



AGENDA
CITY OF EL SEGUNDO
PLANNING COMMISSION
5:30 PM
CITY COUNCIL CHAMBER
350 MAIN STREET
EL SEGUNDO, CA 90245
JANUARY 9, 2025

MEMBERS OF PLANNING COMMISSION

Jay Hoeschler, Chairperson
Kevin Maggay, Vice Chairperson
Mark Christian
Mario Inga
Vacant

The Planning Commission, with certain statutory exceptions, can only take action upon properly posted and listed agenda items. Any writings or documents given to a majority of the Planning Commission, regarding any matter on this agenda, that the City received after issuing the agenda packet are available for public inspection in the Community Development Department, during normal business hours. Such documents may be posted on the City's website at www.elsegundo.org and additional copies will be available at the meeting.

Unless otherwise noted in the agenda, the public can only comment on city-related business that is within the jurisdiction of the Planning Commission and/or items listed on the agenda during the Public Communications portion of the Meeting. **Additionally, members of the public can comment on any Public Hearing item on the agenda during the Public Hearing portion of such item.** The time limit for comments is five (5) minutes per person. Before speaking to the Planning Commission, please fill out a speaker card located in the Chamber Lobby. It is not required to provide personal information in order to speak, except to the extent necessary to be called upon, properly record your name in meeting minutes and to provide contact information for later staff follow-up, if appropriate. Please respect the time limits.

REASONABLE ACCOMMODATIONS: *In compliance with the Americans with Disabilities Act and Government Code Section 54953(g), the City Council has adopted a reasonable accommodation policy to swiftly resolve accommodation requests. The policy can also be found on the City's website at <https://www.elsegundo.org/government/departments/city-clerk>. Please contact the City Clerk's Office at (310) 524-2308 to make an accommodation request or to obtain a copy of the policy.*

CALL TO ORDER/ROLL CALL

PLEDGE OF ALLEGIANCE

PUBLIC COMMUNICATION – (Related to City Business Only – 5-minute limit per person, 30-minute limit total) *Individuals who have received value of \$50 or more to communicate to the **Planning Commission** on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the **Planning Commission**. Failure to do so shall be a misdemeanor and punishable by a fine of \$250. While all comments are welcome, the Brown Act does not allow action on any item not on the agenda.*

A. CONSENT

B. PUBLIC HEARINGS

C. NEW BUSINESS

D. UNFINISHED BUSINESS

- 1. Zone Text Amendment Regarding Right-of-way Dedications and Fees, Accessory Dwelling Unit Standards and Fees, and Public Notification Requirements for Certain Ordinances.**
-

Recommendation -

1. Adopt Resolution No. 2960, recommending City Council adopt an Ordinance amending El Segundo Municipal Code (ESMC) provisions regarding Residential Development Right-of-way Dedications and Fees, Accessory Dwelling Unit (ADU) Standards and Fees, and Public Notification Requirements for Certain Ordinances.

E. REPORTS – COMMUNITY DEVELOPMENT DIRECTOR

F. REPORTS - COMMISSIONERS

G. REPORTS – CITY ATTORNEY

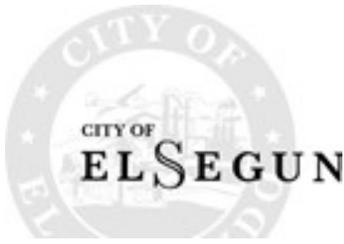
ADJOURNMENT

POSTED:

DATE: 01/03/2025

TIME: 2:30 PM

BY: Jazmin Farias, Assistant Planner



Planning Commission Agenda Statement

Meeting Date: January 9, 2025

Agenda Heading: UNFINISHED BUSINESS

Item Number: D.1

TITLE:

Zone Text Amendment Regarding Right-of-way Dedications and Fees, Accessory Dwelling Unit Standards and Fees, and Public Notification Requirements for Certain Ordinances.

RECOMMENDATION:

1. Adopt Resolution No. 2960, recommending City Council adopt an Ordinance amending El Segundo Municipal Code (ESMC) provisions regarding Residential Development Right-of-way Dedications and Fees, Accessory Dwelling Unit (ADU) Standards and Fees, and Public Notification Requirements for Certain Ordinances.

FISCAL IMPACT:

None

BACKGROUND:

In September 2024, the State of California enacted new laws affecting the regulation of residential development right-of-way dedications and fees, accessory dwelling unit standards and fees, and public notification requirements for certain ordinances (See Attachment No 3). The proposed ordinance (See Attachment No. 2) is intended to update certain sections of the ESMC to ensure its consistency with current State Law. The discussion section below summarizes the new laws and the proposed changes to the ESMC.

On December 12, 2024, the Planning Commission continued its scheduled public hearing on this item to January 9, 2025, to give staff time to review extensive written public comments received prior to the meeting. The public comments (See Attachment No. 4) relate to the ordinance provisions on ADUs and recent relevant state legislation.

DISCUSSION:

Summary of new State Laws

AB 2533 (Accessory dwelling units: junior accessory dwelling units; unpermitted developments)

This new law prohibits local agencies from denying a permit for an unpermitted accessory dwelling unit (ADU) or a junior accessory dwelling unit (JADU) that was constructed before January 1, 2020, on the basis of building, zoning and other violations, unless local agencies make a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building substandard.

In addition, the new law prohibits local agencies from requiring a homeowner to pay impact fees or utility connection or capacity charges for previously unpermitted ADUs and JADUs, except under specified circumstances.

SB 1211 (Land use: accessory dwelling units: ministerial approval)

This law prohibits local agencies from requiring replacement parking if an uncovered parking space is demolished in conjunction with the construction of an ADU.

Additionally, the law increases the number of detached ADUs that can be created on a lot with an existing multi-family dwelling structure to eight, provided that the number of detached ADUs does not exceed the number of existing units on the lot. It also sets the maximum number of detached ADUs permitted on a lot in conjunction with a proposed multi-family dwelling structure at two. Furthermore, the law defines "livable space" to help clarify the spaces within multi-family dwelling structures that can be converted into ADUs. Finally, the law establishes specific variations of attached and detached ADUs that must be processed at the ministerial level, and it prohibits the imposition of any local objective design or development standards except from the standards specified in the law itself.

AB 2904 (Zoning ordinance: notice)

This new law increases the noticing period for public hearings on proposed zoning ordinances or amendments to zoning ordinances that affect the permitted uses of real property. The law requires that notice be published, posted, mailed, and delivered, or advertised, as applicable, at least 20 days before the hearing.

AB 3177 (Mitigation Fee Act: land dedications: mitigating vehicular traffic impacts)

This law prohibits local agencies from imposing a land dedication requirement on a housing development to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width, with specified exceptions. The law also defines the terms "housing development," "land dedication," "roadway," and "transit priority area," for the purpose of interpreting the law's provisions.

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Zone Text Amendment for State Law Compliance
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SB 937 (Development projects: fees and charges)

This law prohibits local agencies from requiring payment of development impact fees or charges on designated residential developments until the date the first certificate of occupancy is issued or the final building permit inspection is approved, with specified exceptions.

The purpose of most of the above laws is to reduce barriers and further facilitate construction of housing, including ADUs and JADUs. AB 2904, which addresses the topic of public notification of certain ordinances, is intended to improve the transparency of important zoning decisions that affect the rights and value of real property owners.

Summary of ESMC Amendments

ESMC Article 15-4E (Accessory Dwelling Units)

To ensure compliance with AB-2533 and SB-1211, the proposed ordinance amends the City's ADU regulations as follows:

- Remove the requirement that a property owner must occupy one of the units on a property with an ADU. State law previously allowed cities to require property owner occupancy only until January 1, 2025.
- Extend the protection against correcting zoning violations to unpermitted ADUs built prior to January 1, 2020, unless the unpermitted building is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code. Previously this protection applied only to permitted structures that were nonconforming with current zoning code standards.
- Increase the number of detached ADUs permitted on a lot with an *existing* multifamily dwelling structure to eight, but not to exceed the number of existing dwelling units on the lot.
- Clarify and limit the number of detached ADUs permitted on a lot with a *proposed* multifamily dwelling structure to two. The current maximum limit on the number of detached ADUs is two in conjunction with either an existing or a proposed multifamily dwelling structure.
- Define Livable space as "a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation."
- Exempt certain previously unpermitted accessory dwelling units built before January 1, 2020, from paying development impact fees and connection/capacity charges, with exceptions as specified in California Government Code Section 66332.

The public comments received on December 12, 2024 argued that several provisions in the draft ordinance were not consistent with State ADU Law, including recently enacted SB 1211. In response, staff has revised the draft ordinance to address the comments

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and to ensure it is consistent with State Law. The main changes/additions to the ordinance include the following:

- Establish specific limited circumstances when an ADU may be sold separately from the primary dwelling
- Eliminate the requirement for a restrictive covenant to be recorded on the ADU property.
- Clarify that no parking is required for ADUs
- Establish specific variations of attached and detached ADUs that must be processed ministerially and are subject only to limited development standards as specified in Government Code Section 66323.

ESMC Article 15-4F (Junior Accessory Dwelling Units)

In compliance with AB-2533 and SB-1211, the proposed ordinance extends the protection against correcting zoning conditions to unpermitted JADUs built before January 1, 2020, unless the unpermitted building is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code. Previously this protection applied only to permitted structures that were nonconforming with current zoning standards.

ESMC Chapter 15-28 (Public Hearings)

To ensure compliance with AB-2904, the proposed ordinance requires notice of a public hearing to be given at least 20 days before the hearing for all ordinances that affect permitted uses of real property. Currently, the ESMC requires notice to be given for all public hearings 10 days before the hearing.

ESMC Chapter 15-31 (Right-of-way Dedications and Improvements)

To ensure compliance with AB-3177, the proposed ordinance amends the above chapter to:

- Define "Housing Development," "Land Dedication," "Roadway," and "Transit Priority Area," and to delete the definition of "Environmental Assessment." Currently, the definition of Environmental Assessment refers to City Council Resolution 3805, which was rescinded a few years ago.
- Require right-of-way dedications for any development that requires approval of a Site Plan Review application as described in ESMC Chapter 15-25 (Site Plan Review). Currently, the dedication requirement is triggered whenever a development requires an Environmental Assessment as currently defined.
- Require right-of-way dedications for housing developments only under specific circumstances listed below:
 1. If the housing development is not located in a transit priority area *and* it has a linear street frontage of 500 feet or more,
 2. If the City makes a finding, specific to the housing development project and

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supported by substantial evidence, that the land dedication requirement is necessary to preserve the health, safety, and welfare of the public, including pedestrians, cyclists, and children, or

3. If the dedication is required to construct public improvements, including, but not limited to, sidewalk and sewer improvements, but not to widen the actual roadway.

Currently, ESMC Chapter 15-31 does not make a distinction residential and nonresidential developments to impose a right-of-way dedication requirement.

ESMC Chapter 15-32 (Development Impact Fees)

To ensure compliance with SB-937, the proposed ordinance amends the above chapter to establish specific timing for the collection of Development Impact Fees and distinguish between residential and nonresidential developments. Specifically, the amendment establishes the following timing:

- Fees for nonresidential development would be collected before or at the time the City issues a grading or building permit for a development
- Fees for residential development would be collected before the City approves a final inspection or issues a certificate of occupancy (including a temporary certificate) for each dwelling unit in a development.
- Irrespective of the type of development, utility service connection fees would be collected at the time an applicant seeks to connect to the City's utility system.

Currently, ESMC Chapter 15-32 does not prescribe specific timing for the collection of development impact fees, but the current practice is to collect the fees before or at the time the City issues a grading or building permit for any development.

ENVIRONMENTAL REVIEW

The proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

CITY STRATEGIC PLAN COMPLIANCE:

Goal 5: Champion Economic Development and Fiscal Sustainability

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Strategy D: Implement community planning, land use, and enforcement policies that encourage growth while preserving El Segundo's quality of life and small-town character.

PREPARED BY:

Paul Samaras, AICP, Principal Planner

REVIEWED BY:

Eduardo Schonborn, Planning Manager

APPROVED BY:

Michael Allen, Community Development Director

ATTACHED SUPPORTING DOCUMENTS:

1. Resolution No. 2960
2. Resolution Exhibit A - Draft Ordinance
3. State Legislation
4. Public Comments Dated December 12, 2024

RESOLUTION NO. 2960

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE (“ESMC”) TITLE 15 TO COMPLY WITH STATE LAW REGARDING RESIDENTIAL DEVELOPMENT RIGHT-OF-WAY DEDICATIONS AND FEES, ACCESSORY DWELLING UNIT STANDARDS AND FEES, AND PUBLIC NOTIFICATION REQUIREMENTS FOR CERTAIN ORDINANCES.

(ENVIRONMENTAL ASSESSMENT NO. 1378 AND ZONE TEXT AMENDMENT NO. 24-03)

The Planning Commission of the City of El Segundo does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. In September 2024 the State Legislature amended the Government Code related to residential development right-of-way dedications and fees, accessory dwelling unit standards and fees, and public notification requirements for certain ordinances.
- B. On October 30, 2024, the City initiated the process to amend various sections of the El Segundo Municipal Code (“ESMC”) Title 15, i.e., the City’s Zoning Code. The amendments are intended to bring the Zoning Code into compliance with recently enacted State legislation regarding residential developments, accessory dwelling units, and public notification requirements for certain ordinances;
- C. The City reviewed the project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”);
- D. On December 12, 2024 and January 9, 2025, the Planning Commission held a duly noticed public hearing to receive public testimony and other evidence regarding the proposed ordinance, including, without limitation, information provided to the Planning Commission by City staff and public testimony; and,
- E. This Resolution and its findings are made based upon the evidence presented to the Commission at its January 9, 2025, hearing including, without limitation, the staff report submitted by the Community Development Department and the totality of the evidence in the administrative record.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds, without limitation, that the proposed Zone Text Amendment ordinance (“Ordinance”) would result in the following:

- A. Amend ESMC Article 15-4E (Accessory Dwelling Units) as follows:
1. Remove the requirement that a property owner must occupy one of the units on the property with an ADU;
 2. Extend the protection against correcting zoning conditions to unpermitted ADUs built prior to January 1, 2020, unless the unpermitted building is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code;
 3. Increase the number of detached accessory dwelling units permitted on a lot with an existing multifamily dwelling structure to eight, but not to exceed the number of existing dwelling units;
 4. Stipulate that when an uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, replacement parking for any lost spaces is not required;
 5. Add a definition of “Livable space;”
 6. Eliminate the requirement to record a restrictive covenant on the property;
 7. Establish specific variations of attached and detached ADUs that must be processed ministerially, and are subject only to limited development standards as specified in Government Code Section 66323; and
 8. Exempt certain previously unpermitted accessory dwelling units from paying development impact fees and connection/capacity charges, with exceptions as specified in Government Code Section 66332.
- B. Amend ESMC Article 15-4F (Junior Accessory Dwelling Units) as follows:
1. Extend the protection against correcting zoning conditions to unpermitted JADUs built prior to January 1, 2020, unless the unpermitted building is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code.
- C. Amend ESMC Chapter 15-28 (Public Hearings) to require notice of a public hearing to be given at least 20 days before the hearing for all zoning ordinances.
- D. Amend El Segundo Municipal Code (“ESMC”) Chapter 15-31 (Right-of-way Dedications and Improvements) as follows:
1. Add definitions for “Housing Development,” “Land Dedication,” “Major Transit Stop,” “Roadway,” and “Transit Priority Area,” and delete the definition of “Environmental Assessment”;
 2. Require dedications for any development that requires approval of a Site Plan Review application as described in ESMC Chapter 15-25 (Site Plan Review); and
 3. Require dedications for housing developments only under specified circumstances.

- E. Amend ESMC Chapter 15-32 (Development Impact Fees), Section 6 (Imposition of Fees; Automatic Adjustment) to require payment of development impact fees for residential development projects at the time a Certificate of Occupancy is issued, or a Final Inspection is approved, whichever occurs first.

SECTION 3: *General Plan Consistency Findings.* As required under Government Code § 65454 the proposed Ordinance is consistent with the City's General Plan as follows:

- A. The proposed Ordinance is consistent with Program 9 of the General Plan Housing Element in that it would remove governmental and other constraints to facilitate the development of a variety of housing types and enable a more streamlined development review process.
- B. The proposed Ordinance is consistent with the General Plan Housing Element in that the amendments contribute to improving the existing jobs-housing balance in the City and provides opportunities for new housing construction in a variety of locations and a variety of densities.
- C. The proposed Ordinance is consistent with the General Plan Housing Element in that the amendments provide sufficient new, affordable housing opportunities in the City to meet the needs of groups with special requirements, including the needs of lower and moderate- income households.
- D. The proposed Ordinance is consistent with the General Plan Housing Element in that the amendments remove governmental constraints to diversify available housing opportunities, including ownership and rental, fair-market, and assisted, in conformance with open housing policies and free of discriminatory practices.

SECTION 4: *Zone Text Amendment Findings.* In accordance with ESMC § 15-27-3 and based on the findings set forth in Section 3, the proposed amendment is consistent with the goals, policies, and objectives of the ESMC as follows:

- A. The proposed Ordinance is consistent with the General Plan in that the amendments would implement the goals, policies, and programs of the Housing Element. Implementation of the Housing Element would preserve the existing housing stock and encourages construction of new residential units, including affordable housing, without affecting the character of existing single-family residential neighborhoods.

- B. The proposed Ordinance is necessary to serve the public health, safety, and general welfare in that it would implement the Housing Element Update, which includes programs, goals, and policies that help to maintain and improve the existing housing stock in the City. The proposed amendments would facilitate the development of additional housing in the community, which contribute to improving the existing jobs-housing balance and facilitates the development of housing that is affordable to households of various income levels and thus will provide equal housing opportunities to all segments of the community.

SECTION 5: *Environmental Assessment.* Based on the facts set forth in Section 2, the Planning Commission finds that the zone text amendment is exempt from further review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines § 15061(b)(3)), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

SECTION 6: *Recommendations.* The Planning Commission recommends that the City Council adopt the Ordinance attached as Exhibit “A” which would implement the Zone Text Amendment.

SECTION 7: *Reliance on Record.* Each and every one of the findings and determination in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 8: *Limitations.* The Planning Commission’s analysis and evaluation of the project is based on information available at the time of the decision. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. In all instances, best efforts have been made to form accurate assumptions.

SECTION 9: This Resolution will remain effective unless and until superseded by a subsequent resolution.

SECTION 10: The Commission secretary is directed to mail a copy of this Resolution to any person requesting a copy.

PASSED AND ADOPTED this 9th day of January 2025.

Jay Hoeschler, Chair
City of El Segundo Planning Commission

ATTEST:

Michael Allen, Secretary and
Community Development Director

Hoeschler -
Maggay -
Inga -
Christian -

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By: _____
Joaquin Vazquez, Deputy City Attorney

**EXHIBIT “A”
PC RESOLUTION NO. 2960**

DRAFT ORDINANCE NO. _____

AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE (“ESMC”) TITLE 15 TO COMPLY WITH STATE LAW REGARDING RESIDENTIAL DEVELOPMENT RIGHT-OF-WAY DEDICATIONS AND FEES, ACCESSORY DWELLING UNIT STANDARDS AND FEES, AND PUBLIC NOTIFICATION REQUIREMENTS FOR CERTAIN ORDINANCES, AND FINDING THE SAME TO BE EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) PURSUANT TO SECTION 15061(b)(3) OF THE CEQA GUIDELINES

**(ENVIRONMENTAL ASSESSMENT NO. 1378 AND ZONE TEXT
AMENDMENT NO. 24-03)**

The City Council of the city of El Segundo does ordain as follows:

SECTION 1: The Council finds and declares as follows:

- A. On October 30, 2024, the City initiated the process to amend various sections of the El Segundo Municipal Code (“ESMC”) Title 15, i.e., the City’s Zoning Code. The amendments are intended to bring the Zoning Code into compliance with recently enacted State legislation regarding residential developments, accessory dwelling units, and public notification requirements for certain ordinances;
- B. The City reviewed the project’s environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”);
- C. The Community Development Department completed its review and scheduled a public hearing regarding the application before the Planning Commission for December 12, 2024;
- D. On December 12, 2024, the Planning Commission continued the public hearing to January 9, 2025, to allow staff time to review and address extensive written public comments received prior to the public hearing;
- E. On January 9, 2025, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the Ordinance including, without limitation, information provided to the Planning Commission by city staff; and, adopted Resolution No. 2960 recommending that the City Council approve this Ordinance;

- F. On February 4, 2025, the City Council held a public hearing and considered the information provided by City staff and public testimony regarding this Ordinance; and
- G. This Ordinance and its findings are made based upon the entire administrative record including, without limitation, testimony and evidence presented to the City Council at its February 4, 2025, hearing and the staff report submitted by the Community Development Department.

SECTION 2: Factual Findings and Conclusions. The City Council finds that adopting the proposed Ordinance would result in the following:

- A. Amend ESMC Article 15-4E (Accessory Dwelling Units) as follows:
 - 1. Remove the requirement that a property owner must occupy one of the units on the property with an ADU;
 - 2. Extend the protection against correcting zoning conditions to unpermitted ADUs built prior to January 1, 2020, unless the unpermitted building is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code;
 - 3. Increase the number of detached accessory dwelling units permitted on a lot with an existing multifamily dwelling structure to eight, but not to exceed the number of existing dwelling units;
 - 4. Stipulate that when an uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, replacement parking for any lost spaces is not required;
 - 5. Add a definition of “Livable space;”
 - 6. Eliminate the requirement to record a restrictive covenant on the property;
 - 7. Establish specific variations of attached and detached ADUs that must be processed ministerially, and are subject only to limited development standards as specified in Government Code Section 66323; and
 - 8. Exempt certain previously unpermitted accessory dwelling units from paying development impact fees and connection/capacity charges, with exceptions as specified in Government Code Section 66332.
- B. Amend ESMC Article 15-4F (Junior Accessory Dwelling Units) as follows:
 - 1. Extend the protection against correcting zoning conditions to unpermitted JADUs built prior to January 1, 2020, unless the unpermitted building is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code.
- C. Amend ESMC Chapter 15-28 (Public Hearings) to require notice of a public hearing to be given at least 20 days before the hearing for all zoning ordinances.
- D. Amend El Segundo Municipal Code (“ESMC”) Chapter 15-31 (Right-of-way Dedications and Improvements) as follows:

1. Add definitions for “Housing Development,” “Land Dedication,” “Major Transit Stop,” “Roadway,” and “Transit Priority Area,” and delete the definition of “Environmental Assessment”;
 2. Require dedications for any development that requires approval of a Site Plan Review application as described in ESMC Chapter 15-25 (Site Plan Review); and
 3. Require dedications for housing developments only under specified circumstances.
- E. Amend ESMC Chapter 15-32 (Development Impact Fees), Section 6 (Imposition of Fees; Automatic Adjustment) to require payment of development impact fees for residential development projects at the time a Certificate of Occupancy is issued, or a Final Inspection is approved, whichever occurs first.

SECTION 3: General Plan Findings. As required under Government Code § 65860, the ESMC amendments proposed by the Ordinance are consistent with the El Segundo General Plan as follows:

- A. The proposed Ordinance is consistent with Program 9 of the General Plan Housing Element in that it would remove governmental and other constraints to facilitate the development of a variety of housing types and enable a more streamlined development review process.
- B. The proposed Ordinance is consistent with the General Plan Housing Element in that the amendments contribute to improving the existing jobs-housing balance in the City and provides opportunities for new housing construction in a variety of locations and a variety of densities.
- C. The proposed Ordinance is consistent with the General Plan Housing Element in that the amendments provide sufficient new, affordable housing opportunities in the City to meet the needs of groups with special requirements, including the needs of lower and moderate- income households.
- D. The proposed Ordinance is consistent with the General Plan Housing Element in that the amendments remove governmental constraints to diversify available housing opportunities, including ownership and rental, fair-market, and assisted, in conformance with open housing policies and free of discriminatory practices.

SECTION 4: Zone Text Amendment Findings. In accordance with ESMC Chapter 15-27 (Amendments), and based on the findings set forth above, the proposed Ordinance is consistent with and necessary to carry out the purpose of the ESMC as follows:

- A. The proposed Ordinance is consistent with the General Plan in that the amendments would implement the goals, policies, and programs of the Housing Element. Implementation of the Housing Element would preserve the existing housing stock and encourages construction of new residential units, including affordable housing, without affecting the character of existing single-family residential neighborhoods.
- B. The proposed Ordinance is necessary to serve the public health, safety, and general welfare in that it would implement the Housing Element Update, which includes programs, goals, and policies that help to maintain and improve the existing housing stock in the City. The proposed amendments would facilitate the development of additional housing in the community, which contribute to improving the existing jobs-housing balance and facilitates the development of housing that is affordable to households of various income levels and thus will provide equal housing opportunities to all segments of the community.

SECTION 5: Environmental Assessment. Based on the facts set forth in Section 2, the City Council finds that the zone text amendment is exempt from further review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines § 15061(b)(3)), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

SECTION 6: El Segundo Municipal Code (“ESMC”) Chapter 15-4E (Accessory Dwelling Units) is amended as follows (deleted language is shown in ~~strikethrough~~ and newly added text is underlined):

ARTICLE E. ACCESSORY DWELLING UNITS

SECTION:

- 15-4E-1: Purpose; Findings
- 15-4E-2: General Requirements
- 15-4E-3: Development Standards
- 15-4E-4: Development Standards for Government Code Section 66323 ADUs
- 15-4E-45: Application Process; Fees
- 15-4E-56: Utility Connections

15-4E-1: PURPOSE; FINDINGS:

This article is adopted pursuant to Government Code section ~~65852.2~~66314 for the purpose of implementing the City's regulation of accessory dwelling units.

Government Code section ~~65852.2(e)~~66323(a) requires the City ministerially approve certain accessory dwelling units in certain residential or mixed use zones within the City. On the other hand, Government Code section ~~65852.2(a)(1)(A)~~66314(a), allows the designation of areas for accessory dwelling units "based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety."

The City Council finds that the conditions that were cited in Ordinance No. 1381 that existed in the City at the time (for example, increased traffic, relatively high density of housing in a small area, and intense on-street parking) continue to exist within the City. While the City Council recognizes that accessory dwelling units present a potential solution to the state's housing crisis, the Council continues to believe that accessory dwelling units increase the volume of vehicle traffic within the City, on-street parking, and noise, and can introduce pollutants into the City's storm drains.

By adopting this chapter, the City Council desires to comply with state law while reserving its right to conduct studies evaluating the adequacy of water and sewer services.

15-4E-2: GENERAL REQUIREMENTS:

- A. Locations: Accessory dwelling units are permitted by right throughout any zone where residential uses are permitted. Accessory dwelling units may be: 1) contained within the existing or proposed space of a single-family residence or attached to a single-family residence, 2) within the space of an existing accessory structure, or 3) detached from the single-family residence, subject to the requirements and development standards in this Code and State law.
- B. Conjunction With Single-Family Or Multi-Family Dwelling: An accessory dwelling unit may only be constructed in conjunction with either an existing or proposed single-family dwelling, or an existing or proposed multi-family dwelling.
- C. Certificates Of Occupancy: The City shall not issue a certificate of occupancy for an accessory dwelling unit before a certificate of occupancy is issued for the primary dwelling or dwellings.
- D. Separate Sale Prohibited: Accessory dwelling units may not be sold separately from a primary dwelling, except when the ADU or the primary dwelling was built or developed by a qualified nonprofit corporation and meets all the requirements of Government Code section 66341, including any amendments or successor statutes thereto.
- ~~E. Owner Occupancy Required: For accessory dwelling units for which a building permit is applied for after January 1, 2025, the primary or accessory dwelling unit must be the primary residence of the property owner of the lot. If none of the units on the lot are occupied by the owner as the owner's primary residence, the accessory~~

~~dwelling unit will automatically be deemed a non-habitable space which may not be used as a dwelling and may not be rented.~~

~~F. Covenant Required: Before the City issues a certificate of occupancy for an accessory dwelling unit, the property owner must record with the County Recorder a covenant running with the land stating 1) that the accessory dwelling unit may not be used in violation of this chapter, and 2) any rental of the accessory dwelling unit be for a term of thirty (30) days or longer. The covenant must be approved by the Director and approved as to form by the City Attorney.~~

E. Minimum Rental Term. Rental of the accessory dwelling unit must be for a term of 30 consecutive days or longer.

~~G.F. Release Of Covenant: In the event a covenant was previously recorded for a permitted accessory structure restricting the structure as non-habitable pursuant to subsection ~~15-4A-6H~~ 15-4B-3(H)(5) of this chapter, before the City issues a building permit for an accessory dwelling unit, the property owner must record a release of such covenant with the County Recorder, in a form approved by the Director of Community Development and the City Attorney.~~

H.G. The City may not condition its approval of the permit application by requiring the applicant correct a non-conforming zoning condition, as that term is defined in Government Code section ~~65852-2~~ 66313. This protection applies to a previously unpermitted accessory dwelling unit constructed before January 1, 2020.

15-4E-3: DEVELOPMENT STANDARDS:

Unless otherwise preempted by Title 7, Division 1, Chapter 13 (Accessory Dwelling Units) of the Government Code, accessory dwelling units must meet the development standards applicable to accessory structures in the zone in which they are situated, except as follows:

A. Height: Same as residential structures in the R-1 Zone.

B. Setbacks:

1. Attached To And/Or Within A Primary Dwelling: Same as primary dwellings in the zone in which they are situated. If the primary dwelling has a non-conforming setback, the accessory dwelling portion may maintain the same setback.
2. Detached From A Primary Dwelling: ~~If the setback required in a zone for accessory structures is other than four feet (4') from the interior side or rear lot lines,~~ The detached accessory dwelling unit must be set back no less than four feet (4') from the interior side and rear lot lines.
3. Exception: No setback shall apply to a portion of an existing structure that is converted to an accessory dwelling unit.

C. Building Area:

1. Attached to a primary dwelling and/or within the primary dwelling: Maximum of forty nine percent (49%) of the total floor area of the combined dwellings.
2. Detached: Maximum of ~~one thousand two hundred (1,200)~~ square feet.
3. The total area of the primary dwelling and the accessory dwelling unit may not exceed the maximum permitted floor area of the lot, except an existing structure is converted to an accessory dwelling unit.
4. Nothing in this chapter is meant to prohibit an accessory dwelling unit up to ~~eight hundred fifty (850)~~ square feet, or ~~one thousand (1,000)~~ square feet for a two (2) bedroom unit.

D. Density:

1. Lots with a proposed or existing single-family dwelling:
 - a. One accessory dwelling unit and one junior accessory dwelling unit per lot within a proposed or existing single-family dwelling or existing accessory structure, and/or
 - b. One accessory dwelling unit detached from the primary structure or attached to an accessory structure that may be combined with one junior accessory dwelling unit per lot.
2. Lots with a proposed or existing multifamily dwelling structure:
 - a. One accessory dwelling unit within the portions of existing multifamily dwelling structures that are not used as livable space, provided each unit complies with state building standards for dwellings, and multiple accessory dwelling units up to a maximum of 25 percent of the existing multifamily dwelling units. For purposes of this subsection, “livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation. Portions of existing multi-family dwelling structures that are not used as livable space, include, but are not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.
 - b. ~~Two detached accessory dwelling units per lot with an existing multifamily dwelling structure.~~ Not more than eight detached accessory dwelling units on a lot with an existing multifamily dwelling structure. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot.
 - c. Not more than two detached accessory dwelling units on a lot with a proposed multifamily dwelling structure.

~~E. Architectural Design: Each unit, whether attached or detached, must be architecturally compatible with the primary dwelling.~~

~~F. E. Parking:~~

1. No parking spaces are required for accessory dwelling units ~~within one-half (1/2) mile walking distance of a public transit stop.~~
2. When a garage, carport, ~~or covered parking structure,~~ or dedicated uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, replacement parking for the

lost spaces ~~are~~ is not required. In addition, removal of a curb cut and/or driveway rendered nonconforming due to the construction of an accessory dwelling unit is not required.

GF. Separate Entrance: If the accessory dwelling unit is attached to or within the primary dwelling, ~~it must have~~ and has independent exterior access from the proposed or existing primary dwelling. ~~Such,~~ such independent exterior access may not be an entrance facing the front yard. An independent and separate entrance to the accessory dwelling unit must be located on the side or at the rear of the primary dwelling.

HG. Compliance: The accessory dwelling unit must comply with applicable Building, Health and Fire Codes except where explicitly exempted by Government Code section ~~65852.2~~ 66314. Fire sprinklers for accessory dwelling units are required only when they are required for the primary dwelling on the lot.

15-4E-4: DEVELOPMENT STANDARDS FOR GOVERNMENT CODE SECTION 66323 ADUS

Notwithstanding Section 15-4E-3, the following ADU types are permitted by right in residential or mixed-use zones and are subject only to the development and/or design standards listed in this section as stated in Government Code Section 66323.

A. Permitted ADU Types and Standards.

1. Single-family dwelling – Attached ADUs. One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all the following apply:
 - a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - b. The space has exterior access from the proposed or existing single-family dwelling.
 - c. The side and rear setbacks are sufficient for fire and safety.
 - d. The junior accessory dwelling unit complies with the requirements of the Government Code Section 66333 et seq.
2. Single-family dwelling – Detached ADUs. One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (1), above. These detached accessory dwelling units must meet the following standards:

- a. The total floor area must not exceed 800 square feet.
- b. The height must not exceed the maximum permitted height in the Single-Family Residential (R-1) zone.
- 3. Multifamily dwelling structures – Attached ADUs
 - a. Multiple accessory dwelling units within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - b. Density. At least one accessory dwelling unit within an existing multifamily dwelling and up to 25 percent of the existing multifamily dwelling units.
- 4. Multifamily dwelling – Detached ADUs
 - a. Multiple accessory dwelling units that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from the multifamily dwelling. These detached accessory dwelling units must meet the following standards:
 - i. The height must not exceed the maximum permitted height in the Single-Family Residential (R-1) zone
 - ii. The rear and side yard setbacks must be a minimum of four feet.
 - iii. On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot.
 - iv. On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.
 - b. If the existing multifamily dwelling has a rear or side setback of less than four feet, the existing multifamily dwelling is not required to be modified to comply with a minimum setback as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph (4).
- B. No additional development or design standards are required for any accessory dwelling unit that meets the requirements of subsection 15-4E-4(A).
- C. Accessory dwelling units that meet the requirements in subsection 15-4E-4(A) must also comply with the General Requirements in Section 15-4E-2.
- D. The installation of fire sprinklers is not required in an accessory dwelling unit if sprinklers are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

15-4E-45: APPLICATION PROCESS; FEES:

- A. Any application for a building permit to create an accessory dwelling unit on a lot with an existing single-family dwelling or multi-family dwelling units shall be ministerially approved or denied within 60 days of the City's receipt of a completed application. If a completed application is not approved or denied within 60 days, the application shall be deemed approved. However, any permit application for an accessory dwelling unit that is submitted with a permit application to create a single-family dwelling shall be considered ministerially but is not subject to the 60 day requirement to allow the City time to act on the permit application to create the new single-family dwelling, if necessary. If an application for an ADU is denied, staff shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.
- B. For an accessory dwelling unit of 750 square feet or more, the applicant must pay development impact fees imposed pursuant to Chapter ~~27A32~~ of this title, in an amount set by City Council resolution, provided that such development impact fee is proportional in relation to the square footage of the primary dwelling unit.
- C. Notwithstanding subsection B above, a previously unpermitted accessory dwelling unit constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code regarding substandard buildings.

15-4E-56: UTILITY CONNECTIONS:

- A. An accessory dwelling unit shall not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless the accessory dwelling unit is constructed simultaneously with a new single-family dwelling.
- B. The City may require a new or separate utility connection directly between the accessory dwelling unit and the utility, and may require the payment of a connection fee or capacity charge for any accessory dwelling unit, unless the accessory dwelling unit is an accessory dwelling unit or junior accessory dwelling unit within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure, in which event no new or separate utility connection may be required.

SECTION 9: ESMC Chapter 15-4F (Junior Accessory Dwelling Units), Section 2 (General requirements) is amended as follows (deleted language is shown in ~~strike through~~ and newly added text is underlined):

15-4F-2: GENERAL REQUIREMENTS:

- A. Permit Required: A permit must be obtained to create a junior accessory dwelling unit.
- B. Density: One (1) junior accessory dwelling unit per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
- C. Owner Occupancy Required: The owner must reside in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- D. Recordation Of A Deed Restriction Required: The applicant must record a deed restriction which includes both of the following:
 - 1. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
 - 2. A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
- E. The City may not condition its approval of the permit application by requiring the applicant correct a non-conforming zoning condition, as that term is defined in Government Code section 66313. This protection applies to a previously unpermitted junior accessory dwelling unit constructed before January 1, 2020.

SECTION 10: ESMC Chapter 15-28 (Public Hearings), Section 6 (Notice Requirements) is amended as follows (deleted language is shown in ~~strikethrough~~ and newly added text is underlined):

15-28-6: NOTICE REQUIREMENTS:

Applications requiring a public hearing shall contain specific information and be distributed in the manner prescribed below.

- A. Notification Process: Notice shall be provided in all of the following ways:
 - 1. Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to:
 - a. The owner of the subject real property as shown on the latest equalized assessment roll;
 - b. The owner's duly authorized agent, if any;
 - c. The project applicant;
 - d. Each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected;

e. All owners of real property as shown on the latest equalized assessment roll within 300 feet and all occupants within 150 feet of the real property that is the subject of the hearing, unless the application is for director discretionary decisions, in which case only the owners and occupants of real property as shown on the latest equalized assessment roll within 150 feet of the real property that is the subject of the director decision shall be notified;

f. Any owner of a mineral right pertaining to the subject real property who has recorded a notice of intent to preserve the mineral right pursuant to Section 883.230 of the Civil Code, when a public hearing is required for a tentative, final, or parcel map pursuant to the Subdivision Map Act;

g. Any person who has filed a written request for notice with either the City Clerk or the Director;

h. Any other party as required by California Government Code §§ 65090-65096 (Public Hearings);

i. The California Coastal Commission, if the development/project requires a Coastal Development Permit according to Chapter 15-26 of this Title.

2. In lieu of using the assessment roll, the City may use records of the county assessor or tax collector which contain more recent information than the assessment roll.

3. If the number of owners to whom notice would be mailed or delivered pursuant to subsection A1(e) is greater than 1,000, the City, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least 1/8-page in at least one newspaper of general circulation within the City at least 10 days prior to the hearing.

4. Notice of the hearing shall also be published in at least one newspaper of general circulation in the City at least 10 days prior to the hearing, or posted in at least three public places within the City boundaries, including one public place on the site or in the area directly affected by the proceeding. The posting on the affected site or area and maintenance of such notice shall be the responsibility of the applicant. Such notices shall be posted in a manner prescribed by the Director.

5. Notwithstanding (1) through (4) above, for applications listed in Section 15-28-2 involving a proposed zoning ordinance or an amendment to an existing zoning ordinance, notice of the hearing shall be given as described in this chapter, except that the notice shall be published, posted, mailed, and delivered, or advertised, as applicable, at least 20 days before the hearing.

B. Contents of notification: The contents of the public hearing notice shall include:

1. A title stating "Notice of Public Hearing;"
2. The date, time and place of a public hearing;
3. The identity of the hearing body;
4. The City's file number(s) assigned to the application;
5. A general explanation of the matter to be considered; and
6. A general description, in text or as a diagram of the location of the property.

7. Coastal Development Permits. If the development requires a Coastal Development Permit, the notice shall also include a statement that the project is located within the coastal zone and the procedures of City and Coastal Commission appeals, including any City fees required, and a statement of whether or not the proposed development is appealable to the Coastal Commission.

SECTION 11: ESMC Chapter 15-31 (Right of Way Dedications and Improvements), Section 2 (Definitions) is amended as follows (deleted language is shown in ~~strikethrough~~ and newly added text is underlined):

15-31-2: DEFINITIONS:

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter. Words and phrases not defined by this chapter have the meaning set forth elsewhere in this code, Government Code or the Public Resources Code.

DEVELOPMENT: The meaning set forth in chapter 1 of this title.

DIRECTOR: The public works director or such other director designated by the city manager.

~~**ENVIRONMENTAL ASSESSMENT**: A review of a development in accordance with section 6 of resolution 3805, adopted March 16, 1993.~~

HOUSING DEVELOPMENT: A development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

LAND DEDICATION: A physical exaction of property for public use without compensation, whether imposed on an ad hoc or legislative basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

MAJOR TRANSIT STOP: A site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, except that , for purposes of this chapter, it also includes major transit stops that are included in the applicable transportation plan. "Major transit stop" includes planned major transit stops otherwise meeting this definition whose construction is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

ROADWAY: That portion of a highway improved, designed, or ordinarily used for vehicular travel.

SITE PLAN REVIEW: A discretionary land use permit described in chapter 25 of this Title.

TRANSIT PRIORITY AREA: an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.

USE: The meaning set forth in chapter 1 of this title.

SECTION 12: ESMC Section 15-31-3 (Dedication) is amended as follows (deleted language is shown in ~~strike through~~ and newly added text is underlined):

15-31-3: DEDICATION:

- A. Dedication: Unless otherwise provided, any development requiring ~~an environmental assessment~~review and approval of a Site Plan Review application located on a lot abutting public rights of way, must dedicate a portion of that lot to widen the public rights of way in accordance with the standards in exhibit C-8 of the general plan circulation element. Property dedications must be noted on building plans before the city issues a building permit and the dedications must be made before the city approves a final inspection for a building permit or issues a certificate of occupancy for a proposed project. The director is authorized to substitute an irrevocable offer to dedicate or to substitute a combination of a dedication and an irrevocable offer to dedicate for public rights of way in compliance with the standards in exhibit C-8 of the general plan circulation element and subject to section 15-31-4 of this chapter.
- B. Width: Table 1 of this section, is based on exhibit C-8 of the general plan circulation element and establishes the standard right of way widths for the various classifications for public rights of way. The right of way dedication on an individual lot is that portion of private property necessary to provide one-half (1/2) of the required standard width, measured from the centerline of the street.

TABLE 1	
Right Of Way Classification	Minimum Width (Feet)
TABLE 1	
Right Of Way Classification	Minimum Width (Feet)
Major arterial	142 – 150 (varies based on lane configuration)
Secondary arterial	98 – 120 (varies based on lane configuration)
Collector (divided)	80
Collector	64
Local:	
	Commercial 60 – 64 (varies based on lane configuration)
	Residential 60
Alley	20

1. Greater Widths: Greater widths may be required as by the director of public works or designee conditions of subdivision maps, site plan review, conditional use permits or standards variances.
2. Reduced Widths: The required standard width may be reduced at specific locations on specific streets due to unusual conditions, as authorized by the director of public works or designee.

C. Effect on required yard areas and building area ratios: All required yard areas, lot coverage and floor area ratio calculations must be measured after the dedication or reservation. If the director of public works requires an irrevocable offer to dedicate, the required yard areas, lot coverage and floor area ratio calculations may be measured not including the area of dedication or reservation.

D. Notwithstanding subsection A above, the City will not impose a land dedication requirement on a housing development pursuant to Section 66001 to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width. However, the City may do any of the following:

1. Impose a land dedication requirement on a housing development if both of the following conditions are met:
 - a. The housing development is not located in a transit priority area.
 - b. The housing development has a linear street frontage of 500 feet or more.

2. Discretionarily impose a land dedication requirement as a condition of approval of a specific housing development project for traffic safety features if the City makes a finding, specific to the housing development project and supported by substantial evidence, that the land dedication requirement is necessary to preserve the health, safety, and welfare of the public, including pedestrians, cyclists, and children.
3. Impose a land dedication requirement to construct public improvements, including, but not limited to, sidewalk and sewer improvements.

SECTION 13: ESMC Chapter 15-32 (Impact Fees), Section 6 (Imposition of fees; Automatic adjustment) is amended as follows (deleted language is shown in strikethrough and newly added text is underlined):

15-32-6: IMPOSITION OF FEES; AUTOMATIC ADJUSTMENT:

- A. Except as otherwise provided, persons submitting applications seeking approval for new development projects must pay the city impact fees, in an amount set by city council resolution, as a condition for the city to approve such development projects.
- B. No tentative or final subdivision map, parcel map, grading permit, building permit, final inspection, or certificate of occupancy, or other development permit, may be approved unless the provisions of this section are fulfilled.
- C. Impact fees will be imposed by including the following language in any document of development approval:

All fees imposed pursuant to Title 15 Chapter ~~27A~~32 of the El Segundo Municipal Code must be paid to the City ~~before this project is approved~~ in accordance with Government Code section 66007.

- D. The director of community development or the director of public works will collect impact fees ~~in accordance with Government Code section 66007, except that the connection fees are collected at the time an applicant seeks to connect to the city's utility system.~~ at the following times, except as otherwise specified in Government Code section 66007:
 1. Unless authorized under separate agreement or condition of approval, fees for nonresidential development will be collected at the time the City issues a grading permit, building permit, final inspection, or certificate of occupancy, whichever occurs first.
 2. Fees for residential development will be collected at the time the City approves a final inspection or issues a certificate of occupancy for each dwelling unit in the development.
 3. Notwithstanding (1) and (2) above, utility service connection fees will be collected at the time an application for service is received.

- E. Unless otherwise provided by council resolution, the impact fees established by this chapter will be automatically adjusted on an annual basis at the beginning of each fiscal year based on the average percentage change over the previous calendar year set forth in the construction price index for the Los Angeles metropolitan area. The first impact fee adjustment cannot be made before a minimum of ten (10) months after the effective date hereof.

SECTION 14: Construction. This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 15: Enforceability. Repeal of any provision of the ESMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 16: Validity of Previous Code Sections. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the ESMC or other city ordinance by this Ordinance will be rendered void and cause such previous ESMC provision or other the city ordinance to remain in full force and effect for all purposes.

SECTION 17: Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 18: Recordation. The City Clerk, or designee, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of El Segundo's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 19: This Ordinance will go into effect and be in full force and effect 30 days after its passage and adoption.

PASSED AND ADOPTED this ___ day of _____, 2025.

Chris Pimentel, Mayor

APPROVED AS TO FORM:

By: _____
Mark D. Hensley, City Attorney

ATTEST:

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF EL SEGUNDO)

I, Susan Truax, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No. _____ was duly introduced by said City Council at a regular meeting held on the ___ day of _____ 2025, and was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the ___ day of _____, 2025, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Susan Truax, City Clerk

Bill Text: CA AB2533 | 2023-2024 | Regular Session | Chaptered California Assembly Bill 2533

Bill Title: Accessory dwelling units: junior accessory dwelling units: unpermitted developments.

Spectrum: Partisan Bill (Democrat 4-0)

Status: (Passed) 2024-09-28 - Chaptered by Secretary of State - Chapter 834, Statutes of 2024. [AB2533 Detail]

Download: California-2023-AB2533-Chaptered.html

Assembly Bill No. 2533

CHAPTER 834

An act to amend Section 66332 of the Government Code, relating to land use.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2533, Juan Carrillo. Accessory dwelling units: junior accessory dwelling units: unpermitted developments.

Existing law, the Planning and Zoning Law, 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 prohibits a local agency from denying a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, because the accessory dwelling unit is in violation of building standards or state or local standards applicable to accessory dwelling units, unless the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or the occupants of the structure. Existing law makes those provisions inapplicable to a substandard building, as specified.

This bill would instead prohibit a local agency from denying a permit for an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020, for those violations, unless the local agency makes a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building substandard. The bill would require a local agency to inform the public about the provisions prohibiting denial of a permit for an unpermitted accessory dwelling unit or junior accessory dwelling unit. The bill would require this information to include a checklist of the conditions that deem a building substandard and to inform homeowners that, before submitting a permit application, the homeowner may obtain a confidential third-party code inspection from a licensed contractor. The bill would prohibit a local agency from requiring a homeowner to pay impact fees or connection or capacity charges except under specified circumstances. By imposing additional duties on local agencies, the bill would impose a state-mandated local program. The bill would authorize an inspector from a local agency, upon receiving an application for a permit for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit constructed before January 1, 2020, to inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards. The bill would prohibit the local agency from penalizing an applicant for having the unpermitted accessory dwelling unit and would require the local agency to approve necessary permits to correct noncompliance with health and safety standards.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 66332 of the Government Code is amended to read:

66332. (a) Notwithstanding any other law, and except as otherwise provided in subdivision (b), a local agency shall not deny a permit for an unpermitted accessory dwelling unit or unpermitted junior accessory dwelling unit that was constructed before January 1, 2020, due to either of the following:

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

(2) The accessory dwelling unit or junior accessory dwelling unit does not comply with this article or Article 3 (commencing with Section 66333), as applicable, or any local ordinance regulating accessory dwelling units or junior accessory dwelling units.

(b) Notwithstanding subdivision (a), a local agency may deny a permit for an accessory dwelling unit or junior accessory dwelling unit subject to subdivision (a) if the local agency makes a finding that correcting the violation is necessary to comply with the standards specified in Section 17920.3 of the Health and Safety Code.

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

(d) A local agency shall inform the public about the provisions of this section through public information resources, including permit checklists and the local agency's internet website, which shall include both of the following:

- (1) A checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem a building substandard.
- (2) Informing homeowners that, before submitting an application for a permit, the homeowner may obtain a confidential third-party code inspection from a licensed contractor to determine the unit's existing condition or potential scope of building improvements before submitting an application for a permit.

(e) A homeowner applying for a permit for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code and when the fee is authorized by subdivision (e) of Section 66324.

(f) Subject to subdivision (c), upon receiving an application to permit a previously unpermitted accessory dwelling unit or junior accessory dwelling unit constructed before January 1, 2020, an inspector from the local agency may inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards necessary to obtain a permit. If the inspector finds noncompliance with health and safety standards, the local agency shall not penalize an applicant for having the unpermitted accessory dwelling unit or junior accessory dwelling unit and shall approve necessary permits to correct noncompliance with health and safety standards.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Bill Text: CA SB1211 | 2023-2024 | Regular Session | Chaptered California Senate Bill 2

Bill Title: Land use: accessory dwelling units: ministerial approval.

Spectrum: Partisan Bill (Democrat 2-0)

Status: (*Passed*) 2024-09-19 - Chaptered by Secretary of State. Chapter 296, Statutes of 2024. [SB1211 Detail]

Download: California-2023-SB1211-Chaptered.html

Senate Bill No. 1211

CHAPTER 296

An act to amend Sections 66313, 66314, and 66323 of the Government Code, relating to land use.

[Approved by Governor September 19, 2024. Filed with Secretary of State September 19, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1211, Skinner. Land use: accessory dwelling units: ministerial approval.

Existing law, the Planning and Zoning Law, authorizes a local agency, by ordinance, to provide for the creation of accessory dwelling units (ADUs) in areas zoned for residential use, as specified. That law prohibits, if a local agency adopts an ordinance to create ADUs in those zones, the local agency from requiring the replacement of offstreet parking spaces if a garage, carport, or covered parking structure is demolished in conjunction with the construction of, or is converted to, an ADU.

This bill would also prohibit the local agency from requiring the replacement of offstreet parking spaces if an uncovered parking space is demolished in conjunction with the construction of, or is converted to, an ADU.

Existing law requires ministerial approval of ADUs, as specified. Under existing law, a local agency is also required to ministerially approve an application for a building permit within a residential or mixed-use zone to create any of specified variations of ADUs. Existing law imposes various requirements and restrictions on a local agency in connection with the ministerial approval of an application for a building permit for an ADU under these specified variations.

This bill would prohibit a local agency from imposing any objective development or design standard that is not authorized by these provisions upon any ADU that meets the requirements of any of the specified variations.

Under existing law, one of the above-described variations requires a local agency to ministerially approve a certain number of multiple ADUs within the portion of existing multifamily dwelling structures that are not used as livable space if each unit complies with state building standards for dwellings.

This bill would define "livable space" for purposes of the provisions governing ADUs to mean a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

Under existing law, another one of the above-described variations requires a local agency to ministerially approve not more than 2 ADUs that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that dwelling, and are subject to a height limitation and rear yard and side setbacks, as specified.

This bill would instead authorize, under that variation, up to 8 detached ADUs to be created on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot, and up to 2 detached ADUs on a lot with a proposed multifamily dwelling.

By imposing new duties on local governments with respect to the approval of accessory dwelling units, 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.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 66313 of the Government Code is amended to read:

66313. For purposes of this chapter:

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

- (1) An efficiency unit.
- (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (b) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
- (c) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
- (d) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- (e) "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
- (f) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- (g) "Local agency" means a city, county, or city and county, whether general law or chartered.
- (h) "Nonconforming zoning condition" means a physical improvement on a property that does not conform to current zoning standards.
- (i) "Objective standards" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.
- (j) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (k) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.
- (l) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (m) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (n) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

SEC. 2. Section 66314 of the Government Code is amended to read:

66314. 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) (1) Impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. These standards shall not include requirements on minimum lot size.
 - (2) Notwithstanding paragraph (1), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
- (c) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
- (d) Require the accessory dwelling units to comply with all of the following:
 - (1) Except as provided in Article 4 (commencing with Section 66340), the accessory dwelling unit may be rented separate from the primary residence, but shall not be sold or otherwise conveyed separate from the primary residence.
 - (2) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
 - (3) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages.
 - (4) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
 - (5) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
 - (6) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
 - (7) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
 - (8) Local building code requirements that apply to detached dwellings, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this paragraph shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this article.
 - (9) Approval by the local health officer where a private sewage disposal system is being used, if required.
 - (10) (A) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

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

(C) This subparagraph shall not apply to an accessory dwelling unit that is described in Section 66322.

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

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

(e) Require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time.

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

SEC. 3. Section 66323 of the Government Code is amended to read:

66323. (a) Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

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

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

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

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

(D) The junior accessory dwelling unit complies with the requirements of Article 3 (commencing with Section 66333).

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

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

(B) A height limitation as provided in subparagraph (A), (B), or (C) of paragraph (4) of subdivision (b) of Section 66321, as applicable.

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

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

(4) (A) (i) Multiple accessory dwelling units, not to exceed the number specified in clause (ii) or (iii), as applicable, that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation in subparagraph (A), (B), or (C) of paragraph (4) of subdivision (b) of Section 66321, as applicable, and rear yard and side setbacks of no more than four feet.

(ii) On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot.

(iii) On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.

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

(b) A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).

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

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

(e) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this section be for a term longer than 30 days.

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

(g) Notwithstanding Section 66321 and subdivision (a) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in subdivision (a), and may impose objective standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

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



Bill Text: CA AB3177 | 2023-2024 | Regular Session | Chaptered California Assembly Bill 3177

Bill Title: Mitigation Fee Act: land dedications: mitigating vehicular traffic impacts.

Spectrum: Partisan Bill (Democrat 1-0)

Status: *(Passed)* 2024-09-22 - Chaptered by Secretary of State - Chapter 436, Statutes of 2024. [AB3177 Detail]

Download: California-2023-AB3177-Chaptered.html

Assembly Bill No. 3177

CHAPTER 436

An act to amend Section 66005.1 of the Government Code, relating to housing.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3177, Wendy Carrillo. Mitigation Fee Act: land dedications: mitigating vehicular traffic impacts.

Existing law, the Mitigation Fee Act, imposes various requirements with respect to the establishment, increase, or imposition of a fee by a local agency as a condition of approval of a development project. Existing law requires a local agency that imposes a fee on a housing development for the purpose of mitigating vehicular traffic impacts to set the rate for the fee to reflect a lower rate of automobile trip generation if the housing development satisfies specified characteristics, including that the housing development is located

within $\frac{1}{2}$ mile of a transit station, as specified. Existing law defines transit station for these purposes to mean a rail or light-rail station, ferry terminal, bus hub, or bus transfer station.

This bill would instead require, for purposes of a local agency setting the rate for a mitigating vehicular traffic impacts fee to reflect a lower rate of automobile trip generation, the housing development to be located within a transit priority area, as defined, and the major transit stop, if planned, is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

This bill would prohibit a local agency from imposing a land dedication requirement, as defined, on a housing development to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width. The bill, notwithstanding that prohibition, would authorize a local agency to, among other things, impose a land dedication requirement on a housing development if the housing development is not located in a transit priority area and the housing development has a linear street frontage of 500 feet or more.

By imposing a mandate on local agencies that approve housing development projects with regard to impact fees, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would incorporate additional changes to Section 66005.1 of the Government Code proposed by AB 2553 to be operative only if this bill and AB 2553 are enacted and this bill is enacted last.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 66005.1 of the Government Code is amended to read:

66005.1. (a) When a local agency imposes a fee on a housing development pursuant to Section 66001 for the purpose of mitigating vehicular traffic impacts, if that housing development satisfies all of the following characteristics, the fee, or the portion thereof relating to vehicular traffic impacts, shall be set at a rate that reflects a lower rate of automobile trip generation associated with such housing developments in comparison with housing developments without these characteristics, unless the local agency adopts findings after a public hearing establishing that the housing development, even with these characteristics, would not generate fewer automobile trips than a housing development without those characteristics:

(1) The housing development is located within a transit priority area and the major transit stop, if planned, is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

(2) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

(3) The housing development provides either the minimum number of parking spaces required by the local ordinance, or no more than one onsite parking space for zero- to two-bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

(b) If a housing development does not satisfy the characteristics in subdivision (a), the local agency may charge a fee that is proportional to the estimated rate of automobile trip generation associated with the housing development.

(c) (1) A local agency shall not impose a land dedication requirement on a housing development pursuant to Section 66001 to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width.

(2) Notwithstanding paragraph (1), a local agency may do any of the following:

(A) Impose a land dedication requirement on a housing development if both of the following conditions are met:

(i) The housing development is not located in a transit priority area.

(ii) The housing development has a linear street frontage of 500 feet or more.

(B) Discretionarily impose a land dedication requirement as a condition of approval of a specific housing development project for traffic safety features if the local agency makes a finding, specific to the housing development project and supported by substantial evidence, that the land dedication requirement is necessary to preserve the health, safety, and welfare of the public, including pedestrians, cyclists, and children.

(C) Impose a land dedication requirement to construct public improvements, including, but not limited to, sidewalk and sewer improvements.

(d) For purposes of this section:

(1) "Housing development" means a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

(2) "Land dedication" means a physical exaction of property for public use without compensation, whether imposed on an ad hoc or legislative basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

(3) "Roadway" means the same as defined in Section 530 of the Vehicle Code.

(4) "Transit priority area" means the same as defined in paragraph (7) of subdivision (a) of Section 21099 of the Public Resources Code.

(e) This section shall become operative on January 1, 2011.

SEC. 1.5. Section 66005.1 of the Government Code is amended to read:

66005.1. (a) When a local agency imposes a fee on a housing development pursuant to Section 66001 for the purpose of mitigating vehicular traffic impacts, if that housing development satisfies all of the following characteristics, the fee, or the portion thereof relating to vehicular traffic impacts, shall be set at a rate that reflects a lower rate of automobile trip generation associated with such housing developments in comparison with housing developments without these characteristics, unless the local agency adopts findings after a public hearing establishing that the housing development, even with these characteristics, would not generate fewer automobile trips than a housing development without those characteristics:

(1) The housing development is located within a transit priority area and the major transit stop, if planned, is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

(2) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

(3) The housing development provides either the minimum number of parking spaces required by the local ordinance, or no more than one onsite parking space for zero- to two-bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

(b) If a housing development does not satisfy the characteristics in subdivision (a), the local agency may charge a fee that is proportional to the estimated rate of automobile trip generation associated with the housing development.

(c) (1) A local agency shall not impose a land dedication requirement on a housing development pursuant to Section 66001 to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width.

(2) Notwithstanding paragraph (1), a local agency may do any of the following:

(A) Impose a land dedication requirement on a housing development if both of the following conditions are met:

(i) The housing development is not located in a transit priority area.

(ii) The housing development has a linear street frontage of 500 feet or more.

(B) Discretionarily impose a land dedication requirement as a condition of approval of a specific housing development project for traffic safety features if the local agency makes a finding, specific to the housing development project and supported by substantial evidence, that the land dedication requirement is necessary to preserve the health, safety, and welfare of the public, including pedestrians, cyclists, and children.

(C) Impose a land dedication requirement to construct public improvements, including, but not limited to, sidewalk and sewer improvements.

(d) For purposes of this section:

(1) "Housing development" means a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

(2) "Land dedication" means a physical exaction of property for public use without compensation, whether imposed on an ad hoc or legislative basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

(3) "Major transit stop" has the meaning as the term is defined in Section 21064.3 of the Public Resources Code, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. "Major transit stop" includes planned major transit stops otherwise meeting this definition whose construction is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

(4) "Roadway" means the same as defined in Section 530 of the Vehicle Code.

(5) "Transit priority area" means the same as defined in paragraph (7) of subdivision (a) of Section 21099 of the Public Resources Code.

(e) This section shall become operative on January 1, 2011.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 66005.1 of the Government Code proposed by both this bill and Assembly Bill 2553. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 66005.1 of the Government Code, and (3) this bill is enacted after Assembly Bill 2553, in which case Section 1 of this bill shall not become operative.



SB-937 Development projects: fees and charges. (2023-2024)

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Date Published: 09/20/2024 02:00 PM

Senate Bill No. 937

CHAPTER 290

An act to amend Section 66007 of the Government Code, relating to land use.

[Approved by Governor September 19, 2024. Filed with Secretary of State September 19, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 937, Wiener. Development projects: fees and charges.

The Mitigation Fee Act regulates fees for development projects, fees for specific purposes, including water and sewer connection fees, and fees for solar energy systems, among others. The act, among other things, requires local agencies to comply with various conditions when imposing fees, extractions, or charges as a condition of approval of a proposed development or development project.

The act prohibits a local agency that imposes fees or charges on a residential development for the construction of public improvements or facilities from requiring the payment of those fees or charges until the date of the final inspection or the date the certificate of occupancy is issued, whichever occurs first, except for utility service fees, which the local agency is authorized to collect at the time an application for utility service is received. The act exempts specified units in a residential development proposed by a nonprofit housing developer if the housing development meets certain conditions.

This bill would limit the utility service fees exception described above to utility service fees related to connections, and cap those fees at the costs incurred by the utility provider resulting from the connection activities. The bill would extend the above-described exemption for those units in a residential development that meets those conditions to any housing developer.

The act authorizes a local agency to require the payment sooner than the date of the final inspection or the date the certificate of occupancy is issued, whichever occurs first, if specified conditions are met, including if the fees or charges are to reimburse the local agency for expenditures previously made.

This bill would, for designated residential development projects, as defined, prohibit a local agency from requiring payment of fees or charges on the residential development for the construction of public improvements or facilities until the date the first certificate of occupancy or first temporary certificate of occupancy is issued, as specified. The bill would authorize the local agency to require the payment of those fees or charges at an earlier time if certain conditions are met, except as specified. For specified units, the bill would authorize a developer to guarantee payment of certain fees or charges by posting a performance bond or a letter of credit from a federally insured, recognized depository institution. If the developer does not post a performance bond or a letter of credit, the bill would authorize the city, county, or city and county to collect certain fees or charges in accordance with a specified procedure.

If any fee or charge described above is not fully paid prior to issuance of a building permit, the act authorizes the local agency issuing the building permit to require the property owner to execute a contract to pay the fee or charge as a condition of issuance of the building permit, as specified.

This bill would authorize the governing body of a local agency to authorize an officer or employee of the local agency to approve and execute contracts described above, and would require the local agency to post a model form of contract on its internet website, if it maintains an internet website, before requiring execution of a contract under the provisions described above.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 66007 of the Government Code is amended to read:

66007. (a) Except as otherwise provided in subdivisions (b) and (h), any local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees related to connections may be collected at the time an application for service is received, provided that those fees do not exceed the costs incurred by the utility provider resulting from the connection activities. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) (1) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (A) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan before final inspection or issuance of the certificate of occupancy or (B) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(2) (A) Paragraph (1) does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a housing developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code. In addition to the contract that may be required under subdivision (d), a city, county, or city and county may require the posting of a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of any fees or charges that are subject to this paragraph. Fees and charges exempted from paragraph (1) under this paragraph shall become immediately due and payable when the residential development no longer meets the requirements of this paragraph.

(B) The exception provided in subparagraph (A) does not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

(c) All of the following apply to designated residential development projects:

(1) If a local agency imposes any fees or charges on the residential development for the construction of public improvements or facilities, then all of the following conditions apply:

(A) (i) Notwithstanding any other law, the local agency shall not require the payment of those fees or charges until the date the first certificate of occupancy or first temporary certificate of occupancy is issued, whichever occurs first.

(ii) Notwithstanding clause (i), utility service fees related to connections may be collected at the time an application for service is received, provided that those fees do not exceed the costs incurred by the utility provider resulting from the connection activities.

(iii) Clause (i) shall not apply if construction of the residential development does not begin within five years of the date upon which the building permit is issued.

(B) The amount of the fees and charges shall be the same amount as would have been paid had the fees and charges been paid prior to the issuance of building permits, and the local agency shall not charge interest or other fees on any amount deferred pursuant to this paragraph.

(C) If the development contains more than one dwelling, the local agency may determine whether the fees or charges described shall be paid on a pro rata basis for each dwelling when it receives its certificate of occupancy, on a pro rata basis when a certain percentage of the dwellings have received their certificate of occupancy, or on a lump-sum basis when all the dwellings in the development receive their certificate of occupancy.

(D) Notwithstanding any other law, the local agency may withhold a certificate of occupancy or a temporary certificate of occupancy until payment of those fees or charges is received.

(2) (A) Notwithstanding paragraph (1), the local agency may require the payment of those fees or charges at an earlier time if either of the following conditions is met:

(i) The fees or charges are to reimburse the local agency for expenditures previously made to the extent those expenditures have not been paid or reimbursed by another party.

(ii) The local agency determines both of the following:

(I) The fees or charges will be collected for any of the following public improvements or facilities:

(ia) Public improvements or facilities related to providing water service to the residential development.

(ib) Public improvements or facilities related to providing sewer or wastewater service to the residential development.

(ic) Public improvements or facilities related to providing fire, public safety, and emergency services to the residential development.

(id) Roads, sidewalks, or other public improvements or facilities for the transportation of people that serve the development, including the acquisition of all property, easements, and rights-of-way that may be required to carry out the improvements or facilities.

(ie) Construction and rehabilitation of school facilities, if a school district has a five-year plan pursuant to subdivision (c) of Section 17017.5 of Education Code.

(II) An account has been established and funds appropriated for the public improvements or facilities described in subclause (I). "Appropriated," as used in this subclause, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(B) (i) Subparagraph (A) does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a housing developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code. Fees and charges exempted from subparagraph (A) under this subparagraph shall become immediately due and payable when the residential development no longer meets the requirements of this subparagraph.

(ii) The exception provided in clause (i) does not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

(iii) (I) The developer may elect to post a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of any fees or charges that are subject to this subparagraph.

(II) If the developer does not post a performance bond or letter of credit pursuant to subclause (I), the city, county, or city and county may collect any fees and charges subject to this subparagraph that are not paid at the time the first certificate of occupancy or first temporary certificate of occupancy is issued, whichever occurs first, in accordance with the following procedure:

(ia) On or before August 10 of each year, the building official of the local agency shall furnish in writing to the county auditor a description of each parcel of land for which a performance bond or letter of credit has not been posted within the local agency's jurisdiction upon which fees or charges are unpaid and the amount of the unpaid fees or charges.

(ib) The amount of the unpaid fees or charges shall constitute a lien upon the land for which the fees or charges are unpaid.

(ic) The unpaid fees or charges shall be collected in the same manner and at the same time as county ad valorem taxes.

(id) The unpaid fees or charges shall be subject to the same penalties, lien priority, and procedure and sale in case of delinquency that apply to county ad valorem taxes.

(ie) All laws applicable to the levy, collection, and enforcement of county ad valorem taxes shall be applicable to the unpaid fees and charges.

(iv) Clause (iii) does not apply to projects that dedicate 100 percent of units, exclusive of a manager's unit or units, to lower income households, as defined by Section 50079.5 of the Health and Safety Code, and have a recorded regulatory agreement with the California Tax Credit Allocation Committee, the California Debt Limit Allocation Committee, or the Department of Housing and Community Development.

(3) If the local agency does not issue certificates of occupancy for the type of residential developments described in this subdivision, the final inspection shall serve as the certificate of occupancy.

(4) For purposes of this subdivision, "designated residential development project" means a residential development project that meets any of the following conditions:

(A) The project dedicates 100 percent of units, exclusive of a manager's unit or units, to lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(B) The project meets the requirements described in Section 65662.

(C) The project is approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) of Chapter 4.1.

(D) The project meets the requirements described in subdivision (a) of Section 65913.4.

(E) The project meets the criteria described in subdivision (c) of Section 65913.16.

(F) The project is entitled to a density bonus pursuant to subdivision (b) of Section 65915.

(G) The project includes 10 or fewer units.

(d) (1) If any fee or charge specified in subdivision (a) or (c) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a) or (c). If the fee or charge is prorated pursuant to subdivision (a) or (c), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the property

owner or lessee as grantor. The local agency shall record a release of the obligation, containing a legal description of the property, in the event the obligation is paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a) or (c).

(3) The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(4) The governing body of a local agency may authorize an officer or employee of the local agency to approve and execute contracts under this subdivision on behalf of the local agency.

(5) Before requiring execution of a contract under this subdivision, the local agency shall post a model form of contract on its internet website, if it maintains an internet website.

(e) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(f) "Final inspection," "temporary certificate of occupancy," or "certificate of occupancy," as used in this section, has the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.

(g) Methods of complying with the requirement in subdivision (b) that a proposed construction schedule or plan be adopted, include, but are not limited to, (1) the adoption of the capital improvement plan described in Section 66002, or (2) the submittal of a five-year plan for construction and rehabilitation of school facilities pursuant to subdivision (c) of Section 17017.5 of the Education Code.

(h) A local agency may defer the collection of one or more fees up to the close of escrow. This subdivision shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.



Bill Text: CA AB2904 | 2023-2024 | Regular Session | Chaptered California Assembly Bill 2904

Bill Title: Zoning ordinances: notice.

Spectrum: Partisan Bill (Democrat 1-0)

Status: *(Passed)* 2024-09-27 - Chaptered by Secretary of State - Chapter 747, Statutes of 2024. [AB2904 Detail]

Download: California-2023-AB2904-Chaptered.html

Assembly Bill No. 2904

CHAPTER 747

An act to amend Section 65854 of the Government Code, relating to land use.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2904, Quirk-Silva. Zoning ordinances: notice.

Existing law requires the planning commission to hold a public hearing on any zoning ordinance or an amendment to a zoning ordinance that changes any property from one zone to another. Existing law, if the proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, requires notice of the hearing to be, among other things, mailed or delivered at least 10 days prior to the hearing to the owner of the subject real property, as specified.

This bill would instead require notice of the planning commission's hearing on a proposed zoning ordinance or amendment to a zoning ordinance, if the proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, to be published, posted, mailed, and delivered, or advertised, as applicable, at least 20 days before the hearing.

By imposing increased noticing requirements on a local government that considers a zoning ordinance or amendment to a zoning ordinance, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65854 of the Government Code is amended to read:

65854. (a) The planning commission shall hold a public hearing on the proposed zoning ordinance or amendment to a zoning ordinance.

(b) (1) Except as provided in paragraph (2), notice of the hearing shall be given pursuant to Section 65090.

(2) If a proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice of the hearing shall be given pursuant to Sections 65090 and 65091, except that the notice shall be published, posted, mailed, and delivered, or advertised, as applicable, at least 20 days before the hearing.

SEC. 2. The Legislature finds and declares that ensuring sufficient notice of zoning ordinance changes that could affect property rights is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act amending Section 65854 of the Government Code applies to all cities, including charter cities.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



Dec 12, 2024

City of El Segundo
350 Main Street
El Segundo, CA 90245

By Email: mkeldorf@elsegundoccb.org; jhoeschler@elsegundoccb.org;
kmaggay@elsegundoccb.org; minga@elsegundoccb.org; mchristian@elsegundoccb.org

CC: VMCityManagersOffice@elsegundo.org; planning@elsegundo.org;
allcityclerks@elsegundo.org; mhensley@hensleylawgroup.com

Re: Proposed Changes to the City's ADU Ordinance

Dear El Segundo Planning Commission,

The California Housing Defense Fund ("CalHDF") submits this letter regarding the proposed amendments to the City's accessory dwelling unit ("ADU") ordinance, which are calendared as agenda item B2 for the December 12, 2024 Planning Commission meeting.

CalHDF appreciates that the City is amending its ADU ordinance to keep pace with changes in state law. However, the proposed ordinance's requirements conflict with state law as discussed below.

Background

The law gives local governments authority to enact zoning ordinances that implement a variety of development standards on ADUs. (Gov. Code, § 66314.) The standards in these local ordinances are limited by state law so as not to overly restrict ADU development. (See *id.*) Separately from local ADU ordinances, Gov. Code, § 66323 prescribes a narrower set of ADU types for which it imposes a ministerial duty on cities to approve. "Notwithstanding Sections 66314 to 66322 ... a local agency shall ministerially approve" these types of ADUs. (*Id.* at subd. (a).) This means that ADUs that satisfy the minimal requirements of section 66323 must be approved regardless of any contrary provisions of the local ADU ordinance. (*Ibid.*)

SB 1211, effective 1 January 2025, makes this even more explicit: Gov. Code, § 66323, subdivision (b): "A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets

the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).”

In addition, ADUs that qualify for the protections of Gov. Code, § 66323, like other ADUs, must be processed by local governments within 60 days of a complete permit application submittal. (Gov. Code, § 66317, subd. (a).)

State law also prohibits creating regulations on ADU development not explicitly allowed by state law. Government Code Section 66315 states, “No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer.”

Impermissible Prohibition on Separate Sales

City code section 15-4E-2(D) bans all sales of ADUs separate from the primary dwelling. However, Government Code section 66341 establishes certain circumstances in which the local agency must allow separate sales of ADUs. The City should amend the proposed code to facilitate separate sales in these circumstances.

Impermissible Deed Restriction Requirements

City code section 15-4E-2(E) requires a restrictive covenant to be placed on the property prior to the issuance of a certificate of occupancy for an ADU. This is a clear violation of Government Code section 66323, which prohibits any standards not explicitly authorized in that section. Deed restrictions are also not permitted by Government Code section 66315, which forbids standards not listed in section 66314, and it is unclear why the City would want applicants to go through the trouble of filing such a deed restriction, other than to discourage ADU development by increasing development cost.

The California Department of Housing and Community Development (“HCD”) has communicated that such deed restrictions are unlawful in its review of other cities’ ADU ordinances. See, for example, the attached August 26, 2024 HCD review of San Marino’s ADU ordinance, in which HCD instructs the City of San Marino to remove its deed restriction requirement.

Separately, City code section 15-4E-2(F) requires certain deed restrictions, required by the City and declaring accessory structures as non-inhabitable, to be lifted prior to issuance of a building permit for an ADU. This is also a clear violation of Government Code section 66323, which prohibits any standards not explicitly authorized in that section. Owner occupancy standards are also not permitted by Government Code section 66315, which forbids standards not listed in section 66314.

Additionally, such deed restrictions imposed on ADUs (or on other accessory structures) are unenforceable. This is due to the absence of horizontal privity between the City and the applicant. In other words, since the City does not own the applicant's property at the time of the application, and does not own a neighboring property to whose benefit the proposed restriction(s) redound, black letter property law bars the restrictions from binding future property owners. (See, e.g., *Scaringe v. J. C. C. Enters* (1988) 205 Cal.App.3d 1536 [describing the types of privity relationship between covenanting parties that allow enforcement of a deed restriction]; see also Civ. Code §§ 1460 et seq.)

Generally Impermissible Requirements

City code section 15-4E-3 requires ADUs to meet all the requirements for accessory structures imposed by the underlying zoning except under specific exceptions. This type of blanket imposition of all underlying standards is not allowed by state law.

As discussed above, state law gives local governments authority to enact zoning ordinances that implement a variety of development standards on ADUs. (Gov. Code, § 66314.) The standards in these local ordinances are limited by state law so as not to overly restrict ADU development. (See *id.*) And state law forbids cities from imposing other standards on ADUs beyond what are specifically listed in Government Code, section 66314. (Gov. Code, § 66315.)

Separately from local ADU ordinances, Gov. Code, § 66323 prescribes a narrower set of ADU types for which it imposes a ministerial duty on cities to approve. The City must approve building permits for ADUs that meet specific height, size, and setback criteria. The City cannot therefore impose the underlying zoning requirements on such ADUs.

Impermissible Setback Requirements

City code section 15-4E-3(B) mandates that attached ADUs, and ADUs contained within a primary dwelling, must conform to the setback requirements that the underlying zoning district imposes on primary dwellings. However, this disregards the duty of the City to allow ADUs proposed within a primary dwelling expansions of up to 150 square feet for the purposes of facilitating ingress and egress. (Gov. Code, § 66323, subd. (a)(1)(A).) The City must allow such expansions notwithstanding underlying setback requirements.

Impermissible Floor Area Limitations

City code section 15-4E-3(C)(1) forbids ADUs within a primary dwelling to be more than 49% of the combined floor area of the two dwellings. City code section 15-4E-3(C)(2) limits detached ADUs to 1,200 square feet. And City code section 15-4E-3(C)(3) forbids the combined area of the ADU and primary dwelling from exceeding the maximum permitted floor area on the lot.

However, none of these restrictions are not permitted for ADUs that qualify for the protections of Government Code section 66323, subdivision (a)(1), as the state law forbids applications of regulations other than those listed in that section.

This means that an applicant may convert more than half of a primary dwelling into an ADU. This also means that an applicant is free to convert an accessory building into an ADU, even if the accessory structure is greater than 1,200 square feet (and the resulting ADU is also greater than 1,200 square feet). In addition, this means that an applicant can add an additional 150 square feet to an ADU converted from existing space for the purposes of ingress and egress, even if the parcel has already maxed out its allowable floor area under local zoning.

Impermissible Entrance Location Requirements

City code section 15-4E-3(F) forbids an ADU entrance facing the front yard when the ADU is converted from space within the primary dwelling. However, the City cannot impose this requirement on ADUs that qualify for the protections of Government Code section 66323, subdivision (a)(1), as the state law forbids applications of regulations other than those listed in that section.

Out-of-date Government Code Reference

City code section 15-4E-3(G) refers to Government Code section 65852.2. However, this section of code has been reorganized as Government Code 66314 et seq. Given that the City is amending its code, it should make sure its references to state law are up to date.

Potentially Impermissible Parking Requirements

City code section 15-4E-3(E) exempts ADUs within ½ mile of transit from parking requirements and also relieves applicants of the need to replace parking that is lost as result of ADU development.

It is positive that the City's code contains these provisions as they are required by state law. However, the structure and contents of the City's code raise questions about the City's parking requirements for ADUs.

The ADU chapter contains no other references to parking. Therefore, the Code requires that an applicant must obey underlying zoning regulations regarding parking requirements (this is separately problematic, as addressed above). For parking requirements, underlying zoning district regulations refer to Chapter 15 of Title 15. Chapter 15 of Title 15, in turn, refers an applicant back to Chapter 4E for ADU parking requirements.

This means that other than the contents of code section 15-4E-3(C)(1), the City is not regulating parking for ADUs. While CalHDF applauds a lack of parking requirements, we are

concerned about what parking City may be requiring in practice for ADUs, as well as potential confusion for applicants. To address this, the City should amend its code to either clearly exempt all ADUs from parking requirements, or make clear that pursuant to state law various types of ADUs are all entitled to parking exemptions, as follows.

As discussed above, Government Code section 66323 mandates that the City approve a specific class of ADUs subject only to specified height and setback requirements, notwithstanding any local code requirements to the contrary. This means that the City cannot subject such ADUs to parking requirements.

Additionally, as noted above, SB 1211, effective 1 January 2025, makes the prohibition on parking requirements (or any other development standard not authorized by section 66323) even more explicit: Gov. Code, § 66323, subdivision (b): “A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).”

Additionally, for ADUs that do not qualify for the protections of Government Code section 66323, state law requires the following:

- Government Code section 66314, subdivision (d)(10) forbids requiring more than one parking space per ADU and also requires the allowance of tandem parking and parking in setbacks absent certain findings.
- Government Code section 66322, subdivision (a) exempts the following types of ADUs from all parking requirements:
 - (1) Where the accessory dwelling unit is located within one-half of one mile walking distance of public transit. [already granted by the City’s code]
 - (2) Where the accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (3) Where the accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
 - (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (5) When there is a car share vehicle located within one block of the accessory dwelling unit.
 - (6) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this subdivision.

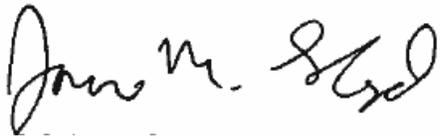


CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**DIVISION OF HOUSING POLICY DEVELOPMENT**

651 Bannan Street, Suite 400 Sacramento, CA 95811

(916) 263-2911 / FAX (916) 263-7453

www.hcd.ca.gov

August 26, 2024

Isidro Figueroa, Community Development Director
Department of Community Development
City of San Marino
2200 Huntington Drive, San Marino, CA 91108

Dear Isidro Figueroa:

RE: Review of San Marino's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66313 - 66342)

Please Note: As of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State ADU and JADU Law have been re-numbered (Enclosure 1).

Thank you for submitting the City of San Marino (City) ADU Ordinance No. O-24-1411 (Ordinance), adopted March 13, 2024, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance does not comply with State ADU and junior accessory dwelling unit (JADU) Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than September 25, 2024.

While the Ordinance addresses many statutory requirements, HCD finds that the Ordinance fails to comply with State ADU Law as follows:

1. Section 23.01.01 – *ADU Definition* – The Ordinance defines an ADU as, “An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include a kitchen as defined in this Chapter, a full bath, and permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel where the primary single-family residence is situated.” However, ADUs may also be located on lots and/or parcels with existing or proposed multi-family structures.¹ Therefore, the City must amend its ordinance to allow ADUs on the same parcel as the single-family **or multifamily dwelling** is or will be situated.
2. Section 23.01.01 (2) – “*Converted ADU*” Definition – The Ordinance states that, “A Converted ADU does not include an ADU that would: (a) increase the height of an Existing Structure; (b) require the removal of more than 50 Cubic Yards as

¹ Gov. Code, §§ 66313, subd. (a); 66314; subd. (d)(2); 66317, subd. (a).

part of the excavation of an Existing Structure...” However, ADUs pursuant to Government Code section 66323, subdivisions (a)(1) and (a)(3), may not be precluded from development for increasing the height of an existing structure or removing more than 50 Cubic Yards of the existing structure as a condition of ADU approval. While the City may provide a definition for converted ADUs, the definition cannot preclude ADUs pursuant to Government Code Section 66323, Subdivisions (a)(1) and (a)(3). Therefore, the City must amend its ordinance to remove these sections or explicitly clarify that ADUs converted from existing or proposed space may not be precluded from development.

3. Section 23.02.25, subdivisions (A), (B)(5), (E)(3), (E)(4), (F)(2)(a), (F)(3)(a), (G)(1), (G)(2)(a), (G)(3)(a), (H)(16)(a), & (I)(5) – *Out of Date Code References* – The Ordinance makes repeated references to standards contained within Government Codes 65852.2 and 65852.22. While correct at the time of adoption, these code references are now out-of-date due to the Chaptering of Senate Bill 477. Therefore, the City must amend its ordinance to replace these code references with their, re-chaptered sections.
4. Section 23.02.25 (D)(3) – *Application Denial* – The Ordinance states, “An application that does not conform to the specific standards set forth in this Section, including the development standards set forth in Section 23.02.25(G) shall not be approved ministerially but shall require design review, a conditional use permit, or variance, as applicable. However, state law requires that when a local agency denies an application for an ADU or JADU, the permitting agency shall, within 60 days, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.² Therefore, the City must amend its ordinance to reflect the lawful permit denial procedure.

Section 23.02.25 (E) – *Location and Zoning Requirements* – The Ordinance states, “An accessory dwelling unit may be located only on residentially zoned lots or upon a lot with an existing residential dwelling.” However, ADUs must be allowed in all areas zoned to allow single-family or multi-family use, whether these areas are exclusively zoned for residential use or not.³ Therefore, the City must amend its ordinance to reflect state law.

5. Section 23.02.25 (E)(1), (2), and (3) – *ADU Allotment* – The Ordinance states that, “One JADU and one ADU may be constructed on a single family residential lot where the JADU and ADU meet the requirements in Government Code Section 65852.2(e).” However, this language omits the potential for ADUs constructed on lots zoned for multifamily use.⁴ Therefore, the City must amend its ordinance to also allow for ADUs constructed on lots zoned for multifamily use.

² Gov. Code, § 66317, subd. (b).

³ Gov. Code. §§ 66314, 66323, subd. (a)(3).

⁴ Gov. Code, §§ 66314, 66323, subd. (a)(3).

Additionally, Government Code section 66323, subdivision (a), states, “Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following: (1) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling... (A) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single family dwelling or existing space of a single-family dwelling or accessory structure.” Paragraph (2) permits “[o]ne detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks.” The use of the term “any” followed by an enumeration of by right ADU types permitted means that any of these ADU types can be combined on a lot zoned for single-family dwellings.

This permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one JADU. Thus, if the local agency approves an ADU that is created from existing (or proposed) space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this subdivision.

This subdivision applies equally to ADUs created pursuant to Government Code section 66323, subdivisions (a)(3) and (a)(4) on lots with proposed or existing multifamily dwellings. Limiting lots to one ADU would prevent property owners from creating ADUs by right under subdivision (a). Therefore, the City must amend its ordinance to allow for ADU development pursuant to Government Code section 66323, subdivisions (a).

6. Section 23.02.25 (E)(4) – *Fire Safety* - The Ordinance states “For fire safety purposes, new ADUs and JADUs may only be located on a residential lot that has: 1) at least a 10-foot wide fire lane within 150 feet of the subject property and 2) a minimum fire flow of 1,000 gallons per minute.” However, Government Code section 66314, subdivision (a) provides that a local agency may, through an ordinance, “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.” While the City is authorized to designate specific areas where ADUs may be permitted based on impacts on traffic flow and public safety, they can only do so based on substantial evidence in the record that the construction of the ADU it could have a specific, adverse impact on public health and safety⁵. Therefore, the City must remove this section of the Ordinance or explicitly incorporate the “substantial evidence” to comply with State ADU Law.
7. Section 23.02.25 (F)(2) – *Deed Restriction* – The Ordinance requires a deed restriction for ADUs. While Government Code section 66333, subdivision (c) requires the recordation of a deed restriction for JADUs, the deed restrictions for

⁵ Gov. Code, § 66314 (d)(8).

JADUs are limited to prohibit the separate sale of a JADU and a restriction on the size and attributes of the JADU. Government Code section 66315 requires that no additional standards, other than those provided in Government Code Section 66314, shall be used, or imposed on accessory dwelling units. The City may not require a deed restriction prior to and as a condition of approval of an ADU building permit application.⁶ Therefore, the City must amend the Ordinance to remove this requirement.

8. Section 23.02.25 (F)(2)(b) – *JADU Rental Terms* – The Ordinance states, “If the ADU/JADU is rented, it shall not be rented for a period of less than 90(ninety) consecutive days. A minimum 90-day rental requirement imposes rental requirements for JADUs that are inconsistent with state law, which only requires a minimum rental term of 30 (thirty days) for ADUs and JADUs built pursuant to Government Code section 66323.⁷ Therefore, the City must amend its ordinance to clarify that JADUs rental term must be longer than 30 days consistent with Government Code section 66323 subdivision (d).
9. Section 23.02.25 (F)(2)(d); (H)(1); (H)(2); (H)(6) – *Livable Area* – The Ordinance states that, “The ADU/JADU shall be restricted to the Livable Area approved at the time of building issuance.” However, State ADU Law allows for the development of multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space.⁸ Therefore, the City must amend its Ordinance to allow for the development of ADUs pursuant to Government Code section 66323, subd. (a)(3).

Additionally, the Ordinance defines “Livable area” as “the square footage of all floor areas of a building, including basements, measures from the exterior faces of walls...” The Ordinance makes multiple references to “Livable Area” regarding floor area calculations. However, floor area must be calculated according to area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns, or other features.⁹ Therefore, the City must amend its ordinance to calculate floor area in alignment with the California Building Code (CBC).

10. Section 23.02.25 (F)(2)(e) – *Separate Utilities* – The Ordinance states that, “A second unit may not have utility services separate from those of the main residential structure on the same property.” However, for ADUs described in paragraph (1) of subdivision (a) of Government Code Section 66323, a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge, unless the ADU was constructed with a new single-family dwelling, or upon separate

⁶ Gov. Code, § 66314.

⁷ Gov. Code, § 66323, subd. (d).

⁸ Gov. Code, § 66323, subd. (a)(3).

⁹ CBC, § 202.

conveyance of the ADU pursuant to Section 66342.¹⁰ Therefore, the City must amend its ordinance to specify that ADUs described in paragraph (1) of subdivision (a) of Government Code Section 66323 are an exception to this standard.

11. Section 23.02.25 (F)(2)(g) – *Permit Revocation* – The Ordinance states that, “Violations and lack of compliance with any provisions of this Section may result in legal action against the property Owner, including revocation of any right to maintain an ADU/JADU on the property...” While this provision aligns with State ADU Law, a local agency, upon request of an owner of an ADU for a delay in enforcement, shall also delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code, pursuant to Government Code section 66331. Therefore, the City should amend its ordinance to clarify that San Marino residents may request such a delay in enforcement of building standards prescribed by the Ordinance under certain conditions.
12. Section 23.02.25 (G)(1) – *ADUs on Multi-family Lots* – The Ordinance outlines the planning application exemptions for ADUs created pursuant to Government Code section 65852.2, subdivisions (e)(1)(A) and (B) (now section 66323, subdivisions (a)(1) and (2)). However, the Ordinance fails to specify, here and elsewhere in Section 23.02.25, the potential for the development of ADUs on lots with proposed or existing multifamily dwellings per Government Code section 66323, subdivisions (a)(3) and (4). As Government Code outlines the standards to be met for this type of ADU on lots with proposed or existing multi-family dwellings, the City’s Ordinance must do the same. Therefore, the City must amend its ordinance to clarify the complete potential for comprehensive ADU development on lots with existing or proposed multi-family dwellings pursuant to state law.
13. Section 23.02.25 (H)(2); (H)(3) – *ADU Height and Datum Point Definition* – The Ordinance restricts attached and detached ADUs from exceeding “one story or sixteen feet in height”. However, these requirements were superseded on January 1, 2023, by the passage of SB 897. Consequently, local agencies may not impose any height limitation that does not allow for the minimum standards enumerated by Government Code section 66321, subdivision (b)(4). Therefore, the City must amend its ordinance to reflect the respective statutory height limitations. Additionally, please clarify what is meant by “datum point” or remove from the Ordinance.
14. Section 23.02.25 (H)(6)(b) – *“Street Facing” Setbacks* – The Ordinance states, “Attached and detached ADU [sic] on corner lots are required to abide by the front and street-facing side yard setback requirements of the underlying zoning district in which the ADU is located.” Further, a setback of no more than four feet from the side and rear lot lines shall be required for an ADU not converted from an existing structure or a new structure constructed in the same location and to

¹⁰ Gov. Code, § 66324, subd. (d).

the same dimensions as an existing structure.¹¹ Any “street-facing side yard setback” regulations that imposes further restrictive setback requirements would conflict with state law. Therefore, the City must amend its ordinance to remove these requirements.

15. Section 23.02.25 (H)(9); (H)(11); (H)(12) – *Design Standards* – The Ordinance states, “An ADU shall exactly match the building materials, color, style, and form of the primary residence.” The Ordinance goes on to state that, “Exterior lighting shall be shielded or directed so that it does not glare off-site or illuminate the primary residence or any adjacent property.” Finally, the Ordinance requires that: “Windows shall be located to avoid direct line of sight to windows of adjacent properties. However, local design standards provided by the Ordinance pursuant to Government Code sections 66314 – 66322 may not preclude the development of ADUs pursuant to Government Code sections 66323. Therefore, the City must amend its ordinance to clarify. .

Additionally, design standards for ADUs must be objective standards, i.e. standards that involve no subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.¹² Terms such as “avoid direct line of sight” are subjective terms. Therefore, the City must adopt objective design standards.

16. Section 23.02.25 (H)(14) – *Design Standards* – The Ordinance states that, “Any common wall separating the accessory dwelling unit from the main building shall be soundproofed.” However, local design standards provided by the Ordinance pursuant to Government Code sections 66314 – 66322 may not preclude the development of ADUs pursuant to Government Code sections 66323. Therefore, the City must amend its ordinance to clarify.

17. Section 23.02.25 (H)(16)(b); (H)(16)(e) – *Parking Standards* – The Ordinance states that ADU parking will not be required if, “The ADU is entirely within a proposed or existing primary dwelling or other structure”, or if “There is a City-approved and dedicated parking space for a car share vehicle located within one block of the ADU. However, local agencies shall not impose parking standards on accessory dwelling units that are **part of** the proposed or existing primary residence, rather those that are entirely within these structures.¹³ Additionally, local agencies shall not impose parking standards ADUs that are located within one block of a car share vehicle, regardless of City approval.¹⁴ Finally, local agencies shall *a/so* not impose parking standards on ADUs when a permit application for an ADU is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot.¹⁵

¹¹ Ibid.

¹² Gov. Code, §§66313, subd. (h); 66314, subd. (b)(1).

¹³ Gov. Code, § 66322, subd. (a)(3).

¹⁴ Gov. Code, §66322, subd. (a)(5).

¹⁵ Gov. Code, § 66322, subd. (a)(6).

Therefore, the City must amend its ordinance to revise parking exemption conditions for ADUs.

18. Section 23.02.25 (I)(1) – *JADU Owner Occupancy* – The Ordinance states that, “The Owner of a parcel proposed for a JADU shall occupy as a principal residence...” However, owner-occupancy is required for the owner of the single-family residence which will contain the JADU, rather than the owner of the parcel on which the residence sits.¹⁶ As a single parcel may contain multiple lots with single family dwellings, the Ordinance fails to specify owner-occupancy requirements in scenarios where the parcel owner and residence owner differ, such as a land lease agreement. Therefore, the City must amend its ordinance to include more precise owner-occupancy language.
19. Section 23.02.25 (I)(4) – *JADU Development Standards* – The Ordinance states that, “The JADU must be contained entirely within the walls of the existing or proposed Single Family Dwelling Unit.” In addition to this requirement, State JADU Law states that enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence and therefore “contained entirely within the walls of the existing or proposed Single Family Dwelling Unit”.¹⁷ Therefore, the City must add this language to comply with State JADU Law.
20. (I)(7) – *JADU Interior Entry* – The Ordinance states, “An interior entry to the main living area shall be provided to serve a JADU.” However, a requirement for an interior entry from JADU to main living area shall only be required if the JADU lacks a separate bathroom.¹⁸ Therefore, the City must amend its ordinance to remove this requirement or specify when, and only when, this requirement may apply.

The City has two options in response to this letter.¹⁹ The City can either amend the Ordinance to comply with State ADU Law²⁰ or adopt the Ordinance without changes and include findings in its resolution adopting the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD’s findings.²¹ If the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD must notify the City and may notify the California Office of the Attorney General that the City is in violation of State ADU Law.²²

HCD appreciates the City’s efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law.

¹⁶ Gov. Code, § 66333, subd. (b).

¹⁷ Gov. Code, § 66333, subd. (d).

¹⁸ Gov. Code, § 66333, subd. (e)(2).

¹⁹ Gov. Code, § 66326, subd. (c)(1).

²⁰ Gov. Code, § 66326, subd. (b)(2)(A).

²¹ Gov. Code, § 66326, subd. (b)(2)(B).

²² Gov. Code, § 66326, subd. (c)(1).

State ADU/JADU Law Statutory Conversion Table

New Government Code Sections	Previous Government Code Sections
Article 1. General Provisions	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
Article 2. Accessory Dwelling Unit Approvals	
66314	65852.2(a)(1)(A), (D)(i)-(xii), (a)(4)-(5)
66315	65852.2 (a)(8)
66316	65852.2 (a)(6)
66317	65852.2 (a)(3), (a)(7)
66318	65852.2 (a)(9), 65852.2 (a)(2)
66319	65852.2 (a)(10)
66320	65852.2 (b)
66321	65852.2 (c)
66322	65852.2 (d)
66323	65852.2 (e)
66324	65852.2 (f)
66325	65852.2 (g)
66326	65852.2 (h)
66327	65852.2 (i)
66328	65852.2 (k)
66329	65852.2 (l)
66330	65852.2 (m)
66331	65852.2 (n)
66332	65852.23.
Article 3. Junior Accessory Dwelling Units	
66333	65852.22 (a)
66334	65852.22 (b)
66335	65852.22 (c)
66336	65852.22 (d)
66337	65852.22 (e)
66338	65852.22 (f)-(g)
66339	65852.22 (h)
Article 4. Accessory Dwelling Unit Sales	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)