



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/10/2026

ITEM NO: 3

DATE: June 5, 2026
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units and Definitions. The Proposed Amendments are Not Subject to CEQA Review Pursuant to CEQA, Section 15061 (b)(3), Because it can be Seen with Certainty that they will not Significantly Affect the Physical Environment in that they Make Minor Changes to the Regulations Applicable to Accessory Dwelling Units and Definitions. Additionally, the Proposed Amendments are Statutorily Exempt Pursuant to Public Resources Code Section 21080.17. Town Code Amendment Application A-26-001. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council on amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units and definitions.

CEQA:

The proposed amendments are not subject to CEQA review, pursuant to CEQA Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and definitions. Additionally, the proposed amendments are Statutorily Exempt pursuant to Public Resources Code Section 21080.17.

PREPARED BY: Sean Mullin, AICP
Planning Manager

Reviewed by: Community Development Director, and Town Attorney

FINDINGS:

- The proposed amendments are not subject to CEQA review pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3); and the proposed amendments are statutorily exempt pursuant to Public Resources Code Section 21080.17; and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

In 2016, the Governor signed several bills intended to help address the State's housing crisis by creating new housing opportunities through accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Since then, the Governor continued to sign additional bills into law that further streamlined the permitting process for ADUs and JADUs. As a result, the Town updated the Town Code regarding ADUs and JADUs in 2017, 2020, and 2023 to comply with updated state laws. Since the current ADUs and JADUs regulations have been in place, additional bills have been signed into law further revising regulations around ADUs and JADUs, requiring additional amendments to the Town Code. The latest bills signed into law impacting the Town's Ordinance include:

- **AB 462** (2025) requires a local agency to issue a Certificate of Occupancy for an ADU, even if the primary dwelling has not yet been issued a Certificate of Occupancy, if constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025.
- **SB 477** (2024) made changes to the numbering of the sections of Government Code for State ADU and JADU Laws.
- **SB 543** (2025) revised the definition of a JADU to clarify and require the size of a JADU to be no more than 500 square feet of interior livable space and prohibits impact fees upon the development of an ADU that has 750 square feet of interior livable space or less or JADU that has 500 square feet of interior livable space or less. Furthermore, the prohibition on requiring fire sprinkler installation additionally applies to JADUs.
- **AB 1154** (2025) made changes to the owner-occupancy requirement of JADUs for only those units that have shared sanitation facilities with the existing structure, and allows rental of a JADU for a term longer than 30 days.
- **SB 1211** (2024) defines "livable space" as a space in a dwelling intended for human habitation. Furthermore, it specifies that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced. Additionally, the bill authorizes up to eight detached ADUs on a lot with an existing multi-family dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot, and prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a).

Below is a discussion of a draft Ordinance that includes amendments to Chapter 29 of the Town Code (Zoning Regulations), Section 29.10.020 (Definitions) and Sections 29.10.305 through 29.10.400 (ADUs) (Exhibit 2).

DISCUSSION:

The draft Ordinance, included as Exhibit 2, would align the Town's regulations with state law. The most significant change coming from state law is the creation of two categories of ADUs. The first, enabled under CA Government Code Section 66314, allows for an ADU that is subject to the Town's standard ADU development regulations. These Town-standard ADUs are subject to most of the regulations included in the current ADU Ordinance. The second, enabled under CA Government Code Section 66323, allows for multiple ADUs on a property by-right and allows for JADUs. The draft Ordinance includes separate sections for Town-standard ADUs, by-right ADUs, and JADUs.

Much of the Town's existing ADU Ordinance has been carried forward into the draft Ordinance with some revisions and reorganization to align with state law as discussed in the following section. The most substantive change in the draft Ordinance relates to the number of accessory units that can be built on a single property. When combining each unit type, the draft Ordinance allows the following:

Maximum Number of Accessory Units per Property			
Primary Dwelling Type	Single-Family Dwelling	Multi-Family Dwelling (MFD)	
		Existing MFD	Proposed MFD
Number of Accessory Units Allowed per Lot	<u>4 total</u> 1 Town-standard ADU. Can be attached, detached, or conversion. 3 by-right ADUs: 1 detached ADU + 1 conversion ADU + 1 JADU	<u>4 minimum</u> 1 conversion, or up to 25 percent of existing units. 8 detached ADUs, provided the number does not exceed the number of existing primary units.	<u>2 detached ADUs</u>

The discussion below goes through the Code sections and provides staff's summary of the modifications proposed under the draft Ordinance.

Sec. 29.10.305. Intent and authority.

The current language has been carried forward. References to CA Government Code have been updated.

Sec. 29.10.310. Definitions.

All existing definitions have been carried forward with modifications to some. New definitions were added for by-right accessory dwelling unit, conversion, Hillside Area, livable space, nonconforming zoning condition, permitting agency, and Town-standard accessory dwelling unit.

Sec. 29.10.315. Review process.

The review process section has been revised to reflect new review timelines mandated by state law.

Sec. 29.10.320. General requirements and restrictions.

Much of the general requirements and restrictions section has been carried forward into the draft Ordinance and are applicable to Town-standard ADUs, by-right ADUs, and JADUs. Several requirements and restrictions were moved into this section from Section 29.10.325 to make them applicable to all ADUs, including: height; stories; balconies and decks; entrances; interior connection; and conversion of existing floor area. The FAR, design standards, and number of ADUs subsections were relocated to the Town-standard ADU section since they would not apply to by-right ADUs or JADUs. Table 1-1 was revised to remove the limitation on combined grading depths, which staff identified as a barrier to some ADU projects.

Sec. 29.10.325. Town-standard accessory dwelling unit development requirements.

The draft Ordinance includes a revised section that provides requirements and regulations specific to Town-standard ADU projects. Separate sections specific to by-right ADUs and JADU projects follow.

A new table is included in the draft Ordinance to help simplify the general development standards applicable to a Town-standard ADU project. Most of the regulations included in this table are consistent with the existing Ordinance; however, the FAR regulations have been revised. The FAR regulations continue to provide a 10 percent increase in FAR standards for single-family properties to be used for a Town-standard ADU project. Language was added clarifying that the maximum increase is limited to 1,200 square feet per single-family property. Additionally, for a single-family property that already exceeds the FAR standards, the increase is limited to 800 square feet.

New language applicable to an ADU project on a multi-family property recognizes that FAR standards do not apply to multi-family properties and allocates 800 square feet for a Town-standard ADU.

Sec. 29.10.327. By-right accessory dwelling unit development requirements.

Section 29.10.327 in the draft Ordinance is a new section providing development requirements for by-right ADUs as required by CA Government Code Section 66323. This new section includes a table providing the development standards applicable to by-right ADU projects. The table provides the applicable standards for by-right ADUs located on single-family and multi-family properties.

Sec. 29.10.330. Junior accessory dwelling unit development standards.

The majority of the current language applicable to JADUs has been carried forward in the draft Ordinance. Subparagraph (c) was revised to recognize that the size of a JADU is measured pursuant to the interior livable space definition. Subparagraph (g) was revised to require owner-occupancy of the primary dwelling or the JADU only when sanitation facilities are not provided within the JADU.

Sec. 29.10.335. Unpermitted units.

The current language has been carried forward. References to CA Government Code have been updated.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

The current language has been carried forward.

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

The current language has been carried forward.

Sec. 29.10.355. Nonconforming zoning conditions.

The current language has been carried forward.

Sec. 29.10.360. Utilities.

The current language has been carried forward with minor changes to clarify the exceptions that apply to by-right ADUs.

Sec. 29.10.365. Fees.

The current language has been carried forward. Additional subparagraphs were added from state law that clarify exemptions to fees applicable to some ADUs.

Amendments to other Code Sections.

While not directly related to the proposed amendments to the ADU ordinance, staff recommends an amendment to Town Code Section 29.10.020 – Definitions. Specifically, the definition of *attic* would be revised to align with the habitable space definition of the Building Code:

Attic means a non-habitable space (that may or may not be used for storage) with a maximum height of seven (7) feet ~~six (6) inches~~ as measured from the upper surface of the attic floor to the underside of the roof above. For the purposes of this definition, unfinished attic spaces are considered to have floor surfaces. Once an attic space exceeds seven (7) feet ~~six (6) inches~~ in height, all areas down to five (5) feet will be counted toward the floor area ratio.

PUBLIC COMMENTS:

Staff conducted outreach through the following media and social media resources, as well as direct communication with stakeholders as summarized below:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account;
- The Town's NextDoor page; and
- Direct email communication to local architects and designers.

At the time this report was published, no public comments were received.

ENVIRONMENTAL ASSESSMENT:

The proposed amendments are not subject to CEQA review pursuant to CEQA, Section 15061 (b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and definitions. Additionally, the proposed amendments are Statutorily Exempt pursuant to Public Resources Code Section 21080.17.

CONCLUSION:

A. Summary

The draft Ordinance aligns the Town's ADU/JADU regulations with state law and provides a clear set of regulations and process framework for residents to follow when pursuing an ADU/JADU project. The draft Ordinance also updates a term included in the Definitions section of the Town Code to align with the Building Code.

B. Recommendation

Staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft Ordinance (Exhibit 2). The Planning Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

1. Make the finding that the proposed amendments are not subject to CEQA pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and definitions. Additionally, the proposed amendments are Statutorily Exempt pursuant to Public Resources Code Section 21080.17 (Exhibit 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code in the draft Ordinance are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft Ordinance (Exhibit 2).

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft Ordinance with modifications; or
2. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Draft Ordinance
3. ADU Ordinance in track changes
4. CA Government Code Sections 66310 through 6634

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PLANNING COMMISSION – June 10, 2026
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-26-001

Forward a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units and Definitions. The Proposed Amendments are Not Subject to CEQA Review Pursuant to CEQA, Section 15061 (b)(3), Because it can be Seen with Certainty that they will not Significantly Affect the Physical Environment in that they Make Minor Changes to the Regulations Applicable to Accessory Dwelling Units and Definitions. Additionally, the Proposed Amendments are Statutorily Exempt Pursuant to Public Resources Code Section 21080.17.

FINDINGS

Required Findings for CEQA:

- The proposed amendments are not subject to CEQA review pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and definitions. Additionally, the proposed amendments are Statutorily Exempt pursuant to Public Resources Code Section 21080.17.

Required Findings for General Plan:

- The amendments to Chapter 29 of the Town Code regarding accessory dwelling units are consistent with the General Plan.

EXHIBIT 1

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DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29, ZONING REGULATIONS, OF THE TOWN CODE REGARDING ACCESSORY DWELLING UNITS AND DEFINITIONS.

WHEREAS, from 2016 through 2025, the Governor signed a number of bills intended to address the State's housing crisis by creating new housing opportunities through accessory dwelling units and junior accessory dwelling units; and

WHEREAS, in 2017, 2020, and 2023, the Town updated the Town Code regarding accessory dwelling units and junior accessory dwelling units to comply with state laws; and

WHEREAS, since the Town last updated the Town Code regarding accessory dwelling units and junior accessory dwelling units in 2023, the regulatory framework at the state-level continues to evolve with the passing of additional bills regarding accessory dwelling units and junior accessory dwelling units, including but not limited to Assembly Bills 462 and 1154; and Senate Bills 477, 543, 1211; and

WHEREAS, these bills made changes in the development standards, fees, and process requirements applicable to accessory dwelling units and junior accessory dwelling units, to continue to address barriers to the development of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the Town Council of the Town of Los Gatos adopted the 2023-2031 Housing Element on January 30, 2023, which includes policies that promote accessory dwelling units as a means to increase access to opportunity for lower-income households by encouraging infill of smaller units in single-family neighborhoods (Policy HE-1.7); ensure that at least 30 percent of the housing stock is rental units and continue to support the development of ADUs as a means of affordable rental housing (Policy HE-2.4); and encourage homeowners to construct detached rental ADUs in order to increase the housing stock of smaller rental units (Policy HE-2.6); and

WHEREAS, the Town Council wishes to amend the Town Code to comply with state law and to implement Policies HE-1.7, HE-2.4, and HE-2.6 of the Town of Los Gatos 2023-2031 Housing Element; and

WHEREAS, the amendments are consistent with the General Plan and its Elements; and

WHEREAS, the amendments are consistent with Chapter 29, "Zoning Regulations" of the Town Code.

WHEREAS, the Town reviewed the changes in state law regarding accessory dwelling units and junior accessory dwelling units that have taken place since the 2023 update to the Town Code and determined that amendments to the Town's Accessory Dwelling Unit Ordinance were necessary; and

WHEREAS, in drafting the revised accessory dwelling unit and junior accessory dwelling unit regulations, the Town considered changes in state law; and feedback and clarification from the California Department of Housing and Community Development; and

WHEREAS, this matter was regularly noticed in conformance with state and Town law and came before the Planning Commission for public hearing on June 10, 2026; and

WHEREAS, on June 10, 2026, the Planning Commission reviewed and commented on the proposed amendments regarding accessory dwelling units and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

WHEREAS, this matter was regularly noticed in conformance with state and Town law and came before the Town Council for public hearing on _____; and

WHEREAS, on _____, the Town Council reviewed and commented on the proposed amendments regarding accessory dwelling units and the Town Council voted to introduce the Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Division 7, “Accessory Dwelling Units,” of Article 1, “In General,” of Chapter 29, “Zoning Regulations,” of the Town of Los Gatos Town Code is amended to read as follows:

DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This Division is adopted to comply with California Government Code Sections 66310-66342, which mandate that applications for accessory dwelling units be considered ministerially without a public hearing; and sets Town-standards for the development of accessory dwelling units in order to increase the supply of affordable housing in a manner that is compatible with existing neighborhoods.

Sec. 29.10.310. Definitions.

The following words, terms, and phrases, when used in these accessory dwelling unit regulations, shall have the meanings ascribed to them in this section:

Accessory dwelling unit means a detached, attached, or conversion residential dwelling unit that is located on the same parcel as a proposed or existing single-family dwelling or multi-family dwelling. It shall provide complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking, and sanitation. An accessory dwelling unit also includes efficiency units and manufactured homes.

- (1) A detached accessory dwelling unit is physically separate from a primary dwelling.

- (2) An attached accessory dwelling unit is:
- a. Constructed as a physical expansion (i.e., addition) of an existing primary dwelling unit, including construction of a new basement underneath a primary dwelling unit to accommodate an accessory dwelling unit; or
 - b. Constructed as part of a proposed primary dwelling unit;
- (3) A conversion accessory dwelling unit is:
- a. Contained within the existing space of a primary dwelling unit, including within its living area, basement, or attached garage;
 - b. Created from non-livable space of a multi-family dwelling; or
 - c. Contained within the existing space of an accessory building or structure as defined by Town Code Section 29.10.020.

By-right accessory dwelling unit means an accessory dwelling unit and/or junior accessory dwelling unit that complies with California Government Code Section 66323, which allows for a streamlined approval process exempt from some Town development standards.

Conversion means modification of existing floor area/interior space for the purpose of converting to an accessory dwelling unit or junior accessory dwelling unit.

Efficiency kitchen means a limited kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. Examples of cooking appliances that may be used are: microwave ovens, hot plates, and similar appliances intended for use on top of a countertop. Refrigerator size is not limited.

Efficiency unit has the meaning set forth in Section 17958.1 of the Health and Safety Code.

High-quality transit corridor has the meaning set forth in Section 21155 of the Public Resources Code.

Hillside Area means all properties located within the Hillside Area Map of the Town's Hillside Development Standards and Guidelines.

Junior accessory dwelling unit means a dwelling unit that does not exceed an interior livable space of five hundred (500) square feet and is entirely contained within the space of a proposed or existing single-family residence. For the purposes of this definition, enclosed spaces within the single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Kitchen means a cooking facility that includes a permanently installed cooking appliance, sink, refrigerator, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.

Livable space means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, and sanitation.

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

Major transit stop has the meaning set forth in Section 21155 of the Public Resources Code.

Manufactured home has the meaning set forth in Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling unit means a unit that exists under the following circumstances:

- (1) A unit which was created or converted lawfully but, due to a zone change or an amendment to the zoning ordinance, became nonconforming; or
- (2) A unit which was created lawfully while within the County but, upon annexation to the Town, became nonconforming.

Nonconforming zoning condition means a physical improvement on a property that does not conform with current zoning standards.

Objective standards means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

Passageway means a pathway that is unobstructed, clear to the sky, and extends from a street to one (1) entrance of the accessory dwelling unit.

Permitting agency means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

Proposed dwelling means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

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

Tandem parking means that two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Town-standard accessory dwelling unit means an accessory dwelling unit that complies with Town development standards as permitted under California Government Code Sections 66314 to 66322.

Unpermitted accessory dwelling unit means a dwelling unit that was created through the construction of a new structure or expansion of an existing structure without the benefit of a Building Permit (at a time when a Building Permit was required) and that cannot be otherwise legalized because it does not comply with development standards provided in this Chapter.

Sec. 29.10.315. Review process.

- (a) Development of an accessory dwelling unit and/or junior accessory dwelling unit consistent with this division shall be reviewed ministerially as a Building Permit and be subject to following:
 - (1) *Application review.* Upon receipt of an application to create or serve an accessory dwelling unit, the Town shall determine whether the application is complete and provide written notice of this determination to the applicant not later than fifteen (15) business days after receiving the application. If the Town determines the application is incomplete, the applicant may cure and address the items that are deemed to be incomplete by the permitting agency. When reviewing a revised application submitted to address the identified incomplete determination, the permitting agency shall not require the application to include an item that was not included in the list of incomplete items provided in the written determination. Upon receipt of a revised application, the Town shall determine whether the application is complete and provide written notice of this determination to the applicant not later than 15 business days after receiving the application. If a permitting agency does not make a timely determination as required by this paragraph, the application or resubmitted application shall be deemed to be complete for the purposes of this section. If a permit application is determined to be incomplete or is denied, the determination may be appealed to the Planning Commission within ten (10) days of the decision pursuant to Town Code Section 29.20.255. The appeal shall be subject to the procedures contained in 29.20.260 and 29.20.265. The Planning Commission shall provide a final determination no later than 60 business days after receipt of the applicant's written appeal.
 - (2) *Final action.* The Town shall take final action within sixty (60) days of receiving a complete application. When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.
 - (3) *Certificate of occupancy.* The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling, unless the conditions of California Government Code Section 66328 are met.

- (4) *Demolition.* A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit shall be reviewed with the application for the accessory dwelling unit and issued at the same time.
- (b) *Notification.* The Town shall not require, and the applicant shall not be otherwise required to provide written notice or post a placard for construction of an accessory dwelling unit and/or junior accessory dwelling unit. No noticing shall be required for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.
- (c) *Denial.* An application may be denied if it does not meet the applicable design and development standards. An application may also be denied if the following findings are made:
 - (1) Adverse impacts on health, safety, and/or welfare of the public.
- (d) *Appeals.* Accessory dwelling units and junior accessory dwelling units that are consistent with this division are ministerial and are not subject to an appeal.

Sec. 29.10.320. General requirements and restrictions.

The following requirements and restrictions apply to Town-standard accessory dwelling units, by-right accessory dwelling units, and junior accessory dwelling units.

- (a) *Incentive program.* Any accessory dwelling unit or junior accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A Deed Restriction shall be recorded specifying that the accessory dwelling unit or junior accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling.
- (b) *Parcel requirements.* An accessory dwelling unit and/or junior accessory dwelling unit may only be created on parcels satisfying all the following general requirements:
 - (1) *Permitted zones.* A parcel zoned to allow single-family or multi-family residential use; and
 - (2) *Dwelling unit.* A parcel that includes a proposed or existing primary dwelling.
- (c) *Lot coverage.* All accessory dwelling units and junior accessory dwelling units are exempt from the lot coverage standards applicable to the zone and the accessory structure lot coverage limitations included in Section 29.40.015 (A)(5).
- (d) *Height.* Accessory dwelling units shall be subject to the height requirements below:
 - (1) A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.

- (2) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half (½) mile walking distance of a major transit stop or a high-quality transit corridor. An additional two (2) feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.
 - (3) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.
 - (4) A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.
 - (5) Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.
- (e) *Stories.* Accessory dwelling units and junior accessory dwelling units shall be contained within one (1) story.
 - (f) *Entrances.* Attached accessory dwelling units, conversion accessory dwelling units, and junior accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit or junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit or junior accessory dwelling unit to a public street may be created but shall not be required by the Town.
 - (g) *Interior connection.* An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.
 - (h) *Balconies and Decks.* New balconies, rooftop terraces, and second-story decks are prohibited.
 - (i) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of, or constructed in the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:
 - (1) The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.
 - (2) The accessory dwelling unit shall have a separate entrance from the primary dwelling.
 - (3) The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.

- (4) An expansion of one hundred fifty (150) square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.
- (5) When an existing structure is nonconforming as to setback standards and converted to an accessory dwelling unit, any expansion of that structure may not be nearer to a property line than the existing building in accordance with section 29.10.245.
- (j) *Parking.* One (1) parking space per accessory dwelling unit or per bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling. These spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking. In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this Chapter for the primary dwelling shall be provided prior to the issuance of a Building Permit or final inspection, for a new accessory dwelling unit.
- (1) *Exceptions.* No parking space shall be required under any of the following conditions:
- a. No additional parking shall be required for a junior accessory dwelling unit.
 - b. The accessory dwelling unit is located within one-half (½) mile walking distance of public transit.
 - c. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - d. The accessory dwelling unit is contained within the proposed or existing space of, or constructed in substantially the same location and manner as, an existing primary dwelling or accessory structure.
 - e. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - f. When there is a car share vehicle (as defined by the California Vehicle Code) located within one (1) block of the accessory dwelling unit.
 - g. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or multi-family dwelling on the same lot.
 - h. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling shall not be required to be replaced.
 - i. When the Director finds that the lot does not have adequate area to provide parking.

(k) *Grading.*

(1) As required by Chapter 12, Article II and Section 29.10.09045 (b) of the Town Code, grading activities shall not exceed 50 cubic yards, cut plus fill, unless exempted per subsection (2) below or unless first receiving approval of a discretionary Architecture and Site Application.

(2) Grading exemptions:

- a. Light wells that do not exceed the minimum required by the Building Code.
- b. Grading activities required to provide the minimum driveway and fire access as required by the Santa Clara County Fire Department.
- c. Excavation within the footprint of a proposed accessory dwelling unit and/or junior accessory dwelling unit.

Note that these exemptions are only for the discretionary approval requirement listed in Town Code Section 29.10.09045 (b) and not the Grading Permit requirement at building permit submittal per Town Code Chapter 12, Article II.

(l) *Cut and fill.* Construction of an accessory dwelling unit and/or a junior accessory dwelling unit shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units) below:

Table 1-1. Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units		
Site Element	Cut	Fill
Accessory dwelling unit/junior accessory dwelling unit	4 feet	3 feet
Driveways*	4 feet	3 feet
Other (decks, yards)	4 feet	3 feet
* Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

- (m) *Retaining walls.* Retaining walls shall not exceed five (5) feet in height and shall not run in a continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five (5) foot landscape buffer adjacent to the street.
- (n) *Light reflectivity value.* Exterior materials for accessory dwelling units and/or junior accessory dwelling units in the Hillside Area shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines.
- (o) *Landscaping.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO).
- (p) *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill onto neighboring parcels consistent with Section 29.10.09015 of the Town Code.
- (q) *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article I, Division 2, "Tree Protection," of the Town Code.

- (r) *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer.
- (s) *Conveyance.* Except as provided in California Government Code Section 66341, an accessory dwelling unit may be rented separate from the primary dwelling but may not be sold or otherwise conveyed separate from the primary dwelling.
- (t) *Town codes and ordinances.* All accessory dwelling units and junior accessory dwelling units shall comply with all the provisions of this Chapter and other applicable Town Codes.
- (u) *Building codes.* All accessory dwelling units and junior accessory dwelling units shall comply with applicable building, health, and fire codes, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the Building Official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety.
- (v) *Rentals longer than 30 days.* Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.
- (w) *Maximum number of dogs, cats, or litters.* All accessory dwelling units shall comply with Section 4.40.010 of the Town Code.
- (x) *Density.* Accessory dwelling units that conform to California Government Code Section 66314 shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing General Plan and zoning designation for the lot.
- (y) *Fire sprinklers.* The installation of fire sprinklers shall not be required in an accessory dwelling unit or a junior accessory dwelling unit if sprinklers are not required for the primary residence. The construction of an accessory dwelling unit or junior accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling or existing multi-family dwelling.

Sec. 29.10.325. Town-standard accessory dwelling unit development requirements.

As provided in California Government Code Sections 66314, the following are the Town development requirements for a Town-standard accessory dwelling unit.

- (a) Location.
 - (1) No Town-standard detached accessory dwelling unit may be constructed in front of the primary dwelling except in the HR and RC zones.

- (2) No Town-standard accessory dwelling unit may be constructed in front of a primary dwelling or added to an existing second story of a primary dwelling that is any of the following:
- a. A Historic Structure, as defined in section 29.10.020 of the Zoning Code;
 - b. Listed in the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone;" or
 - c. Listed in the California Register of Historical Resources.
- (b) *Development requirements.* Construction of a Town-standard accessory dwelling unit shall be subject to the development requirements specified by Table 1-2 (Town-standard Accessory Dwelling Units Development Requirements) below:

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Table 1-2. Town-Standard Accessory Dwelling Units Development Requirements			
	Conversion ADU ⁽¹⁾	New construction detached ADU	Attached ADU
Maximum Number	One (1) total		
FAR	Town-standard accessory dwelling units located on a property with a proposed or existing single-family residence are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages. This increase shall not be less than 800 square feet and shall not exceed 1,200 square feet per property. If a property exceeds FAR standards, the increase provided herein is limited to 800 square feet. This increase does not apply to by-right accessory dwelling units or junior accessory dwelling units. Floor area ratio standards do not apply to multi-family residential properties. A Town-standard accessory dwelling unit located on a property with a proposed or existing multi-family residence may be up to 800 square feet.		
Maximum Size	Single-family property: 1,200 square feet; Multi-family property: 800 square feet	Single-family property: 1,200 square feet; Multi-family property: 800 square feet	Single-family property: 1,200 square feet⁽⁴⁾ Multi-family property: 800 square feet⁽⁴⁾
Setbacks ⁽²⁾			
Front	N/A	Per the applicable zoning district	Per the applicable zoning district
Rear	Sufficient for fire and safety	4 feet minimum	4 feet minimum
Side (including street-side)	Sufficient for fire and safety	4 feet minimum	4 feet minimum
From any other structure located on the same lot ⁽³⁾	N/A	5 feet minimum	5 feet minimum
(1) Includes attached garages. (2) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code. (3) Measured from the exterior wall surface and/or supporting posts. (4) May not exceed 50 percent of the size of the primary dwelling.			

- (c) *Exceptions.* Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (450) square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.
- (d) *Design standards.* The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that a Town-standard accessory dwelling unit is compatible with the primary dwelling and the neighborhood. The following objective design standards apply only to Town-standard accessory dwelling units and do not apply to by-right accessory dwelling units:

- (1) *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.
- (2) *Front porch.* If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation.
- (3) *Windows.* All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.
- (4) *Outside stairways.* Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street.
- (5) *Detached and/or attached accessory dwelling units.* A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling. An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.
- (6) *Attached garage conversion.* An existing attached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.
- (7) *Detached garage conversion.* An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.

Sec. 29.10.325. By-right accessory dwelling unit development requirements.

As provided in California Government Code Sections 66323, the following are the development requirements for by-right accessory dwelling units.

- (a) *Development requirements.* Construction of a by-right accessory dwelling unit shall be subject to the development requirements specified by Table 1-3 (By-Right Accessory Dwelling Unit Development Requirements) below:

Table 1.3. By-Right Accessory Dwelling Unit Development Requirements

	Single-Family Properties		Multi-Family Properties		
	Interior/ conversion ADU ⁽³⁾	New construction detached ADU	Interior/ conversion ADU ⁽⁴⁾	New construction detached ADU	
				On lot with existing MFD	On lot with proposed MFD
Maximum Number (may be combined)	One (1)	One (1)	One (1), or 25 percent of existing units, whichever is greater	Eight (8), provided the number of ADUs pursuant to this clause does not exceed the number of primary dwelling units.	Two (2)
FAR	N/A	N/A	N/A	N/A	N/A
Maximum Size	N/A ⁽²⁾	800 square feet	N/A ⁽²⁾	800 square feet	800 square feet
Setbacks ⁽¹⁾					
Front	Sufficient for fire and safety	Per the applicable zoning district ⁽⁵⁾	Sufficient for fire and safety	Sufficient for fire and safety	Per the applicable zoning district ⁽⁵⁾
Side/ Street-Side		4 feet minimum			4 feet minimum
Rear		4 feet minimum			4 feet minimum
From any other structure located on the same lot ⁽⁶⁾	N/A	5 feet minimum	N/A		5 feet minimum
(1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code. (2) Must be located within the converted space of a proposed or existing single-family residence or accessory structure, or within the converted non-livable space of an existing multi-family dwelling. On a single-family property, an existing accessory structure may be expanded by no more than 150 square feet to accommodate ingress and egress. (3) Includes attached garages. (4) Such as storage rooms, boiler rooms, passageways, attics, basements, or garages. (5) Front setback requirements shall not preclude construction of by-right accessory dwelling units. (6) Measured from the exterior wall surface and/or supporting posts.					

- (c) *Exceptions.* Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (450) square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

Sec. 29.10.330. Junior dwelling unit development standards.

- (a) *Location.* A junior accessory dwelling unit shall be constructed entirely within the walls of the proposed or existing single-family residence. For the purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence. Junior accessory dwelling units may not be located within the space of, or attached to, a detached accessory structure of any type.

- (b) *Setbacks.* A junior accessory dwelling unit shall be subject to the setback requirements of the applicable zoning district for a single-family residence, or the setbacks established by the existing single-family residence within which the junior accessory dwelling unit is located, whichever is less and sufficient for fire safety.
- (c) *Maximum unit size.* The maximum size of a junior accessory dwelling unit is five hundred (500) square feet of interior livable space.
- (d) *Entrances.* A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single-family residence. When separate sanitation facilities are not included within the space of the junior accessory dwelling unit, an interior entry into the main living area of the primary dwelling shall be provided in addition to the separate entrance from the main entrance to the proposed or existing single-family residence. A junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.
- (e) *Kitchen.* A junior accessory dwelling unit shall contain a kitchen or an efficiency kitchen.
- (f) *Sanitation facilities.* A junior accessory dwelling unit may include separate sanitation facilities, or it may share sanitation facilities with the single-family residence. If sanitation facilities are not provided within the space of the junior accessory dwelling unit, an interior doorway shall be provided between the junior accessory dwelling unit and the living area of the single-family dwelling.
- (g) *Owner-occupancy.* If sanitation facilities are not provided within the space of the junior accessory dwelling unit, the property owner shall reside in the single-family residence in which the junior accessory dwelling unit is located. The property owner may reside in either the remaining portion of the single-family residence or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- (h) *Deed Restriction.* Prior to Building Permit issuance, the applicant shall record a Deed Restriction in the form prescribed by the Town, which shall run with the land and provide for all the following:
 - (1) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
 - (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
 - (3) Owner-occupancy consistent with this section.
- (i) *Fire or life protection.* For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

Sec. 29.10.335. Unpermitted units.

This section provides a mechanism to legalize unpermitted accessory dwelling units and junior accessory dwelling units in compliance with California Government Code Section 66311.7.

- (a) *Applicability.* This section applies to accessory dwelling units and junior accessory dwelling units that were unlawfully constructed prior to January 1, 2020, and that have not been deemed substandard pursuant to Section 17920.3 of the Health and Safety Code by the Building Official. The Community Development Director may determine construction date by any credible means warranted, including use of aerial photography, county records, photographs, and signed affidavits.
- (b) *Relief.* The Town shall not deny a permit to legalize an unpermitted accessory dwelling unit and/or junior accessory dwelling unit solely due to either of the following:
 - (1) The accessory dwelling unit and/or junior accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code; or
 - (2) The accessory dwelling unit and/or junior accessory dwelling unit does not comply with this Chapter or California Government Code Section 66333 through 66339.5.
- (c) *Approval.* An unpermitted accessory dwelling unit and/or junior accessory dwelling unit may be legalized in compliance with Section 29.10.315 (Review Process).
- (d) *Enforcement.* A property owner who makes known to the Town the existence of an unpermitted accessory dwelling unit and/or junior accessory dwelling unit, but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this Chapter.
- (e) *Exception.* The Town may deny a permit to legalize an unpermitted accessory dwelling unit and/or junior accessory dwelling unit if the Building Official makes a finding that correcting any violation(s) is necessary to protect the health and safety of the public or occupants of the structure.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

- (a) *Permits.* The owner of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit, as defined in Section 29.10.310, must obtain a permit in compliance with Section 29.10.315 (Review Process).

Where an application has been submitted for a nonconforming accessory dwelling unit and/or junior accessory dwelling unit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the

property owner to establish the accessory dwelling unit and/or junior accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an unpermitted accessory dwelling unit pursuant to section 29.10.335 and subject to its regulations.

- (b) *Units existing at time of annexation.* Upon annexation a lawful accessory dwelling unit and/or junior accessory dwelling unit shall become nonconforming and the owner must either apply for a permit pursuant to Section 29.10.315 (Review Process) within one (1) year of the date of annexation. A property owner who makes known to the Town the existence of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this chapter.

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit and/or junior accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to Section 29.10.09030.

Sec. 29.10.355. Nonconforming zoning conditions.

The Town shall not deny an application for a permit to create an accessory dwelling unit and/or junior accessory dwelling unit based on a need for the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the accessory dwelling unit and/or junior accessory dwelling unit.

Sec. 29.10.360. Utilities.

- (a) An accessory dwelling unit may be required to have a new or separate utility connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values.
 - (1) Exceptions: Junior accessory dwelling units, by-right accessory dwelling units within the proposed space of a single-family dwelling, or by-right accessory dwelling units within the existing space of a single-family dwelling or accessory structure are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges, unless the unit was constructed with a new single-family dwelling.

Sec. 29.10.365. Fees.

- (a) *Connection fees and capacity charges.* An accessory dwelling unit shall not be considered by the Town, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
- (b) *Impact fees.* An accessory dwelling unit with less than seven hundred fifty (750) square feet of interior livable space or a junior accessory dwelling unit is exempt from impact fees imposed by the Town, special district, or water corporation. An accessory dwelling seven hundred fifty (750) square feet or greater is subject to the Traffic Impact Fee requirements of the Town's Traffic Impact Policy (Policy 1-08), as may be amended from time to time. Any impact fees charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more of interior livable space shall be charged proportionately in relation to the square footage of the primary dwelling unit. For purposes of this subparagraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of California Government Code Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
- (c) For the purposes of this section and Section 17620 of the Education Code, an accessory dwelling unit or junior accessory dwelling unit that contains less than 500 square feet of interior livable space shall, for the purpose of subparagraph (C) of paragraph (1) of subdivision (a) of Section 17620 of the Education Code, be considered other residential construction that does not increase assessable space by 500 square feet.
- (d) A homeowner applying for a permit for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code and when the fee is authorized by this Section.

Secs. 29.10.370—29.10.400. Reserved.

SECTION II. The definition of "attic" included in Section 29.10.020, "Definitions," of Chapter 29, "Zoning Regulations," of the Town of Los Gatos Town Code is amended to read as follows:

Sec. 29.10.020. Definitions.

Attic means a non-habitable space (that may or may not be used for storage) with a maximum height of seven (7) feet as measured from the upper surface of the attic floor to the underside of the roof above. For the purposes of this definition, unfinished attic spaces are considered to have floor surfaces. Once an attic space exceeds seven (7) feet in height, all areas down to five (5) feet will be counted toward the floor area ratio.

SECTION III. California Environmental Quality Act (CEQA) Considerations.

The Town Council finds that the proposed amendments are not subject to CEQA review pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and definitions. Additionally, the proposed amendments are Statutorily Exempt pursuant to Public Resources Code Section 21080.17.

SECTION IV. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Ordinance and shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Ordinance might be declared unconstitutional, preempted, or otherwise invalid.

SECTION V. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the Town Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 of the Government Code of the State of California.

SECTION VI. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___th day of _____ 2026, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the ____ day of _____ 2026, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

- CODE
Chapter 29 - ZONING REGULATIONS
ARTICLE I. - IN GENERAL
DIVISION 7. ACCESSORY DWELLING UNITS

DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This Division is adopted to comply with amendments to Government Code Sections 66310-66342, §§ 65852.2, 65852.22, 65852.23, and 65852.26, which mandate that applications for accessory dwelling units be considered ministerially without a public hearing; and sets Town standards for the development of accessory dwelling units in order to increase the supply of affordable housing in a manner that is compatible with existing neighborhoods.

Sec. 29.10.310. Definitions.

The following words, terms, and phrases, when used in these accessory dwelling unit regulations, shall have the meanings ascribed to them in this section:

Accessory dwelling unit means a detached, ~~or attached,~~ or conversion residential dwelling unit that is located on the same parcel as a proposed or existing primary single-family or multi-family dwelling. It shall provide complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking, and sanitation. An accessory dwelling unit also includes efficiency units and manufactured homes.

- (1) A detached accessory dwelling unit is physically separate from a primary dwelling.
- ~~(2) An attached accessory dwelling unit is contained within the space of and/or physically attached to a proposed or existing primary dwelling.~~
- (2) An attached accessory dwelling unit is:
 - a. Constructed as a physical expansion (i.e., addition) of an existing primary dwelling unit, including construction of a new basement underneath a primary dwelling unit to accommodate an accessory dwelling unit; or
 - b. Constructed as part of a proposed primary dwelling unit;
- (3) A conversion accessory dwelling unit is:
 - a. Contained within the existing space of a primary dwelling unit, including within its living area, basement, or attached garage;
 - b. Created from non-livable space of a multi-family dwelling; or
 - c. Contained within the existing space of an accessory building or structure as defined by Town Code Section 29.10.020.

By-right accessory dwelling unit means an accessory dwelling unit and/or junior accessory dwelling unit that complies with California Government Code Section 66323, which allows for a streamlined approval process exempt from some Town development standards.

Conversion means modification of existing floor area/interior space for the purpose of converting to an accessory dwelling unit or junior accessory dwelling unit.

Efficiency kitchen means a limited kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling

unit. Examples of cooking appliances that may be used are: microwave ovens, hot plates, and similar appliances intended for use on top of a countertop. Refrigerator size is not limited.

Efficiency unit has the meaning set forth in Section 17958.1 of the Health and Safety Code.

High-quality transit corridor has the meaning set forth in Section 21155 of the Public Resources Code.

Hillside Area means all properties located within the Hillside Area Map of the Town's Hillside Development Standards and Guidelines.

Junior accessory dwelling unit means a dwelling unit that does not exceed an interior livable space floor area of five hundred (500) square feet and is entirely contained within the space of a proposed or existing single-family residence. For the purposes of this definition, enclosed spaces within the single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Kitchen means a cooking facility that includes a permanently installed cooking appliance, sink, refrigerator, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.

~~*Legal nonconforming zoning condition* means a physical improvement on a property that was lawful when it was constructed but does not conform with current zoning standards.~~

Livable space means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, and sanitation.

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

Major transit stop has the meaning set forth in Section 21155 of the Public Resources Code.

Manufactured home has the meaning set forth in Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling unit means a unit that exists under the following circumstances:

- (1) A unit which was created or converted lawfully but, due to a zone change or an amendment to the zoning ordinance, became nonconforming; or
- (2) A unit which was created lawfully while within the County but, upon annexation to the Town, became nonconforming.

Nonconforming zoning condition means a physical improvement on a property that does not conform with current zoning standards.

Objective design standards means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

Passageway means a pathway that is unobstructed, clear to the sky, and extends from a street to one (1) entrance of the accessory dwelling unit and/or junior accessory dwelling unit.

Permitting agency means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

Proposed dwelling means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

Public transit means a location, ~~such as including but not limited to~~, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

Tandem parking means that two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Town-standard accessory dwelling unit means an accessory dwelling unit that complies with Town development standards as permitted under California Government Code Sections 66314 to 66322.

Unpermitted accessory dwelling unit means a dwelling unit that was created through the construction of a new structure or expansion of an existing structure without the benefit of a Building Permit (at a time when a Building Permit was required) and that cannot be otherwise legalized because it does not comply with development standards provided in this Chapter.

Sec. 29.10.315. Review process.

- (a) Development of an accessory dwelling unit and/or junior accessory dwelling unit consistent with this division shall be reviewed ministerially as a Building Permit ~~and be subject to the following: and the Town shall take final action within sixty (60) days of submittal of a complete application.~~
- ~~(1) When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.~~
- ~~(2) The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling.~~
- (1) *Application review.* Upon receipt of an application to create or serve an accessory dwelling unit, the Town shall determine whether the application is complete and provide written notice of this determination to the applicant not later than fifteen (15) business days after receiving the application. If the Town determines the application is incomplete, the applicant may cure and address the items that are deemed to be incomplete by the permitting agency. When reviewing a revised application submitted to address the identified incomplete determination, the permitting agency shall not require the application to include an item that was not included in the list of incomplete items provided in the written determination. Upon receipt of a revised application, the Town shall determine whether the application is complete and provide written notice of this determination to the applicant not later than 15 business days after receiving the application. If a permitting agency does not make a timely determination as required by this paragraph, the application or resubmitted application shall be deemed to be complete for the purposes of this section. If a permit application is determined to be incomplete or is denied, the determination may be appealed to the Planning Commission within ten (10) days of the decision pursuant to Town Code Section 29.20.255. The appeal shall be subject to the procedures contained in 29.20.260 and 29.20.265. The Planning Commission shall provide a final determination no later than 60 business days after receipt of the applicant's written appeal.
- (2) *Final action.* The Town shall take final action within sixty (60) days of receiving a complete application. When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.
- (3) *Certificate of occupancy.* The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling, unless the conditions of California Government Code Section 66328 are met.

(4) *Demolition.* A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit shall be reviewed with the application for the accessory dwelling unit and issued at the same time.

- (b) *Notification.* The Town shall not require, and the applicant shall not be otherwise required to provide written notice or post a placard for construction of an accessory dwelling unit and/or junior accessory dwelling unit. No noticing shall be required for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.
- (c) *Denial.* An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:
 - (1) Adverse impacts on health, safety, and/or welfare of the public.
- (d) *Appeals.* Accessory dwelling units and junior accessory dwelling units that are consistent with this division are ministerial and are not subject to an appeal.

Sec. 29.10.320. General requirements and restrictions.

The following requirements and restrictions apply to Town-standard accessory dwelling units, by-right accessory dwelling units, and junior accessory dwelling units.

- (a) *Incentive program.* Any accessory dwelling unit or junior accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A Deed Restriction shall be recorded specifying that the accessory dwelling unit or junior accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling.
- (b) *Parcel requirements.* An accessory dwelling unit and/or junior accessory dwelling unit may only be created on parcels satisfying all the following general requirements:
 - (1) *Permitted zones.* A parcel zoned to allow single-family or multi-family residential use; and-
 - (2) *Dwelling unit.* A parcel that includes a proposed or existing primary dwelling.
- ~~(c) *Number.* Accessory dwelling units and/or a junior accessory dwelling unit may be permitted on a residential parcel as follows:~~

~~(1) — *Single-family development.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing single-family dwelling, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.~~

~~(2) — *Multi-family development.* Not more than a number equal to twenty-five (25) percent of the existing multi-family dwelling units rounded up to the next whole number, within the portions of an existing multi-family dwelling not used as livable space (such as storage rooms, boiler rooms, passageways, attics, basements, or garages), and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling.~~

~~(d) — *Floor-area ratio (FAR) standards.*~~

~~(1) — *Accessory dwelling units.* Accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor-area ratio standards for all structures, excluding garages. Exception: Up to eight hundred (800) square feet of gross floor area of an accessory dwelling unit shall be exempt from the applicable FAR standards. This subsection does not apply to junior accessory dwelling units.~~

~~(2) — *Junior accessory dwelling units.* Junior accessory dwelling units are subject to the floor-area ratio standards for all structures, excluding garages.~~

~~(c) *Lot coverage.* All Aa~~ accessory dwelling units and junior accessory dwelling units are exempt from the lot coverage standards applicable to the zone and the accessory structure lot coverage limitations included in Section 29.40.015 (A)(5).

~~(d) *Height.* Accessory dwelling units shall be subject to the height requirements below:~~

- (1) A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.
 - (2) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half (½) mile walking distance of a major transit stop or a high-quality transit corridor. An additional two (2) feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.
 - (3) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.
 - (4) A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.
 - (5) Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.
- (e) *Stories.* Accessory dwelling units and junior accessory dwelling units shall be contained within one (1) story.
- (f) *Entrances.* Attached accessory dwelling units, conversion accessory dwelling units, and junior accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit or junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit or junior accessory dwelling unit to a public street may be created but shall not be required by the Town.
- (g) *Interior connection.* An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.
- (h) *Balconies and Decks.* New balconies, rooftop terraces, and second-story decks are prohibited.
- (i) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of, or constructed in the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:
- (1) The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.
 - (2) The accessory dwelling unit shall have a separate entrance from the primary dwelling.
 - (3) The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.
 - (4) An expansion of one hundred fifty (150) square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.
 - (5) When an existing structure is nonconforming as to setback standards and converted to an accessory dwelling unit, any expansion of that structure may not be nearer to a property line than the existing building in accordance with section 29.10.245.
- (fj) *Parking.* One (1) parking space per accessory dwelling unit or per bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling. These spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking. In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this Chapter for the primary dwelling shall be provided prior to the issuance of a Building Permit or final inspection, for a new accessory dwelling unit.

(1) *Exceptions.* No parking space shall be required under any of the following conditions:

- a. No additional parking shall be required for a junior accessory dwelling unit.
- b. The accessory dwelling unit is located within one-half (½) mile walking distance of public transit.
- c. The accessory dwelling unit is located within an architecturally and historically significant historic district.
- d. The accessory dwelling unit is contained within the proposed or existing space of, or constructed in substantially the same location and manner as, an existing primary dwelling or accessory structure.
- e. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- f. When there is a car share vehicle (as defined by the California Vehicle Code) located within one (1) block of the accessory dwelling unit.
- g. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or multi-family dwelling on the same lot.
- h. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling shall not be required to be replaced.
- i. When the Director finds that the lot does not have adequate area to provide parking.

~~(g) — *Design standards.* The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that an accessory dwelling unit and/or junior accessory dwelling unit are compatible with the primary dwelling and the neighborhood. The following objective design standards apply to the construction of an accessory dwelling unit and/or junior accessory dwelling unit:~~

- ~~(1) — *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.~~
- ~~(2) — *Front porch.* If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation.~~
- ~~(3) — *Windows.* All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.~~
- ~~(4) — *Balconies and Decks.* Balconies, rooftop terraces, and second-story decks are prohibited for all accessory dwelling units and junior accessory dwelling units.~~
- ~~(5) — *Outside stairways.* Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street. This standard shall not preclude construction of an eight hundred (800) square-foot accessory dwelling unit.~~
- ~~(6) — *Detached and/or attached accessory dwelling units.* A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling.~~

An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.

(7) ~~Attached garage conversion.~~ An existing attached garage that is converted to an accessory dwelling unit and/or junior accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.

(8) ~~Detached garage conversion.~~ An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.

(kh) **Grading.**

(1) ~~To the extent~~As required by Chapter 12, Article II and Section 29.10.09045 (b) of the Town Code, the grading activities shall not exceed 50 cubic yards, cut plus fill, unless exempted per set forth in subsection (2) below ~~or unless first receiving approval of a~~ may require a Grading Permit, but will not require discretionary review of an Architecture and Site Application.

(2) Grading exemptions: activities associated with the construction of an accessory dwelling unit and/or junior accessory dwelling unit shall not exceed fifty (50) cubic yards, cut plus fill, except:

- a. Light wells that do not exceed the minimum required by the Building Code; ~~shall not count as grading activity for the purpose of this section.~~
- ii. Grading activities required to provide the minimum driveway and fire access as required by the Santa Clara County Fire Department; and
- b. Excavation within the footprint of a proposed accessory dwelling unit and/or junior accessory dwelling unit ~~shall not count as grading activity for the purpose of this section.~~

Note that these exemptions are only for the discretionary approval requirement listed in Town Code Section 29.10.09045 (b) and not the Grading Permit requirement at building permit submittal per Town Code Chapter 12, Article II.

(li) **Cut and fill.** Construction of an accessory dwelling unit and/or a junior accessory dwelling unit shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units) below:

Table 1-1. Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units		
Site Element	Cut*	Fill*
Accessory dwelling unit/junior accessory dwelling unit	4 feet	3 feet
Driveways**	4 feet	3 feet
Other (decks, yards)*	4 feet	3 feet
* Combined depths of cut plus fill for an accessory dwelling unit or junior accessory dwelling unit shall be limited to six (6) feet.		
** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

(mj) **Retaining walls.** Retaining walls shall not exceed five (5) feet in height and shall not run in a continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five (5) foot landscape buffer adjacent to the street.

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- (nk) *Light reflectivity value.* Exterior materials for accessory dwelling units and/or junior accessory dwelling units in the Hillside ~~Overlay Area~~ shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines.
 - (ol) *Landscaping.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO).
 - (pm) *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill onto neighboring parcels consistent with Section 29.10.09015 of the Town Code.
 - (qm) *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article I, Division 2, "Tree Protection," of the Town Code.
 - (re) *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer.
 - (sp) *Conveyance.* Except as provided in CA Government Code Section ~~6634165852-26~~, an accessory dwelling unit may be rented separate from the primary dwelling but may not be sold or otherwise conveyed separate from the primary dwelling.
 - (tq) *Town codes and ordinances.* All accessory dwelling units and junior accessory dwelling units shall comply with all the provisions of this Chapter and other applicable Town Codes.
 - (uf) *Building codes.* All accessory dwelling units and junior accessory dwelling units shall comply with applicable building, health, and fire codes, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the Building Official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety.
 - (sv) *Rentals longer than 30 days.* Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.
 - (wt) *Maximum number of dogs, cats, or litters.* All accessory dwelling units shall comply with Section 4.40.010 of the Town Code.
 - (x) *Density.* ~~Accessory dwelling units that conform to California Government Code Section 66314 shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing General Plan and zoning designation for the lot.~~
 - (y) *Fire sprinklers.* ~~The installation of fire sprinklers shall not be required in an accessory dwelling unit or a junior accessory dwelling unit if sprinklers are not required for the primary residence. The construction of an accessory dwelling unit or junior accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling or existing multi-family dwelling.~~

Sec. 29.10.325. ~~Town-standard~~ Accessory dwelling unit development standardsrequirements.

~~An accessory dwelling unit must comply with the following objective development standards:~~

As provided in California Government Code Sections 66314, the following are the Town development requirements for a Town-standard accessory dwelling unit.

(a) Location.

- (1) No ~~detached-Town-standard~~ accessory dwelling unit may be constructed in front of the primary dwelling except in the HR and RC zones.
- (2) No Town-standard accessory dwelling unit may be constructed in front of a primary dwelling or added to an existing second story of a primary dwelling that is any of the following:
 - a. A Historic Structure, as defined in section 29.10.020 of the Zoning Code;
 - b. Listed in the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone;" or
 - c. Listed in the California Register of Historical Resources.

(b) Development requirements. Construction of a Town-standard accessory dwelling unit shall be subject to the development requirements specified by Table 1-2 (Town-standard Accessory Dwelling Units Development Requirements) below:

Table 1-2. Town-standard Accessory Dwelling Units Development Requirements			
	<u>Conversion ADU⁽¹⁾</u>	<u>New construction detached ADU</u>	<u>Attached ADU</u>
<u>Maximum Number</u>	<u>One (1) total</u>		
<u>FAR</u>	<u>Town-standard accessory dwelling units located on a property with a proposed or existing single-family residence are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages. This increase shall not be less than 800 square feet and shall not exceed 1,200 square feet per property. If a property exceeds FAR standards, the increase provided herein is limited to 800 square feet. This increase does not apply to by-right accessory dwelling units or junior accessory dwelling units.</u> <u>Floor area ratio standards do not apply to multi-family residential properties. A Town-standard accessory dwelling unit located on a property with a proposed or existing multi-family residence may be up to 800 square feet.</u>		
<u>Maximum Size</u>	<u>Single-family property:</u> <u>1,200 square feet;</u> <u>Multi-family property:</u> <u>800 square feet</u>	<u>Single-family property:</u> <u>1,200 square feet;</u> <u>Multi-family property:</u> <u>800 square feet</u>	<u>Single-family property:</u> <u>1,200 square feet⁽⁴⁾</u> <u>Multi-family property:</u> <u>800 square feet⁽⁴⁾</u>
<u>Setbacks⁽²⁾</u>			
<u>Front</u>	<u>N/A</u>	<u>Per the applicable zoning district</u>	<u>Per the applicable zoning district</u>
<u>Rear</u>	<u>Sufficient for fire and safety</u>	<u>4 feet minimum</u>	<u>4 feet minimum</u>
<u>Side (including street-side)</u>	<u>Sufficient for fire and safety</u>	<u>4 feet minimum</u>	<u>4 feet minimum</u>
<u>From any other structure located on the same lot⁽³⁾</u>	<u>N/A</u>	<u>5 feet minimum</u>	<u>5 feet minimum</u>
<u>(1) Includes attached garages.</u>			

- (2) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.
- (3) Measured from the exterior wall surface and/or supporting posts.
- (4) May not exceed 50 percent of the size of the primary dwelling.

(c) *Exceptions.* Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (450) square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

(d) *Design standards.* The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that a Town-standard accessory dwelling unit is compatible with the primary dwelling and the neighborhood. The following objective design standards apply only to Town-standard accessory dwelling units and do not apply to by-right accessory dwelling units:

- (1) *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.
- (2) *Front porch.* If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation.
- (3) *Windows.* All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.
- (4) *Outside stairways.* Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street.
- (5) *Detached and/or attached accessory dwelling units.* A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling. An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.
- (6) *Attached garage conversion.* An existing attached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.
- (7) *Detached garage conversion.* An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.

(b) *Setbacks.* Accessory dwelling units shall be subject to the setback requirements specified in Table 1-2 (Accessory Dwelling Unit Setback Requirements) below:

Table 1-2. Accessory Dwelling Unit Setback Requirements ⁽¹⁾						
	Single-Family			Multi-Family		
	New construction	New attached ADU	New attached ADU	New construction	Conversion of portions existing	Conversion of existing

	detached ADU	within the existing space of the primary dwelling ⁽²⁾ or accessory structure	within the proposed space of the primary dwelling	detached ADU	multi-family dwelling not used as livable space ⁽³⁾	accessory structure(s)
Front	Per the applicable zoning district ⁽⁴⁾	N/A	Per the applicable zoning district ⁽⁴⁾	Per the applicable zoning district ⁽⁴⁾	N/A	N/A
Rear	4-foot minimum	Sufficient for fire and safety	4-foot minimum	4-foot minimum		
Side (including street-side)	4-foot minimum		4-foot minimum	4-foot minimum		
From any other structure located on the same lot ⁽⁵⁾	5-foot minimum	N/A	5-foot minimum	5-foot minimum	N/A	N/A
(1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code. (2) Includes attached garages. (3) Such as storage rooms, boiler rooms, passageways, attics, basements, or garages. (4) Front setback requirements shall not preclude construction of an 800-square-foot accessory dwelling unit. (5) Measured from the exterior wall surface and/or supporting posts.						

~~(c) — Maximum unit size.~~

~~(1) — The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet.~~

~~(2) — An attached accessory dwelling unit that is not created through conversion of existing space shall not exceed fifty (50) percent of the size of the existing primary dwelling. Exception: Up to eight~~

hundred (800) square feet of gross floor area of an attached accessory dwelling unit shall be exempt from this subsection.

- (3) ~~Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (450) square feet in the R-1, R-D, R-M, RMH, and R-ID zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.~~

- (d) ~~Maximum number of bedrooms.~~ There is no limit on the number of bedrooms in an accessory dwelling unit.

- (e) ~~Stories.~~ Accessory dwelling units shall be contained within one (1) story.

- (f) ~~Height.~~ Accessory dwelling units shall be subject to the height requirements below:

- (1) ~~A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.~~
- (2) ~~A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor. An additional two feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.~~
- (3) ~~A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.~~
- (4) ~~A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.~~
- (5) ~~Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-ID zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.~~

- (g) ~~Entrances.~~ Attached accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit contained on a second-story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.

- (h) ~~Interior connection.~~ An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.

- (i) ~~Conversion of existing floor area.~~ An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of, or constructed in the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:

- (1) ~~The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.~~

-
- ~~(2) —The accessory dwelling unit shall have a separate entrance from the primary dwelling.~~
 - ~~(3) —The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.~~
 - ~~(4) —An expansion of one hundred fifty (150) square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.~~
 - ~~(5) —When an existing structure is nonconforming as to setback standards and converted to an accessory dwelling unit, any expansion of that structure may not be nearer to a property line than the existing building in accordance with section 29.10.245.~~

~~(j) —*Density.* Accessory dwelling units that conform to California Government Code Section 65852.2 shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing General Plan and zoning designation for the lot.~~

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

Sec. 29.10.325. By-right accessory dwelling unit development requirements.

As provided in California Government Code Sections 66323, the following are the development requirements for by-right accessory dwelling units.

- (a) Development requirements. Construction of a by-right accessory dwelling unit shall be subject to the development requirements specified by Table 1-3 (By-Right Accessory Dwelling Unit Development Requirements) below:

Table 1.3. By-Right Accessory Dwelling Unit Development Requirements					
	Single-Family Properties		Multi-Family Properties		
	<u>Conversion ADU⁽³⁾</u>	<u>New construction detached ADU</u>	<u>Conversion ADU⁽⁴⁾</u>	<u>New construction detached ADU</u>	
				<u>On lot with existing MFD</u>	<u>On lot with proposed MFD</u>
<u>Maximum Number (may be combined)</u>	<u>One (1)</u>	<u>One (1)</u>	<u>One (1), or 25 percent of existing units, whichever is greater</u>	<u>Eight (8), provided the number of ADUs pursuant to this clause does not exceed the number of primary dwelling units.</u>	<u>Two (2)</u>
<u>FAR</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Maximum Size</u>	<u>N/A⁽²⁾</u>	<u>800 square feet</u>	<u>N/A⁽²⁾</u>	<u>800 square feet</u>	<u>800 square feet</u>
<u>Setbacks⁽¹⁾</u>					
<u>Front</u>	<u>Sufficient for fire and safety</u>	<u>Per the applicable zoning district⁽⁵⁾</u>	<u>Sufficient for fire and safety</u>	<u>Sufficient for fire and safety</u>	<u>Per the applicable zoning district⁽⁵⁾</u>
<u>Side/Street-Side</u>		<u>4 feet minimum</u>			<u>4 feet minimum</u>
<u>Rear</u>		<u>4 feet minimum</u>			<u>4 feet minimum</u>
<u>From any other structure located on the same lot⁽⁶⁾</u>	<u>N/A</u>	<u>5 feet minimum</u>	<u>N/A</u>		<u>5 feet minimum</u>
(1) <u>Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.</u> (2) <u>Must be located within the converted space of a proposed or existing single-family residence or accessory structure, or within the converted non-livable space of an existing multi-family dwelling. On a single-family property, an existing accessory structure may be expanded by no more than 150 square feet to accommodate ingress and egress.</u> (3) <u>Includes attached garages.</u> (4) <u>Such as storage rooms, boiler rooms, passageways, attics, basements, or garages.</u> (5) <u>Front setback requirements shall not preclude construction of by-right accessory dwelling units.</u> (6) <u>Measured from the exterior wall surface and/or supporting posts.</u>					

- (c) Exceptions. Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (450) square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

Sec. 29.10.330. Junior dwelling unit development standards.

- (a) *Location.* A junior accessory dwelling unit shall be constructed entirely within the walls of the proposed or existing single-family residence. For the purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence. Junior accessory dwelling units may not be located within the space of, or attached to, a detached accessory structure of any type.
- (b) *Setbacks.* A junior accessory dwelling unit shall be subject to the setback requirements of the applicable zoning district for a single-family residence, or the setbacks established by the existing single-family residence within which the junior accessory dwelling unit is located, whichever is less and sufficient for fire safety.
- (c) *Maximum unit size.* The maximum ~~floor area size~~ of a junior accessory dwelling unit is five hundred (500) square feet of interior livable space, measured from the outer face of exterior walls and the centerline of shared interior walls.
- (d) *Entrances.* A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single-family residence. When separate sanitation facilities are not included within the space of the junior accessory dwelling unit, an interior entry into the main living area of the primary dwelling shall be provided in addition to the separate entrance from the main entrance to the proposed or existing single-family residence. A junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.
- (e) *Kitchen.* A junior accessory dwelling unit shall contain a kitchen or an efficiency kitchen.
- (f) *Sanitation facilities.* A junior accessory dwelling unit may include separate sanitation facilities, or it may share sanitation facilities with the single-family residence. If sanitation facilities are not provided within the space of the junior accessory dwelling unit, an interior doorway shall be provided between the junior accessory dwelling unit and the living area of the single-family dwelling.
- (g) *Owner-occupancy.* If sanitation facilities are not provided within the space of the junior accessory dwelling unit, ~~the~~ the property owner shall reside in the single-family residence in which the junior accessory dwelling unit will be located. The property owner may reside in either the remaining portion of the single-family residence or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- (h) *Deed Restriction.* Prior to Building Permit issuance, the applicant shall record a Deed Restriction in the form prescribed by the Town, which shall run with the land and provide for all the following:
 - (1) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
 - (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
 - (3) Owner-occupancy consistent with this section.
- (i) *Fire or life protection.* For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

Sec. 29.10.335. Unpermitted units.

This section provides a mechanism to legalize unpermitted accessory dwelling in compliance with Government Code Section ~~66311.765852.23~~.

- (a) *Applicability.* This section applies to accessory dwelling units and junior accessory dwelling units that were unlawfully constructed prior to January 1, 20~~20~~18, and that have not been deemed substandard pursuant to Section 17920.3 of the Health and Safety Code by the building official. The Community Development Director may determine construction date by any credible means warranted, including use of aerial photography, county records, photographs, and signed affidavits.
- (b) *Relief.* The Town shall not deny a permit to legalize an unpermitted accessory dwelling and/or junior accessory dwelling unit solely due to either of the following:
 - (1) The accessory dwelling unit and/or junior accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code; or
 - (2) The accessory dwelling unit and/or junior accessory dwelling unit does not comply with Government Code Section 66333 through 66339.5-~~65852.2~~; or
 - ~~(3) The accessory dwelling unit does not comply with this Chapter.~~
- (c) *Approval.* An unpermitted accessory dwelling unit and/or junior accessory dwelling unit may be legalized in compliance with Section 29.10.315 (Review Process).
- (d) *Enforcement.* A property owner who makes known to the Town the existence of an unpermitted accessory dwelling unit and/or junior accessory dwelling unit, but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this Chapter.
- (e) *Exception.* The Town may deny a permit to legalize an unpermitted accessory dwelling unit and/or junior accessory dwelling unit and instead require correction of the violation(s) if the Building Official makes a finding that correcting the violation(s) is necessary to protect the health and safety of the public or occupants of the structure.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

- (a) *Permits.* The owner of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit, as defined in Section 29.10.310, must obtain a permit in compliance with Section 29.10.315 (Review Process).

Where an application has been submitted for a nonconforming accessory dwelling unit and/or junior accessory dwelling unit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit and/or junior accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an unpermitted accessory dwelling unit pursuant to section 29.10.335 and subject to its regulations.

- (b) *Units existing at time of annexation.* Upon annexation a lawful accessory dwelling unit and/or junior accessory dwelling unit shall become nonconforming and the owner must either apply for a permit pursuant to Section 29.10.315 (Review Process) within one (1) year of the date of annexation. A property owner who makes known to the Town the existence of a nonconforming accessory dwelling unit and/or junior accessory

dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this chapter.

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit and/or junior accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to Section 29.10.09030.

Sec. 29.10.355. Nonconforming zoning conditions.

The Town shall not deny an application for a permit to create an accessory dwelling unit and/or junior accessory dwelling unit based on a need for the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the accessory dwelling unit and/or junior accessory dwelling unit.

Sec. 29.10.360. Utilities.

- (a) An accessory dwelling unit may be required to have a new or separate ~~unity-utility~~ connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values.
- (1) Exceptions: Junior accessory dwelling units, ~~by-right~~ accessory dwelling units within the proposed space of a single-family dwelling, or ~~by-right~~ accessory dwelling units within the existing space of a single-family dwelling or accessory structure are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges, unless the ~~accessory dwelling~~ unit was constructed with a new single-family dwelling.

Sec. 29.10.365. Fees.

- (a) *Connection fees and capacity charges.* An accessory dwelling unit shall not be considered by the Town, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
- (b) *Impact fees.* An accessory dwelling unit less than seven hundred fifty (750) square feet or a junior accessory dwelling unit is exempt from impact fees imposed by the Town, special district, or water corporation. An accessory dwelling seven hundred fifty (750) square feet or greater is subject to the Traffic Impact Fee requirements of the Town's Traffic Impact Policy (Policy 1-08), as may be amended from time to time. Any impact fees charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit. For purposes of this subparagraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of CA Government Code Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

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- (c) For the purposes of this section and Section 17620 of the Education Code, an accessory dwelling unit or junior accessory dwelling unit that contains less than 500 square feet of interior livable space shall, for the purpose of subparagraph (C) of paragraph (1) of subdivision (a) of Section 17620 of the Education Code, be considered other residential construction that does not increase assessable space by 500 square feet.
- (d) A homeowner applying for a permit for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code and when the fee is authorized by this Section.

Secs. 29.10.370—29.10.400. Reserved.

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TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66345.4]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 13. Accessory Dwelling Units [66310 - 66342]

(Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20.)

ARTICLE 1. General Provisions [66310 - 66313.5]

(Article 1 added by Stats. 2024, Ch. 7, Sec. 20.)

66310.

The Legislature finds and declares all of the following:

- (a) Accessory dwelling units are a valuable form of housing in California.
- (b) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.
- (c) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.
- (d) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.
- (e) California faces a severe housing crisis.
- (f) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

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

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

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66311.

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

(Amended by Stats. 2025, Ch. 520, Sec. 1. (SB 543) Effective January 1, 2026.)

66311.5.

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

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

(c) (1) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit that has 750 square feet of interior livable space or less or a junior accessory dwelling unit that has 500 square feet of interior livable space or less. Any impact fees charged for an accessory dwelling unit that has more than 750 square feet of interior livable space shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(2) For purposes of this subdivision, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in

Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(3) For the purposes of this section and Section 17620 of the Education Code, an accessory dwelling unit or junior accessory dwelling unit that contains less than 500 square feet of interior livable space shall, for the purpose of subparagraph (C) of paragraph (1) of subdivision (a) of Section 17620 of the Education Code, be considered other residential construction that does not increase assessable space by 500 square feet.

(d) For an accessory dwelling unit or a junior accessory dwelling unit described in paragraph (1) of subdivision (a) of Section 66323, a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the unit and the utility or impose a related connection fee or capacity charge, unless the unit was constructed with a new single-family dwelling, or upon separate conveyance of the accessory dwelling unit pursuant to Section 66342.

(e) For an accessory dwelling unit that is not described in paragraph (1) of subdivision (a) of Section 66323, a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(Added by renumbering Section 66324 by Stats. 2025, Ch. 520, Sec. 7. (SB 543) Effective January 1, 2026.)

66311.7.

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

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

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

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

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

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

(1) A checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem a building substandard.

(2) Informing homeowners that, before submitting an application for a permit, the homeowner may obtain a confidential third-party code inspection from a licensed contractor to determine the unit's existing condition or potential scope of building improvements before submitting an application for a permit.

(e) A homeowner applying for a permit for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code and when the fee is authorized by subdivision (e) of Section 66311.5.

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

(Added by renumbering Section 66332 by Stats. 2025, Ch. 520, Sec. 9. (SB 543) Effective January 1, 2026.)

66312.

Notwithstanding Section 65803, this chapter shall also apply to a charter city.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66313.

For purposes of this chapter:

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

(1) An efficiency unit.

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

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

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

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

(e) “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

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

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

(h) “Nonconforming zoning condition” means a physical improvement on a property that does not conform to current zoning standards.

(i) “Objective standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

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

(k) “Permitting agency” means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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

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

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

(Amended by Stats. 2025, Ch. 520, Sec. 2. (SB 543) Effective January 1, 2026.)

66313.5.

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

(Added by renumbering Section 66327 by Stats. 2025, Ch. 520, Sec. 8. (SB 543) Effective January 1, 2026.)

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TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66345.4]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 13. Accessory Dwelling Units [66310 - 66342]

(Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20.)

ARTICLE 2. Accessory Dwelling Unit Approvals [66314 - 66331]

(Article 2 added by Stats. 2024, Ch. 7, Sec. 20.)

66314.

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

- (a) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
- (b) (1) Impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. These standards shall not include requirements on minimum lot size.
- (2) Notwithstanding paragraph (1), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

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

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

(1) Except as provided in Article 4 (commencing with Section 66340), the accessory dwelling unit may be rented separate from the primary residence, but shall not be sold or otherwise conveyed separate from the primary residence.

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

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

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

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

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

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

(8) Local building code requirements that apply to detached dwellings, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a

specific, adverse impact on public health and safety. Nothing in this paragraph shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this article.

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

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

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

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

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

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

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

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

(Amended by Stats. 2025, Ch. 67, Sec. 109. (AB 1170) Effective January 1, 2026.)

66315.

Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66316.

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

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66317.

(a) (1) A permit application for an accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits.

(2) (A) A permitting agency shall determine whether an application to create or serve an accessory dwelling unit is complete and provide written notice of this determination to the applicant not later than 15 business days after the permitting agency received the application.

(B) If the permitting agency determines an application is incomplete, the permitting agency shall provide the applicant with a list of incomplete items and a description of how the application can be made complete. The list and description shall be provided with the written notice required by subparagraph (A).

(C) After receiving a notice that the application was incomplete, an applicant may cure and address the items that are deemed to be incomplete by the permitting agency.

(D) In the review of an application submitted pursuant to subparagraph (C), the permitting agency shall not require the application to include an item that was not included in the list required by subparagraph (B).

(E) If an applicant submits an application pursuant to subparagraph (C), the permitting agency shall determine whether the additional application has remedied all incomplete items listed in the determination issued pursuant to subparagraph (B). This additional application is subject to the timelines and requirements specified in subparagraph (A).

(F) If a permitting agency does not make a timely determination as required by this paragraph, the application or resubmitted application shall be deemed to be complete for the purposes of this section.

(3) The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit until the permitting agency approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create or serve the accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this section, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(b) If a permitting agency denies an application for an accessory dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(c) No local ordinance, policy, or regulation, other than an accessory dwelling unit ordinance consistent with this article shall be the basis for the delay or denial of a building permit or a use permit under this section.

(d) (1) If a permit application is determined to be incomplete under paragraph (2) of subdivision (a) or denied under paragraph (3) of subdivision (a), the permitting agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

(2) A permitting agency on the appeal shall provide a final written determination by not later than 60 business days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-business-day period.

(Amended by Stats. 2025, Ch. 520, Sec. 3. (SB 543) Effective January 1, 2026.)

66318.

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

(b) An accessory dwelling unit ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66319.

An accessory dwelling unit that conforms to Section 66314 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66320.

When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with Section 66314 receives an application for a permit to create or serve an accessory dwelling unit pursuant to this article, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to Section 66317.

(Amended by Stats. 2025, Ch. 520, Sec. 4. (SB 543) Effective January 1, 2026.)

66321.

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

(b) Notwithstanding subdivision (a), a local agency shall not establish by ordinance any of the following:

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

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

(A) Eight hundred fifty square feet of interior livable space.

(B) One thousand square feet of interior livable space for an accessory dwelling unit that provides more than one bedroom.

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

(4) Any height limitation that does not allow at least the following, as applicable:

(A) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

(B) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(C) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(D) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This subparagraph shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

(Amended by Stats. 2025, Ch. 520, Sec. 5. (SB 543) Effective January 1, 2026.)

66322.

Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with Section 66314, all of the following shall apply:

(a) A local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

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

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

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

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

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

(6) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the

same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this subdivision.

(b) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66323.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 2025, Ch. 520, Sec. 6. (SB 543) Effective January 1, 2026.)

66325.

(a) Except as provided in subdivision (b), this article shall supersede a conflicting local ordinance.

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

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66326.

(a) A local agency shall submit a copy of the ordinance adopted pursuant to Section 66314 to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this article.

(b) (1) If the department finds that the local agency's ordinance does not comply with this article, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this article.

(2) The local agency shall consider the findings made by the department pursuant to paragraph (1) and shall do one of the following:

(A) Amend the ordinance to comply with this article.

(B) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this article despite the findings of the department.

(c) (1) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this article and addressing the department's findings, the department shall

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

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

(d) If a local agency fails to submit a copy of its ordinance to the department within 60 days of adoption pursuant to this section or fails to respond to the department's findings that the local ordinance does not comply with this article within 30 days pursuant to this section, that ordinance shall be null and void. The local agency shall thereafter apply the standards established in this article for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this article, including, but not limited to, the submittal requirements of this section.

(Amended by Stats. 2025, Ch. 510, Sec. 1. (SB 9) Effective January 1, 2026.)

66328.

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

(b) Notwithstanding subdivision (a), a local agency shall issue a certificate of occupancy for an accessory dwelling unit constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, if both of the following requirements are met, even if the primary dwelling has not yet been issued a certificate of occupancy:

(1) The primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation issued by the Governor.

(2) The accessory dwelling unit has been issued construction permits and has passed all required inspections.

(c) Subdivision (b) does not apply to an accessory dwelling unit attached to the primary dwelling.

(Amended by Stats. 2025, Ch. 491, Sec. 1. (AB 462) Effective October 10, 2025.)

66329.

(a) Except as provided in subdivision (b), nothing in this article shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall, pursuant to Section 66317, either approve or deny a coastal development permit application for an accessory dwelling within 60 days of receiving a completed application, and shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units. The process to approve or deny a coastal development permit application under this subdivision shall happen concurrently with the process to approve or deny an application for an accessory dwelling unit under Section 66317.

(b) (1) If the local government does not have a certified local coastal plan or program, as defined in Section 31001 of the Public Resources Code, then the California Coastal Commission shall either approve or deny the coastal development permit application for an accessory dwelling unit within 60 days of receiving a completed application.

(2) A local government that does not have a certified local coastal plan or program shall immediately notify the California Coastal Commission that a permit application for an accessory dwelling unit is complete pursuant to Section 66317.

(3) The California Coastal Commission's review process to approve or deny a coastal development permit application shall happen concurrently with the process to approve or deny an application for an accessory dwelling unit under Section 66317 provided that the California Coastal Commission has received a completed application for a coastal development permit pursuant to Section 65943.

(4) Notwithstanding paragraph (1), if the coastal development permit application to create or serve an accessory dwelling unit is submitted with a coastal development permit application to create or serve a new single-family or multifamily dwelling on the lot, the California Coastal Commission may delay approving or denying the coastal development permit application for the accessory dwelling unit until the California Coastal Commission approves or denies the coastal development permit application to create or serve the new single-family or multifamily dwelling.

(5) Except as provided in paragraph (4), if the California Coastal Commission has not approved or denied the completed coastal development permit application for the accessory dwelling unit within 60 days, the application shall be deemed approved.

(c) Any decision of a local government pursuant to subdivision (a) is not subject to appeal under Section 30603 of the Public Resources Code.

(Amended by Stats. 2025, Ch. 491, Sec. 2. (AB 462) Effective October 10, 2025.)

66330.

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

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66331.

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

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

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

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

Government Code - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66345.4]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 13. Accessory Dwelling Units [66310 - 66342]

(Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20.)

ARTICLE 3. Junior Accessory Dwelling Units [66333 - 66339.5]

(Article 3 added by Stats. 2024, Ch. 7, Sec. 20.)

66333.

Notwithstanding Article 2 (commencing with Section 66314), a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

- (a) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
- (b) If the junior accessory dwelling unit has shared sanitation facilities with the existing structure, require owner-occupancy in the single family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the junior accessory dwelling unit has separate sanitation facilities, or if the owner is another governmental agency, land trust, or housing organization.
- (c) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

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

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

(d) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence. For purposes of this subdivision, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

(e) (1) Require a permitted junior accessory dwelling unit to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(2) If a permitted junior accessory dwelling unit does not include a separate bathroom, the permitted junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

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

(1) A cooking facility with appliances.

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

(g) Require that a rental of a junior accessory dwelling unit be for a term longer than 30 days.

(Amended by Stats. 2025, Ch. 507, Sec. 1. (AB 1154) Effective January 1, 2026.)

66333.5.

(a) A local agency shall submit a copy of the ordinance adopted pursuant to Section 66333 to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this article.

(b) (1) If the department finds that the local agency's ordinance does not comply with this article, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this article.

(2) The local agency shall consider the findings made by the department pursuant to paragraph (1) and shall do one of the following:

(A) Amend the ordinance to comply with this article.

(B) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this article despite the findings of the department.

(c) (1) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this article and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

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

(d) If a local agency fails to submit a copy of its ordinance to the department within 60 days of adoption pursuant to this section or fails to respond to the department's findings that the local ordinance does not comply with this article within 30 days pursuant to this section, that ordinance shall be null and void. The local agency shall thereafter apply the standards established in this article for the approval of junior accessory dwelling units, unless and until the agency adopts an ordinance that complies with this article, including, but not limited to, the submittal requirements of this section.

(Added by Stats. 2025, Ch. 520, Sec. 10. (SB 543) Effective January 1, 2026.)

66334.

(a) A junior accessory dwelling unit ordinance adopted pursuant to Section 66333 shall not require additional parking as a condition to grant a permit.

(b) This article shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66335.

(a) (1) An application for a permit pursuant to this article shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing.

(2) (A) A permitting agency shall determine whether an application to create or serve a junior accessory dwelling unit is complete and provide written notice of this determination to the applicant not later than 15 business days after the permitting agency received the application.

(B) If the permitting agency determines an application is incomplete, the permitting agency shall provide the applicant with a list of incomplete items and a description of how the application can be made complete. The list and description shall be provided with the written notice required by subparagraph (A).

(C) After receiving a notice that the application was incomplete, an applicant may cure and address the items that are deemed to be incomplete by the permitting agency.

(D) In the review of an application submitted pursuant to subparagraph (C), the permitting agency shall not require the application to include an item that was not included in the list required by subparagraph (B).

(E) If an applicant submits an application pursuant to subparagraph (C), the permitting agency shall determine whether the additional application has remedied all incomplete items listed in the determination issued pursuant to subparagraph (B). This additional application is subject to the timelines and requirements specified in subparagraph (A).

(F) If a permitting agency does not make a timely determination as required by this paragraph, the application or resubmitted application shall be deemed to be complete for the purposes of this section.

(3) The permitting agency shall either approve or deny the application to create or serve a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot.

(4) If the permit application to create or serve a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family dwelling on the lot, the permitting agency may delay approving or denying the permit application for the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family dwelling, but the application to create

or serve the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing.

(5) If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

(b) If a permitting agency denies an application for a junior accessory dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(c) A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this article.

(d) No local ordinance, policy, or regulation, other than a junior accessory dwelling unit ordinance consistent with this article, shall be the basis for the delay or denial of a building permit or a use permit under this section.

(e) (1) If a permit application is determined to be incomplete under paragraph (2) of subdivision (a) or denied under paragraph (3) of subdivision (a), the permitting agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

(2) A permitting agency on the appeal shall provide a final written determination by not later than 60 business days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-business-day period.

(Amended by Stats. 2025, Ch. 520, Sec. 11. (SB 543) Effective January 1, 2026.)

66335.5.

When a local agency that has not adopted an ordinance governing junior accessory dwelling units in accordance with Section 66333 receives an application for a permit to create or serve a junior accessory dwelling unit pursuant to this article, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to Section 66335.

(Added by Stats. 2025, Ch. 520, Sec. 12. (SB 543) Effective January 1, 2026.)

66336.

A local agency shall not deny an application for a permit to create a junior accessory dwelling unit pursuant to this article due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66337.

(a) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

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

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66338.

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

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

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66339.

If a local agency has not adopted a local ordinance pursuant to this article, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in paragraph (1) of subdivision (a) of Section 66323 and the requirements of this article.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66339.5.

(a) Except as provided in subdivision (b), this article shall supersede a conflicting local ordinance.

(b) This article does not limit the authority of local agencies to adopt less restrictive requirements for the creation of a junior accessory dwelling unit.

(Added by Stats. 2025, Ch. 520, Sec. 13. (SB 543) Effective January 1, 2026.)

Government Code - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66345.4]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 13. Accessory Dwelling Units [66310 - 66342]

(Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20.)

ARTICLE 4. Accessory Dwelling Unit Sales [66340 - 66342]

(Article 4 added by Stats. 2024, Ch. 7, Sec. 20.)

66340.

For purposes of this article:

(a) “Qualified buyer” means persons and families of low or moderate income, as that term is defined in Section **50093** of the Health and Safety Code.

(b) “Qualified nonprofit corporation” means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section **214.15** of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66341.

A local agency shall allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(a) The accessory dwelling unit or the primary dwelling was built or developed by a qualified nonprofit corporation.

(b) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(c) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(1) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling that each qualified buyer occupies.

(2) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the accessory dwelling unit or primary dwelling if the buyer desires to sell or convey the property.

(3) A requirement that the qualified buyer occupy the accessory dwelling unit or primary dwelling as the buyer's principal residence.

(4) Affordability restrictions on the sale and conveyance of the accessory dwelling unit or primary dwelling that ensure the accessory dwelling unit and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(5) If the tenancy in common agreement is recorded after December 31, 2021, it shall also include all of the following:

(A) Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

(B) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

(C) Procedures for dispute resolution among the parties before resorting to legal action.

(d) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary

Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(e) Notwithstanding Section 66324, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(f) Nothing in this section limits the ability of an accessory dwelling unit to be sold or otherwise conveyed separate from the primary residence as a condominium pursuant to an ordinance adopted under Section 66342.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

66342.

In addition to the requirement that a local agency allow the separate sale or conveyance of an accessory dwelling unit pursuant to Section 66341, a local agency may also adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums. Any such ordinance shall include all of the following requirements:

(a) The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(b) The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all objective requirements of a local subdivision ordinance.

(c) Before recordation of the condominium plan, a safety inspection of the accessory dwelling unit shall be conducted as evidenced either through a certificate of occupancy from the local agency or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.

(d) (1) Neither a subdivision map nor a condominium plan shall be recorded with the county recorder in the county where the real property is located without each lienholder's consent. The following shall apply to the consent of a lienholder:

(A) A lienholder may refuse to give consent.

(B) A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(2) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:

“(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have.”

(3) The lienholder's consent shall be included on the condominium plan or a separate form attached to the condominium plan that includes the following information:

(A) The lienholder's signature.

(B) The name of the record owner or ground lessee.

(C) The legal description of the real property.

(D) The identities of all parties with an interest in the real property as reflected in the real property records.

(E) The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.

(e) The local agency shall include the following notice to consumers on any accessory dwelling or junior accessory dwelling unit submittal checklist or public information issued describing requirements and permitting for accessory dwelling units, including as standard condition of any accessory dwelling unit building permit or condominium plan approval:

“NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

(a) Paying off your current lender.

You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

(b) Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

(c) Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct."

(f) If an accessory dwelling unit is established as a condominium, the local government shall require the homeowner to notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.

(g) (1) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.

(2) For purposes of this subdivision, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

(h) An accessory dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this paragraph or pursuant to this article.

(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)