



ACTION CALENDAR
September 13, 2022

To: Honorable Mayor and Members of the City Council
 From: Councilmember Taplin, Councilmember Robinson (co-sponsor)
 Subject: Efficiency Unit Ordinance

RECOMMENDATION

Refer to the City Manager and Planning Commission to adopt objective standards for Efficiency Units pursuant to California Housing and Safety Code § 17958.1, developing an ordinance to amend the Berkeley Municipal Code modeled after standards implemented in the City of Davis, the City of Santa Barbara and other cities.

POLICY COMMITTEE RECOMMENDATION

On July 7, 2022, the Land Use, Housing, & Economic Development Committee adopted the following action: M/S/C (Droste/Robinson) to approve the item with a positive recommendation. Vote: Ayes – Droste, Robinson; Noes – None; Abstain – None; Absent – Bartlett.

FINANCIAL IMPLICATIONS

Staff time.

CURRENT SITUATION AND ITS EFFECTS

Establishing standards for Efficiency Units is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

BMC Chapter 23F.04 defines Group Living Accommodations (GLAs) as a “building or portion of a building designed for or accommodating a residential use by persons not living together as a household.” This broad category includes several distinct housing types, such as Dormitories and Residential Hotels. While this definition rests on cohabitation by multiple persons not constituting a “household,” state law provides a legal framework for establishing positive efficiency unit standards for one- or two-person households. California Housing and Safety Code § 17958.1 allows local governments to “permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance.” The City of Berkeley currently lacks such an ordinance.

Berkeley’s current standards for Residential Hotels disincentivizes their production, limiting the supply of lower-cost housing that could be built without limited or no public subsidies. Development standards in Commercial districts are equivalent to those in R-3

zones, requiring a minimum of 350 square feet of total lot area per occupant, inclusive of 90 square feet of open space per occupant. This effectively permits fewer residents by area than other residential uses and reduces financial feasibility. For example, a proposed multifamily apartment development at 2720 San Pablo Ave. in the C-W district is on a 9,576 square-foot project site, with 25 dwelling units and a total of 97 bedrooms. If it were a GLA project such as a residential hotel, it would only be permitted a maximum of 27 bedrooms.

BACKGROUND

Berkeley has made insufficient progress on meeting its state-mandated Regional Housing Need Allocation (RHNA) goals for low- and moderate-income housing in the 2014-2022 RHNA cycle. As recently as the city's 2020 Housing Pipeline Report, the city had only fulfilled 23% of its moderate-income RHNA goals, 21% of its RHNA goals for Very-Low Income households, and a mere 4% for Low-Income households. Berkeley's next RHNA cycle is estimated to mandate roughly 3 times as many units as the previous cycle's total of 2,959 units across all income tiers. In 2019, development costs in the San Francisco Bay Area averaged \$600,000 for new housing funded by 9% Low Income Housing Tax Credits.¹

According to an October 2014 report on affordable housing development by several state housing agencies, "for each 10 percent increase in the number of units, the cost per unit declines by 1.7 percent."² A 2020 study by UC Berkeley's Terner Center on affordable housing projects funded by 9% Low Income Housing Tax Credits reported: "On average, efficiencies of scale translate into a reduction of about \$1,162 for every additional unit in a project."³

Because GLAs typically offer lower market rents for smaller dwelling units, certain types of GLAs including Residential Hotels are exempted from Berkeley's Affordable Housing Mitigation Fee requirements pursuant to BMC 23C.12.020.B. With the exception of Dormitories, GLA units also count toward Berkeley's RHNA housing production targets for low- and moderate-income households if rents meet household affordability thresholds. Lower-cost housing forms with smaller dwelling units such as Single Room Occupancy (SRO) hotels have historically provided a significant portion of affordable housing for cities in the San Francisco Bay Area and nationwide without public subsidies for construction, but current zoning has made projects with this type of cost-

¹ Reid, C. (2020). The Costs of Affordable Housing Production: Insights from California's 9% Low-Income Housing Tax Credit Program. *UC Berkeley Terner Center for Housing Innovation*. Retrieved from https://ternercenter.berkeley.edu/wp-content/uploads/pdfs/LIHTC_Construction_Costs_March_2020.pdf

² California Department of Housing and Community Development, et al. (2014). Affordable Housing Cost Study: Analysis of the Factors that Influence the Cost of Building Multi-Family Affordable Housing in California. Retrieved from https://www.treasurer.ca.gov/ctcac/affordable_housing.pdf

³ See footnote 1.

effective unit size practically infeasible throughout much of Berkeley's transit-rich corridors.

The lack of Efficiency Unit standards has contributed to some consternation in the community with respect to recent GLA projects. For instance, an appeal of Use Permit # ZP2018-0229 for a Residential Hotel project at 2435 San Pablo Avenue—a permit that the City Council upheld in 2021—criticized the project as “neither fish nor fowl” because the project was designated as a Residential Hotel but resembled an Efficiency Unit project.⁴ If the project were an Efficiency Unit, the individual efficiency kitchens and bathrooms would be subject to State standards (or local standards if the City were to adopt them), and the communal kitchens would be an amenity for residents rather than a requisite feature of a Residential Hotel.

Other jurisdictions in California have availed themselves of state authority to establish local standards. For example, the City of Davis establishes a definition of Efficiency Units pursuant to CHSC § 17958.1 with “a minimum floor area of two hundred twenty square feet and shall have a bathroom facility and a partial kitchen or kitchenette.”⁵ Davis Municipal Code § 40.01.010(e) and Santa Barbara Municipal Code § 30.185.040 establish standards for Efficiency Units consistent with state law.⁶⁷ Santa Barbara's standards also enable a minimum floor area of 150 square feet for “Affordable Efficiency Units” subject to deed restrictions for low- and very-low income households.

Notably, both Davis and Santa Barbara, like Berkeley, are host cities to campuses in the University of California system. There is a dire shortage of student housing in the neighborhoods adjacent to campus such as Southside, and moreover, a dire shortage of affordable units available to students without overcrowding apartments. Partial kitchen or bathroom facilities, as allowed for efficiency units as now laid out by state law, will not always be ideal for all tenants, but may be a highly attractive option for students. Establishing an efficiency unit ordinance would be an important pathway to permitting denser, student-oriented housing in neighborhoods adjacent to campus and on key transit corridors connecting to campus.

In 2014, the City of Seattle enacted strict limitations on new “congregate” micro-housing projects, and saw a corresponding increase in production of Small Efficiency Dwelling Units (SEDUs) following this change. However, due to increases in minimum floor area

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[https://www.cityofberkeley.info/Clerk/City_Council/2021/01_Jan/Admin_Record_ZAB_Appeal_0_\(2435\)_San_Pablo_Ave.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/01_Jan/Admin_Record_ZAB_Appeal_0_(2435)_San_Pablo_Ave.aspx)

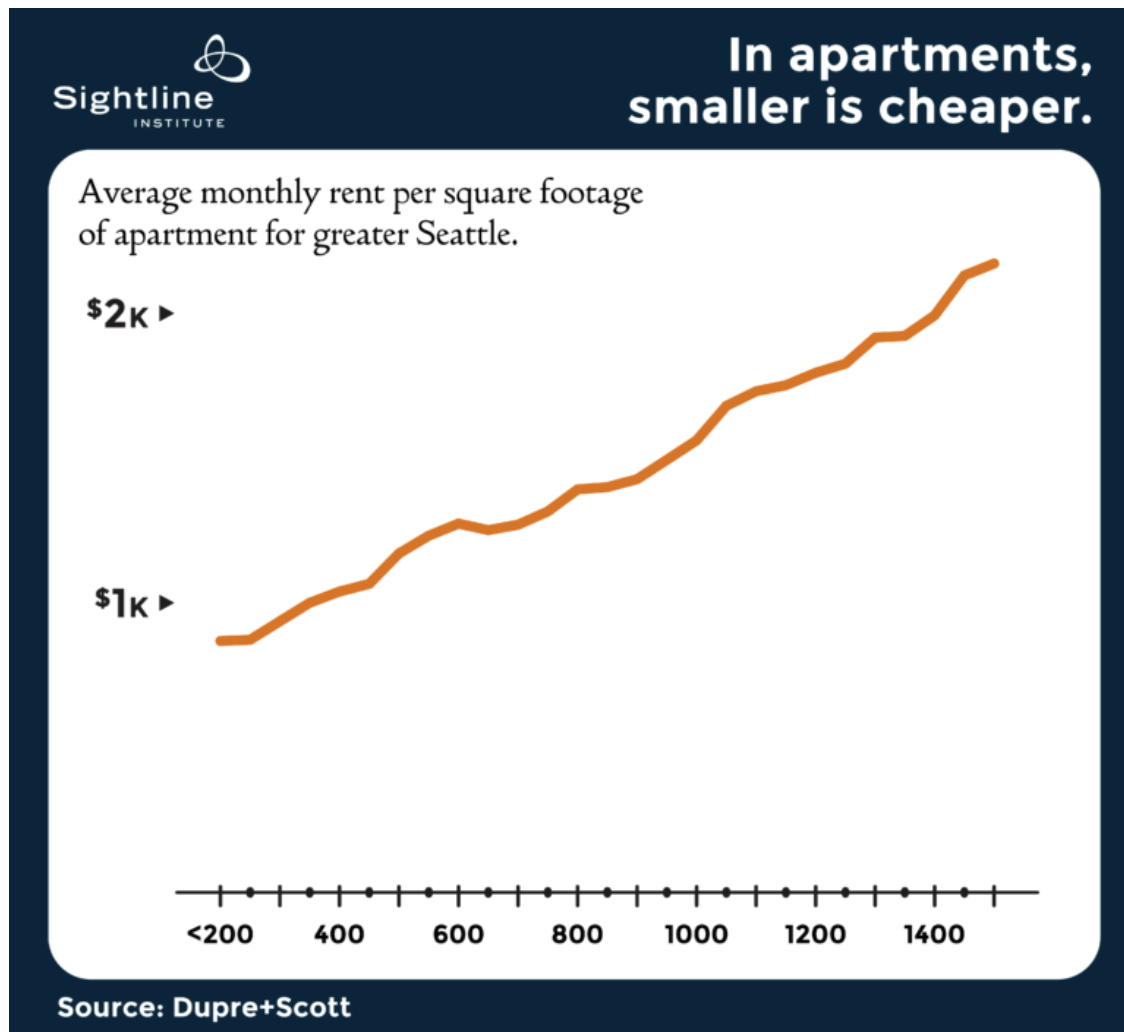
⁵ http://qcode.us/codes/davis/?view=desktop&topic=40-40_01-40_01_010#:~:text=Efficiency%20unit%20has%20the%20meaning,a%20partial%20kitchen%20or%20kitchenette

⁶ http://qcode.us/codes/davis/?view=desktop&topic=40-40_26-40_26_450

⁷ https://qcode.us/codes/santabarbara/view.php?topic=30-iii-30_185-30_185_040&frames=on

requirements and inability to access affordable housing incentives, the number of new SEDUs completed per year in Seattle has declined.⁸

Nevertheless, the data from Seattle shows a clear marginal benefit to housing affordability. A 2021 study of Seattle's microhousing market by the firm Kidder Matthews found that the average monthly rent of SEDUs was \$277 or 18% lower than comparable market-rate studio apartments.⁹



Sightline Institute, 2017¹⁰

⁸ Neiman, D. (2021). When is Seattle Going to Fix Microhousing? *Sightline Institute*. Retrieved from <https://www.sightline.org/2021/02/04/when-is-seattle-going-to-fix-microhousing/>

⁹ Anderson, J. & Simon, D. (2021). 2021 Micro Report. *Kidder Matthews*. Retrieved from https://secureservercdn.net/72.167.230.230/qjx.818.myftpupload.com/wp-content/uploads/2021/12/2021-Micro-Report_Simon-Anderson-Team.pdf?time=1649887261

¹⁰ Neiman, D. (2017). How Seattle Killed Microhousing Again. *Sightline Institute*. Retrieved from <https://www.sightline.org/2017/03/20/how-seattle-killed-micro-housing-again/>

In Berkeley, the 39-unit “Step Up Housing”¹¹ project at 1367 University Ave. will lease 180 square foot furnished studio units to the nonprofit Building Opportunities for Self Sufficiency (BOSS) for \$1,400 per month, roughly \$600 or 30% lower than local studio apartment rents. The City will be supporting the leasing and operations of the project with Measure P funds to provide permanent supportive housing.

Irrespective of subsidies, this cost is also \$195 below the “fair market rent” for SRO/studio units in Alameda County set by the U.S. Department of Housing and Urban Development (HUD), and roughly the same as Alameda County’s rent limit for deed-restricted studio units for a household earning 60% of Area Median Income.¹²

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Incentives for affordable housing offer potential to reduce Vehicle Miles Traveled Per Capita by increasing housing options in Berkeley and shortening commute times for a greater share of the local workforce. In an analysis of 252 California Cities, Durst (2021) finds that “each additional affordable housing incentive is associated with a 0.37 percentage point decrease in the share of workers who commute more than 30 minutes.”¹³ With transportation accounting for 60% of Berkeley’s carbon footprint, per capita VMT reduction is critical for emissions reductions. Research from UC Berkeley scholars and the CoolClimate Network finds that urban infill offers one of the greatest potential policy levers for municipalities to reduce their greenhouse gas emissions.¹⁴ Notably, this study predates the City of Berkeley’s 2019 prohibition on natural gas in new buildings,¹⁵ which would further reduce the carbon footprint of future Berkeley residents relative to the regional average.

CONTACT PERSON

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ATTACHMENTS

1. City of Santa Barbara Ordinance 5794
2. City of Davis Ordinance 2602

¹¹ https://www.cityofberkeley.info/Clerk/City_Council/2021/02_Feb/Documents/2021-02-23_Item_26_Step_Up_Housing_Initiative.aspx

¹² <https://www.acgov.org/cda/hcd/documents/2021IncomeandRentLimits.pdf>

¹³ Durst, N. J. (2021). Residential Land Use Regulation and the Spatial Mismatch between Housing and Employment Opportunities in California Cities. *Terner Center for Housing Innovation*. Retrieved from <http://californialanduse.org/download/Durst%20Residential%20Land%20Use%20Regulation%202020.pdf>

¹⁴ Jones, C. et al. (2017). Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities. *Urban Planning*, 3(2). doi:10.17645/up.v3i2.1218.

¹⁵ Cagle, C. (2019). Berkeley became first US city to ban natural gas. Here's what that may mean for the future. *The Guardian*. Retrieved from <https://www.theguardian.com/environment/2019/jul/23/berkeley-natural-gas-ban-environment>

ORDINANCE NO. 5794

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING THE SANTA BARBARA MUNICIPAL CODE BY AMENDING SECTIONS 30.185.040 AND 30.295.020 TO REGULATE ACCESSORY DWELLING UNITS IN THE NON-COASTAL ZONE OF THE CITY, AND REPEAL INTERIM URGENCY ORDINANCE NO. 5930

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 30.185.040 of Chapter 30.185 of Title 30 of the Santa Barbara Municipal Code is amended to read as follows:

30.185.040 Accessory Dwelling Units

Accessory dwelling units and junior accessory dwelling units shall be located, developed, and occupied subject to the following provisions:

A. Purpose. The purpose of this section is to:

1. Expand opportunities in the City to create additional housing to suit the spectrum of individual lifestyles and space needs, allow more efficient use of existing housing stock and public infrastructure, and provide a range of housing opportunities.
2. Allow accessory dwelling units or junior accessory dwelling units as an accessory use to a primary residential unit, consistent with California Government Code Section 65852.2 or 65852.22, as applicable.
3. Promote accessory dwelling units or junior accessory dwelling units with high-quality designs that are compatible with the surrounding neighborhood, historic resources, and historic districts; preserve the City's visual resources; promote long-term sustainability; and contribute to a desirable living environment.

B. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

1. ***Accessory Dwelling Unit.*** An attached or a detached residential unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residential unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and be located on the same parcel that the primary residential unit is or will be situated. The following

categories of accessory dwelling units are subject to specific development standards:

- a. ***Special Accessory Dwelling Unit.*** These are specific types of smaller accessory dwelling units and junior accessory dwelling units with certain size, height, and setback standards described in subsection L. Development Standards for Special Accessory Dwelling Units. Special accessory dwelling units allow for more than one accessory dwelling unit on a lot.
- b. ***Standard Accessory Dwelling Unit.*** These are typically larger accessory dwelling units with size, height, and setback standards generally described in subsection G. Development Standards for Standard Accessory Dwelling Units. Standard accessory dwelling units do not allow for more than one accessory dwelling unit on a lot.

An accessory dwelling unit also includes the following:

- a. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
 - b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
2. ***Efficiency Kitchen.*** A kitchen that includes at a minimum:
 - a. Appliances for cooking food and refrigeration, either built-in or countertop.
 - b. A sink for food preparation greater than 12 inches by 12 inches, excluding the sink located in the bathroom.
 - c. A food preparation counter.
 3. ***Existing Floor Area.*** A legally permitted building constructed on the site with a final inspection or certificate of occupancy as of the date of application submittal, that conforms to current zoning standards or is legal nonconforming as to current zoning standards.
 4. ***Junior Accessory Dwelling Unit.*** A unit that is no more than 500 square feet in size and contained entirely within the structure of an existing or proposed single residential unit. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing or proposed single residential unit and includes an efficiency kitchen.
 5. ***Passageway.*** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
 6. ***Primary Residential Unit.*** The existing or proposed residential unit on a lot on which an accessory dwelling unit or junior accessory dwelling unit is permitted. The primary residential unit shall comprise one of the residential housing types described in Section 30.295.020.A (i.e., single-unit residential, two-unit residential, multi-unit residential) or mixed-use development.
 7. ***Principal Place of Residence.*** The residence where a property owner actually lives for the greater part of time, or the place where the property owner remains when not called elsewhere for some special or temporary purpose and to which the

property owner returns frequently and periodically, as from work or vacation. There may be only one “principal place of residence,” and where more than one residence is maintained or owned, the burden shall be on the property owner to show that the primary residential unit, or accessory dwelling unit, or junior accessory dwelling unit is the property owner’s principal place of residence as evidenced by qualifying for the homeowner’s tax exemption, voter registration, vehicle registration, or similar methods that demonstrate owner-occupancy. If multiple persons own the property as tenants in common or some other form of common ownership, a person or persons representing at least 50% of the ownership interest in the property shall reside on the property and maintain the property as a principal place of residence. Any person or persons who qualify for the homeowner’s tax exemption under the California State Board of Equalization rules, may qualify as an owner occupant.

C. Where Permitted.

1. ***Accessory Dwelling Unit.*** An accessory dwelling unit may be permitted in any zone that allows residential use, located on a lot developed or proposed to be developed with one or more residential units, except as prohibited below.
2. ***Junior Accessory Dwelling Unit.*** A junior accessory dwelling unit may be permitted in any zone that allows residential use, and shall be located on a lot developed with an existing or proposed single residential unit.
3. ***Prohibited Locations.*** No standard accessory dwelling unit shall be permitted on a lot located within the Fire Hazard Area (Extreme Foothill and Foothill), or as may be subsequently retitled in the future as the “Very High Fire Hazard Severity Zone,” as defined in the City’s Community Wildfire Protection Plan adopted by City Council.
 - a. ***Exception for Special Accessory Dwelling Units.*** Accessory dwelling units permitted in accordance with all the configuration, standards, and special procedures outlined in subsection L. Development Standards for Special Accessory Dwelling Units, may be permitted on any lot, including lots located within any Fire Hazard Area (Extreme Foothill and Foothill), or as may be subsequently retitled in the future as the “Very High Fire Hazard Severity Zone,” as defined in the City’s Community Wildfire Protection Plan adopted by City Council, if the lot is zoned to allow for residential use and contains an existing or proposed primary residential unit.

D. Unit Configuration.

1. Only one accessory dwelling unit or junior accessory dwelling unit shall be permitted on a lot in addition to the primary residential unit in the configuration set forth in subsections D.2 and 3, below. However, multiple accessory units may be permitted in accordance with all the configuration, standards, and special procedures outlined in subsection L. Development Standards for Special Accessory Dwelling Units.
2. An accessory dwelling unit may be permitted in the following configurations:

- a. Incorporated entirely within an existing or proposed primary residential unit;
 - b. Incorporated entirely within an existing accessory building, including garages, located on the same lot as the primary residential unit;
 - c. Attached to or increasing the size of an existing primary residential unit or accessory building located on the same lot as the primary residential unit; or
 - d. Detached from and located on the same lot as the existing or proposed primary residential unit. An accessory dwelling unit that is attached to another detached accessory building, but not the primary residential unit, or is attached by a breezeway or porch, is considered detached.
3. A junior accessory dwelling unit must be incorporated entirely within the existing floor area of an existing or proposed single residential unit or attached garage.

E. Sale, Rental, and Occupancy Terms. All accessory dwelling units and junior accessory dwelling units shall be subject to the following sale, rental, and occupancy terms:

1. ***Not to Be Sold Separately.*** An accessory dwelling unit or junior accessory dwelling unit shall not be sold separately from the primary residential unit.
2. ***Rental Terms.*** The accessory dwelling unit or junior accessory dwelling unit may be rented separately from the primary residential unit, however rental terms shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one 31-day period occupancy by the same tenant.
3. ***Owner Occupancy.*** The following types of projects are subject to an owner occupancy requirement:
 - a. All lots developed with junior accessory dwelling units; except that owner occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
 - b. Any accessory dwelling unit located in an RS zone submitted on or after January 1, 2025, unless otherwise prohibited by state law, or upon repeal of Government Code 65852.2 (a)(6)(B) removing the state-imposed prohibition of an owner occupancy requirement, whichever occurs first.
4. ***Owner's Unit.*** If owner occupancy is required, the property owner shall reside in and maintain either the primary residential unit or the accessory dwelling unit/junior accessory dwelling unit, as the property owner's principal place of residence ("owner's unit"). Owners of lots developed with an accessory dwelling unit/junior accessory dwelling unit shall live on the lot as long as the lot is developed with an accessory dwelling unit/junior accessory dwelling unit. Owners may re-designate the primary residential unit or the accessory dwelling unit/junior accessory dwelling unit as the owner's unit upon written notice to the Community Development Director and written approval of the re-designation by the Community Development Director, which approval shall not be denied unreasonably. The property owner shall not rent or lease both the primary

residential unit and the accessory dwelling unit/junior accessory dwelling unit simultaneously.

5. **Hardship Waiver.** If owner occupancy is required, in the event of a hardship, such as the death or disability of the property owner, job transfer, or similar significant personal situation which prevents the property owner from occupying one of the units as the owner's unit, a property owner or estate representative may apply for a temporary waiver of the owner-occupation requirement for a specific time period to allow the owner's unit to be occupied by a non-property owner pending disposition of the property through probate or non-probate transfer to a new owner, or the cessation of the circumstances preventing the property owner from occupying the owner's unit on the property. The Community Development Director shall review applications for a hardship waiver. Any such waiver shall specify the period of time for which it is granted, provided that no such waiver may be granted for a period longer than three years.
6. **Removal of Recorded Owner Occupancy Requirement.** With the exception of owner occupancy covenants required to permit a junior accessory dwelling unit, the Community Development Director will, in a form acceptable to the City Attorney, release an owner occupancy requirement recorded against the property prior to adoption of this ordinance upon the request of the property owner. No other covenants required pursuant to this section, and contained in the agreement recorded against the property, shall be released.

F. **Required Features.** Each accessory dwelling unit and junior accessory dwelling unit shall contain, at a minimum, the following features:

1. **Residential Elements.** Permanent provisions for separate residential occupancy must be provided as follows within the contiguous livable floor space of the accessory dwelling unit or junior accessory dwelling unit and must be independent from the primary residential unit:
 - a. A kitchen, consisting of a sink, cooking appliance, and refrigeration facilities. A junior accessory dwelling unit may utilize an efficiency kitchen.
 - b. A bathroom consisting of a toilet, sink, and bathtub or shower. A junior accessory dwelling unit may share sanitation facilities with the existing or proposed single residential unit.
 - c. A separate living room.
 - d. A separate sleeping room, except in studio residential units, where a living room is considered a sleeping room.
2. **Minimum Floor Area.** Notwithstanding the dwelling unit minimum described in Section 30.140.150, Residential Unit, the minimum floor area for a newly constructed accessory dwelling unit is as follows:
 - a. **Efficiency Unit:** 150 square feet.
 - b. **Studio Unit:** 220 square feet.

- c. *All Other Units*: 400 square feet.

Such usable floor area shall be exclusive of open porches, garages, basements, cellars, and unfinished attics. The minimum floor area for accessory dwelling units that are created by converting existing structures is 150 square feet.

- 3. *Exterior Access*. Exterior access to the unit, that is independent from the primary residential unit, must be provided. An interior connection consisting of one fire-rated lockable door between the primary residential unit and an accessory dwelling unit or junior accessory dwelling unit may be provided.
- 4. *Fire Sprinklers*. Fire sprinklers are required only if they are required for the primary residential unit.
- 5. *Permanent Foundation*. Attached and detached units shall be constructed with an approved permanent foundation.
- 6. *Property Addresses*. Addresses identifying all residential units on the lot, with minimum three- and one-half-inch numbers plainly visible from the street or road fronting the property shall be provided.
- 7. *Public Sewer*. Accessory dwelling units and junior accessory dwelling units shall be connected to a public sewer. If public sewer connection is not available, approval of a new or expanded onsite wastewater treatment system shall be required in accordance with the procedures from the Code of the County of Santa Barbara California prior to issuance of a building permit.
- 8. *Water Meter*. Accessory dwelling units shall comply with the water metering requirements of Title 14, Section 14.08.150 E.
- 9. *Passageway*. No passageway is required in conjunction with the construction of an accessory dwelling unit or junior accessory dwelling unit.

G. Development Standards for Standard Accessory Dwelling Units.

- 1. *Development Standards Generally*. The development standards listed in this section apply to standard accessory dwelling units and junior accessory dwelling units, except for those units permitted in accordance with all the configuration, standards, and special procedures outlined in subsection L. Development Standards for Special Accessory Dwelling Units.
 - a. The reductions and exceptions to the development standards normally applicable to residential development allowed in this section are for the express purpose of promoting the development and maintenance of an accessory dwelling unit on the lot. If for any reason the accessory dwelling unit is not maintained on the lot in conformance with this section, the lot shall be brought into compliance with all of the requirements for the residential development, or with the legal nonconforming condition of the lot prior to the development of the accessory dwelling unit, including, but not limited to, the requirements for open yard, setbacks, and covered parking.

- b. Except as otherwise specified in this subsection, projects developed in accordance with this section shall otherwise comply with the development standards applicable to an attached or detached accessory building for the housing type and the base zone in which the lot is located.
 - c. One primary residential unit shall be designated on a lot on which an accessory dwelling unit or junior accessory dwelling unit is permitted.
 - d. Notwithstanding the size limit of an attached accessory dwelling unit based on a percentage of the proposed or existing primary unit, or lot coverage, floor area ratio, open yard, and minimum lot size standards for an attached or detached accessory dwelling unit, an 800-square-foot, 16-foot high attached or detached accessory dwelling unit may be constructed in compliance with all other development standards for standard accessory dwelling units.
2. **Maximum Floor Area.** The maximum floor area for a standard accessory dwelling unit and junior accessory dwelling unit is as follows:
- a. **Attached Accessory Dwelling Unit.** An accessory dwelling unit that is attached to, and increasing the size of, the primary residential unit shall not exceed 50% of the living area of the existing primary residential unit.
 - b. **Converted Accessory Dwelling Unit.** An accessory dwelling unit that is incorporated entirely within an existing primary residential unit, or within an existing accessory building, is not limited in size except that it shall not exceed the footprint of the existing structure.
 - c. **Detached Accessory Dwelling Unit.** An accessory dwelling unit that is detached from the primary residential unit and may or may not be attached to another detached accessory building, including detached garages, shall not exceed the following maximum floor area based on lot size and number of bedrooms:
 - i. *Lots up to 14,999 square feet and developed with one-bedroom or studio units:* 850 square feet.
 - ii. *Lots up to 14,999 square feet and developed with two or more-bedroom units:* 1,000 square feet.
 - iii. *Lots 15,000 square feet or larger:* 1,200 square feet.
 - d. **Junior Accessory Dwelling Unit.** The maximum floor area of a junior accessory dwelling unit shall be 500 square feet.
3. **Building Separation.** The minimum separation between the primary residential unit and a detached accessory dwelling unit shall be five feet.
4. **Open Yard.** No open yard areas are required for accessory dwelling units or junior accessory dwelling units. The minimum area, dimensions, and location of the required open yard pursuant to Section 30.140.140.C, Open Yards, for the existing or proposed primary residential unit on lots developed with single-unit or two-unit residential, may be reduced as follows in order to construct a standard accessory

dwelling unit pursuant to this subsection, or to construct an accessory dwelling unit proposed over a new or reconstructed maximum 500 square foot garage, provided all other open yard requirements are met:

- a. **Minimum Area.**
 - i. *Lots less than 6,000 square feet:* 500 square feet.
 - ii. *Lots 6,000 up to 7,999 square feet:* 800 square feet.
 - iii. *Lots 8,000 square feet up to 9,999 square feet:* 1,000 square feet.
 - iv. *Lots 10,000 square feet or greater:* 1,250 square feet.
 - b. **Minimum Dimensions.** 15 feet long and 15 feet wide.
 - c. **Location in Driveways and Turnarounds.** Notwithstanding Section 30.140.140.E.6.a, Vehicle Areas, the required open yard may be located in driveways and turnarounds, but not parking areas, in order to allow the construction of a new accessory dwelling unit.
5. **Setbacks.** The following setbacks shall apply to new and converted standard accessory dwelling units approved pursuant to this subsection:
- a. **New Construction.** Newly constructed accessory dwelling units shall comply with the following setback standards:
 - i. **Front Setback:** Meet the minimum front setback for residential structures in the zone, unless further limited by subsection H.8., Front Yard Location, below.
 - ii. **Interior Setback:** Four feet.
 - b. **Conversion.** No setback is required to convert the existing, legally permitted, floor area of a main or accessory building to an accessory dwelling unit. Improvements to existing nonconforming buildings, including conforming additions, are allowed pursuant to Chapter 30.165, Nonconforming Structures, Site Development, and Uses.
 - c. **Substantial Redevelopment.** No setback is required when an existing main or accessory building is substantially redeveloped and converted to an accessory dwelling unit, provided that the new building is reconstructed in the same location and with the same dimensions and floor area as the existing building.
 - i. **Exception for Small Conforming Additions.** One small 150-square-foot conforming first floor addition may be permitted on a substantially redeveloped and converted nonconforming accessory building.
 - d. **New Construction Combined with Replacement of a Nonconforming Garage.** The construction of an accessory dwelling unit may be combined with the demolition and replacement of a nonconforming detached garage if all of the following requirements are met:
 - i. The new garage is reconstructed in the same location and with the same dimensions as the existing garage; or

- ii. The new garage is enlarged only as necessary to provide the same number of parking spaces and to meet the dimension requirements of the City of Santa Barbara Access & Parking Design Standards, but located no closer to the property line as the existing garage; and
 - iii. The accessory dwelling unit is constructed above the reconstructed garage; and
 - iv. The accessory dwelling unit and any additions to the garage shall conform with current setbacks; and
 - v. The new structure shall comply with all applicable height and building story limitations, and all other development standards are met.
- e. **Setback Encroachments.** Setback encroachments allowed pursuant to Section 30.140.090, Encroachments into Setbacks and Open Yards, may be permitted for accessory dwelling units or junior accessory dwelling units.

H. Architectural Review. All accessory dwelling units or junior accessory dwelling units shall be subject to the following architectural design criteria as applicable to either new construction or exterior alterations, which shall be reviewed ministerially by the Community Development Director. For purposes of this section, portions of a building or site considered to be the accessory dwelling unit shall include all of the contiguous interior livable floor area of the accessory dwelling unit and any exterior alterations directly attached to, and integral to, the livable floor area of the accessory dwelling unit.

- 1. **Prohibition of Shiny Roofing and Siding.** New roofing and siding materials that are, shiny, mirror-like, or of a glossy metallic finish are prohibited.
- 2. **Roof Tile.** Where a new clay tile roof is proposed, the use of two-piece terra cotta (Mission “C-tile”) roof is required and “S-tile” is prohibited, unless necessary to match the S-tile roof materials of the existing primary residential unit.
- 3. **Skylights.** New skylights shall have flat glass panels. “Bubble” or dome type skylights are not allowed.
- 4. **Glass Guardrails.** New glass guardrails are not allowed, unless necessary to match the glass guardrails of the existing primary residential unit.
- 5. **Garage Conversion.** If a garage is converted to an accessory dwelling unit, the garage door opening shall be replaced with exterior wall coverings, or residential windows and doors, to match the existing exterior garage wall covering and detailing.
- 6. **Grading.** No more than 250 cubic yards of grading (i.e., cut and/or fill under the main accessory dwelling unit building footprint and outside the main building footprint to accommodate the accessory dwelling unit) is proposed in the Hillside Design District or on lots in other parts of the City with a slope of 15% or greater.
- 7. **Height.** The construction of an accessory dwelling unit shall not exceed the following, whichever is greater:
 - a. Height of the primary residential unit;

- b. Number of stories of the primary residential unit; or
- c. 17 feet.

This height limitation is not applicable to an accessory dwelling unit constructed above a garage, however, in no event shall the resulting building exceed the maximum height or number of stories allowed for a detached or attached accessory building in the zone.

- 8. **Front Yard Location.** The construction of a new detached accessory dwelling unit located in the front yard shall be subject to all of the following:
 - a. The new accessory dwelling unit must be located a minimum of 20 feet back from all front lot lines or meet the minimum front setback for the zone in which the lot is located, whichever is greater.
 - b. Unless constructed over a garage, the new unit shall be:
 - i. No more than one-story and less than 17 feet in height; and
 - ii. Screened from the street by topography, location, or landscape, in a manner designed to blend into the surrounding architecture or landscape, so as to minimize visibility of the accessory dwelling unit to the casual observer as viewed from the street.
- 9. **Design Style.** New detached or attached accessory dwelling units shall be compatible with the design of the primary residential unit regarding style, fenestration, materials, colors, and details if the accessory dwelling unit meets any of the following:
 - a. Attached to, or if any portion of the accessory dwelling unit is located within 20 feet of, the primary residential unit;
 - b. Located in the Hillside Design District and 20% or greater average slope;
 - c. Two or more stories tall, or 17 feet or taller in building height;
 - d. Located on a site on which there is a historical resource as follows:
 - i. Listed on the National Register of Historic Places or the California Register of Historic Resources;
 - ii. Designated as a City of Santa Barbara Landmark or Structure of Merit; or
 - iii. Located in a designated historic district.
 - e. Located in the front yard.
- 10. **Privacy Standards.** The construction of an accessory dwelling unit where any portion of the proposed construction is either: two or more stories tall or 17 feet or taller in building height, shall comply with the following:
 - a. Upper story unenclosed landings, decks, and balconies greater than 20 square feet, that face or overlook the adjoining property, shall be located a minimum of 15 feet from the interior lot lines.

- b. Upper story unenclosed landings, decks, and balconies, that do not face or overlook the adjoining property due to orientation or topography, may be located at the minimum interior setback line if an architectural screening element such as enclosing walls, trellises, awnings, or perimeter planters with a five-foot minimum height is incorporated into the unenclosed landing, deck, or balcony.
 - c. Upper story windows that face or overlook the adjoining property, located within 15 feet of the interior lot lines, shall be installed a minimum of 42 inches above finish floor.
11. **Exceptions.** Discretionary applications for design review may be requested in the following circumstances:
- a. An applicant may propose an accessory dwelling unit that does not meet these design criteria subject to approval by the Single Family Design Board, Architectural Board of Review, or Historic Landmarks Commission, as appropriate.
 - b. Discretionary design review may be required for any exterior alterations to the project site or main buildings that are not an integral part of the accessory dwelling unit, but are proposed in conjunction with the accessory dwelling unit, if required pursuant to Chapter 22.22, 22.68, or 22.69 of this code.
- I. **Protection for Historic Resources.** No accessory dwelling unit or junior accessory dwelling unit shall be permitted if the proposal would cause a substantial adverse change in the significance of a historical resource listed on the National Register of Historic Places or the California Register of Historical Resources, designated as a City of Santa Barbara Landmark or Structure of Merit, or located in a designated historic district. The Community Development Director shall make this determination by reviewing the proposal for compliance with appropriate Secretary of Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings*.
- J. **Parking Standards.** No automobile parking spaces are required for accessory dwelling units or junior accessory dwelling units. The required parking for the existing residential units on site may be reduced or replaced as follows to construct an accessory dwelling unit:
- 1. **No Replacement Parking Required.** When an existing garage, carport, or other covered parking structure is converted to an accessory dwelling unit or demolished in order to construct an accessory dwelling unit, those off-street parking spaces for the existing residential unit are not required to be replaced.
 - 2. **Optional Parking Standards.** If optional new or replacement parking spaces are proposed for either the primary residential unit or the accessory dwelling unit, those spaces may be provided as covered, uncovered, in a mechanical lift, or in a tandem configuration pursuant to f. below. The replacement spaces shall meet all of the following:

- a. Covered parking shall meet the development standards applicable to the primary residential unit within the zone in which the lot is located.
- b. All parking spaces must meet the minimum dimensions and development standards consistent with the City Parking Access & Design Standards and Section 30.175.090 Parking Area Design and Development Standards.
- c. In order to maintain visibility for adjacent driveways and intersections, uncovered parking spaces shall comply with Section 30.140.230, Visibility at Driveways and Intersections.
- d. Replacement uncovered parking spaces may be allowed in a front or interior setback, provided all uncovered parking spaces are contained within the area of an existing paved driveway and no increase to paved areas occurs in the setbacks.
- e. New uncovered parking spaces, that are not replacement parking spaces as described above, may be located three feet from any interior lot line, provided a minimum of three feet in width of planting area is provided for the length of the paved parking area along the interior lot line.
- f. Tandem parking configuration shall meet all the following:
 - i. No more than two automobiles shall be placed one behind the other.
 - ii. Both automobile parking spaces parked in tandem shall be assigned to the same residential unit. Tandem parking shall not create any traffic safety issues.
 - iii. Vertical or stackable tandem parking, provided by means of mechanical lifts, is subject to approval by the Public Works Director. Mechanical lifts shall be fully enclosed within a structure and shall require a recorded maintenance agreement, pursuant to Chapter 30.260, Recorded Agreements.
 - iv. Tandem parking in multi-unit and commercial zones is subject to approval by the Public Works Director. Tandem parking shall not create traffic safety issues.

K. Fire Hazard Area Standards. All accessory dwelling units or junior accessory dwelling units located in any Fire Hazard Area as defined in the City's Community Wildfire Protection Plan or as may be subsequently retitled in the future as a "High" or "Very High Fire Hazard Severity Zone" as defined in the Community Wildfire Protection Plan adopted by City Council, shall comply with the following standards as applicable to new construction or parking:

- 1. **No Tandem Parking.** No parking space shall be developed in a tandem configuration.
- 2. **High Fire Construction.** The accessory dwelling unit shall be designed to meet high fire construction standards adopted or enforced by the City, as determined by the Chief Building Official or the Fire Code Official.

3. ***No Variance or Modification.*** No variance or modification to any Fire Code requirements or high fire construction standards shall be permitted.
4. ***Defensible Space.*** The site must meet defensible space requirements, pursuant to Chapter 8.04 of this code, prior to occupancy and those requirements must be maintained.
5. ***Parking.*** One covered or uncovered automobile parking space per unit or bedroom, whichever is less, meeting all of the same parking standards required for the primary residential unit as described in subsection J., Parking Standards, shall be required for an accessory dwelling unit.
 - a. ***Parking Exceptions for Certain Accessory Dwelling Units.*** Automobile parking is not required for an accessory dwelling unit in any of the following instances:
 - i. The accessory dwelling unit is located within a walking distance of one-half mile of a public transit stop, such as a bus stop or train station.
 - ii. The accessory dwelling unit is located within an architecturally and historically significant historic district. For purposes of this provision, El Pueblo Viejo Landmark District, Brinkerhoff Avenue Landmark District, Riviera Campus Historic District, and the El Encanto Hotel Historic District, constitute architecturally and historically significant historic districts within the City and any district hereafter created deemed to be architecturally and historically significant.
 - iii. The accessory dwelling unit is contained entirely within the permitted floor area of the existing primary residential unit or an existing accessory building.
 - iv. When on-street parking permits are required but not offered to the occupant(s) of the accessory dwelling unit.
 - v. When there is a “carshare vehicle” as defined in Chapter 10.73 of this code, located within a walking distance of 500 feet of the accessory dwelling unit.

L. Development Standards for Special Accessory Dwelling Units.

1. ***Development Standards Generally.*** The development standards listed in this section apply to specific types of small accessory dwelling units and junior accessory dwelling units with certain size, height, and setback standards that, if followed, allow for an accessory dwelling unit to be permitted on lots in a Fire Hazard Area, or more than one accessory dwelling unit on a lot, and allows additional reductions and exceptions to development standards for open yard and maximum floor area. Applications utilizing the special standards described in this section may not utilize the less restrictive configuration, size, and height standards allowed under another section to achieve a larger unit or more than one unit.

- a. Any reductions and exceptions in this section are for the express purpose of promoting the development and maintenance of a special accessory dwelling unit or junior accessory dwelling unit on the lot. If for any reason the special accessory dwelling unit or junior accessory dwelling unit is no longer maintained on the lot, the lot shall be brought into compliance with all of the requirements for the remaining residential development, or with the legal nonconforming condition of the lot prior to the development of the accessory dwelling unit or junior accessory dwelling unit.
 - b. Except as otherwise specified in this section, projects developed in accordance with this Chapter shall otherwise comply with the development standards applicable to the housing type and base zone in which the lot is located.
 - c. One primary residential unit shall be designated on a lot on which an accessory dwelling unit or junior accessory dwelling unit is permitted. In the case when multiple residential units are existing on a lot, there shall be only one primary residential unit.
2. **Configuration – Single Unit Lots.** A lot developed with only one existing or proposed single-unit residence, may permit one of the following types of special accessory dwelling units:
- a. *Converted Portion of Main Building.* Only one accessory dwelling unit or junior accessory dwelling unit contained entirely within the existing, legally permitted, fully enclosed livable floor area of the existing or proposed primary residential unit; or
 - b. *Converted Accessory Building.* Only one accessory dwelling unit contained entirely within the existing, legally permitted, fully enclosed floor area of a garage or other accessory building on the same lot as the primary residential unit, plus one 150-square-foot conforming first floor addition, if the expansion is limited to accommodating ingress and egress; or
 - c. *One Unit – New Construction.* One newly constructed accessory dwelling unit, detached from any other main or accessory building; or
 - d. *Two Units – Combination.* One junior accessory dwelling unit contained entirely within the existing, legally permitted, fully enclosed livable floor area of the existing or proposed primary residential unit, plus one newly constructed accessory dwelling unit, detached from any other main or accessory building.
3. **Configuration – Two-Unit or Multi-Unit Lots.** A lot developed with two or more existing residential units, may permit one of the following types of special accessory dwelling units:
- a. *Converted Non-Livable Space.* At least one accessory dwelling unit, and up to 25 percent of the existing number of residential units on a lot, may be converted on a lot if contained entirely within portions of existing, legally

permitted, fully enclosed floor area of a residential structure that is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages; or

- b. *Two Units – New Construction.* No more than two newly constructed accessory dwelling units, detached from the main or accessory building.

4. ***Maximum Floor Area***

- a. *Detached Accessory Dwelling Unit.* The maximum floor area of any detached, new construction, special accessory dwelling unit approved pursuant to this subsection is 800 square feet.
- b. *Converted Accessory Dwelling Unit.* An accessory dwelling unit that is incorporated entirely within portions of existing floor area, approved pursuant to this subsection, is not limited in size.
- c. *Junior Accessory Dwelling Unit.* The maximum floor area of a junior accessory dwelling unit shall not exceed 500 square feet.

5. ***Maximum Height – Detached Accessory Dwelling Unit.*** The maximum building height of a detached, new construction, special accessory dwelling unit approved pursuant to this subsection is 16 feet.

6. ***Exempt from Other Size Limitations.*** A special accessory dwelling unit or junior accessory dwelling unit approved pursuant to this subsection is exempt from any other size limitation in this Title.

7. ***Exempt from Open Yard.*** No open yard is required for a special accessory dwelling unit or junior accessory dwelling unit approved pursuant to this subsection. Open yard for any existing residential units on a lot may be reduced or eliminated entirely in order to permit a special accessory dwelling unit meeting all the standards and criteria in this subsection.

M. Building Permit Required. All accessory dwelling units and junior accessory dwelling units shall comply with applicable state and local building codes and shall require approval of a building permit. Applications shall be processed pursuant to Chapter 30.205, Common Procedures, and the specific requirements of this section. The City shall ministerially approve or disapprove a complete building permit application for an accessory dwelling unit or junior accessory dwelling unit in compliance with time periods established by state law.

- 1. ***Combined Permits.*** An accessory dwelling unit or junior accessory dwelling unit permit shall not be combined with a permit for other proposed construction on the site unrelated to the accessory dwelling unit or junior accessory dwelling unit. If a permit application for an accessory dwelling unit or junior accessory dwelling unit is submitted at the same time as a permit application for a new single-unit dwelling, review of the permit for the accessory dwelling unit or junior accessory dwelling unit application shall be delayed until the permit for the single-unit dwelling has been approved.

2. **Modifications and Minor Zoning Exceptions for Accessory Dwelling Units or Junior Accessory Dwelling Units.** An accessory dwelling unit or junior accessory dwelling unit that is not in compliance with the development standards of this section may be granted a modification or minor zoning exception if all the required findings can be met, pursuant to the procedures outlined in Chapter 30.250, Modifications, or Chapter 30.245 Minor Zoning Exceptions.
 3. **Posted Sign.** Within five calendar days after submitting an initial building permit application to the City, the property owner shall install a public notice in the form of a posted sign on the property in a manner deemed acceptable by the Community Development Director. The sign shall remain posted until a building permit is issued, or the application expires or is withdrawn. At the time of application submittal, the applicant shall sign an affidavit stating that he or she will post the required sign per this subsection. The validity of the permit shall not be affected by the failure of any property owner, resident, or neighborhood or community organization to receive this notice.
- N. **Recorded Agreement.** Before obtaining a building permit for an accessory dwelling unit or junior accessory dwelling unit, the property owner shall execute an agreement, pursuant to Chapter 30.260, Recorded Agreements, containing a reference to the deed under which the property was acquired by the present owner which outlines the requirements regarding the sale, rental, and owner occupancy of lots developed with accessory dwelling units and junior accessory dwelling units as specified in subsection E. of this section.
- O. **Residential Density.** An accessory dwelling unit or junior accessory dwelling unit is a residential use that is consistent with the existing General Plan designations and zoning for lots within the allowable residential zones. Any accessory dwelling unit or junior accessory dwelling unit permitted pursuant to this section does not exceed the allowable density for the lot upon which the accessory dwelling unit or junior accessory dwelling unit is located. (Ord. 5834, 2018)

SECTION 2. Section 30.295.020 of Chapter 30.295 of Title 30 of the Santa Barbara Municipal Code is amended to read as follows:

30.295.020 Residential Use Classifications.

A. Residential Housing Types.

1. **Single-Unit Residential.** One primary residential unit and up to one Accessory Dwelling Unit or one Junior Accessory Dwelling Unit located on a single lot. This classification includes individual mobilehomes and manufactured housing units installed on a foundation system pursuant to Section 18551 of the California Health and Safety Code and meeting the standards of Section 30.185.270, Mobilehomes, Recreational Vehicles and Modular Units, Individual Use.
2. **Two-Unit Residential.** No more than two residential units and may include one or more Accessory Dwelling Units located on a single lot. The residential units

may be located in a single building that contains two residential units (also known as a duplex) or in two detached buildings.

3. ***Multi-Unit Residential.*** Three or more attached or detached residential units and may include one or more Accessory Dwelling Units on a single lot. Types of multi-unit residential include townhouses, multiple detached residential units (e.g. bungalow court), and multi-story apartment buildings.

B. Special Residential Unit Types.

1. ***Accessory Dwelling Unit.*** An attached or a detached residential unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residential unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residential unit is or will be situated. An accessory dwelling unit also includes the following:
 - a. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
 - b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
6. ***Junior Accessory Dwelling Unit.*** A unit that is no more than 500 square feet in size and contained entirely within the structure of an existing or proposed single-unit residential housing type. A junior accessory dwelling unit includes its own separate sanitation facilities, or shares sanitation facilities with the existing or proposed single residential unit and includes an efficiency kitchen.

SECTION 3. Severability and Interpretation.

A. **Severability.** If any provision of this Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

B. **Interpretation.** This Ordinance shall be construed to confer upon the City the maximum power and authority allowed by state and federal law. In the event state or federal law is found to conflict with and preempt any provision of this Ordinance, or in the event state or federal law changes to conflict with and preempt any provision of this Ordinance, the remaining and non-conflicting provisions of this Ordinance shall be interpreted and construed to give maximum effect to the remaining and non-conflicting provisions so as to effectuate to the greatest extent possible the purposes and restrictions expressed herein.

SECTION 4. CEQA

Under California Public Resources Code Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county

implementing the provisions of Section 65852.2 and 65852.22 of the Government Code, which is the state Accessory Dwelling Unit law.

SECTION 5. Local building codes

For purpose of Government Code Section 65852.2(a)(D)(viii) “local building codes” shall mean, but not be limited to, the uniform technical codes adopted through Santa Barbara Municipal Code Chapter 22.04 and any and all objective development, design, and environmental standards and policies adopted by or implemented within the City.

SECTION 6. Effect on Projects in the Permit Process

Applications for Accessory Dwelling Units subject to the City’s Interim Urgency Ordinance No. 5927, extended by Ordinance No. 5930, that were received on or after January 1, 2017 but before the effective date of City Council adoption may continue to be processed in accordance with Government Code 65852.2 provided that a building permit is issued within 60 days after the effective date of the ordinance, or may elect to be processed in accordance with the proposed Title 30 ordinance amendments. All applications for Accessory Dwelling Units submitted on or after the effective date of City Council adoption, and any Accessory Dwelling Unit applications which have not yet received a building permit by the deadlines described above, shall be subject to the proposed Title 30 ordinance amendments.

SECTION 7. Interim Urgency Ordinance No. 5930

Interim Urgency Ordinance No. 5930 shall automatically terminate and have no further force or effect upon the effective date of this ordinance.

ORDINANCE NO. 5974

STATE OF CALIFORNIA)
)
 COUNTY OF SANTA BARBARA) ss.
)
 CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing ordinance was introduced on October 27, 2020 and adopted by the Council of the City of Santa Barbara at a meeting held on November 10, 2020, by the following roll call vote:

- AYES: Councilmembers Eric Friedman, Oscar Gutierrez, Meagan Harmon, Mike Jordan, Kristen W. Sneddon; Mayor Cathy Murillo
- NOES: None
- ABSENT: None
- ABSTENTIONS: None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on November 11, 2020.





 Sarah P. Gorman, CMC
 City Clerk Services Manager

I HEREBY APPROVE the foregoing ordinance on November 11, 2020.



 Cathy Murillo
 Mayor

ORDINANCE NO. 2602

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS AMENDING VARIOUS SECTIONS OF CHAPTER 40 (ZONING) OF THE DAVIS MUNICIPAL CODE TO IMPLEMENT REGULATIONS REGARDING ACCESSORY DWELLING UNITS, JUNIOR ACCESSORY DWELLING UNITS, AND GUEST HOUSES, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, effective January 1, 2020, Senate Bill 13 (“SB 13”), Assembly Bill 68 (“AB 68”), Assembly Bill 587 (“AB 587”), Assembly Bill 670 (“AB 670”), and Assembly Bill 881 (“AB 881”) amended state regulations to further encourage the development and limit the standards cities may impose on accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”). Government Code Section 65852.2 also was amended in 2020 by Senate Bill 1030 (“SB 1030”) and Assembly Bill 3182 (“AB 3182”). To comply with State law as amended by this recent legislation, the City must now update the Municipal Code; and

WHEREAS, on March 10, 2021, the Planning Commission of the City of Davis conducted a duly noticed public hearing on Ordinance No. 2602. At the hearing, all interested persons were given the opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence and testimony presented in connection with this Ordinance. Following the close of the public hearing, the Planning Commission recommended approval of Ordinance No. 2602 to the City Council; and

WHEREAS, on May 4, 2021, the City Council of the City of Davis conducted a duly noticed public hearing on Ordinance No. 2602. At the hearing, all interested persons were given the opportunity to be heard. The City Council received and considered the staff report, the Planning Commission’s recommendation, and all the oral and written information, evidence, comments, and testimony presented in connection with this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The recitals above are true and correct and are hereby incorporated into this Ordinance.

SECTION 2. The General Plan of the City of Davis states that a variety of housing types should be encouraged to meet the housing needs of an economically and socially diverse Davis, and to encourage infill as an alternative to sprawl. The Housing Element of the General Plan of the City of Davis also contains a policy to continue to facilitate ministerial accessory dwelling units and discretionary accessory dwelling units. This Ordinance is therefore consistent with the City’s General Plan.

SECTION 3. The definition of “Accessory dwelling unit” in Section 40.01.10 (Definitions) of Article 40.01 (In General) of Chapter 40 of the Davis Municipal Code is amended to read as follows, with all other definitions to remain the same:

“Accessory dwelling unit (“ADU”). Has the meaning set forth in Government Code Section 65852.2 and means an attached or 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 includes the following: an efficiency unit, as defined in Health and Safety Code Section 17958.1, and a manufactured home, as defined in Health and Safety Code Section 18007.”

SECTION 4. The definition of “Accessory building or structure” in Section 40.01.010 (Definitions) of Article 40.01 (In General) of Chapter 40 of the Davis Municipal Code is hereby amended to read as follows, with all other definitions to remain the same:

“Accessory building or structure. A structure detached from a primary building located on the same lot and incidental to and subordinate to the principal building or use, including, but not limited to, garages, carports, storage sheds, gazebos, and guest houses. An Accessory Dwelling Unit is not an Accessory Building or Structure and is subject to separate regulations found in Sections 40.26.450 and 40.26.460.”

SECTION 5. The definition of “Guest house” in Section 40.01.010 (Definitions) of Article 40.01 (In General) of Chapter 40 of the Davis Municipal Code is hereby amended to read as follows, with all other definitions to remain the same:

“Guest house. Living quarters or conditioned space within an accessory building for the use of persons living or employed on the premises, or for temporary use by guests of the occupants of the premises. Such quarters may have bathroom facilities (toilet, sink, tub/shower) and shall have no kitchen facilities. Such quarters shall not be rented or otherwise be used as a separate dwelling. A pool house, workshop, home office or studio is also considered a guest house.”

SECTION 6. The definition of “Apartment, efficiency” in Section 40.01.010 (Definitions) of Article 40.01 (In General) of Chapter 40 of the Davis Municipal Code is hereby repealed.

SECTION 7. The following definitions are hereby added to Section 40.01.10 (Definitions) of Article 40.01 (In General) of Chapter 40 of the Davis Municipal Code to read as follows, with all other definitions to remain the same:

“Accessory dwelling unit, junior (“JADU”). Has the meaning set forth in Government Code Section 65852.22 and means a residential dwelling unit that is no more than 500 square feet in size and is contained entirely within a single-family residence, which does not include the garage. A JADU shall include an efficiency kitchen, and may include separate bathroom facilities or share bathroom facilities with the single-family residence.”

“Attached ADU. An ADU that shares at least one common wall with the primary dwelling.”

“Detached ADU. An ADU that is constructed as a separate structure from an existing or proposed single-family dwelling or multifamily dwelling. An accessory dwelling unit attached

to the primary structure via a roof, breezeway, trellis, or covered walkway shall be considered a detached ADU.”

“Efficiency Unit. Has the meaning set forth in Section 17958.1 of the Health and Safety Code, and may be permitted for occupancy by no more than two persons. The efficiency unit shall have a minimum floor area of 220 square feet and shall have a bathroom facility and a partial kitchen or kitchenette.”

SECTION 8. Section 40.03.045 [Conditional uses permitted with an administrative use permit (AUP)] of Article 40.03 (RESIDENTIAL ONE-FAMILY (R-1) DISTRICT) of Chapter 40 of the Davis Municipal Code is hereby amended in its entirety to read as follows:

“40.03.045 Conditional uses permitted with an administrative use permit (AUP).

The following conditional uses may be permitted in an R-1 district subject to the granting of an administrative use permit (AUP):

(a) Non-ministerial accessory dwelling unit. Accessory dwelling units that are not permitted pursuant to Section 40.26.450 (Ministerial accessory dwelling units) shall be permitted subject to the granting of an administrative use permit and shall be known as non-ministerial accessory dwelling units. Non-ministerial accessory dwelling units shall comply with all of the requirements of Section 40.26.460.

(b) Guest houses. Guest houses are conditionally allowable accessory structures, subject to the granting of an administrative use permit (AUP). Guest houses shall comply with all of the requirements of Section 40.26.470.”

SECTION 9. Subdivisions (h) and (i) of Section 40.04.040 (Conditional Uses) of Article 40.04 (RESIDENTIAL ONE- AND TWO-FAMILY (R-2) DISTRICTS) of Chapter 40 of the Davis Municipal Code are hereby amended to read as follows, with all other subdivisions to remain the same:

“(h) Non-ministerial accessory dwelling units. Accessory dwelling units that are not permitted pursuant to Section 40.26.450 (Ministerial accessory dwelling units) shall be permitted subject to the granting of an administrative use permit and shall be known as non-ministerial accessory dwelling units. Non-ministerial accessory dwelling units shall comply with all of the requirements of Section 40.26.460.

(i) Guest houses. Guest houses are conditionally allowable accessory structures, subject to the granting of an administrative use permit (AUP). Guest houses shall comply with all of the requirements of Section 40.26.470.”

SECTION 10. Subdivision (e) of Section 40.04A.030 (Accessory Uses) of Article 40.04A (RESIDENTIAL ONE- AND TWO-FAMILY CONSERVATION (R2-CD) DISTRICT) of Chapter 40 of the Davis Municipal Code is hereby amended to read in full, with all other subdivisions to remain the same:

“(e) Accessory dwelling units. Accessory dwelling units meeting the requirements of Section 40.26.450.

SECTION 11. Subdivision (g) of Section 40.04A.040 (Conditional Uses) of Article 40.04A (RESIDENTIAL ONE- AND TWO-FAMILY CONSERVATION (R2-CD) DISTRICT) of Chapter 40 of the Davis Municipal Code is amended in its entirety to read as follows, with all other subdivisions to remain the same:

“(g) Conversion of an existing non-conforming non-habitable accessory structure to a guest house as provided for in Section 40.04A.080 of this article; provided that:

(1) The accessory structure was not constructed in violation of any zoning ordinance previously in effect in the district; and

(2) The new use will not constitute a nuisance.”

SECTION 12. A new Section 40.04A.045 is hereby added to Article 40.04A (RESIDENTIAL ONE-AND TWO FAMILY CONSERVATION (R-2CD) DISTRICT) of Chapter 40 of the Davis Municipal Code to read as follows:

“40.04A.045 Conditional uses permitted with an administrative use permit (AUP).

The following conditional uses may be permitted in an R-2CD district subject to the granting of an administrative use permit (AUP):

(a) Non-ministerial accessory dwelling unit. Accessory dwelling units that are not permitted pursuant to Section 40.26.450 (Ministerial accessory dwelling units) shall be permitted subject to the granting of an administrative use permit and shall be known as non-ministerial accessory dwelling units. Non-ministerial accessory dwelling units shall comply with all of the requirements of Section 40.26.460.

(b) Guest houses. Guest houses are conditionally allowable accessory structures, subject to the granting of an administrative use permit (AUP). Guest houses shall comply with all the requirements of Section 40.26.470.”

SECTION 13. Paragraph (3) of Subdivision (a) of Section 40.04A.070 (Parking) of Article 40.04A (RESIDENTIAL ONE- AND TWO-FAMILY CONSERVATION (R2-CD) DISTRICT) of Chapter 40 of the Davis Municipal Code is hereby amended to read as follows, with all other paragraphs and subdivisions to remain the same:

“(3) Accessory Dwelling Unit Parking. No vehicle parking space is required for an ADU.

SECTION 14. Subdivision (e) of Section 40.07.030 (Accessory Uses) of Article 40.07 (Residential One- and Two-Family and Mobile Home (R-2-MH) District) of Chapter 40 of the Davis Municipal Code is hereby amended to read as follows, with all other subdivisions to remain the same:

“(e) Accessory dwelling units meeting the requirements of Section 40.26.450.”

SECTION 15. Subdivision (d) of Section 40.14.040 (Accessory Uses) of Article 40.14 (Central Commercial (C-C) District) of Chapter 40 of the Davis Municipal Code is hereby amended to read as follows, with all other subdivisions to remain the same:

“(d) Accessory dwelling units meeting the requirements of Section 40.26.450.”

SECTION 16. Subdivision (e) of Section 40.15.040 (Accessory Uses) of Article 40.15 (Mixed-Use District) of Chapter 40 of the Davis Municipal Code is hereby amended to read as follows, with all other subdivisions to remain the same:

“(e) Accessory dwelling units meeting the requirements of Section 40.26.450.”

SECTION 17. Paragraph (15) of Subdivision (c) of Section 40.26.010 (Accessory buildings/structures) of Article 40.26 (Special Uses) of Chapter 40 of the Davis Municipal Code is hereby amended to read as follows, with all other subdivisions to remain the same:

“(15) Use for Dwelling Purposes. Accessory structures shall not be used for dwelling purposes.”

SECTION 18. Paragraph (8) of Subdivision (d) of Section 40.26.010 (Accessory buildings/structures) of Article 40.26 (Special Uses) of Chapter 40 of the Davis Municipal Code is hereby amended in its entirety and a new paragraph (9) is hereby added to read as follows, with all other subdivisions to be renumbered accordingly and otherwise remain the same:

“(8) Accessory Dwelling Units. In accordance with the underlying zoning district, ministerial accessory dwelling units are subject to the standards in Section 40.26.450, and non-ministerial accessory dwelling units are subject to the standards in Section 40.26.460.

(9) Guest Houses. Guest houses are subject to the standards in Section 40.26.470 and in accordance with the requirements of the underlying zoning district.”

SECTION 19. Section 40.26.450 of Article 40.26 (Special Uses) of Chapter 40 of the Davis Municipal Code is hereby amended in its entirety to read as follows:

“40.26.450 Ministerial Accessory Dwelling Units and Junior Accessory Dwelling Units.

- (a) Purpose. The purpose of this section is to implement the requirements of Government Code Sections 65852.2 and 65852.22 to allow ministerial accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in a manner that encourages their development but simultaneously minimizes impacts on traffic, parking, density, and other areas where the City is still permitted to exercise local control. ADUs that do not meet the provisions of this Section 40.26.450, shall be considered as non-ministerial ADUs subject to the provisions of Section 40.26.460.

- (b) Definitions. For the purpose of this section, the following definitions apply. Otherwise, the words and phrases shall have the meanings respectively ascribed to them by section 40.01.010.

Manufactured Home. Has the meaning set forth in section 18007 of the Health and Safety Code.

Primary Dwelling. For purposes of this section, means the existing or proposed single-family or multi-family dwelling on the lot where an ADU would be located.

Public Transit. For purposes of this section, has the meaning set forth in Government Code Section 65852.2(j).

- (c) Permitting procedures.

(1) Before constructing an ADU or converting an existing structure or portion of an existing structure or residence to an ADU or JADU, the applicant shall obtain permits in accordance with the requirements of this section.

(2) All ADUs and JADUs shall satisfy the requirements of the California Building Standards Code, as amended by the City, and any other applicable laws.

(3) Building permit approval only. An applicant shall not be required to submit an application for an ADU permit under subsection (d) of this section, and may instead seek building permit only approval for an ADU or JADU, or both, where the proposal satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, the California Building Standards Code, as amended by the City, and any other applicable laws. An ADU or JADU approved pursuant to this subsection shall be rented only for terms of 30 days or longer. The following are the categories of ADUs and JADUs that shall be approved under this paragraph (3), unless Government Code Section 65852.2(e)(1) is amended to state otherwise:

(A) A JADU within the Primary Dwelling, and an ADU within the Primary Dwelling or an ADU within an existing accessory structure. One ADU and one JADU per lot with a proposed or existing single-family dwelling is allowed if all of the following apply:

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

- (I) The space has exterior access from the proposed or existing single-family dwelling.
 - (II) The side and rear setbacks are sufficient for fire and safety.
 - (III) The JADU complies with the requirements of Government Code Section 65852.22 and with the requirements set forth in subsections c, d, and e of this section.
- (B) Detached new construction ADU for Primary Dwelling. This ADU may be combined with a JADU described in subparagraph (a) above. One detached, new construction ADU for a lot with a proposed or existing single-family dwelling if all of the following apply:
- (i) The ADU shall be no more than 800 square feet in size.
 - (ii) The ADU shall not exceed a height limit of 16 feet.
 - (iii) The ADU shall be set back a minimum of four feet from side and rear lot lines.
 - (iv) The ADU shall comply with the front yard setback as required by the zone in which it is located.
- (C) ADU within non-livable space in existing multifamily structure. One ADU 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. If requested, more than one ADU shall be allowed, up to the number of ADUs that equals 25 percent of the existing multifamily dwelling units in the structure.
- (D) Detached new construction ADUs for existing multifamily dwelling. Not more than two detached ADUs located on a lot that has an existing multifamily dwelling, subject to a height limit of 16 feet and minimum four-foot rear and side setbacks.
- (4) Projects Subject to ADU Permit Review and Timelines.
- (A) The director or his/her designee shall ministerially review and approve an ADU permit application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the ADU complies with the requirements contained in this section and any other applicable law.
 - (B) ADU permit applications subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2.
 - (C) Where an ADU permit application is submitted with an application for a Primary Dwelling that is subject to discretionary review under this Code, the ADU permit application will be considered separately without discretionary review or a public hearing, following action on the portion of the project subject to discretionary review.

- (D) In addition to obtaining an ADU permit, the applicant shall be required to obtain a building permit and any other applicable construction or related permits prior to the construction of the ADU.
- (d) ADU permit application submittal requirements
- (1) An ADU application is required to be filed with the Department of Community Development and Sustainability for an ADU that does not satisfy the requirements of subsection (c)(3) of this section (Building permit approval only). An ADU application shall be accompanied by the filing fee as established by resolution of the City Council, and shall include, but not be limited to, the following documents and information:
 - (A) Name and address of the applicant.
 - (B) Owner-Builder Acknowledgment and Information Verification Form.
 - (C) Assessor's parcel number(s) of the property.
 - (D) Plot Plan (Drawn to Scale). In sufficient detail to clearly describe:
 - (i) Physical dimensions of the property.
 - (ii) Location and dimensions of all existing and proposed structures, walls, and fences.
 - (iii) Location and dimensions of all existing and proposed easements, septic tanks, leach lines, seepage pits, drainage structures, and utilities.
 - (iv) Location, dimensions, and names of all adjacent roads, whether public or private.
 - (v) Setbacks.
 - (vi) Existing and proposed methods of circulation, including ingress and egress, driveways, parking areas, and parking structures.
 - (vii) Panoramic color photographs showing the property from all sides and showing adjacent properties.
 - (viii) A description of architectural treatments proposed for the ADU.
 - (ix) Written confirmation from any water district or sewer district providing service of the availability of service.
 - (E) Floor plans. Complete floor plans of both existing and proposed conditions shall be provided. Each room shall be dimensioned and resulting floor area calculation included. The use of each room shall be labeled. The size and location of all doors, closets, walls, and cooking facilities shall be clearly depicted. For an attached ADU, the plans must include the Primary Dwelling as well.
 - (F) Elevations. North, south, east, and west elevations that show all exterior structure dimensions, all architectural projections, and all openings for both the primary residence and the proposed accessory dwelling unit. For an attached ADU, the plans must include the Primary Dwelling as well.

- (G) Additional Information. Such additional information as shall be required by the Community Development Department Director.
- (2) All ADUs shall satisfy the requirements of Chapter 8, Buildings, of the Davis Municipal Code and require a building permit from the city building official.
- (3) In accordance with State law, ADUs are an accessory use to the Primary Dwelling on the lot. ADUs shall not be considered to exceed the allowable density for the lot.
- (e) Development Standards for ADUs. Except those ADUs approved pursuant to subsection (c)(3) of this section (Building permit approval only), ADUs shall comply with the following development standards:
 - (1) Location Restrictions. One ADU shall be allowed on a lot with a proposed or existing Primary Dwelling that is zoned to allow single family or multi-family residential use.
 - (2) Development Standards.
 - (A) Size restrictions. If there is an existing Primary Dwelling, an Attached ADU shall not exceed fifty percent (50%) of the gross floor area for the Primary Dwelling. A Detached ADU shall not exceed 850 square feet in gross floor area, or 1,000 square feet in gross floor area if the ADU provides more than one bedroom. In no case shall an ADU be less than 220 square feet, or the minimum square footage to allow an “efficiency unit” as defined in Health and Safety Code Section 17958.1, as that law may be amended.
 - (B) Height restrictions.
 - (i) An Attached or Detached ADU shall not exceed 16 feet in height, except as permitted in (ii) below.
 - (ii) An Attached ADU may be constructed on or as the second story of an existing primary single family residence (including the garage area) provided it complies with the height and setbacks as required by the zone in which the property is located.
 - (C) Setbacks. No new setback shall be required for an ADU that is constructed within an existing structure or new ADU that is constructed in the same location and with the same dimensions as an existing structure. For all other ADUs, the required minimum setback from side and rear lot lines shall be four feet. An ADU shall comply with all required front yard and street side yard setbacks otherwise required by the Davis Municipal Code.
 - (D) Lot Coverage, Floor Area Ratio, and Open Space. An ADU shall conform to all lot coverage, floor area ratio, and open space requirements applicable to the zoning district in which the property is located, except that an ADU that is 800 square feet or less, not more than 16 feet in height, and compliant with a minimum 4-foot side and rear setback, shall be considered consistent with all city development standards, irrespective of any other Municipal Code limitations governing lot coverage, floor area ratio, and open space.

- (E) Design. All Accessory Dwelling Units that are approved subject to the provisions of subdivision (d) shall comply with the following design standards:
 - (i) The accessory dwelling unit shall have the same roof pitch as the primary dwelling with matching eave details, but may vary by up to 2/12 more or 2/12 less than the roof pitch of the primary dwelling unit. If the unit is located in a historic conservation zone, it must follow the roof pitch requirements for the design style allowed in that zone or subarea.
 - (ii) A garage converted to an ADU that does not proceed under the building permit only approval process shall include removal of the garage door(s) which shall be replaced with architectural features, including walls, doors, windows, trim and accent details to match the primary structure.
 - (iii) An ADU shall not require exterior alterations to the street-facing façade of a property that is historically designated or in a conservation overlay district.
 - (iv) The architecture of the ADU shall use the same architectural features, including walls, doors, windows, trim and accent details to match the primary structure.
 - (F) Exterior access. An ADU shall have a separate exterior access. Access stairs, entry doors and decks must face the primary residence or the alley, if applicable.
 - (G) Fire sprinklers. ADUs are required to provide fire sprinklers if they are required for the Primary Dwelling.
 - (H) Separation. An ADU shall be located at least 5 feet from the Primary Dwelling.
 - (I) Properties Listed on the California Register of Historic Resources. An ADU that has the potential to adversely impact any historical resource listed on the California Register of Historic Resources, shall be designed and constructed in accordance with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings” found at 36 CFR 68.3, as the same may be amended from time to time.
- (3) Parking.
- (A) No additional vehicle parking space is required for a ministerial ADU.
 - (B) When an ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU.

- (f) Standards for JADUs. In accordance with the standards set forth in Government Code Section 65852.22, JADUs shall comply with the following requirements, unless State law is amended to set forth different standards in which case State law standards will govern.
 - (1) A JADU shall be a minimum of 220 square feet and a maximum of 500 square feet of gross floor area. The gross floor area of a shared sanitation facility shall not be included in the maximum gross floor area of a JADU.
 - (2) A JADU must be contained entirely within the walls of the habitable portion of the existing or proposed single-family dwelling. The habitable portion of the single family dwelling does not include the garage or carport.
 - (3) A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
 - (4) A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing single-family dwelling.
 - (5) A JADU shall include an efficiency kitchen or kitchenette, which shall include all of the following:
 - (A) A cooking facility with appliances.
 - (B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
 - (6) No additional parking is required for a JADU.
- (g) Covenant required. Prior to the issuance of a Certificate of Occupancy for the ADU or JADU, the property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest:
 - (1) The ADU or JADU shall not be sold, transferred, or assigned separately from the Primary Dwelling, but may be rented.
 - (2) The ADU or JADU shall not be used for short term rentals for less than 30 consecutive days.
 - (3) If there is a JADU on the property, either the JADU or Primary Dwelling shall be occupied by the owner of record.
 - (4) The property owner and all successors in interest shall maintain the ADU and/or JADU and the property in accordance with all applicable ADU and/or JADU requirements and standards

- (h) Services, impact fees, and utility connections.
- (1) ADUs shall not be allowed where roadways, public utilities or services are inadequate in accordance with the general plan and zoning designation for the lot.
 - (2) ADUs and JADUs shall have adequate water and sewer services. These services may be provided from the water and sewer points of connection for the Primary Dwelling and not be a separate set of services. For an ADU that is not a conversion of an existing space, a separate utility connection directly between the accessory dwelling unit and the utility may be required. Consistent with Government Code Section 65852.2(f), the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit.
 - (3) The owner of an ADU shall be subject to the payment of all sewer, water and other applicable fees, including impact fees set forth in Government Code Section 66000 et seq., except as follows:
 - (A) ADUs that are less than 750 square feet shall not be subject to impact fees.
 - (B) ADUs that are 750 square feet or more shall be charged impact fees that are proportional in relation to the square footage of the Primary Dwelling unit.
 - (4) The City shall not issue a building permit for an ADU or JADU until the applicant provides a will serve letter from the local water and sewer provider. Notwithstanding the foregoing, if a private sewage disposal system is being used, the applicant must provide documentation showing approval by the Building Official in lieu of the will serve letter by the local sewer provider.
- (i) Fire safety requirements. The construction of all new ADUs and JADUs shall meet minimum standards for fire safety as defined in the Building Code of the City of Davis and the Fire Code of the City of Davis, as the same may be amended by the City from time to time.
- (j) Ownership. No ADU or JADU shall be created for sale or financing pursuant to any condominium plan, community apartment plan, housing cooperative or subdivision map.
- (k) Occupancy. Except as provided elsewhere in this section, ministerial ADUs may be rented or owner occupied.
- (l) Planned Development Districts. In the event that a residential planned development district includes standards that would preclude the construction of a ministerial ADU that would otherwise be permitted under this Section 40.26.450, the requirements of this section shall apply, and shall supersede the planned development standards as applied to ministerial ADUs within the applicable planned development district.”

SECTION 20. A new Section 40.26.460 (Non-Ministerial Accessory Dwelling Units) is hereby added to Article 40.26 (Special Uses) of Chapter 40 of the Davis Municipal Code to read as follows:

“Section 40.26.460 Non-Ministerial Accessory Dwelling Units.

- (a) Purpose. The purpose of this section is to allow accessory dwelling units (ADUs) that do not meet the provisions of Section 40.26.450. Non-ministerial ADUs are subject to the regulations of this section and the approval of an administrative use permit.
- (b) The following standards shall apply to non-ministerial accessory dwelling units:
 - (1) The maximum size of a non-ministerial accessory dwelling unit shall be 1,200 square feet.
 - (2) The minimum setbacks shall be:
 - (A) Front yard, the same as is required by the zone where the ADU is located.
 - (B) Street side yard, 15 feet.
 - (C) Interior side yard, five feet.
 - (D) Rear yard, 10 feet.
 - (E) The minimum interior side yard and rear yard shall be three feet if said yards adjoin: an alley, park or greenbelt, or a zoning district that does not principally permit single-family dwellings or two-family dwellings (e.g., districts that permit multiple-family dwellings, nonresidential uses, agriculture, public and semipublic facilities, or similar principal permitted uses). The interior side yard and rear yard for a yard adjoining a zoning district that principally permits single-family or two-family dwellings shall comply with the general requirements in subparagraphs (C) and (D) above.
 - (3) The minimum required distance between the non-ministerial accessory dwelling unit and the primary dwelling unit, and all other structures on the property, shall be in conformance with the California Building Code.
 - (4) The maximum height shall be 30 feet.
 - (5) The maximum lot coverage shall be 50 percent for the primary dwelling and accessory dwelling units and all accessory structures combined.
 - (6) The minimum useable open space is 20 percent.
 - (7) No additional vehicle parking space is required for a non-ministerial ADU.
 - (8) The accessory dwelling unit shall have the same roof pitch as the primary dwelling with matching eave details, but may vary by up to 2/12 more or 2/12 less than the roof pitch of the primary dwelling unit. If the unit is located in a historic conservation zone, it must follow the roof pitch requirements for the design style allowed in that zone or subarea.
 - (9) A garage converted to an ADU that does not proceed under the building permit only approval process shall include removal of the garage door(s) which shall be replaced with architectural features, including walls, doors, windows, trim and accent details to match the primary structure.

- (10) The architecture of the ADU shall use the same architectural features, including walls, doors, windows, trim and accent details to match the primary structure.
 - (11) Fencing or landscaping shall be installed and maintained between the unit and the neighboring property.
 - (12) For an accessory dwelling unit that is constructed as a second story or above a garage, all windows facing the side or rear lot lines shall be made of frosted or etched glass, or otherwise include a privacy film or treatment to ensure privacy for neighboring properties if the lot line abuts another residential property.
 - (13) Adequate open space and landscaping shall be provided for both the primary dwelling unit and the non-ministerial accessory dwelling unit.
- (c) An application for a non-ministerial accessory dwelling unit may be approved only if the Director makes the findings required by Section 40.30A.070.”

SECTION 21. A new Section 40.26.470 is hereby added to Article 40.26 (Special Uses) of Chapter 40 of the Davis Municipal Code to read as follows:

“Section 40.26.470 Guest Houses.

- (a) Purpose. The purpose of this section is to further define and ensure compatibility of small accessory buildings otherwise called guest houses.
- (b) Definitions. For the purposes of this section, the words and phrases shall have the meanings respectively ascribed to them by section 40.01.010.
- (c) The following standards shall apply to guest houses:
 - (1) The maximum lot coverage shall be 50 percent for the total of the primary structure, any accessory dwelling unit, any other accessory structure and the proposed guest house.
 - (2) The maximum total square footage for a guest house is 1,200 square feet or 50 percent of the primary structure, whichever is less.
 - (3) A guest house shall have the same setbacks as an accessory building, pursuant to Section 40.26.010.
 - (4) A guest house shall meet the height requirement for accessory buildings in Section 40.26.010.
 - (5) No parking shall be required for guest houses.
 - (6) Guest houses may have restroom facilities (toilet, sink, bathtub and/or shower) but are prohibited from having a kitchen or cooking facilities.

- (7) Only one guest house is permitted per lot.
- (8) A guest house shall not be rented or leased separate from the principal dwelling unit or otherwise used as a separate dwelling unit.
- (9) A guest house may be rented to a business authorized as a home occupation at the same address.
- (10) Except as otherwise required by Government Code Section 65852.2, no more than one accessory dwelling unit and one guest house may be located on any lot where a single family residence exists on a property.
- (11) A guest house shall comply with all standards applicable to an accessory building/structure in Section 40.26.010, except in the case of a conflict with the provisions herein, in which case the provisions in this section shall govern.

(d) An application for a guest house may be approved only if the Director makes the findings required by Section 40.30A.070.”

SECTION 22. Section 40.30A.070 (Findings for Approval) of Article 40.30A (Administrative Use Permits) of Chapter 40 of the Davis Municipal Code is hereby amended in its entirety to read as follows:

“40.30A.070 Findings for Approval.

An administrative use permit approval shall be approved, conditionally approved, or denied by the Director (or the planning commission or city council if subject to an appeal) pursuant to the requirements of Article 40.39, Administrative Approvals, of this chapter. An administrative use permit shall only be granted for uses that the Zoning Code expressly provides may be authorized upon the approval of an administrative use permit, for example non-ministerial accessory dwelling units, guest houses, and certain cannabis-related uses. Such application may be approved only if the following findings are made:

- (a) Conforms to general plan. The proposed structure or use conforms to the requirements and intent of this chapter and the general plan.
- (b) Conditions and requirements will be met. Any additional conditions and requirements stipulated by the Director (or the planning commission or city council if subject to an appeal) have been or will be met.
- (c) Not detrimental to public welfare. That such use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the public welfare of the community.
- (d) Compatible relationship with adjacent properties. That the location and design of the structure or use maintains a compatible relationship with adjacent properties and does not significantly impact the privacy, light, air, solar access or parking of adjacent properties.”

SECTION 23. The City Council determines that this ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, et seq., (“CEQA”) and the CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h).

SECTION 24. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after the date of its final passage and adoption.

SECTION 25. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

INTRODUCED on the 4th day of May, 2021, and PASSED AND ADOPTED by the City Council of the City of Davis on this 18th day of May, 2021, by the following vote:

AYES: Arnold, Carson, Chapman, Frerichs, Partida

NOES: None



Gloria J. Partida
Mayor

ATTEST:



Zoe S. Mirabile, CMC
City Clerk