agency receives a completed application if~~
18 ~~there is an existing single-family or multifamily dwelling on the~~
19 ~~lot. If the permit application to create an accessory dwelling unit~~
20 ~~or a junior accessory dwelling unit is submitted with a permit~~
21 ~~application to create a new single-family dwelling on the lot, the~~
22 ~~permitting agency may delay acting on the permit application for~~
23 ~~the accessory dwelling unit or the junior accessory dwelling unit~~
24 ~~until the permitting agency acts on the permit application to create~~
25 ~~the new single-family dwelling, but the application to create the~~
26 ~~accessory dwelling unit or junior accessory dwelling unit shall be~~
27 ~~considered without discretionary review or hearing. If the applicant~~
28 ~~requests a delay, the 60-day time period shall be tolled for the~~
29 ~~period of the delay. If the local agency has not acted upon the~~
30 ~~completed application within 60 days, the application shall be~~
31 ~~deemed approved. A local agency may charge a fee to reimburse~~
32 ~~it for costs incurred to implement this paragraph, including the~~
33 ~~costs of adopting or amending any ordinance that provides for the~~
34 ~~creation of an accessory dwelling unit.~~

35 ~~(4) An existing ordinance governing the creation of an accessory~~
36 ~~dwelling unit by a local agency or an accessory dwelling ordinance~~
37 ~~adopted by a local agency shall provide an approval process that~~
38 ~~includes only ministerial provisions for the approval of accessory~~
39 ~~dwelling units and shall not include any discretionary processes,~~
40 ~~provisions, or requirements for those units, except as otherwise~~

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

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

11 (6) This subdivision establishes the maximum standards that
12 local agencies shall use to evaluate a proposed accessory dwelling
13 unit on a lot that includes a proposed or existing single-family
14 dwelling. No additional standards, other than those provided in
15 this subdivision, shall be used or imposed, including any
16 owner-occupant requirement, except that a local agency may
17 require that the property be used for rentals of terms longer than
18 30 days.

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

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

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

1 permit application to create an accessory dwelling unit or a junior
2 accessory dwelling unit is submitted with a permit application to
3 create a new single-family dwelling on the lot, the permitting
4 agency may delay acting on the permit application for the accessory
5 dwelling unit or the junior accessory dwelling unit until the
6 permitting agency acts on the permit application to create the new
7 single-family dwelling, but the application to create the accessory
8 dwelling unit or junior accessory dwelling unit shall still be
9 considered ministerially without discretionary review or a hearing.
10 If the applicant requests a delay, the 60-day time period shall be
11 tolled for the period of the delay. If the local agency has not acted
12 upon the completed application within 60 days, the application
13 shall be deemed approved.

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

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

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

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

25 (i) 850 square feet.

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

28 (C) Any other minimum or maximum size for an accessory
29 dwelling unit, size based upon a percentage of the proposed or
30 existing primary dwelling, or limits on lot coverage, floor area
31 ratio, open space, and minimum lot size, for either attached or
32 detached dwellings that does not permit at least an 800 square foot
33 accessory dwelling unit that is at least 16 feet, or 18 feet for an
34 accessory dwelling unit on a lot that has an existing multifamily
35 and multistory dwelling, in height with four-foot side and rear yard
36 setbacks to be constructed in compliance with all other local
37 development standards.

38 (d) Notwithstanding any other law, a local agency, whether or
39 not it has adopted an ordinance governing accessory dwelling units
40 in accordance with subdivision (a), shall not impose parking

- 1 standards for an accessory dwelling unit in any of the following
2 instances:
- 3 (1) ~~The accessory dwelling unit is located within one-half mile~~
4 ~~walking distance of public transit.~~
- 5 (2) ~~The accessory dwelling unit is located within an~~
6 ~~architecturally and historically significant historic district.~~
- 7 (3) ~~The accessory dwelling unit is part of the proposed or~~
8 ~~existing primary residence or an accessory structure.~~
- 9 (4) ~~When on-street parking permits are required but not offered~~
10 ~~to the occupant of the accessory dwelling unit.~~
- 11 (5) ~~When there is a car share vehicle located within one block~~
12 ~~of the accessory dwelling unit.~~
- 13 (e) ~~(1) Notwithstanding subdivisions (a) to (d), inclusive, a~~
14 ~~local agency shall ministerially approve an application for a~~
15 ~~building permit within a residential or mixed-use zone to create~~
16 ~~any of the following:~~
- 17 (A) ~~One accessory dwelling unit and one junior accessory~~
18 ~~dwelling unit per lot with a proposed or existing single-family~~
19 ~~dwelling if all of the following apply:~~
- 20 (i) ~~The accessory dwelling unit or junior accessory dwelling~~
21 ~~unit is within the proposed space of a single-family dwelling or~~
22 ~~existing space of a single-family dwelling or accessory structure~~
23 ~~and may include an expansion of not more than 150 square feet~~
24 ~~beyond the same physical dimensions as the existing accessory~~
25 ~~structure. An expansion beyond the physical dimensions of the~~
26 ~~existing accessory structure shall be limited to accommodating~~
27 ~~ingress and egress.~~
- 28 (ii) ~~The space has exterior access from the proposed or existing~~
29 ~~single-family dwelling.~~
- 30 (iii) ~~The side and rear setbacks are sufficient for fire and safety.~~
- 31 (iv) ~~The junior accessory dwelling unit complies with the~~
32 ~~requirements of Section 65852.22.~~
- 33 (B) ~~One detached, new construction, accessory dwelling unit~~
34 ~~that does not exceed four-foot side and rear yard setbacks for a lot~~
35 ~~with a proposed or existing single-family dwelling. The accessory~~
36 ~~dwelling unit may be combined with a junior accessory dwelling~~
37 ~~unit described in subparagraph (A). A local agency may impose~~
38 ~~the following conditions on the accessory dwelling unit:~~
- 39 (i) ~~A total floor area limitation of not more than 800 square feet.~~
40 (ii) ~~A height limitation of 16 feet.~~

- 1 ~~(C) (i) Multiple accessory dwelling units within the portions~~
2 ~~of existing multifamily dwelling structures that are not used as~~
3 ~~livable space, including, but not limited to, storage rooms, boiler~~
4 ~~rooms, passageways, attics, basements, or garages, if each unit~~
5 ~~complies with state building standards for dwellings.~~
6 ~~(ii) A local agency shall allow at least one accessory dwelling~~
7 ~~unit within an existing multifamily dwelling and shall allow up to~~
8 ~~25 percent of the existing multifamily dwelling units.~~
9 ~~(D) Not more than two accessory dwelling units that are located~~
10 ~~on a lot that has an existing multifamily dwelling, but are detached~~
11 ~~from that multifamily dwelling and are subject to a height limit of~~
12 ~~18 feet and four-foot rear yard and side setbacks. The two accessory~~
13 ~~dwelling units may be attached to each other.~~
14 ~~(2) A local agency shall not require, as a condition for ministerial~~
15 ~~approval of a permit application for the creation of an accessory~~
16 ~~dwelling unit or a junior accessory dwelling unit, the correction~~
17 ~~of nonconforming zoning conditions.~~
18 ~~(3) The installation of fire sprinklers shall not be required in an~~
19 ~~accessory dwelling unit if sprinklers are not required for the~~
20 ~~primary residence.~~
21 ~~(4) A local agency shall require that a rental of the accessory~~
22 ~~dwelling unit created pursuant to this subdivision be for a term~~
23 ~~longer than 30 days.~~
24 ~~(5) A local agency may require, as part of the application for a~~
25 ~~permit to create an accessory dwelling unit connected to an onsite~~
26 ~~wastewater treatment system, a percolation test completed within~~
27 ~~the last five years, or, if the percolation test has been recertified,~~
28 ~~within the last 10 years.~~
29 ~~(6) Notwithstanding subdivision (c) and paragraph (1) a local~~
30 ~~agency that has adopted an ordinance by July 1, 2018, providing~~
31 ~~for the approval of accessory dwelling units in multifamily~~
32 ~~dwelling structures shall ministerially consider a permit application~~
33 ~~to construct an accessory dwelling unit that is described in~~
34 ~~paragraph (1), and may impose standards including, but not limited~~
35 ~~to, design, development, and historic standards on said accessory~~
36 ~~dwelling units. These standards shall not include requirements on~~
37 ~~minimum lot size.~~
38 ~~(f) (1) Fees charged for the construction of accessory dwelling~~
39 ~~units shall be determined in accordance with Chapter 5~~

1 ~~(commencing with Section 66000) and Chapter 7 (commencing~~
2 ~~with Section 66012).~~

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

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

15 ~~(B) For purposes of this paragraph, “impact fee” has the same~~
16 ~~meaning as the term “fee” is defined in subdivision (b) of Section~~
17 ~~66000, except that it also includes fees specified in Section 66477.~~
18 ~~“Impact fee” does not include any connection fee or capacity~~
19 ~~charge charged by a local agency, special district, or water~~
20 ~~corporation.~~

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) ~~“Accessory dwelling unit” means an attached or a detached~~
- 2 ~~residential dwelling unit that provides complete independent living~~
- 3 ~~facilities for one or more persons and is located on a lot with a~~
- 4 ~~proposed or existing primary residence. It shall include permanent~~
- 5 ~~provisions for living, sleeping, eating, cooking, and sanitation on~~
- 6 ~~the same parcel as the single-family or multifamily dwelling is or~~
- 7 ~~will be situated. An accessory dwelling unit also includes the~~
- 8 ~~following:~~
- 9 (A) ~~An efficiency unit.~~
- 10 (B) ~~A manufactured home, as defined in Section 18007 of the~~
- 11 ~~Health and Safety Code.~~
- 12 (2) ~~“Accessory structure” means a structure that is accessory~~
- 13 ~~and incidental to a dwelling located on the same lot.~~
- 14 (3) ~~“Efficiency unit” has the same meaning as defined in Section~~
- 15 ~~17958.1 of the Health and Safety Code.~~
- 16 (4) ~~“Living area” means the interior habitable area of a dwelling~~
- 17 ~~unit, including basements and attics, but does not include a garage~~
- 18 ~~or any accessory structure.~~
- 19 (5) ~~“Local agency” means a city, county, or city and county,~~
- 20 ~~whether general law or chartered.~~
- 21 (6) ~~“Nonconforming zoning condition” means a physical~~
- 22 ~~improvement on a property that does not conform to current zoning~~
- 23 ~~standards.~~
- 24 (7) ~~“Passageway” means a pathway that is unobstructed, clear~~
- 25 ~~to the sky, and extends from a street to one entrance of the~~
- 26 ~~accessory dwelling unit.~~
- 27 (8) ~~“Proposed dwelling” means a dwelling that is the subject of~~
- 28 ~~a permit application and that meets the requirements for permitting.~~
- 29 (9) ~~“Public transit” means a location, including, but not limited~~
- 30 ~~to, a bus stop or train station, where the public may access buses,~~
- 31 ~~trains, subways, and other forms of transportation that charge set~~
- 32 ~~fares, run on fixed routes, and are available to the public.~~
- 33 (10) ~~“Tandem parking” means that two or more automobiles~~
- 34 ~~are parked on a driveway or in any other location on a lot, lined~~
- 35 ~~up behind one another.~~
- 36 (k) ~~A local agency shall not issue a certificate of occupancy for~~
- 37 ~~an accessory dwelling unit before the local agency issues a~~
- 38 ~~certificate of occupancy for the primary dwelling.~~
- 39 (l) ~~Nothing in this section shall be construed to supersede or in~~
- 40 ~~any way alter or lessen the effect or application of the California~~

1 ~~Coastal Act of 1976 (Division 20 (commencing with Section~~
2 ~~30000) of the Public Resources Code), except that the local~~
3 ~~government shall not be required to hold public hearings for coastal~~
4 ~~development permit applications for accessory dwelling units.~~

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

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

17 ~~(1) The accessory dwelling unit was built before January 1,~~
18 ~~2020.~~

19 ~~(2) The accessory dwelling unit was built on or after January~~
20 ~~1, 2020, in a local jurisdiction that, at the time the accessory~~
21 ~~dwelling unit was built, had a noncompliant accessory dwelling~~
22 ~~unit ordinance, but the ordinance is compliant at the time the~~
23 ~~request is made.~~

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

26 ~~SEC. 3. Section 65852.2 of the Government Code, as amended~~
27 ~~by Section 4.5 of Chapter 198 of the Statutes of 2020, is amended~~
28 ~~to read:~~

29 ~~65852.2. (a) (1) A local agency may, by ordinance, provide~~
30 ~~for the creation of accessory dwelling units in areas zoned to allow~~
31 ~~single-family or multifamily dwelling residential use. The~~
32 ~~ordinance shall do all of the following:~~

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

1 ~~designating an area where accessory dwelling units may be~~
2 ~~permitted.~~

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

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

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

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

19 ~~(i) The accessory dwelling unit may be rented separate from~~
20 ~~the primary residence, but may not be sold or otherwise conveyed~~
21 ~~separate from the primary residence.~~

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

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

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

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

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

38 ~~(vii) No setback shall be required for an existing living area or~~
39 ~~accessory structure or a structure constructed in the same location~~
40 ~~and to the same dimensions as an existing structure that is~~

1 converted to an accessory dwelling unit or to a portion of an
2 accessory dwelling unit, and a setback of no more than four feet
3 from the side and rear lot lines shall be required for an accessory
4 dwelling unit that is not converted from an existing structure or a
5 new structure constructed in the same location and to the same
6 dimensions as an existing structure.

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

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

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

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

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

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

27 (xii) Accessory dwelling units shall not be required to provide
28 fire sprinklers if they are not required for the primary residence.

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

31 (3) A permit application for an accessory dwelling unit or a
32 junior accessory dwelling unit shall be considered and approved
33 ministerially without discretionary review or a hearing,
34 notwithstanding Section 65901 or 65906 or any local ordinance
35 regulating the issuance of variances or special use permits. The
36 permitting agency shall act on the application to create an accessory
37 dwelling unit or a junior accessory dwelling unit within 60 days
38 from the date the local agency receives a completed application if
39 there is an existing single-family or multifamily dwelling on the
40 lot. If the permit application to create an accessory dwelling unit

1 or a junior accessory dwelling unit is submitted with a permit
2 application to create a new single-family dwelling on the lot, the
3 permitting agency may delay acting on the permit application for
4 the accessory dwelling unit or the junior accessory dwelling unit
5 until the permitting agency acts on the permit application to create
6 the new single-family dwelling, but the application to create the
7 accessory dwelling unit or junior accessory dwelling unit shall be
8 considered without discretionary review or hearing. If the applicant
9 requests a delay, the 60-day time period shall be tolled for the
10 period of the delay. If the local agency has not acted upon the
11 completed application within 60 days, the application shall be
12 deemed approved. A local agency may charge a fee to reimburse
13 it for costs incurred to implement this paragraph, including the
14 costs of adopting or amending any ordinance that provides for the
15 creation of an accessory dwelling unit.

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

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

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

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

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

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

18 ~~(b) When a local agency that has not adopted an ordinance~~
19 ~~governing accessory dwelling units in accordance with subdivision~~
20 ~~(a) receives an application for a permit to create an accessory~~
21 ~~dwelling unit pursuant to this subdivision, the local agency shall~~
22 ~~approve or disapprove the application ministerially without~~
23 ~~discretionary review pursuant to subdivision (a). The permitting~~
24 ~~agency shall act on the application to create an accessory dwelling~~
25 ~~unit or a junior accessory dwelling unit within 60 days from the~~
26 ~~date the local agency receives a completed application if there is~~
27 ~~an existing single-family or multifamily dwelling on the lot. If the~~
28 ~~permit application to create an accessory dwelling unit or a junior~~
29 ~~accessory dwelling unit is submitted with a permit application to~~
30 ~~create a new single-family dwelling on the lot, the permitting~~
31 ~~agency may delay acting on the permit application for the accessory~~
32 ~~dwelling unit or the junior accessory dwelling unit until the~~
33 ~~permitting agency acts on the permit application to create the new~~
34 ~~single-family dwelling, but the application to create the accessory~~
35 ~~dwelling unit or junior accessory dwelling unit shall still be~~
36 ~~considered ministerially without discretionary review or a hearing.~~
37 ~~If the applicant requests a delay, the 60-day time period shall be~~
38 ~~tolled for the period of the delay. If the local agency has not acted~~
39 ~~upon the completed application within 60 days, the application~~
40 ~~shall be deemed approved.~~

- 1 ~~(e) (1) Subject to paragraph (2), a local agency may establish~~
2 ~~minimum and maximum unit size requirements for both attached~~
3 ~~and detached accessory dwelling units.~~
- 4 ~~(2) Notwithstanding paragraph (1), a local agency shall not~~
5 ~~establish by ordinance any of the following:~~
 - 6 ~~(A) A minimum square footage requirement for either an~~
7 ~~attached or detached accessory dwelling unit that prohibits an~~
8 ~~efficiency unit.~~
 - 9 ~~(B) A maximum square footage requirement for either an~~
10 ~~attached or detached accessory dwelling unit that is less than either~~
11 ~~of the following:~~
 - 12 ~~(i) 850 square feet.~~
 - 13 ~~(ii) 1,000 square feet for an accessory dwelling unit that provides~~
14 ~~more than one bedroom.~~
 - 15 ~~(C) Any other minimum or maximum size for an accessory~~
16 ~~dwelling unit, size based upon a percentage of the proposed or~~
17 ~~existing primary dwelling, or limits on lot coverage, floor area~~
18 ~~ratio, open space, and minimum lot size, for either attached or~~
19 ~~detached dwellings that does not permit at least an 800 square foot~~
20 ~~accessory dwelling unit that is at least 16 feet, or 18 feet for an~~
21 ~~accessory dwelling unit on a lot that has an existing multifamily~~
22 ~~dwelling, in height with four-foot side and rear yard setbacks to~~
23 ~~be constructed in compliance with all other local development~~
24 ~~standards.~~
- 25 ~~(d) Notwithstanding any other law, a local agency, whether or~~
26 ~~not it has adopted an ordinance governing accessory dwelling units~~
27 ~~in accordance with subdivision (a), shall not impose parking~~
28 ~~standards for an accessory dwelling unit in any of the following~~
29 ~~instances:~~
 - 30 ~~(1) The accessory dwelling unit is located within one-half mile~~
31 ~~walking distance of public transit.~~
 - 32 ~~(2) The accessory dwelling unit is located within an~~
33 ~~architecturally and historically significant historic district.~~
 - 34 ~~(3) The accessory dwelling unit is part of the proposed or~~
35 ~~existing primary residence or an accessory structure.~~
 - 36 ~~(4) When on-street parking permits are required but not offered~~
37 ~~to the occupant of the accessory dwelling unit.~~
 - 38 ~~(5) When there is a car share vehicle located within one block~~
39 ~~of the accessory dwelling unit.~~

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

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

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

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

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

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

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

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

28 ~~(ii) A height limitation of 16 feet.~~

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

34 ~~(ii) A local agency shall allow at least one accessory dwelling~~
35 ~~unit within an existing multifamily dwelling and shall allow up to~~
36 ~~25 percent of the existing multifamily dwelling units.~~

37 ~~(D) Not more than two accessory dwelling units that are located~~
38 ~~on a lot that has an existing multifamily dwelling, but are detached~~
39 ~~from that multifamily dwelling and are subject to a height limit of~~

1 18 feet and four-foot rear yard and side setbacks. The two accessory
2 dwelling units may be attached to each other.

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

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

10 ~~(4) A local agency may require owner occupancy for either the~~
11 ~~primary dwelling or the accessory dwelling unit on a single-family~~
12 ~~lot, subject to the requirements of paragraph (6) of subdivision (a).~~

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

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

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

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

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

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

7 ~~(B) For purposes of this paragraph, “impact fee” has the same~~
8 ~~meaning as the term “fee” is defined in subdivision (b) of Section~~
9 ~~66000, except that it also includes fees specified in Section 66477.~~
10 ~~“Impact fee” does not include any connection fee or capacity~~
11 ~~charge charged by a local agency, special district, or water~~
12 ~~corporation.~~

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

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

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

36 ~~(h) (1) A local agency shall submit a copy of the ordinance~~
37 ~~adopted pursuant to subdivision (a) to the Department of Housing~~
38 ~~and Community Development within 60 days after adoption. After~~
39 ~~adoption of an ordinance, the department may submit written~~

1 findings to the local agency as to whether the ordinance complies
2 with this section.

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

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

- 11 (i) Amend the ordinance to comply with this section.
- 12 (ii) Adopt the ordinance without changes. The local agency
13 shall include findings in its resolution adopting the ordinance that
14 explain the reasons the local agency believes that the ordinance
15 complies with this section despite the findings of the department.

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

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

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

32 (j) As used in this section, the following terms mean:
33 (1) “Accessory dwelling unit” means an attached or a detached
34 residential dwelling unit that provides complete independent living
35 facilities for one or more persons and is located on a lot with a
36 proposed or existing primary residence. It shall include permanent
37 provisions for living, sleeping, eating, cooking, and sanitation on
38 the same parcel as the single-family or multifamily dwelling is or
39 will be situated. An accessory dwelling unit also includes the
40 following:

- 1 ~~(A) An efficiency unit.~~
- 2 ~~(B) A manufactured home, as defined in Section 18007 of the~~
- 3 ~~Health and Safety Code.~~
- 4 ~~(2) “Accessory structure” means a structure that is accessory~~
- 5 ~~and incidental to a dwelling located on the same lot.~~
- 6 ~~(3) “Efficiency unit” has the same meaning as defined in Section~~
- 7 ~~17958.1 of the Health and Safety Code.~~
- 8 ~~(4) “Living area” means the interior habitable area of a dwelling~~
- 9 ~~unit, including basements and attics, but does not include a garage~~
- 10 ~~or any accessory structure.~~
- 11 ~~(5) “Local agency” means a city, county, or city and county,~~
- 12 ~~whether general law or chartered.~~
- 13 ~~(6) “Nonconforming zoning condition” means a physical~~
- 14 ~~improvement on a property that does not conform to current zoning~~
- 15 ~~standards.~~
- 16 ~~(7) “Passageway” means a pathway that is unobstructed, clear~~
- 17 ~~to the sky, and extends from a street to one entrance of the~~
- 18 ~~accessory dwelling unit.~~
- 19 ~~(8) “Proposed dwelling” means a dwelling that is the subject of~~
- 20 ~~a permit application and that meets the requirements for permitting.~~
- 21 ~~(9) “Public transit” means a location, including, but not limited~~
- 22 ~~to, a bus stop or train station, where the public may access buses,~~
- 23 ~~trains, subways, and other forms of transportation that charge set~~
- 24 ~~fares, run on fixed routes, and are available to the public.~~
- 25 ~~(10) “Tandem parking” means that two or more automobiles~~
- 26 ~~are parked on a driveway or in any other location on a lot, lined~~
- 27 ~~up behind one another.~~
- 28 ~~(k) A local agency shall not issue a certificate of occupancy for~~
- 29 ~~an accessory dwelling unit before the local agency issues a~~
- 30 ~~certificate of occupancy for the primary dwelling.~~
- 31 ~~(l) Nothing in this section shall be construed to supersede or in~~
- 32 ~~any way alter or lessen the effect or application of the California~~
- 33 ~~Coastal Act of 1976 (Division 20 (commencing with Section~~
- 34 ~~30000) of the Public Resources Code), except that the local~~
- 35 ~~government shall not be required to hold public hearings for coastal~~
- 36 ~~development permit applications for accessory dwelling units.~~
- 37 ~~(m) A local agency may count an accessory dwelling unit for~~
- 38 ~~purposes of identifying adequate sites for housing, as specified in~~
- 39 ~~subdivision (a) of Section 65583.1, subject to authorization by the~~
- 40 ~~department and compliance with this division.~~

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

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

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

~~(o) This section shall become operative on January 1, 2025.~~

SEC. 2. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (viii) Local building code requirements that apply to detached
2 dwellings, as appropriate.
- 3 (ix) Approval by the local health officer where a private sewage
4 disposal system is being used, if required.
- 5 (x) (I) Parking requirements for accessory dwelling units shall
6 not exceed one parking space per accessory dwelling unit or per
7 bedroom, whichever is less. These spaces may be provided as
8 tandem parking on a driveway.
- 9 (II) Offstreet parking shall be permitted in setback areas in
10 locations determined by the local agency or through tandem
11 parking, unless specific findings are made that parking in setback
12 areas or tandem parking is not feasible based upon specific site or
13 regional topographical or fire and life safety conditions.
- 14 (III) This clause shall not apply to an accessory dwelling unit
15 that is described in subdivision (d).
- 16 (xi) When a garage, carport, or covered parking structure is
17 demolished in conjunction with the construction of an accessory
18 dwelling unit or converted to an accessory dwelling unit, the local
19 agency shall not require that those offstreet parking spaces be
20 replaced.
- 21 (xii) Accessory dwelling units shall not be required to provide
22 fire sprinklers if they are not required for the primary residence.
- 23 (2) The ordinance shall not be considered in the application of
24 any local ordinance, policy, or program to limit residential growth.
- 25 (3) A permit application for an accessory dwelling unit or a
26 junior accessory dwelling unit shall be considered and approved
27 ministerially without discretionary review or a hearing,
28 notwithstanding Section 65901 or 65906 or any local ordinance
29 regulating the issuance of variances or special use permits. The
30 permitting agency shall act on the application to create an accessory
31 dwelling unit or a junior accessory dwelling unit within 60 days
32 from the date the local agency receives a completed application if
33 there is an existing single-family or multifamily dwelling on the
34 lot. If the permit application to create an accessory dwelling unit
35 or a junior accessory dwelling unit is submitted with a permit
36 application to create a new single-family dwelling on the lot, the
37 permitting agency may delay acting on the permit application for
38 the accessory dwelling unit or the junior accessory dwelling unit
39 until the permitting agency acts on the permit application to create
40 the new single-family dwelling, but the application to create the

1 accessory dwelling unit or junior accessory dwelling unit shall be
2 considered without discretionary review or hearing. If the applicant
3 requests a delay, the 60-day time period shall be tolled for the
4 period of the delay. If the local agency has not acted upon the
5 completed application within 60 days, the application shall be
6 deemed approved. A local agency may charge a fee to reimburse
7 it for costs incurred to implement this paragraph, including the
8 costs of adopting or amending any ordinance that provides for the
9 creation of an accessory dwelling unit.

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

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

26 (6) This subdivision establishes the maximum standards that
27 local agencies shall use to evaluate a proposed accessory dwelling
28 unit on a lot that includes a proposed or existing single-family
29 dwelling. No additional standards, other than those provided in
30 this subdivision, shall be used or imposed, including any
31 owner-occupant requirement, except that a local agency may
32 require that the property be used for rentals of terms longer than
33 30 days.

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

38 (8) An accessory dwelling unit that conforms to this subdivision
39 shall be deemed to be an accessory use or an accessory building
40 and shall not be considered to exceed the allowable density for the

1 lot upon which it is located, and shall be deemed to be a residential
2 use that is consistent with the existing general plan and zoning
3 designations for the lot. The accessory dwelling unit shall not be
4 considered in the application of any local ordinance, policy, or
5 program to limit residential growth.

6 (b) When a local agency that has not adopted an ordinance
7 governing accessory dwelling units in accordance with subdivision
8 (a) receives an application for a permit to create an accessory
9 dwelling unit pursuant to this subdivision, the local agency shall
10 approve or disapprove the application ministerially without
11 discretionary review pursuant to subdivision (a). The permitting
12 agency shall act on the application to create an accessory dwelling
13 unit or a junior accessory dwelling unit within 60 days from the
14 date the local agency receives a completed application if there is
15 an existing single-family or multifamily dwelling on the lot. If the
16 permit application to create an accessory dwelling unit or a junior
17 accessory dwelling unit is submitted with a permit application to
18 create a new single-family dwelling on the lot, the permitting
19 agency may delay acting on the permit application for the accessory
20 dwelling unit or the junior accessory dwelling unit until the
21 permitting agency acts on the permit application to create the new
22 single-family dwelling, but the application to create the accessory
23 dwelling unit or junior accessory dwelling unit shall still be
24 considered ministerially without discretionary review or a hearing.
25 If the applicant requests a delay, the 60-day time period shall be
26 tolled for the period of the delay. If the local agency has not acted
27 upon the completed application within 60 days, the application
28 shall be deemed approved.

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

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

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

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

40 (i) 850 square feet.

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

3 (C) Any other minimum or maximum size for an accessory
4 dwelling unit, size based upon a percentage of the proposed or
5 existing primary dwelling, or limits on lot coverage, floor area
6 ratio, open space, and minimum lot size, for either attached or
7 detached dwellings that does not permit at least an 800 square foot
8 accessory dwelling unit that is at least ~~16 feet~~ *feet*, or *18 feet for*
9 *an accessory dwelling unit on a lot that has an existing multifamily*
10 *and multistory dwelling*, in height with four-foot side and rear yard
11 setbacks to be constructed in compliance with all other local
12 development standards.

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

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

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

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

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

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

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

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

35 (i) The accessory dwelling unit or junior accessory dwelling
36 unit is within the proposed space of a single-family dwelling or
37 existing space of a single-family dwelling or accessory structure
38 and may include an expansion of not more than 150 square feet
39 beyond the same physical dimensions as the existing accessory
40 structure. An expansion beyond the physical dimensions of the

1 existing accessory structure shall be limited to accommodating
2 ingress and egress.

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

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

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

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

14 (i) A total floor area limitation of not more than 800 square feet.
15 (ii) A height limitation of 16 feet.

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

21 (ii) A local agency shall allow at least one accessory dwelling
22 unit within an existing multifamily dwelling and shall allow up to
23 25 percent of the existing multifamily dwelling units.

24 (D) Not more than two accessory dwelling units that are located
25 on a lot that has an existing multifamily dwelling, but are detached
26 from that multifamily dwelling and are subject to a height limit of
27 ~~16~~ 18 feet and four-foot rear yard and side setbacks.

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

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

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

38 (5) A local agency may require, as part of the application for a
39 permit to create an accessory dwelling unit connected to an onsite
40 wastewater treatment system, a percolation test completed within

1 the last five years, or, if the percolation test has been recertified,
2 within the last 10 years.

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

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

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

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

28 (B) For purposes of this paragraph, “impact fee” has the same
29 meaning as the term “fee” is defined in subdivision (b) of Section
30 66000, except that it also includes fees specified in Section 66477.
31 “Impact fee” does not include any connection fee or capacity
32 charge charged by a local agency, special district, or water
33 corporation.

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

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

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

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

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

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

- 31 (i) Amend the ordinance to comply with this section.
 - 32 (ii) Adopt the ordinance without changes. The local agency
33 shall include findings in its resolution adopting the ordinance that
34 explain the reasons the local agency believes that the ordinance
35 complies with this section despite the findings of the department.
- 36 (3) (A) If the local agency does not amend its ordinance in
37 response to the department’s findings or does not adopt a resolution
38 with findings explaining the reason the ordinance complies with
39 this section and addressing the department’s findings, the

1 department shall notify the local agency and may notify the
2 Attorney General that the local agency is in violation of state law.

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

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

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

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

22 (A) An efficiency unit.

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

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

27 (3) “Efficiency unit” has the same meaning as defined in Section
28 17958.1 of the Health and Safety Code.

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

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

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

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

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

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

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

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

13 (l) Nothing in this section shall be construed to supersede or in
14 any way alter or lessen the effect or application of the California
15 Coastal Act of 1976 (Division 20 (commencing with Section
16 30000) of the Public Resources Code), except that the local
17 government shall not be required to hold public hearings for coastal
18 development permit applications for accessory dwelling units.

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

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

31 (1) The accessory dwelling unit was built before January 1,
32 2020.

33 (2) The accessory dwelling unit was built on or after January
34 1, 2020, in a local jurisdiction that, at the time the accessory
35 dwelling unit was built, had a noncompliant accessory dwelling
36 unit ordinance, but the ordinance is compliant at the time the
37 request is made.

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

1 *SEC. 3. Section 65852.2 of the Government Code, as amended*
2 *by Section 2 of Chapter 343 of the Statutes of 2021, is amended*
3 *to read:*

4 65852.2. (a) (1) A local agency may, by ordinance, provide
5 for the creation of accessory dwelling units in areas zoned to allow
6 single-family or multifamily dwelling residential use. The
7 ordinance shall do all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (xi) When a garage, carport, or covered parking structure is
39 demolished in conjunction with the construction of an accessory
40 dwelling unit or converted to an accessory dwelling unit, the local

1 agency shall not require that those offstreet parking spaces be
2 replaced.

3 (xii) Accessory dwelling units shall not be required to provide
4 fire sprinklers if they are not required for the primary residence.

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

7 (3) A permit application for an accessory dwelling unit or a
8 junior accessory dwelling unit shall be considered and approved
9 ministerially without discretionary review or a hearing,
10 notwithstanding Section 65901 or 65906 or any local ordinance
11 regulating the issuance of variances or special use permits. The
12 permitting agency shall act on the application to create an accessory
13 dwelling unit or a junior accessory dwelling unit within 60 days
14 from the date the local agency receives a completed application if
15 there is an existing single-family or multifamily dwelling on the
16 lot. If the permit application to create an accessory dwelling unit
17 or a junior accessory dwelling unit is submitted with a permit
18 application to create a new single-family dwelling on the lot, the
19 permitting agency may delay acting on the permit application for
20 the accessory dwelling unit or the junior accessory dwelling unit
21 until the permitting agency acts on the permit application to create
22 the new single-family dwelling, but the application to create the
23 accessory dwelling unit or junior accessory dwelling unit shall be
24 considered without discretionary review or hearing. If the applicant
25 requests a delay, the 60-day time period shall be tolled for the
26 period of the delay. If the local agency has not acted upon the
27 completed application within 60 days, the application shall be
28 deemed approved. A local agency may charge a fee to reimburse
29 it for costs incurred to implement this paragraph, including the
30 costs of adopting or amending any ordinance that provides for the
31 creation of an accessory dwelling unit.

32 (4) An existing ordinance governing the creation of an accessory
33 dwelling unit by a local agency or an accessory dwelling ordinance
34 adopted by a local agency shall provide an approval process that
35 includes only ministerial provisions for the approval of accessory
36 dwelling units and shall not include any discretionary processes,
37 provisions, or requirements for those units, except as otherwise
38 provided in this subdivision. If a local agency has an existing
39 accessory dwelling unit ordinance that fails to meet the
40 requirements of this subdivision, that ordinance shall be null and

1 void and that agency shall thereafter apply the standards established
2 in this subdivision for the approval of accessory dwelling units,
3 unless and until the agency adopts an ordinance that complies with
4 this section.

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

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

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

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

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

34 (b) When a local agency that has not adopted an ordinance
35 governing accessory dwelling units in accordance with subdivision
36 (a) receives an application for a permit to create an accessory
37 dwelling unit pursuant to this subdivision, the local agency shall
38 approve or disapprove the application ministerially without
39 discretionary review pursuant to subdivision (a). The permitting
40 agency shall act on the application to create an accessory dwelling

1 unit or a junior accessory dwelling unit within 60 days from the
2 date the local agency receives a completed application if there is
3 an existing single-family or multifamily dwelling on the lot. If the
4 permit application to create an accessory dwelling unit or a junior
5 accessory dwelling unit is submitted with a permit application to
6 create a new single-family dwelling on the lot, the permitting
7 agency may delay acting on the permit application for the accessory
8 dwelling unit or the junior accessory dwelling unit until the
9 permitting agency acts on the permit application to create the new
10 single-family dwelling, but the application to create the accessory
11 dwelling unit or junior accessory dwelling unit shall still be
12 considered ministerially without discretionary review or a hearing.
13 If the applicant requests a delay, the 60-day time period shall be
14 tolled for the period of the delay. If the local agency has not acted
15 upon the completed application within 60 days, the application
16 shall be deemed approved.

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

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

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

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

28 (i) 850 square feet.

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

31 (C) Any other minimum or maximum size for an accessory
32 dwelling unit, size based upon a percentage of the proposed or
33 existing primary dwelling, or limits on lot coverage, floor area
34 ratio, open space, and minimum lot size, for either attached or
35 detached dwellings that does not permit at least an 800 square foot
36 accessory dwelling unit that is at least ~~16 feet~~ *16 feet*, or *18 feet* for
37 *an accessory dwelling unit on a lot that has an existing multifamily*
38 *and multistory dwelling*, in height with four-foot side and rear yard
39 setbacks to be constructed in compliance with all other local
40 development standards.

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) One detached, new construction, accessory dwelling unit
37 that does not exceed four-foot side and rear yard setbacks for a lot
38 with a proposed or existing single-family dwelling. The accessory
39 dwelling unit may be combined with a junior accessory dwelling

1 unit described in subparagraph (A). A local agency may impose
2 the following conditions on the accessory dwelling unit:

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

4 (ii) A height limitation of 16 feet.

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

10 (ii) A local agency shall allow at least one accessory dwelling
11 unit within an existing multifamily dwelling and shall allow up to
12 25 percent of the existing multifamily dwelling units.

13 (D) Not more than two accessory dwelling units that are located
14 on a lot that has an existing multifamily dwelling, but are detached
15 from that multifamily dwelling and are subject to a height limit of
16 ~~16~~ 18 feet and four-foot rear yard and side setbacks.

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

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

24 (4) A local agency may require owner occupancy for either the
25 primary dwelling or the accessory dwelling unit on a single-family
26 lot, subject to the requirements of paragraph (6) of subdivision (a).

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

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

35 (7) Notwithstanding subdivision (c) and paragraph (1) a local
36 agency that has adopted an ordinance by July 1, 2018, providing
37 for the approval of accessory dwelling units in multifamily
38 dwelling structures shall ministerially consider a permit application
39 to construct an accessory dwelling unit that is described in
40 paragraph (1), and may impose standards including, but not limited

1 to, design, development, and historic standards on said accessory
2 dwelling units. These standards shall not include requirements on
3 minimum lot size.

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

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

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

20 (B) For purposes of this paragraph, “impact fee” has the same
21 meaning as the term “fee” is defined in subdivision (b) of Section
22 66000, except that it also includes fees specified in Section 66477.
23 “Impact fee” does not include any connection fee or capacity
24 charge charged by a local agency, special district, or water
25 corporation.

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

33 (5) For an accessory dwelling unit that is not described in
34 subparagraph (A) of paragraph (1) of subdivision (e), a local
35 agency, special district, or water corporation may require a new
36 or separate utility connection directly between the accessory
37 dwelling unit and the utility. Consistent with Section 66013, the
38 connection may be subject to a connection fee or capacity charge
39 that shall be proportionate to the burden of the proposed accessory
40 dwelling unit, based upon either its square feet or the number of

1 its drainage fixture unit (DFU) values, as defined in the Uniform
2 Plumbing Code adopted and published by the International
3 Association of Plumbing and Mechanical Officials, upon the water
4 or sewer system. This fee or charge shall not exceed the reasonable
5 cost of providing this service.

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

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

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

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

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

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

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

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

38 (i) The department may review, adopt, amend, or repeal
39 guidelines to implement uniform standards or criteria that
40 supplement or clarify the terms, references, and standards set forth

1 in this section. The guidelines adopted pursuant to this subdivision
 2 are not subject to Chapter 3.5 (commencing with Section 11340)
 3 of Part 1 of Division 3 of Title 2.

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

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

13 (A) An efficiency unit.

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

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

18 (3) “Efficiency unit” has the same meaning as defined in Section
 19 17958.1 of the Health and Safety Code.

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

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

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

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

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

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

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

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

4 (l) Nothing in this section shall be construed to supersede or in
5 any way alter or lessen the effect or application of the California
6 Coastal Act of 1976 (Division 20 (commencing with Section
7 30000) of the Public Resources Code), except that the local
8 government shall not be required to hold public hearings for coastal
9 development permit applications for accessory dwelling units.

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

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

22 (1) The accessory dwelling unit was built before January 1,
23 2020.

24 (2) The accessory dwelling unit was built on or after January
25 1, 2020, in a local jurisdiction that, at the time the accessory
26 dwelling unit was built, had a noncompliant accessory dwelling
27 unit ordinance, but the ordinance is compliant at the time the
28 request is made.

29 (o) This section shall become operative on January 1, 2025.

30 SEC. 4. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 a local agency or school district has the authority to levy service
33 charges, fees, or assessments sufficient to pay for the program or
34 level of service mandated by this act, within the meaning of Section
35 17556 of the Government Code.

- 1
- 2 **REVISIONS:**
- 3 **Heading—Line 1.**
- 4

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