ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

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Agenda Item # 5
September 19, 2024

September 4, 2024

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, CA 94612

Dear Board Members:

SUBJECT: SECOND READING OF AN ORDINANCE PERTAINING TO ACCESSORY DWELLING UNITS (ADU) AND JUNIOR ACCESSORY DWELLING UNITS (JADU) PURSUANT TO CURRENT STATE LEGISLATION

RECOMMENDATION:

Planning Staff recommends that the Board of Supervisors approve the Second Reading of the proposed ADU and JADU Ordinance.

The ADU and JADU Ordinance would take effect thirty days after the date of the Second Reading.

BACKGROUND:

On August 08, 2024, this Board approved the First Reading of the ADU and JADU Ordinance, voted to keep the existing "Policy for Secondary Units in Rural Residential and Agricultural Areas", and adopted the exemptions from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt the local adoption of ordinances regarding accessory dwelling units in a single-family or multifamily residential zone to implement Government Code section 66310 *et seq.*, and pursuant to the general rule in CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to a project with the potential to cause a significant impact on the environment.

This ADU and JADU Ordinance was before the Board of Supervisors at the April 11, 2024, Planning Meeting. At the meeting, the Board remanded the item to the Planning Commission for the Planning Commission to consider the effect of the new emergency legislation and the impact of the Policy for Secondary Units in Rural Residential and Agricultural Areas in light of the proposed ADU/JADU Ordinance. At their May 20, 2024, hearing, the Planning Commission voted unanimously to recommend that the Board of Supervisors adopt the ADU and JADU Ordinance and keep the existing Policy for Secondary Units in Rural Residential and Agricultural Areas in its current form and effect, and to adopt the CEQA determination.

On August 08, 2024, the Ordinance returned to the Board of Supervisors for your first reading of the text and to consider keeping the existing "Policy for Secondary Units in Rural Residential and Agricultural Areas" as currently written. Your Board voted for the Policy to remain, thus

property owners can take advantage of both the ADU ordinance and JADU ordinance for R-1 zoned properties, as well as the "Policy for Secondary Units in Rural Residential and Agricultural Areas."

DISCUSSION/SUMMARY:

CHANGES BROUGHT ABOUT BY AB 2221

Redefining height restrictions – AB 2221 (Government Code section 65852.2) requires all cities and counties to change their ADU height limits to at least 16 feet, paving the way for more two-story ADUs. There are also added regulations that require the local agency to allow ADUs to be built even higher than 16 feet in certain circumstances. For example, if an ADU is attached to the primary dwelling, the height limitation is 25 feet. If the structure is within ½ mile from public transit or the property already has a multi-family dwelling that is two stories high, the height limitation is 18 feet.

Modifications to the 60-day rule – Previously, an ADU permit had to be approved or denied within 60 days. However, many planning departments started simply denying complete permit applications once the 60 days were up. To prevent this from happening, AB 2221 requires the local agency to specify all the reasons an application is rejected, not just a few. The language of the law was also changed from "local agencies" to "permitting agencies." This means that any entity involved in the review of an ADU permit (i.e., water districts, utilities, etc.) is held to the 60-day requirement, not just the Planning Department.

Front setback – The front setback requirement for ADUs is better defined in AB 2221. If an ADU is under 800 square feet, front setback requirements now cannot prevent an ADU from being built.

Multi-family housing – AB 2221 makes it easier to build multi-family housing by allowing builders to propose and build new ADUs in new multi-family housing development concurrently. Previously, developers had to complete a multi-family building project before starting ADU development.

Overall, AB 2221 simplifies the ADU development process, eliminates some of the restrictions that may have made it difficult for people to build ADUs, and makes it easier for Californians to have additional housing options on their properties.

In addition to the adoption of the ADU updates, this proposed Ordinance includes elimination of the Secondary Unit provisions of the Alameda County Zoning Ordinance (Article IV – Combining SU Districts, Sections 17.30.100 and 17.30.110) because the SU Districts sections are superseded by the ADU ordinance updates.

CHANGES BROUGHT ABOUT BY AB 1033

Under AB 1033, a local ordinance may allow the separate conveyance of the Primary Dwelling Unit and Accessory Dwelling Unit or Units as condominiums. Staff considers that County adoption of AB 1033 would incentivize further development of ADUs in the unincorporated areas of Alameda County and supports various programs of the County's Housing Element which is currently under development. At their February 19, 2024 meeting, the Planning Commission asked for more information from Staff before recommending approval of this optional provision of the new state law. The Planning Commission discussed revisiting the issue within a year's time from adoption of this Ordinance to consider separate conveyance. As such, the proposed ADU/JADU Ordinance does not include provisions allowing for condominium conveyances.

EMERGENCY ADU LEGISLATION – SB 477

On March 25, 2024, the State of California passed Senate Bill 477, effective immediately, which rescinds Government Code section 65852.2, and adds Chapter 13 (Government Code section 66310 *et seq.*), among other technical legislative amendments. The bill makes non-substantive changes and reorganizes various provisions relating to the creation and regulation of accessory dwelling units and junior accessory dwelling units. The changes brought about by SB 477 have now been incorporated into the proposed Ordinance. At their May 20, 2024, hearing, the Planning Commission reviewed and considered this emergency legislation and the related changes to the proposed Ordinance and voted unanimously to adopt the ADU and JADU Ordinance with the non-substantive State changes.

PUBLIC COMMENT

Public comment on the ordinance was limited and staff received only two notable inquiries. One was proposed by the Hayward Hills Property Owners Association (HHPOA) related to Government Code Section 65852.2 which gives a local jurisdiction the authority to deny the creation of an ADU if "adequate water and sewer service is not available". Their specific concern is that some parcels in this area are not suitable due to lack of services.

Staff agreed to present their proposal to the MACs, Planning Commission, and Board of Supervisors for their consideration to include in the County ADU / JADU ordinance. It is worth noting that approval by the County of Environmental Health septic system is already required as part of the ministerial Building Permit process. In response to the HHPOA concern, Staff has made the following change to the ADU Ordinance shown in *underline italics*:

> **17.55.XXX Construction Phasing and Permitting.**
> Accessory Dwelling Units and Junior Accessory Dwelling Units shall be allowed to be established either simultaneously with or subsequent to the construction of a Primary dwelling unit that is located on the same lot of record and under one common ownership. *Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes and require approval of the County Building Inspection Department. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health.*

Also, at the Sunol Citizens Advisory Council hearing and in at least three phone calls received by the Planning Department after the Sunol hearing, there has been public inquiry about the County opting into the State AB 1033 language that a property owner can choose a condominium subdivision of an ADU or ADUs and the Primary Dwelling Unit.

RESULTS OF MAC AND CAC HEARINGS:

Staff presented the proposed ADU / JADU ordinance updates to the Municipal Advisory Councils and the Citizens' Advisory Council per the schedule below. All MACs and the CAC voted to adopt the ADU / JADU ordinance, to keep the language to the intent of State ADU and JADU legislation, and not be any more permissive in allowing ADUs or JADUs.

- Fairview MAC — Tuesday, December 05, 2023
- Castro Valley MAC — Monday, December 11, 2023

- Eden MAC — Tuesday, December 12, 2023
- Sunol CAC — Wednesday, January 17, 2024

SUMMARY OF PLANNING COMMISSION HEARINGS:

At the February 19, 2024, Planning Commission hearing, after discussion of the various regulatory considerations regarding condominium conversions of ADUs, the Planning Commission voted to adopt the ADU / JADU Ordinance, without the opt-in provision of AB 1033. The Planning Commission asked that Staff further review the implications of AB 1033 and present findings at a future meeting.

On April 11, 2024, this Board remanded the item back to the Planning Commission for them to consider the effect of the new ADU/JADU emergency legislation, and to consider the impact of the Policy for Secondary Units in Rural Residential and Agricultural Areas in light of the proposed ADU/JADU Ordinance. At their May 20, 2024, hearing, the Planning Commission voted unanimously to recommend that the Board of Supervisors adopt the ADU and JADU Ordinance, keep the existing Policy for Secondary Units in Rural Residential and Agricultural Areas in its current form and effect, and to adopt the CEQA determination.

CONCLUSION:

On August 08, 2024, your Board voted to approve the First Reading, voted to keep the existing "Policy for Secondary Units in Rural Residential and Agricultural Areas", and voted to adopt the exemptions from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt the local adoption of ordinances regarding accessory dwelling units in a single-family or multifamily residential zone to implement Government Code section 66310 *et seq.*, and pursuant to the general rule in CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to a project with the potential to cause a significant impact on the environment.

Planning Department staff recommends that your Board vote to adopt the Second Reading of the ADU and JADU Ordinance, which would take effect thirty days after the date of the Second Reading.

Very truly yours,

Sandra Rivera, Director
Community Development Agency

Attachments:

- DRAFT Accessory Dwelling Unit and Junior Accessory Dwelling Unit Ordinance
- Planning Commission Resolution No. 24-06
- Staff Report for Planning Commission hearing of May 20, 2024

ORDINANCE NO. O-2024-XX

AN ORDINANCE AMENDING SECTIONS 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225, AND 17.60.100 AND ADDING CHAPTER 17.55 TO ADOPT THE "ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT ORDINANCE" OF THE COUNTY OF ALAMEDA ZONING ORDINANCE

WHEREAS, on July 2, 1998, the Alameda County Board of Supervisors adopted a Policy for Secondary Units in Rural Residential and Agricultural Areas; and

WHEREAS, the State of California passed Assembly Bill 2221, effective January 1, 2023, which amended Government Code section 65852.2 regarding the regulation of Accessory Dwelling Units (ADUs) and codified the development of Junior Accessory Dwelling Units (JADUs); and

WHEREAS, the State of California passed Senate Bill 477 (SB 477), effective March 25, 2024, which reorganizes the regulations set forth in Government Code section 65852.2 *et seq.*, repeals Government Code section 65852.2 *et seq.*, and recodifies the regulations for development of ADUs and JADUs at Government Code section 66310 *et seq.*;

WHEREAS, SB 477 restricts the manner in which local agencies can regulate ADUs and JADUs; and

WHEREAS, the County of Alameda, to comply with the requirements of SB 477, has prepared the proposed amendments modifying the development standards and process by which the County reviews and permits ADUs and JADUs; and

WHEREAS, Title 17 of the County of Alameda General Ordinance Code currently regulates ADUs, including Sections 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225, and 17.60.100; and

WHEREAS, applications for development for ADUs and JADUs pursuant to the proposed amendments will be subject to applicable Building Codes and require ministerial approval by the Alameda County Public Works Agency; and

WHEREAS, applications for development for ADUs and/or JADUs pursuant to the proposed amendments on parcels served by private septic systems (on-site wastewater treatment systems) will be subject to ministerial approval by the County of Alameda Department of Environmental Health; and

WHEREAS, the proposed amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt the local adoption of ordinances regarding second units in a single- family or multifamily residential zone to implement Government Code section 66310 *et seq.* and pursuant to the general rule in CEQA Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment; and

WHEREAS, the Planning Commission, at its May 20, 2024 public meeting, voted six to none recommending that the Board of Supervisors adopt an ordinance amending Title 17 of the Alameda County General Ordinance Code regarding regulation of ADUs and JADUs to conform with Government Code section 66310 *et seq*, and recommending that the Board of Supervisors allow for the Policy for Secondary Units in Rural Residential and Agricultural Areas to remain in effect;

NOW, THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Section 17.04.010 of Chapter 17.04 of Title 17 of the Alameda County Ordinance Code is amended to add the following definitions to the existing list of definitions, in alphabetical order, with additional language underlined deleted language ~~strikethrough~~ as follows:

17.04.010 - Definitions.

"Accessory Dwelling Unit" (ADU) means an accessory, second, or secondary unit that is attached or detached which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a Single-family dwelling, Multifamily dwelling, or Mixed-use dwelling. An Accessory Dwelling Unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

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

"Conversion" means the modification to the occupancy of a legally existing space within the existing volume of a building or covered structure without expansion, except up to 150 sq. ft. of expansion as allowed for ingress and egress.

"Junior Accessory Dwelling Unit" (JADU) means an accessory, second, or secondary unit that is fully contained within a Single-family dwelling or within an attached garage and which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, and cooking on the same parcel and within the same building as one Primary Dwelling Unit. It shall not exceed 500 sq. ft in floor area. Junior Accessory Dwelling Units may share bathroom facilities with the Primary Dwelling Unit and may share central utility systems of the main home. A Junior Accessory Dwelling Unit also includes an efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

"Mixed-use dwelling" means a building containing one or more Primary Dwelling Units and one or more non-residential units.

"Multifamily dwelling" means two or more attached Primary Dwelling Units on one lot.

"Primary Dwelling Unit" is a residential living unit such as a Single-family dwelling, Multifamily dwelling, or Mixed-use dwelling. A Primary Dwelling Unit is distinct from an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit. Examples of Primary units include a Single-family dwelling (i.e., one Primary Dwelling Unit), Multifamily dwelling such as a duplex (i.e., two Primary Dwelling Units) or four-plex (i.e., four Primary Dwelling Units), or a Mixed-use dwelling (containing one or more Primary Dwelling Units).

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

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

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

"Single-family dwelling" means one or more detached Primary Dwelling Units on one lot.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein, or more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story. A loft or mezzanine that is enclosed with an interior partition wall or has a floor area of more than 1/3 the floor area of the story below is considered a story.

~~"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein, or more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story.~~

SECTION II

Alameda County Zoning Ordinance Section 17.06.030 "Permitted Uses" is amended with additional language in underlined.

17.06.030 - Permitted uses.

The following principal uses are permitted in an A district:

L. Accessory Dwelling Unit or Accessory Dwelling Units per Chapter 17.55, subject to all of the following additional superseding requirements:

1. A maximum of two Accessory Dwelling Units may be allowed that are subject to this Chapter.

2. If more than one Accessory Dwelling Unit is proposed on a building site, each ADU meets the following configurations:

a. One Accessory Dwelling Unit may be attached to the Primary Dwelling Unit that is located within the space of a proposed single-family dwelling, or within the space of an existing single-family dwelling or accessory structure. If proposed as a conversion, this ADU shall 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. This Accessory Dwelling Unit shall have exterior access from the proposed or existing single-family dwelling. The side and rear setbacks must be sufficient for fire and safety; and

b. One Accessory Dwelling Unit must be detached new construction, with at least four-foot side yard and rear yard setbacks.

3. If only one accessory dwelling unit is proposed, then the Accessory Dwelling Unit that is not subject to floor area regulations of Chapter 17.55 shall be subject to maximum floor area of one thousand two hundred (1,200) square feet.

4. All Accessory Dwelling Units greater than 800 square feet in floor area shall be located on the same building envelope as the Primary Dwelling Unit.

5. Any Accessory Dwelling Unit that is not subject to floor area regulations of Chapter 17.55 and that is proposed to have a floor area or configuration not conforming to paragraph 2 or paragraph 3 above shall not be allowed as an Accessory Dwelling Unit and shall instead be reviewed under the "Policy for Secondary Units in Rural Residential and Agricultural Areas", adopted by the County Board of Supervisors on July 2, 1998, and revised on October 1, 2001, as amended.

SECTION III

Alameda County Zoning Ordinance Chapter 17.30, Article IV "Combining SU Districts" is hereby deleted in its entirety.

SECTION IV

Alameda County Zoning Ordinance Section 17.52.780 is amended as follows with additional language underlined and deleted language in ~~strikethrough~~.

17.52.780 - Parking spaces—Size and location.

E~~xcept as provided for in Section 17.30.110, concerning secondary units, e~~very required parking space ~~shall have an area not less than one hundred eighty (180) square feet and~~ shall have a width not less than nine feet, and a length of not less than eighteen (18) feet, or be designed as specified in the Alameda County Residential Design Guidelines, exclusive of maneuvering space and driveways which shall be provided as required to make each parking space independently accessible from the street at all times. No required parking space shall occupy any required front yard or any required street side yard of a corner lot, or any required setback from a driveway or any part of a required loading space. All required parking spaces shall be provided on the same building site as the use of building for which they are required.

SECTION V

Alameda County Zoning Ordinance Section 17.54.225 is amended as follows with additional language underlined and deleted language in ~~strikethrough~~.

17.54.225 - Site development review for garage conversions—Applications.

Applications for garage conversions shall include the materials required pursuant to "Site Development Review—Applications" Section 17.54.230, except that site development reviews for garage conversions shall also include:

A. Elevations of all exterior wall surfaces of the existing on-site primary structure(s), and of the proposed garage conversion;

B. Annotated photographs of all street-facing exterior wall surfaces of the five neighboring properties at either side of the subject site, and of the ten closest properties across the street from the subject site;

C. Floor plans of all of the on-site primary structures and of the proposed garage conversion; and

D. Site plans showing the entire subject property and all structures therein, including the replacement storage space, the proposed on-site parking spaces, and showing site plans for all adjacent parcels that share property lines with the subject parcel, including their curb-cuts and driveways, and locations of all structures.

E. Site development review shall not be required for garage conversions when the purpose of the conversion is to create a new ~~secondary~~ Accessory Dwelling ~~u~~Unit within the space of an existing attached or detached garage, and the new unit meets the requirements contained in Section 17.~~30.110~~55, concerning ~~secondary~~ Accessory Dwelling ~~u~~Units.

SECTION VI

Alameda County Zoning Ordinance Chapter 17.55 is added to read as follows:

17.55 - Accessory Dwelling Units and Junior Accessory Dwelling Units.

17.55.010 Purpose.

The purpose of this chapter is to comply with state law, which authorizes cities and counties to set standards for the development of Accessory Dwelling Units and Junior Accessory Dwelling Units to increase the supply of small and affordable housing while ensuring that they remain compatible with existing Primary Dwelling Units, neighborhoods, and rural areas.

17.55.020 Ministerial Approval.

Notwithstanding the requirements otherwise established in this Title, the County shall ministerially approve an application for a building permit within an agricultural, residential, or mixed-use zoning district to create any allowable Accessory Dwelling Unit or Junior Accessory Dwelling Unit without discretionary review or a hearing.

17.55.030 Requirement to Establish as and Remain Accessory to a Primary Dwelling Unit.

1. Accessory Dwelling Units: Will be permitted to be established as a permanent housing option on any property that either contains or is constructed concurrently with a Primary Dwelling Unit, and when established in compliance with state and local ordinances.

2. Junior Accessory Dwelling Units: Will be permitted to be established as a permanent housing option on any property in a Single-Family Residence (R-1) Zoning District or the Planned Development (PD) Zoning District based on the R-1 Zoning District that either contains or is constructed concurrently with a Single-family dwelling, and when established in compliance with state and local ordinance.

17.55.040 Permitted Zones.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be permitted in all zoning districts that permit Single-family, Multifamily, or Mixed-use dwellings. Approvals for ADUs measuring up to 1,200 square feet in floor area are subject to the Policy for Secondary Units in Rural Residential and Agricultural Areas.

17.55.050 Density Calculation.

Accessory Dwellings Units and Junior Accessory Dwelling Units shall not be counted when calculating the maximum permitted density requirements of a property; however, they may be counted to meet minimum density requirements.

1. Single-family dwellings: The maximum number of Junior Accessory Dwelling Units on a Building Site shall be one. The maximum number of Accessory Dwelling Units on a Building Site shall be one by new construction and one by conversion; this applies to each Single-family dwelling on a property. Either type of ADU may be attached or detached; however, no more than one may be attached.

2. Multifamily dwellings: The maximum number of Accessory Dwelling Units on a Building Site shall be one for every four existing Multifamily dwelling units (rounded down with a minimum of one) and two detached Accessory Dwelling Units and no Junior Accessory Dwelling Units.

17.55.060 Site and Building Development.

1. For Single-family dwellings:

    a. Accessory Dwelling Units may be attached to the Single-family dwelling, detached from the Single-family dwelling, or may involve the conversion of floor area of an existing legal structure.
    b. Junior Accessory Dwelling Units
        i. Shall be contained within the exterior walls of an existing or proposed Single-family dwelling; and
        ii. May share bathroom facilities with the Primary Dwelling Unit.

2. For Multifamily dwellings:

    a. Accessory Dwelling Units are allowed within the portions of existing Multifamily dwellings that are not currently 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. Junior Accessory Dwelling Units are prohibited.

3. For Mixed-use dwellings: the conversion of non-livable spaces within mixed-use dwelling properties shall be limited to the residential portion of the property, so long as each unit complies with state building standards for dwellings.

4. For all projects.

    a. Shall have at least an efficiency kitchen including a cooking facility with appliances, a food preparation counter, and storage cabinets of reasonable size in relation to the unit;
    b. Shall have a separate entrance from the Primary Dwelling Unit. Access to the public right-of-way may be provided through the rear yard of the Primary residence or a dedicated pathway. Internal connection to the Primary Dwelling Unit is optional, except for Junior Accessory Dwelling Unit sharing a bathroom with a Primary Dwelling Unit which must have both an internal connection and separate entrance.

17.55.070 Development Standards for Accessory Dwelling Units.

1. Required yards (setbacks):

a. Side, street side, and rear: Minimum required 4-foot side and rear yard for both attached and detached Accessory Dwelling Units. This shall not apply to development of Accessory Dwelling Units by conversion of existing structures.

b. Front: Minimum is the same as for Primary Dwelling Unit for Accessory Dwelling Units which measure over 800 square feet in floor area.

2. Distance Separation: Six-foot separation minimum from any other building for Accessory Dwelling Units measuring over 800 square feet in floor area.

3. Height:

a. Up to 16 feet

A detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

b. Up to 18 feet:

i. In addition to 3a., if located within one-half mile walking distance of a “major transit stop” or a “high-quality transit corridor”, as defined in Section 21155 of the Public Resources Code; or

ii. For a detached accessory dwelling unit on a lot with an existing or proposed multi-family, multi-story dwelling.

c. Up to 20 feet if, in addition to 3.b.i., the 20-foot height is necessary to accommodate a roof pitch on the Accessory Dwelling Unit that is aligned with the roof pitch of the Primary Dwelling Unit.

d. Up to 25 feet or the height limitation in the applicable zoning district that applies to the Primary Dwelling Unit, whichever is lower, for an attached Accessory Dwelling Unit.

4. Stories: Maximum of two stories.

5. Accessory Dwelling Units measuring over 800 square feet in floor area are subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended, as incorporated in Title 17.

17.55.080 Size Limitations.

1. Floor Area Calculation:

The size of the unit shall be measured from the side of the exterior wall of the dwelling unit to the opposing exterior wall face enclosing the unit, or to the centerline of the furthest opposing interior wall that separates the Accessory Dwelling Unit or Junior Accessory Dwelling Unit and Primary Dwelling Unit living space. Carports, covered porches and patios, chimneys, exterior stairwells, and mechanical rooms are not counted toward the determination of floor area.

2. Accessory Dwelling Units:

a. The following development standards apply to newly constructed detached Accessory Dwelling Units:

i. If the detached Accessory Dwelling Unit is to contain 0 or 1 bedrooms, then limited to 850 square feet maximum.

ii. If the detached Accessory Dwelling Unit is to contain 2 or more bedrooms, then limited to 1,200 square feet maximum:

iii. If the property contains a Junior Accessory Dwelling Unit, then a detached Accessory Dwelling Unit shall not exceed 800 square feet in floor area.

b. The following development standards apply to newly constructed attached Accessory Dwelling Units:

i. Maximum 50% floor area of the Single-family dwelling or 1,200 square feet, whichever is less. (A minimum of 800 square feet is allowed by right regardless of size of the Single-family dwelling.)

c. The conversion of an existing accessory structure or a portion of the existing Single-family dwelling to an ADU shall not be subject to ADU size requirements. Should the accessory structure or existing Single-family dwelling be expanded beyond 150 square feet to create an ADU, then the ADU shall be subject to the size maximums listed herein.

3. Junior Accessory Dwelling Units

a. A Junior Accessory Dwelling Unit shall measure no more than 500 square feet in size, contained within the exterior walls of a proposed or existing Single-family dwelling.

17.55.090 Parking.

One (1) on-site parking space is required for each Accessory Dwelling Unit, and, notwithstanding other development regulations, may otherwise be located within front yard or street side yard setbacks. On-site parking is not required in the following instances:

1. Site is located within one-half mile walking distance of public transit;

2. Site is located within an architecturally or historically significant property or district;

3. When the project involves converting enclosed parking of the Primary Dwelling Unit;

4. When on-street parking permits are required but not offered to the occupants; or

5. When there is a car share vehicle located within one block.

17.55.100 Construction Phasing and Permitting.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be allowed to be established either simultaneously with or after the construction of a Primary Dwelling Unit that is located on the same lot of record and under one common ownership. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes and require approval of the County Building Inspection Department. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health.

17.55.110 Demolitions and Reconstructions.

Accessory Dwelling Units established by conversion of an existing legal structure can be demolished and reconstructed within the same building volume at the same footprint location, and with no floor area or height limit.

17.55.120 Additions for Ingress and Egress.

A Junior Accessory Dwelling Unit located within a Single-family dwelling may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure. This expansion shall be limited to accommodate ingress and egress (for example, a covered front porch).

An Accessory Dwelling Unit located within a Single-family dwelling or accessory structure may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure. This expansion shall be limited to accommodate ingress and egress (for example, a covered front porch).

17.55.130 Tenancy and Occupancy Requirements.

1. For Accessory Dwelling Units and Junior Accessory Dwelling Units:

   a. The units shall not be sold, transferred or owned separately from the Primary Dwelling Unit on the property, except when owned by certain nonprofit corporations pursuant to California Government Code Section 66341, as that section may be amended; and

   b. The units may be occupied by or rented to a separate household living independently from the occupant(s) of the Primary Dwelling Unit (or vice versa) provided that the terms for separate occupancy of the accessory unit and/or Primary Dwelling Unit shall be longer than 30 days.

2. For Accessory Dwelling Units only: the owner of the property shall not be required to reside on the property in either the Primary Dwelling Unit or Accessory Dwelling Unit.

3. For Junior Accessory Dwelling Units only:

   a. The property owner shall reside on the property in either the Primary Dwelling Unit or the Junior Accessory Dwelling Unit. Owner occupancy is not required if the owner is a governmental agency, land trust, or housing organization.

   b. The owner shall record a deed restriction to run with the land, and which shall be recorded with the Alameda County Recorder's Office with a conformed copy filed with the Alameda County Planning Department, and shall include both of the following terms:

      i. A prohibition on the sale of the Junior Accessory Dwelling Unit separate from the sale of the Primary Dwelling Unit, including a statement that the deed restriction may be enforced against future purchasers; and

      ii. A restriction on the size and attributes of the Junior Accessory Dwelling Unit that conforms with Section 17.55.

4. The foregoing restrictions shall be binding upon any successor in ownership of the property. Failure to comply with any of the foregoing restrictions shall be considered a violation of this Title.

17.55.140 Park Dedication Fees.

No Park Dedication impact fees are required for Accessory Dwelling Units measuring less than 750 square feet in floor area and for all Junior Accessory Dwelling Units.

17.55.150 Nonconforming Facilities.

Pursuant Government Code sections 66322(b) and 66336, the County shall not require the correction of the following as a condition of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit permit approval:

1. Nonconforming zoning conditions prior to the issuance of a permit for Accessory Dwelling Units

or Junior Accessory Dwelling Units, except to comply with the California Building Code where the structure is not in compliance with current California Building Code standards.

2. Existing unpermitted structures not affecting proposed Accessory Dwelling Unit, unless the existing unpermitted structure presents a threat to public health or safety or affects the construction of the Accessory Dwelling Unit.

3. Existing building standards violations on the Primary Dwelling Unit, provided that correcting the violation is not necessary to protect health and safety.

17.55.160 Building Code.

Pursuant to 66310 *et seq.*, Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to all applicable state laws, including the California Building Code, and the regulations below.
The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit shall:

1. Be placed on a permanent foundation;

2. Provide side and rear setbacks that are sufficient for fire and safety; and

3. Comply with the requirements of Government Code Section 66310.

17.55.170 Junior Accessory Dwelling Unit Relative to Fire or Live Protection Ordinance.

A Junior Accessory Dwelling Unit shall not be considered a separate or new unit for purposes of any fire or life protection ordinance or for purposes of providing water, wastewater or power services. Primary Dwelling Units containing a Junior Accessory Dwelling Unit may be subject to the same requirements as applied to Primary Dwelling Units not containing a Junior Accessory Dwelling Unit.

17.55.180 Severability.

To the extent possible, this chapter shall be interpreted to be consistent with the provisions of Government Code Section 66310, *et seq*. If any part of this chapter is found to be invalid or inconsistent with Government Code Sections 66310, *et seq.*, such provision shall be null and void and the remaining sections will still be applied to the maximum extent feasible.

SECTION VII

Alameda County Zoning Ordinance Section 17.60.100 is amended with additional language underlined and deleted language in ~~strikethrough~~.

17.60.100 Term limits for grants of reasonable accommodation.

Where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this chapter for an ~~secondary~~ Accessory Dwelling ~~u~~Unit, or use of a recreational vehicle in a required setback, the request shall include a specific time limit and shall be made contingent on a specific person's actual need for the accommodation.

At the expiration of this period the applicant shall notify the planning director if the need continues. The planning director may extend the term for a period for a specific time limit after following the process described above in Sections 17.60.050 through 17.60.090. If the applicant does not notify the planning director at or before the expiration, or if the planning director does not extend the term, the

premises shall be returned to the condition prior to the accommodation. Any violation to the granted term limits shall follow procedures per Chapter 17.59, Abatement of Procedures, of the county zoning ordinance.

Where the request is for any other purpose, including but not limited to encroachment of a ramp or elevator housing into a required setback or construction or placement of accessory structures for medical or other necessary equipment there shall be no time limit on the accommodation.

Nothing in this section shall preclude rescission of the grant of reasonable accommodation as indicated in Section 17.60.110.

SECTION VII

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of 15 days after its adoption by the Board of Supervisors, this ordinance shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 19th day of September, 2024, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

_____
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

Anika Campbell-Belton, Clerk
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Melanie S. O'Brien
Deputy County Counsel

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT
STAFF REPORT

TO: **Alameda County Planning Commission**

HEARING DATE: May 20, 2024

GENERAL INFORMATION

PROJECT: County-initiated amendments to the Alameda County General Ordinance Code to update regulations on Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) to comply with current State legislation, and consideration and recommendations regarding existing "Policy for Secondary Units in Rural Residential and Agricultural Areas"

PROJECT PROPONENT: Alameda County Community Development Agency

PROPOSAL: Consideration of Ordinance Amendments Related to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) to bring Alameda County into compliance with a recently updated State legislation, and consideration and recommendations regarding existing "Policy for Secondary Units in Rural Residential and Agricultural Areas".

ZONING / SPECIFIC PLAN DESIGNATION: Countywide in all residential and mixed-use residential zoning districts and zoning districts that allow residential development

GENERAL PLAN DESIGNATION: Countywide in all residential and mixed-use residential land use designations and zoning districts that allow residential development

ENVIRONMENTAL REVIEW: The proposed amendments have been reviewed in accordance with the provisions of the California Environment Quality Act (CEQA) and have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multi-family residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment.

RECOMMENDATION

Staff recommends that the Planning Commission recommend adoption of the attached Ordinance Amendments related to Accessory Dwelling Units and Junior Accessory Dwelling Units, and recommend that the existing "Policy for Secondary Units in Rural Residential and Agricultural Areas" remain at its current configuration, to the Alameda County Board of Supervisors, and adoption of the CEQA Exemption pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multi-family residential zone to implement Government Code section 65852.2 and pursuant to the general rule in

CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment.

BACKGROUND

The ADU and JADU ordinance is back at the Planning Commission so that this body can make recommendations to the Board of Supervisors on the text as modified by Emergency State ADU / JADU legislation, SB 477, signed into law on March 25, 2024. Also, the Planning Commission should provide a formal recommendation to the Board of Supervisors whether to keep the existing "Policy for Secondary Units in Rural Residential and Agricultural Areas", adopted by the County Board of Supervisors on July 2, 1998, and revised on October 1, 2001, in its current configuration and effect. If it remains, then property owners could take advantage of both the ADU ordinance and JADU ordinance for R-1 zoned properties, as well as the "Policy for Secondary Units in Rural Residential and Agricultural Areas".

STAFF ANALYSIS

ALLOWABLE JADUs and ADUs PER STATE LEGISLATION

In adopting the State legislation through local Ordinance, Alameda County is keeping with the allowable ADU and JADU dimensions and number of units per building site, as noted below:

1. In A (Agriculture) Zoning Districts, the State allows the following:
   a. One Primary Dwelling Unit; and
   b. One attached ADU per size limitations depending on if the ADU is a conversion of existing Primary Dwelling Unit or attached non-habitable space areas, or if the ADU is an addition to the Primary Dwelling Unit area; and
   c. One detached ADU of no larger than 800 sq.ft.

2. In R-1 (Single-Family Residence) Zoning Districts, the State allows the following:
   a. One Primary Dwelling Unit; and
   b. One JADU of up to 500 sq.ft. created only from existing Primary Dwelling Unit or attached non-habitable space areas; and
   c. One attached ADU per size limitations depending on if the ADU is a conversion of existing Primary Dwelling Unit or attached non-habitable space areas, or if the ADU is an addition to the Primary Dwelling Unit area; and
   d. One detached ADU of no larger than 800 sq.ft.

3. In all other zoning districts that allow residential uses such as Multifamily residential zoning districts or mixed-use residential / commercial zoning districts, the State allows the following:
   a. One Multifamily dwellings at an allowable density per the Zoning Ordinance and Density Bonus regulations; and
   b. Up to two detached ADUs on a building site with Multifamily dwellings; and
   c. ADUs attached to the Multifamily dwelling converted from non-habitable areas at a ratio of 25% of the number of Multifamily dwellings.
   d. Separately, if the building site in the Multifamily residential zoning district contains more than one Primary Dwelling Unit (such as detached cottages at an allowable density per the Zoning Ordinance and Density Bonus regulations), then State legislation allows for one ADU per Primary Dwelling Unit on that one building site.

EMERGENCY ADU LEGISLATION – SB 477

On March 25, 2024, the State of California passed Senate Bill 477, effective immediately, which rescinds Government Code section 65852.2, and adds Chapter 13 (Government Code section 66310 *et seq.*),

among other technical legislative amendments. The bill makes non-substantive changes and reorganizes various provisions relating to the creation and regulation of accessory dwelling units and junior accessory dwelling units. The changes brought about by SB 477 have now been incorporated into the proposed Ordinance. Planning staff is presenting these non-substantive changes to the Planning Commission so that your body can have an opportunity to review and consider these non-substantive changes in the emergency legislation, and make a recommendation that the Board of Supervisors adopt the updated the Ordinance as per the attached Exhibit B.

POLICY FOR SECONDARY UNITS IN RURAL RESIDENTIAL AND AGRICULTURAL AREAS

The County's "Policy for Secondary Units in Rural Residential and Agricultural Areas", adopted by the County Board of Supervisors on July 2, 1998, and revised on October 1, 2001, is currently in effect. This policy applies to parcels in the R-1 (Single Family Residence) zoning district, which requires a 40,000 square foot or larger parcel size and A (Agriculture) zoning district for eligibility. It allows Secondary Dwelling Units that are larger than 1,200 square feet in size if they comply with certain development regulations and discretionary review procedures. It is organized into three categories:

A. Parcels in the R-1 zoning district requiring a 40,000 square foot or larger parcel size and parcels in the A zoning district that are twenty-five acres or less in size.

B. Parcels in the A zoning district larger than 25 acres and less than 100 acres.

C. Parcels in the A zoning district 100 acres or larger.

While the Ordinance and the policy do not directly conflict, the Policy permits a property owner to construct a secondary unit up to 1,200 square feet subject to site development review which is beyond what is permitted by-right in the proposed Ordinance. Should the proposed Ordinance and Policy both be in effect, a property owner living in these districts is entitled to both an ADU and JADU by-right under the proposed Ordinance, in addition to a secondary unit up to 1,200 square feet with the discretionary process as provided under the Policy.

It is important to note that the Policy requires Rezoning of those parcels under Category A above into the PD (Planned Development) Zoning District.

This rezoning process requires decisions by the Planning Commission and Board of Supervisors to allow Secondary Dwelling Unit. This process allows the merits of each case to be evaluated individually, with due consideration given to any other applications that might have been approved or disapproved in the past. This case-by-case analysis will ensure that the appropriate standards will be met, and the character of the neighborhood maintained.

Proposals for Secondary Dwelling Units under categories B and C above require the Site Development Review process, which includes a hearing at the Municipal Advisory Council or Citizens' Advisory Council with jurisdiction, and a Planning Director decision.

The Planning Commission did not consider the implications of the Policy for Secondary Units in Rural Residential and Agricultural Areas in their hearing of February 20, 2024. While the Policy is referenced in the proposed Ordinance, there was no discussion or consideration at the February 20, 2024 Planning Commission meeting as to its greater implications on development in these districts. As such, the Board of Supervisors remanded this Ordinance, in part, for the Planning Commission's consideration of the "Policy for Secondary Units in Rural Residential and Agricultural Areas" in light of the Ordinance.

As specified above, a parcel in the A Zoning District is entitled to both an attached ADU and detached ADU by-right regardless of the limit. When taken in together with the Policy, an owner in the Ag Zoning

District is entitled to a secondary unit through the site development review and then may build two ADUs. The Planning Commission should consider the implications of the Policy considering the proposed Ordinance and make a recommendation to the Board as to whether this Policy should remain in effect congruently with the State regulations for ADUs. Planning Department staff recommends that this Policy should remain in place after adoption of the ADU Ordinance to provide for additional housing stock in addition to those ADUs permitted by-right under the State legislation and the proposed Ordinance.

COMPLIANCE WITH 12,000 SQ.FT. FLOOR AREA MANDATED BY MEASURE D MAY BE OVERRIDEN BY THE PROPOSED ORDINANCE

Measure D's restrictions on residential and residential accessory building limited to 12,000 sq.ft. are substantially incongruous with the proposed Ordinance, as State law preempts local zoning. Development of state-protected ADUs of 800 sq.ft. floor area maximum for R-1 and A zoning districts and State-protected JADUs of 500 sq.ft. floor area maximum for R-1 zoning districts shall be permitted by-right, regardless of the 12,000 sq.ft. floor area cap under Measure D. However, the Policy for Secondary Units in Rural Residential and Agricultural Areas is subject to Measure D. A practical question arises when by-right ADUs/JADUs are combined with the discretionary development currently permitted by the Policy for Secondary Units in Rural Residential and Agricultural Areas. If the Policy continues to be in effect, a developer may construct a secondary unit under the Policy, and also seek ministerial approval for a ADUs/JADU by-right under State law, regardless of the total square foot area existing at the property.

CONCLUSION

The proposed updated amendments to Title 17 of the Alameda County Zoning Ordinance are recommended in order to reference the updated sections of the State legislation regarding ADUs. The issue is also again before the Planning Commission to obtain this body's recommendation regarding the existing "Policy for Secondary Units in Rural Residential and Agricultural Areas". The Staff recommends that the Planning Commission recommend adoption of the attached Ordinance Amendments related to Accessory Dwelling Units and Junior Accessory Dwelling Units, and recommends that the existing "Policy for Secondary Units in Rural Residential and Agricultural Areas" remain at its current configuration, to the Alameda County Board of Supervisors, and adoption of the CEQA Exemption.

NEXT STEPS

Staff will present the proposed amendments to the Board of Supervisors expected in June of 2024.

ATTACHMENTS:

Exhibit A: DRAFT Planning Commission Resolution
Exhibit B: UPDATED Ordinance Amending Title 17 of the Ordinance Code of the County of Alameda regarding Accessory Dwelling Units and Junior Accessory Dwelling Units
Exhibit C: "Policy for Secondary Units in Rural Residential and Agricultural Areas", adopted by the County Board of Supervisors on July 2, 1998, and revised on October 1, 2001
Exhibit D: California Emergency Legislation SB 477

PREPARED BY: Rodrigo Orduña, Assistant Planning Director

THE PLANNING COMMISSION OF ALAMEDA COUNTY HAYWARD, CALIFORNIA

RESOLUTION NO. 2 4 - X X RECOMMENDING BOARD OF SUPERVISORS APPROVAL OF AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE REGARDING ACCESSORY DWELLING UNITS (ADUs) AND JUNIOR ACCESSORY DWELLING UNITS (JADUs)

Introduced by Commissioner XXXXX
Seconded by Commissioner XXXXX

WHEREAS in January of 2023, the State of California Assembly Bill 2221 (AB 2221) went into effect, amending Government Code section 65852.2 regarding the regulation of Accessory Dwelling Units; and

WHEREAS in January of 2024, the State of California Assembly Bill 1033 (AB 1033) went into effect, allowing local jurisdictions to opt in to allow the separate conveyance of the Primary Dwelling Unit and Accessory Dwelling Unit or Units as condominiums; and

WHEREAS State law, as revised, restricts the manner in which local agencies can regulate Accessory Dwelling Units and Junior Accessory Dwelling Units; and

WHEREAS Title 17 of the County of Alameda General Ordinance Code regulates Accessory Dwelling Units and Junior Accessory Dwelling Units, including Sections 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225 and 17.60.100; and

WHEREAS the Planning Commission did hold a public hearing on said proposed amendment at the hour of 3:00 p.m. on Monday, February 20, 2024; and

WHEREAS notice of public hearing was given as required by law; and

WHEREAS this Commission did vote at our February 20, 2024, public hearing, with six in favor and none opposed and one vacant position, to recommend that the Board of Supervisors adopt the said proposed amendment and to adopt the California Environmental Quality Act (CEQA) determination; and

WHREAS at their April 11, 2024, Public Hearing, the Alameda County Board of Supervisors did remand the proposed Ordinance to the Planning Commission (a) for the Planning Commission to consider the implications of an existing Policy for Secondary Units in Rural Residential and Agricultural Areas, and (b) in light of new emergency legislation (SB 477) which repealed the operative statute upon which this Ordinance is predicated; and

WHEREAS the Planning Commission did hold a second public hearing on said proposed amendment at the hour of 3:00 p.m. on Monday, May 20, 2024; and

WHEREAS notice of public hearing was given as required by law; and

WHREAS this Planning Commission did consider (a) for the Planning Commission to consider the implications of an existing Policy for Secondary Units in Rural Residential and Agricultural Areas, and (b) in light of new emergency legislation (SB 477) which repealed the operative statute upon which this Ordinance is predicated; and

WHEREAS this Commission does find that the amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment; and

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, this Commission finds that the amendments incorporate revisions to the Municipal Code prompted by passage of California State Assembly Bill 2221 (Quirk-Silva), which amended California Government Code Section 65852.2 starting on January 01, 2023, to address the shortage of affordable housing by modifying the development standards and process by which cities review and permit Accessory Dwelling Units; and

WHEREAS, this Commission finds that although the amendments incorporate revisions to the Municipal Code prompted by passage of California State Assembly Bill 1033 (AB 1033), effective on January 01, 2024, that will incentivize further development of ADUs in the unincorporated areas of Alameda County by allowing air-space condominium subdivisions for ADUs, more investigation needs to be done about potential consequences of condominium conversions of ADUs from Primary Dwelling Units before opting into AB 1033; and

WHEREAS, this Commission finds that adding language to the ordinance to state that applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes, and require approval of the County Building Inspection Department, and that applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health, further clarifies the permitting necessary to develop Accessory Dwelling Units and Junior Accessory Dwelling Units in unincorporated Alameda County; and

WHEREAS, this Commission finds that the State of California passed Senate Bill 477, effective immediately, which rescinds Government Code section 65852.2, and adds Chapter 13 (Government Code section 66310 *et seq.*), among other technical legislative amendments, that the bill makes non-substantive changes and reorganizes various provisions relating to the creation and regulation of accessory dwelling units and junior accessory dwelling units, and that the changes brought about by SB 477 have now been incorporated into the proposed County Zoning Ordinance; and

WHEREAS, this Commission finds that maintaining the existing Alameda County Policy for Secondary Units in Rural Residential and Agricultural Areas, adopted by the County Board of Supervisors on July 2, 1998, and revised on October 1, 2001, as amended, will allow for continued development of needed additional housing in rural residential and agricultural lands with discretionary oversight to review and evaluate the merits of each case individually, with due consideration given to any other applications that might have been approved or disapproved in the past, thus ensuring that the appropriate standards will be met and the character of the rural residential or agricultural area will be maintained.

NOW THEREFORE

BE IT RESOLVED that this Planning Commission does hereby recommend to the Alameda County Board of Supervisors adoption of a Declaration of exemption from environmental review as allowed by California Environmental Quality Act (CEQA) for this proposal because the amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of CEQA and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt the local adoption of ordinances regarding second units in a single- family or multifamily residential zone to implement Government Code section 66310 *et seq*, and pursuant to the general rule in CEQA Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment; and

BE IT FURTHER RESOLVED that this Planning Commission does hereby recommend to the Alameda County Board of Supervisors adoption of the proposed amendments to the Sections 17.04.010, 1 7 . 0 6 . 0 3 0 , 17.30.110, 17.52.780, 17.54.225 and 17.60.100, and new Chapter 17.55 of Title 17 of the Alameda County General Ordinance Code related to Zoning, as set forth in Exhibit B.

ADOPTED BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSENT:

EXCUSED:
ABSTAINED:

ALBERT LOPEZ - PLANNING DIRECTOR & SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY

ORDINANCE NO. O-2024-____

AN ORDINANCE AMENDING SECTIONS 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225, AND 17.60.100 AND ADDING CHAPTER 17.55 TO ADOPT THE "ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT ORDINANCE" OF THE COUNTY OF ALAMEDA ZONING ORDINANCE

WHEREAS, the State of California passed Assembly Bill 2221, effective January 1, 2023, which amended Government Code section 65852.2 regarding the regulation of Accessory Dwelling Units (ADUs) and codified the development of Junior Accessory Dwelling Units (JADUs); and

WHEREAS, the State of California passed Senate Bill 477 (SB 477), effective March 25, 2024, which reorganizes the regulations set forth in Government Code section 65852.2 *et seq.*, repeals Government Code section 65852.2 *et seq.*, and recodifies the regulations for development of ADUs and JADUs at Government Code section 66310 *et seq.*;

WHEREAS, the County of Alameda, to comply with the requirements of SB 477, has prepared the proposed amendments modifying the development standards and process by which Alameda County reviews and permits ADUs and JADUs; and

WHEREAS, SB 477 restricts the manner in which local agencies can regulate ADUs and JADUs; and

WHEREAS, Title 17 of the County of Alameda General Ordinance Code currently regulates ADUs, including Sections 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225 and 17.60.100; and

WHEREAS, applications for development for ADUs and JADUs pursuant to the proposed amendments will be subject to applicable Building Codes and require ministerial approval by the Alameda County Public Works Agency; and

WHEREAS, applications for development for ADUs and/or JADUs pursuant to the proposed amendments on parcels served by private septic systems (on-site wastewater treatment systems) will be subject to ministerial approval by the County of Alameda Department of Environmental Health; and

WHEREAS, the proposed amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt the local adoption of ordinances regarding second units in a single- family or multifamily residential zone to implement Government Code section 66310 *et seq.* and pursuant to the general rule in CEQA Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment; and

WHEREAS, the Planning Commission, at its May 20, 2024 public meeting, voted XX to XX to recommend that the Board of Supervisors adopt an ordinance amending Title 17 of the Alameda County General Ordinance Code regarding regulation of ADUs and JADUs to conform with Government Code section 66310 *et seq.*; and

WHEREAS, on July 2, 1998, the Alameda County Board of Supervisors adopted a Policy for Secondary Units in Rural Residential and Agricultural Area; and

WHEREAS, in the event of a conflict between the proposed amendments and the Policy for Secondary Units in Rural Residential and Agricultural Area, the proposed amendments shall preempt the Policy for Secondary Units in Rural Residential and Agricultural Area; and

NOW, THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Section 17.04.010 of Chapter 17.04 of Title 17 of the Alameda County Ordinance Code is amended to add the following definitions to the existing list of definitions, in alphabetical order, with additional language underlined deleted language ~~strikethrough~~ as follows:

17.04.010 - Definitions.

"Accessory Dwelling Unit" (ADU) means an accessory, second, or secondary unit that is attached or detached which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a Single-family dwelling, Multifamily dwelling, or Mixed-use dwelling. An Accessory Dwelling Unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

2. A manufactured home, as defined in Section 18007 of the Health and Safety Code." Accessory structure" means a detached subordinate structure or building on a lot, the use of which is appropriate, incidental and customarily or necessarily related to the district and to the principal use of the lot or to that of a main building on the lot.

"Conversion" means the modification to the occupancy of a legally existing space within the existing volume of a building or covered structure without expansion, except up to 150 sq. ft. of expansion as allowed for ingress and egress.

"Junior Accessory Dwelling Unit" (JADU) means an accessory, second, or secondary unit that is fully contained within a Single-family dwelling or within an attached garage and which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, and cooking on the same parcel and within the same building as one Primary Dwelling Unit. It shall not exceed 500 sq. ft in floor area. Junior Accessory Dwelling Units may share bathroom facilities with the Primary Dwelling Unit and may share central utility systems of the main home. A Junior Accessory Dwelling Unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

"Mixed-use dwelling" means a building containing one or more Primary Dwelling Units and one or more non-residential units.

"Multifamily dwelling" means two or more attached Primary Dwelling Units on one lot.

"Primary Dwelling Unit" is a residential living unit such as a Single-family dwelling, Multifamily dwelling, or Mixed-use dwelling. A Primary Dwelling Unit is distinct from an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit. Examples of Primary units include a Single-family dwelling (i.e., one Primary Dwelling Unit), Multifamily dwelling such as a duplex (i.e., two Primary Dwelling Units) or four-plex (i.e., four Primary Dwelling Units), or a Mixed-use dwelling (containing one or more Primary Dwelling Units).

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

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

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

"Single-family dwelling" means one or more detached Primary Dwelling Units on one lot.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein, or more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story. A loft or mezzanine that is enclosed with an interior partition wall or has a floor area of more than 1/3 the floor area of the story below is considered a story.

~~"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein, or more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story.~~

SECTION II

Alameda County Zoning Ordinance Section 17.06.030 "Permitted Uses" is amended with additional language in underlined.

17.06.030 - Permitted uses.

The following principal uses are permitted in an A district:

L. Accessory Dwelling Unit or Accessory Dwelling Units per Chapter 17.55, subject to all of the following additional superseding requirements:

1. A maximum of two Accessory Dwelling Units may be allowed that are subject to this Chapter.

2. If more than one Accessory Dwelling Unit is proposed on a building site, each ADU meets the following configurations:

a. One Accessory Dwelling Unit must be attached to the Primary Dwelling Unit that is located within the space of a proposed single-family dwelling, or within the space of an existing single-family dwelling or accessory structure. This ADU 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.

This Accessory Dwelling Unit shall have exterior access from the proposed or existing single-family dwelling. The side and rear setbacks must be sufficient for fire and safety; and

b. One Accessory Dwelling Unit must be detached new construction, with at least four-foot side yard and rear yard setbacks and with a maximum 800 sq.ft. floor area.

3. If only one accessory dwelling unit is proposed, then the Accessory Dwelling Unit that is not subject to floor area regulations of Chapter 17.55 shall be subject to maximum floor area of one thousand two hundred (1,200) square feet.

4. All Accessory Dwelling Units shall be on the same building envelope as the Primary Dwelling Unit.

5. Any Accessory Dwelling Unit that is not subject to floor area regulations of Chapter 17.55 and that is proposed to have a floor area or configuration not conforming to paragraph 2 or paragraph 3 above shall not be allowed as an Accessory Dwelling Unit and shall instead be reviewed under the "Policy for Secondary Units in Rural Residential and Agricultural Areas", adopted by the County Board of Supervisors on July 2, 1998, and revised on October 1, 2001, as amended.

SECTION III

Alameda County Zoning Ordinance Chapter 17.30, Article IV "Combining SU Districts" is hereby deleted in its entirety.

SECTION IV

Alameda County Zoning Ordinance Section 17.52.780 is amended as follows with additional language underlined and deleted language in ~~strikethrough~~.

17.52.780 - Parking spaces—Size and location.

E~~xcept as provided for in Section 17.30.110, concerning secondary units,~~ every required parking space ~~shall have an area not less than one hundred eighty (180) square feet and~~ shall have a width not less than nine feet, and a length of not less than eighteen (18) feet, or be designed as specified in the Alameda County Residential Design Guidelines, exclusive of maneuvering space and driveways which shall be provided as required to make each parking space independently accessible from the street at all times. No required parking space shall occupy any required front yard or any required street side yard of a corner lot, or any required setback from a driveway or any part of a required loading space. All required parking spaces shall be provided on the same building site as the use of building for which they are required.

SECTION V

Alameda County Zoning Ordinance Section 17.54.225 is amended as follows with additional language underlined and deleted language in ~~strikethrough~~.

17.54.225 - Site development review for garage conversions—Applications.

Applications for garage conversions shall include the materials required pursuant to "Site Development Review—Applications" Section 17.54.230, except that site development reviews for garage conversions shall also include:

A. Elevations of all exterior wall surfaces of the existing on-site primary structure(s), and of the proposed garage conversion;

B. Annotated photographs of all street-facing exterior wall surfaces of the five neighboring properties at either side of the subject site, and of the ten closest properties across the street from the subject site;

C. Floor plans of all of the on-site primary structures and of the proposed garage conversion; and

D. Site plans showing the entire subject property and all structures therein, including the replacement storage space, the proposed on-site parking spaces, and showing site plans for all adjacent parcels that share property lines with the subject parcel, including their curb-cuts and driveways, and locations of all structures.

E. Site development review shall not be required for garage conversions when the purpose of the conversion is to create a new ~~secondary~~ Accessory Dwelling ~~u~~Unit within the space of an existing attached or detached garage, and the new unit meets the requirements contained in Section 17.~~30.110~~55, concerning ~~secondary~~ Accessory Dwelling ~~u~~Units.

SECTION VI

Alameda County Zoning Ordinance Chapter 17.55 is added to read as follows:

17.55 - Accessory Dwelling Units and Junior Accessory Dwelling Units.

17.55.010 Purpose.

The purpose of this chapter is to comply with state law, which authorizes cities and counties to set standards for the development of Accessory Dwelling Units and Junior Accessory Dwelling Units to increase the supply of small and affordable housing while ensuring that they remain compatible with existing Primary Dwelling Units, neighborhoods, and rural areas.

17.55.020 Ministerial Approval.

Notwithstanding the requirements otherwise established in this Title, the County shall ministerially approve an application for a building permit within an agricultural, residential, or mixed-use zoning district to create any allowable Accessory Dwelling Unit or Junior Accessory Dwelling Unit without discretionary review or a hearing.

17.55.030 Requirement to Establish as and Remain Accessory to a Primary Dwelling Unit.

1. Accessory Dwelling Units: Will be permitted to be established as a permanent housing option on any property that either contains or is constructed concurrently with a Primary Dwelling Unit, and when established in compliance with state and local ordinances.

2. Junior Accessory Dwelling Units: Will be permitted to be established as a permanent housing option on any property in a Single-Family Residence (R-1) Zoning District or the Planned Development (PD) Zoning District based on the R-1 Zoning District that either contains or is constructed concurrently with a Single-family dwelling, and when established in compliance with state and local ordinance.

17.55.040 Permitted Zones.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be permitted in all zoning districts that permit

Single-family, Multifamily, or Mixed-use dwellings. Approvals for ADUs measuring up to 1,200 square feet in floor area are subject to the Policy for Secondary Units in Rural Residential and Agricultural Areas.

17.55.050 Density Calculation.

Accessory Dwellings Units and Junior Accessory Dwelling Units shall not be counted when calculating the maximum permitted density requirements of a property; however, they may be counted to meet minimum density requirements.

1. Single-family dwellings: The maximum number of Junior Accessory Dwelling Units on a Building Site shall be one. The maximum number of Accessory Dwelling Units on a Building Site shall be one attached and one detached; this applies to each Single-family dwelling on a property.

2. Multifamily dwellings: The maximum number of Accessory Dwelling Units on a Building Site shall be one for every four existing Multifamily dwelling units (rounded down with a minimum of one) and two detached Accessory Dwelling Units and no Junior Accessory Dwelling Units.

17.55.060 Site and Building Development Requirements.

1. For Single-family dwellings:

    a. Accessory Dwelling Units may be attached to the Single-family dwelling, detached from the Single-family dwelling, or may involve the conversion of floor area of an existing legal structure.
    b. Junior Accessory Dwelling Units
        i. Shall be contained within the exterior walls of an existing or proposed Single-family dwelling; and
        ii. May share bathroom facilities with the Primary Dwelling Unit.

2. For Multifamily dwellings:

    a. Accessory Dwelling Units are allowed within the portions of existing Multifamily dwellings that are not currently 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. Junior Accessory Dwelling Units are prohibited.

3. For Mixed-use dwellings: the conversion of a nonresidential portion into an Accessory Dwelling Unit is not allowed.

4. For all projects.

    a. Shall have at least an efficiency kitchen including a cooking facility with appliances, a food preparation counter, and storage cabinets of reasonable size in relation to the unit;
    b. Shall have a separate entrance from the Primary Dwelling Unit. Access to the public right-of-way may be provided through the rear yard of the Primary residence or a dedicated pathway. Internal connection to the Primary Dwelling Unit is optional, except for Junior Accessory Dwelling Unit sharing a bathroom with a Primary Dwelling Unit which must have both an internal connection and separate entrance.

17.55.070 Development Standards for Accessory Dwelling Units.

1. Required yards (setbacks):

    a. Side, street side, and rear: Minimum required 4-foot side and rear yard. This shall not apply to development of Accessory Dwelling Units by conversion of existing structures.

b. Front: Minimum is the same as for Primary Dwelling Unit. For Accessory Dwelling Units measuring less than 800 sq. ft. in area, front setback can be occupied if there is no other legal physical location on the property to accommodate the building footprint.

2. Distance Separation: Six-foot separation minimum from any other building.

3. Height:

a. Up to 16 feet
A detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit and not meeting setbacks for Primary Dwelling Unit
b. Up to 18 feet:
In addition to 3a., if located within one-half mile walking distance of a 'major transit stop' or a 'high-quality transit corridor', as defined in Section 21155 of the Public Resources Code
c. Up to 20 feet:
In addition to 3b., if necessary to accommodate a roof pitch on the Accessory Dwelling Unit that is aligned with the roof pitch of the Primary Dwelling Unit.
d. If meeting required Primary Dwelling Unit setbacks, then an accessory dwelling unit either detached or attached to a Primary Dwelling Unit on a lot with an existing or proposed single family dwelling unit may apply the lesser of 25 feet or the height limit for the existing or proposed Primary Dwelling Unit.

4. Stories:

a. Maximum one story for new construction; or
b. Maximum two stories where practicable within a conversion with no building envelope expansion; or
c. If meeting required setbacks (either detached from or attached to a Primary Dwelling Unit), then maximum two stories.

5. Exemptions: For Accessory Dwelling Units measuring up to 800 square feet in floor area, none of the following County development standards apply:

a. floor area ratio (FAR);
b. lot coverage; or
c. maximum developable parcel slope limitations.

6. Additional: For attached Accessory Dwelling Units measuring greater than 800 square feet in floor area, development standards applying to the Primary Dwelling Unit shall apply except for required side and rear yard setback development standards.

17.55.080 Size Limitations.

1. Floor Area Calculation:
The size of the unit shall be measured from the side of the exterior wall of the dwelling unit to the opposing exterior wall face enclosing the unit, or to the centerline of the furthest opposing interior wall that separates the Accessory Dwelling Unit or Junior Accessory Dwelling Unit and Primary Dwelling Unit living space. Carports, covered porches and patios, chimneys, exterior stairwells, and mechanical rooms are not counted toward the determination of floor area.

2. Accessory Dwelling Units:

a. The following development standards apply to newly constructed detached Accessory Dwelling Units:

i. If the detached Accessory Dwelling Unit is to contain 0 or 1 bedrooms, then limited to 850 square feet maximum.

ii. If the detached Accessory Dwelling Unit is to contain 2 or more bedrooms, then limited to 1,200 square feet maximum:

iii. If the property contains a Junior Accessory Dwelling Unit, then a detached Accessory Dwelling Unit shall not exceed 800 square feet in floor area.

b. The following development standards apply to newly constructed attached Accessory Dwelling Units:

i. Maximum 50% floor area of the Single-family dwelling or 1,200 square feet, whichever is less. (A minimum of 800 square feet is allowed by right regardless of size of the Single-family dwelling.)

c. The conversion of an existing accessory structure or a portion of the existing Single-family dwelling to an ADU shall not be subject to ADU size requirements. Should the accessory structure or existing Single-family dwelling be expanded beyond 150 square feet to create an ADU, then the ADU shall be subject to the size maximums listed herein.

3. Junior Accessory Dwelling Units

a. A Junior Accessory Dwelling Unit shall measure no more than 500 square feet in size, contained within the exterior walls of a proposed or existing Single-family dwelling.

17.55.090 Parking.

One (1) on-site parking space is required for each Accessory Dwelling Unit and Junior Accessory Dwelling Unit, and, notwithstanding other development regulations, may otherwise be located within front yard or street side yard setbacks. On-site parking is not required in the following instances:

1. Site is located within one-half mile walking distance of public transit;

2. Site is located within an architecturally or historically significant property or district;

3. When the project involves converting enclosed parking of the Primary Dwelling Unit;

4. When on-street parking permits are required but not offered to the occupants; or

5. When there is a car share vehicle located within one block.

17.55.100 Construction Phasing and Permitting.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be allowed to be established either simultaneously with or after the construction of a Primary Dwelling Unit that is located on the same lot of record and under one common ownership. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes and require approval of the County Building Inspection Department. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health.

17.55.110 Demolitions and Reconstructions.

Accessory Dwelling Units established by conversion of an existing legal structure can be demolished and reconstructed within the same building volume at the same footprint location, and with no floor area or height limit.

17.55.120 Additions for Ingress and Egress.

A Junior Accessory Dwelling Unit located within a Single-family dwelling may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure. This expansion shall be limited to accommodate ingress and egress (for example, a covered front porch).

An Accessory Dwelling Unit located within a Single-family dwelling or accessory structure may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure. This expansion shall be limited to accommodate ingress and egress (for example, a covered front porch).

17.55.130 Tenancy Restrictions.

1. Deed Restriction. Before the County will issue a building permit for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, the property owner shall file with the County Recorder a declaration or agreement of restrictions, which has been approved by the County Counsel as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

    a. The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit shall not be sold, transferred or owned separately from the Primary Dwelling Unit on the property, except when owned by certain nonprofit corporations pursuant to California Government Code Section 66341, as that section may be amended.
    b. The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit may be occupied by or rented to a separate household living independently from the occupant(s) of the Primary Dwelling Unit; (or vice versa) provided, that the terms for separate occupancy of the accessory unit and/or Primary Dwelling Unit shall be longer than 30 days;
    c. The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit shall not be used or converted for use as visitor lodging for remittance; and
    d. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

2. Accessory Dwelling Units: the owner of the property is not required to reside on the property in either the Primary Dwelling Unit or Accessory Dwelling Unit.

3. Junior Accessory Dwelling Units: the property owner shall reside on the property in either the Single-family dwelling or the Junior Accessory Dwelling Unit. Evidence shall be provided with a recorded deed restriction prior to final occupancy of either unit. Owner occupancy is not required if the owner is a governmental agency, land trust, or housing organization.

17.55.140 Design Criteria.

All new Accessory Dwelling Units and Junior Accessory Dwelling Units shall be reviewed by the Planning Director or their designee for consistency with this chapter. Applications shall demonstrate compliance with the following regulations by clearly identifying existing and proposed materials of the site landscaping, fencing, Accessory Dwelling Units, and Junior Accessory Dwelling Units and the Primary Dwelling Unit.

1. Design.

    a. All detached Accessory Dwelling Units located at the front or side of a primary Residential Facility and visible from the public right-of-way shall be designed to meet the following objective design standards:
        i. Roof pitch shall match the dominant roof pitch of the Primary Dwelling Unit
        ii. Roof material shall match Primary Dwelling Unit;
        iii. Exterior siding material and/or color shall match Primary Dwelling Unit;
        iv. Window and door trim shall match the Primary Dwelling Unit
        v. Covered porch shall be provided if the Primary Residential Facility has a porch;

vi. Fencing or landscaping shall be installed and maintained to buffer the view of the detached ADU from a street, road, or other public area.

b. All Accessory Dwelling Units attached to the Primary Dwelling Unit and all Junior Accessory Dwelling Units shall provide materials and colors of the exterior walls, windows, rooflines, and doors that match the Primary Dwelling Unit.

2. Privacy.

a. New Construction and Conversion: To maximize privacy on adjacent properties, windows that are located less than 5 feet from a rear or side property line shall be clerestory windows or use frosted or obscure glass. Balconies, decks, and doors shall be located on the exterior wall not adjacent to the nearest property line(s) when located five feet or fewer from any property line(s).

17.55.160 Park Dedication Fees.

No Park Dedication impact fees are required for Accessory Dwelling Units measuring less than 750 square feet in floor area and for all Junior Accessory Dwelling Units.

17.55.170 Nonconforming Facilities.

Pursuant Government Code sections 66322(b) and 66336, the County shall not require the correction of the following as a condition of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit permit approval:

1. Nonconforming zoning conditions prior to the issuance of a permit for Accessory Dwelling Units or Junior Accessory Dwelling Units, except to comply with the California Building Code where the structure is not in compliance with current California Building Code standards.

2. Existing unpermitted structures not affecting proposed Accessory Dwelling Unit, unless the existing unpermitted structure presents a threat to public health or safety or affects the construction of the Accessory Dwelling Unit.

3. Existing building standards violations on the Primary Dwelling Unit, provided that correcting the violation is not necessary to protect health and safety.

17.55.180 Building Code.

Pursuant to 66310 *et seq.*, Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to all applicable state laws, including the California Building Code, and the regulations below.
The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit shall:

1. Be placed on a permanent foundation;

2. Provide side and rear setbacks that are sufficient for fire and safety; and

3. Comply with the requirements of Government Code Section 66310.

17.55.190 Junior Accessory Dwelling Unit Relative to Fire or Live Protection Ordinance.

A Junior Accessory Dwelling Unit shall not be considered a separate or new unit for purposes of any fire or life protection ordinance or for purposes of providing water, wastewater or power services. Primary Dwelling Units containing a Junior Accessory Dwelling Unit may be subject to the same requirements as applied to Primary Dwelling Units not containing a Junior Accessory Dwelling Unit.

17.55.200 Severability.

To the extent possible, this chapter shall be interpreted to be consistent with the provisions of Government Code Section 66310, *et seq*. If any part of this chapter is found to be invalid or inconsistent with Government Code Sections 66310, *et seq.*, such provision shall be null and void and the remaining sections will still be applied to the maximum extent feasible.

SECTION VII

Alameda County Zoning Ordinance Section 17.60.100 is amended with additional language underlined and deleted language in ~~strikethrough~~.

17.60.100 Term limits for grants of reasonable accommodation.

Where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this chapter for an ~~secondary~~ Accessory Dwelling ~~u~~Unit, or use of a recreational vehicle in a required setback, the request shall include a specific time limit and shall be made contingent on a specific person's actual need for the accommodation.

At the expiration of this period the applicant shall notify the planning director if the need continues. The planning director may extend the term for a period for a specific time limit after following the process described above in Sections 17.60.050 through 17.60.090. If the applicant does not notify the planning director at or before the expiration, or if the planning director does not extend the term, the premises shall be returned to the condition prior to the accommodation. Any violation to the granted term limits shall follow procedures per Chapter 17.59, Abatement of Procedures, of the county zoning ordinance.

Where the request is for any other purpose, including but not limited to encroachment of a ramp or elevator housing into a required setback or construction or placement of accessory structures for medical or other necessary equipment there shall be no time limit on the accommodation.

Nothing in this section shall preclude rescission of the grant of reasonable accommodation as indicated in Section 17.60.110.

SECTION VII

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of 15 days after its adoption by the Board of Supervisors, this ordinance shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the _____ day of _____, 2024, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

_____
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

Anika Campbell-Belton, Clerk
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Melanie S. O'Brien
Deputy County Counsel

POLICY FOR SECONDARY UNITS IN RURAL RESIDENTIAL AND AGRICULTURAL AREAS

Recommended by the Planning Commission May 18, 1998
Adopted by the Board of Supervisors July 2, 1998
Revised October 1, 2001[1]

Parcels in the R-1 (Single Family Residence) District Requiring a 40,000 square foot or Larger Parcel Size and Parcels in the A (Agriculture) District that are Twenty-five Acres or Less in Size

This policy applies to:

1) All R-1 (Single Family Residence) zoned properties requiring a 40,000 square foot or larger parcel size;
2) All PD (Planned Development) Districts based on R-1 (Single Family Residence, 40,000 square foot [or larger] m.b.s.a.) District requirements;
3) All parcels that are 25 acres or less in size in the A (Agriculture) District; and
4) All parcels that are 25 acres or less in size in PD (Planned Development) Districts that are based on the A (Agriculture) District requirements.

Parcel size should be a minimum of 40,000 square feet unless the site is served by public sewer and water. Secondary units on all rural residential parcels and on agricultural parcels that are 25 acres or less in size will be processed through individual rezoning applications to a PD (Planned Development) District that will be submitted to the Planning Commission and Board of Supervisors for consideration. This process will allow the merits of each case to be evaluated individually, with due consideration given to any other applications that might have been approved or disapproved in the past. This case-by-case analysis will ensure that the appropriate standards will be met and the character of the neighborhood maintained.

The standard conditions of approval attached to this policy, as well as such other conditions as deemed appropriate, should be imposed on secondary units on rural residential parcels and on agricultural parcels that are twenty-five acres or less. In addition, a condition requiring the periodic monitoring of septic systems should be imposed on parcels five acres or less in size.

The following are general criteria for the evaluation of applications for secondary dwelling units on all rural residential parcels and on agricultural parcels of 25 acres or less in Alameda County:

1. A property should have at least 3 legal parking spaces independently accessible from the street, not located in the front or street side yards, plus 1 additional parking space anywhere on the lot; b) attached secondary units should have a direct external entry and be a maximum of 1,200 square feet in living area; c) detached secondary units are limited to one story, a minimum of 10 feet from the existing dwelling, a maximum of 1,200 square feet in living area, subordinate to the existing principal single family residence by size, appearance, and location. The 1,200 square foot secondary unit size should be the maximum; the actual size should be determined through the rezoning process and be based on such issues as topography, building envelope, building setbacks, size of the principal residence, relationship of the secondary unit to the principal unit, grading, access, water and sewage disposal systems, neighborhood issues, and other environmental constraints. Detached secondary units may be higher than 15 feet in order to be architecturally consistent with the principal dwelling.

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1. Revised to reflect resolution of North Livermore Subarea B as a result of passage of Measure D, November, 2000. See page 6.

2. Secondary units should be permitted only on the same building envelope as the principal residence and access to the secondary unit should be provided only from the same road that provides access to the principal residence. The building envelope will be determined through the rezoning process.

3. Secondary units should not be permitted on lots where gaining access to the lot will create a traffic hazard.

4. Secondary units should be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the secondary unit are permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems should be subject to periodic review by the Environmental Health Department. For parcels that are less than ten acres in size and are within the boundary of the Alameda County Flood Control and Water Conservation District, Zone 7, approval from Zone 7 for additional septic loading must be provided at the time of application for a secondary unit.

5. Secondary units should be permitted only on properties that are well maintained. The secondary unit should be architecturally consistent with the principal dwelling on the property.

6. Secondary units should only be permitted on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.

7. An existing primary unit that is 1,200 square feet or less in size may be declared a secondary unit for the purposes of meeting secondary unit size restrictions.

Parcels in the A District Larger than 25 Acres and Less than 100 Acres

This policy applies to:

1) All parcels that are larger than 25 acres but less than 100 acres in the A (Agriculture) District; and
2) All parcels that are larger than 25 acres but less than 100 acres in PD (Planned Development) Districts that are based on the A (Agriculture) District.

Secondary units located on the same building envelope as the primary unit on agricultural parcels that are larger than 25 acres but less than 100 acres will be processed through Site Development Review for which the Planning Commission shall be the approval authority, with appeal to the Board of Supervisors. While the intent of this policy is to discourage secondary units not located on the same building envelope as the primary unit (see below), they may be considered through a rezoning of the site to a PD (Planned Development) District. This process will allow the merits of each case to be evaluated individually, with due consideration given to any other applications which might have been approved or disapproved in the past. This case-by-case analysis will ensure that the appropriate standards will be met and the character of the area will be maintained.

The following are general criteria for the evaluation of applications for secondary dwelling units on agricultural parcels that are larger than 25 acres but less than 100 acres in Alameda County:

1. The secondary unit should be a maximum of 2,000 square feet; the actual size will be determined through the review process and be based on such issues as topography, building envelope, building

setbacks, size of the principal residence, relationship of the secondary unit to the principal unit, grading, access, water and sewage disposal systems, neighborhood issues, and other environmental constraints. The secondary unit should meet all development standards that apply to primary dwelling units in the A (Agriculture) District.

2. Secondary units should be permitted only on the same building envelope as the principal residence. Access to the secondary unit should be provided only from the same road that provides access to the principal residence, unless need can be demonstrated for separate access. The building envelope will be determined through the review process. The building envelope should not exceed two acres in size.

3. Secondary units should not be permitted on lots where gaining access to the lot will create a traffic hazard.

4. Secondary units should be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the secondary unit are permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems should be subject to periodic review by the Environmental Health Department.

5. Secondary units should be permitted only on properties that are well maintained. The secondary unit should be architecturally consistent with the principal dwelling on the property.

6. Secondary units should be permitted only on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.

7. An existing primary unit that is 2,000 square feet or less in size may be declared a secondary unit for the purposes of meeting secondary unit size restrictions.

Parcels 100 Acres or Larger

This policy applies to:

1) All parcels that are 100 acres or larger in the A (Agriculture) District; and
2) All parcels that are 100 acres or larger in APD@ (Planned Development) Districts that are based on the A (Agriculture) District.

Secondary units located on the same building envelope as the primary unit on agricultural parcels that are 100 acres or more in size will be processed through Site Development Review. While the intent of this policy is to discourage secondary units not located on the same building envelope as the primary unit (see below), they may be considered through a rezoning of the site to a PD (Planned Development) District. This process will allow the merits of each case to be evaluated individually, with due consideration given to any other applications which might have been approved or disapproved in the past. This case-by-case analysis will ensure that the appropriate standards will be met and the character of the area will be maintained.

The following are general criteria for the evaluation of applications for secondary dwelling units on agricultural parcels that are 100 acres or larger in Alameda County:

1. The secondary unit should be a maximum of 2,500 square feet; the actual size will be determined through the review process and be based on such issues as topography, building envelope, building setbacks, size of the principal residence, relationship of the secondary unit to the principal unit, grading, access, water and sewage disposal systems, neighborhood issues, and other environmental constraints. The secondary unit should meet all development standards that apply to primary dwelling units in the A (Agriculture) District.

2. Secondary units should be permitted only on the same building envelope as the principal residence. Access to the secondary unit should be provided only from the same road that provides access to the principal residence, unless need can be demonstrated for separate access. The building envelope should be determined through the review process, unless previously determined as part of a subdivision or site development review in accordance with ECAP Table 9. The building envelope should not exceed two acres in size.

3. Secondary units should not be permitted on lots where gaining access to the lot will create a traffic hazard.

4. Secondary units should be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the secondary unit are permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems should be subject to periodic review by the Environmental Health Department.

5. Secondary units should be permitted only on properties that are well maintained. The secondary unit should be architecturally consistent with the principal dwelling on the property.

6. Secondary units should be permitted only on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.

7. An existing primary unit that is 2,500 square feet or less in size may be declared a secondary unit for the purposes of meeting secondary unit size restrictions.

General Policies

Referral of Applications for Secondary Units

All applications for secondary units in the A (Agriculture) District will be referred to the Alameda County Agricultural Advisory Committee for recommendation as to potential impacts on agricultural activities on the property and the surrounding area, the location and configuration of the secondary unit, and any other factors related to agriculture. All applications for secondary units in the North Livermore Planning Area shall be referred to the North Livermore Joint Planning Staff. Applications shall also be referred to local homeowners organizations and to any other body or agency requesting referral of such applications.

Two-year Monitoring

Planning Department staff will monitor all applications for secondary units in the A (Agriculture) District for a period of two years after adoption of this policy by the Board of Supervisors. At the end of the two-year

period, staff will report to the Planning Commission on the quantity, type, and quality of applications received during this period, and will make recommendations regarding amendments to the policy as appropriate.

Amnesty

For a period of six months after the adoption by the Board of Supervisors of the Policy for Secondary Units in Agricultural and Rural Residential Areas, there will be an Aamnesty@ program available to property owners who own agricultural or rural residential sites on which illegal secondary units have been constructed. The program will allow for the processing and evaluation of the request for legalizing the secondary unit in the same manner as outlined above. Secondary units must meet the standards outlined in the policies above in order to be approved; approval of existing illegal units is not automatic. Fees and expenses associated with the processing of an illegal unit will be the same as with the processing of a standard rezoning or site development review application for a new secondary unit. The only fee that would be waived would be the standard $5,000 fee imposed by the Board of Supervisors through the approval process for the retention of illegally constructed units.

Conversion of Existing Caretaker Units to Secondary Units

A landowner with an existing caretaker unit that is permitted through a valid conditional use permit that was issued prior to June, 1998, may petition to have one existing caretaker unit declared a secondary unit.

An existing caretaker unit would not be required to be subordinate in size or appearance to the primary dwelling unit. Conversion of caretaker units may occur only if the following conditions are met:

1. The converted caretaker unit is to be placed on a permanent foundation;

2. Requests for conversion to secondary units on these parcels is to be processed and evaluated in the same manner as outlined above;

3. The converted caretaker unit is not to be increased in size;

4. If sufficient need is demonstrated (a function, for example, of the type of agricultural operation on the property, security, environmental constraints, septic limitations, or visual impacts), the converted caretaker unit may not be required to be located in the same building envelope as the main residence or to use the same road that provides access to the main residence, however, the unit may not be converted if its access creates or would create a traffic hazard;

5. Conversion of a caretaker unit to a secondary unit is to be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the converted caretaker unit would be permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems may be subject to periodic review by the Environmental Health Department;

6. Conversion of a caretaker unit to a secondary unit is to be permitted only on properties that are well-maintained;

7. Conversion of a caretaker unit to a secondary unit is to be permitted only on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.

Location of Secondary Units on Property

The secondary unit should be located on the same building envelope as the primary unit. However, there may be situations where this is not practical or desirable, such as the need for security on remote areas of the property. Where property owners feel that there are circumstances that justify the secondary unit being located away from the primary unit, they may apply for rezoning to a PD (Planned Development) District. Criteria against which the specific request will be evaluated include, but are not limited to, visual impacts, biological impacts, impacts on agricultural potential, access, and fire protection. The applicant shall have the responsibility to demonstrate why the secondary unit should not be located on the same building envelope. The specific location of the unit will be determined through the review process.

~~Secondary Units in North Livermore Planning Area~~

~~Pending resolution of the North Livermore Plan, secondary units are not allowed in Zone B.~~

The purpose of this section was to defer setting policy for secondary units in this portion of the North Livermore Planning Area, since it was anticipated that there would be specific policies for the area established as part of the overall North Livermore Planning Area planning process. With passage of Measure D, the planning for that area ceased, and the question of secondary units in the North Livermore Planning Area became no longer an issue. Therefore, secondary units are allowed throughout the North Livermore Planning Area subject to the provisions of this policy.

Senate Bill No. 477

CHAPTER 7

An act to amend Sections 714.3 and 4751 of the Civil Code, to amend Sections 65582.1, 65583, 65583.2, 65585, 65589.4, 65589.9, 65852.1, 65852.21, 65852.27, 65863.3, 65913.5, 66411.7, 66412.2, and 66499.41 of, to add Chapter 13 (commencing with Section 66310) to Division 1 of Title 7 of, and to repeal Sections 65852.150, 65852.2, 65852.22, 65852.23, and 65852.26 of, the Government Code, to amend Sections 18214, 50504.5, 50515.03, 50650.3, 50843.5, and 50952 of the Health and Safety Code, to amend Sections 10238 and 21080.17 of the Public Resources Code, and to amend Section 10755.4 of the Water Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 25, 2024. Filed with Secretary of State March 25, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 477, Committee on Housing. Accessory dwelling units.

Existing law provides for the creation by local ordinance, or by ministerial approval if a local agency has not adopted an ordinance, of accessory dwelling units in areas zoned for single-family or multifamily dwelling residential use in accordance with specified standards and conditions. Existing law also provides for the creation of junior accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in single-family residential zones in accordance with specified standards and conditions.

This bill would make nonsubstantive changes and reorganize various provisions relating to the creation and regulation of accessory dwelling units and junior accessory dwelling units, including the provisions described above, and would make related nonsubstantive conforming changes.

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

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

SECTION 1. Section 714.3 of the Civil Code is amended to read:

714.3. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in real property that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Article 2 (commencing with Section

66314) of Chapter 13 or Article 3 (commencing with Section 66333) of Chapter 13 of Division of Title 7 of the Government Code is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code.

SEC. 2. Section 4751 of the Civil Code is amended to read:

4751. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code.

SEC. 3. Section 65582.1 of the Government Code is amended to read:

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

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) Accessory dwelling units (Sections 66310 and Article 2 (commencing with section 66314) of Chapter 13).

(h) By-right housing, in which certain multifamily housing is designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney's fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

(*l*) Limiting moratoriums on multifamily housing (Section 65858).

(m) Prohibiting discrimination against affordable housing (Section 65008).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

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

(p) Streamlining housing approvals during a housing shortage (Section 65913.4).

(q) Housing sustainability districts (Chapter 11 (commencing with Section 66200)).

(r) Streamlining agricultural employee housing development approvals (Section 17021.8 of the Health and Safety Code).

SEC. 4. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census

data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to affirmatively further fair housing.

(4) (A) The identification of one or more zoning designations that allow residential uses, including mixed uses, where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit and that are suitable for residential uses. The identified zoning designations shall include sufficient sites meeting the requirements of subparagraph (H) with sufficient capacity, as described in subparagraph (I), to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zoning designation or designations that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zoning designation or designations with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zoning designations where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards that apply to emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters.

(B) Emergency shelters shall only be subject to the following written, objective standards:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(C) For purposes of this paragraph, "emergency shelter" shall include other interim interventions, including, but not limited to, a navigation center, bridge housing, and respite or recuperative care.

(D) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(E) If a local government has adopted written, objective standards pursuant to subparagraph (B), the local government shall include an analysis of the standards in the analysis of constraints pursuant to paragraph (5).

(F) A local government that can demonstrate, to the satisfaction of the department, the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need and the needs of the other jurisdictions that are a part of the agreement for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zoning designation where new emergency shelters are allowed with a conditional use permit.

(G) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zoning designations for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(H) The zoning designation or designations where emergency shelters are allowed, as described in subparagraph (A), shall include sites that meet at least one of the following standards:

(i) Vacant sites zoned for residential use.

(ii) Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites with this zoning designation that are being used to satisfy the requirements of paragraph (1) are located near amenities and services that serve people experiencing homelessness, which may include, health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

(iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period, or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use shall be presumed to impede emergency shelter development absent an analysis based on substantial evidence that the use is likely to be discontinued during the planning period. The analysis shall consider current market demand for

the current uses, market conditions, and incentives or standards to encourage shelter development.

(I) The zoning designation or designations shall have sufficient sites meeting the requirements of subparagraph (H) to accommodate the need for shelters identified pursuant to paragraph (7). The number of people experiencing homelessness that can be accommodated on any site shall be demonstrated by dividing the square footage of the site by a minimum of 200 square feet per person, unless the locality can demonstrate that one or more shelters were developed on sites that have fewer square feet per person during the prior planning period or the locality provides similar evidence to the department demonstrating that the site can accommodate more people experiencing homelessness. Any standard applied pursuant to this subparagraph is intended only for calculating site capacity pursuant to this section, and shall not be constructed as establishing a development standard applicable to the siting, development, or approval of a shelter.

(J) Notwithstanding subparagraph (H), a local government may accommodate the need for emergency shelters identified pursuant to paragraph (7) on sites owned by the local government if it demonstrates with substantial evidence that the sites will be made available for emergency shelter during the planning period, they are suitable for residential use, and the sites are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality’s share of the regional housing need in accordance with Section 65584. The analysis shall also

demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

(7) An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on the capacity necessary to accommodate the most recent homeless point-in-time count conducted before the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.

(8) An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that

could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government that have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs that can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program that have not been legally obligated for other purposes and that could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and

with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to affirmatively further fair housing and to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with this article within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element.

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed

for, intended for occupancy by, or with supportive services for, persons with disabilities. Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in subdivision (a) of Section 66313.

(8) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.

(9) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(10) (A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:

(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.

(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or

ethnically concentrated areas of poverty and affluence, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2) and Section 65008.

(iii) An assessment of the contributing factors, including the local and regional historical origins and current policies and practices, for the fair housing issues identified under clauses (i) and (ii).

(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.

(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

(B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect before August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.

(C) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit toward its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

(f) The deadline for completing required rezoning pursuant to subparagraph (A) of paragraph (1) of subdivision (c) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low- and very low income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:

(1) The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state, federal, or local agency.

(2) The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory constraints.

(3) The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose

a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)). Design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, "housing development project" means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

(i) Notwithstanding any other law, the otherwise applicable timeframe set forth in paragraph (2) of subdivision (b) and subdivision (d) of Section 21080.3.1 of the Public Resources Code, and paragraph (3) of subdivision (d) of Section 21082.3 of the Public Resources Code, for a Native American

tribe to respond to a lead agency and request consultation in writing is extended by 30 days for any housing development project application determined or deemed to be complete on or after March 4, 2020, and prior to December 31, 2021.

(j) On or after January 1, 2024, at the discretion of the department, the analysis of government constraints pursuant to paragraph (5) of subdivision (a) may include an analysis of constraints upon the maintenance, improvement, or development of housing for persons with a characteristic identified in subdivision (b) of Section 51 of the Civil Code. The implementation of this subdivision is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose.

SEC. 5. Section 65583.2 of the Government Code, as amended by Section 2.5 of Chapter 358 of the Statutes of 2021, is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following sites that meet the standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by assessor parcel number.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with state law within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning pursuant to this subdivision shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing,

single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(4) (A) For a metropolitan jurisdiction:

(i) At least 25 percent of the jurisdiction's share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing, but not more than 100 units per acre of housing.

(ii) At least 25 percent of the jurisdiction's share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.

(B) The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following:

(i) Deny a project that does not comply with the allocation.

(ii) Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law.

(iii) The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.

(C) This paragraph does not apply to an unincorporated area.

(D) For purposes of this paragraph:

(i) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(ii) "Unit of housing" does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 or through a local ordinance or other provision implementing either of those sections. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.

(E) Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as

determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.

(ii) A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low income households.

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology

shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low- or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for

which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marin Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.

(k) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(*l*) (1) The changes to this section made by Chapter 193 of the Statutes of 2020 shall become operative on January 1, 2022.

(2) The changes to this section made by Chapter 193 of the Statutes of 2020 shall not apply to a housing element revision that is originally due on or before January 1, 2022, regardless of the date of adoption by the local agency.

(m) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

SEC. 6. Section 65583.2 of the Government Code, as amended by Section 3.5 of Chapter 358 of the Statutes of 2021, is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following sites that meet the standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density, and sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by assessor parcel number.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a

vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with state law within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning pursuant to this subdivision shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate

that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(4) (A) For a metropolitan jurisdiction:

(i) At least 25 percent of the jurisdiction's share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing, but not more than 100 units per acre of housing.

(ii) At least 25 percent of the jurisdiction's share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.

(B) The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following:

(i) Deny a project that does not comply with the allocation.

(ii) Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law.

(iii) The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.

(C) This paragraph does not apply to an unincorporated area.

(D) For purposes of this paragraph:

(i) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(ii) "Unit of housing" does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 or through a local ordinance or other provision implementing either of those sections. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.

(E) Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density

residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low- or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c), and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed use if those sites allow 100 percent

residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(k) This section shall become operative on December 31, 2028.

SEC. 7. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section

65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings that explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 60 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5).
(2) Section 65863.
(3) Chapter 4.3 (commencing with Section 65915).
(4) Section 65008.
(5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
(6) Section 8899.50.
(7) Section 65913.4.
(8) Article 11 (commencing with Section 65650).
(9) Article 12 (commencing with Section 65660).
(10) Section 65913.11.
(11) Section 65400.
(12) Section 65863.2.
(13) Chapter 4.1 (commencing with Section 65912.100).
(14) Section 65905.5.
(15) Chapter 13 (commencing with Section 66310).
(16) Section 65852.21.
(17) Section 65852.24.
(18) Section 66411.7.
(19) Section 65913.16.
(20) Article 2 (commencing with Section 66300.5) of Chapter 12.
(21) Section 65852.28.
(22) Section 65913.4.5.
(23) Section 66499.41.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(*l*) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars ($10,000) per month, but shall not exceed one hundred thousand dollars ($100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (*l*), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j), the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 8. Section 65589.4 of the Government Code is amended to read:

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

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

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

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

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

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the attached housing development was deemed complete:

(i) A general plan.

(ii) A revision or update to the general plan that includes at least the land use and circulation elements.

(iii) An applicable community plan.

(iv) An applicable specific plan.

(D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

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

(F) The attached housing development is located on an infill site as defined in Section 21061.3 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost

to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

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

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

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66410)).

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

(h) For purposes of this section, "attached housing development" means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include an accessory dwelling unit, as defined in subdivision (a) of Section 66313, or the conversion of an existing structure to condominiums.

SEC. 9. Section 65589.9 of the Government Code is amended to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The qualifying infill area portion of the Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) The qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 established by Section 53559 of the Health and Safety Code.

(5) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) The department shall designate jurisdictions as prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Adaptive reuse" shall have the same meaning as in Section 53559.1 of the Health and Safety Code.

(2) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(3) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Article 2 (commencing with Section 66314) of Chapter 13, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

(K) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions.

SEC. 10. Section 65852.1 of the Government Code is amended to read:

65852.1. (a) Notwithstanding Section 65906, any city, including a charter city, county, or city and county may issue a zoning variance, special use permit, or conditional use permit for a dwelling unit to be constructed, or which is attached to or detached from, a primary residence on a parcel zoned for a single-family residence, if the dwelling unit is intended for the sole occupancy of one adult or two adult persons who are 62 years of age or over, and the area of floorspace of the attached dwelling unit does not exceed 30 percent of the existing living area or the area of the floorspace of the detached dwelling unit does not exceed 1,200 square feet.

This section shall not be construed to limit the requirements of Article 2 (commencing with Section 66314) of Chapter 13, or the power of local governments to permit second units.

(b) This section shall become inoperative on January 1, 2007, and shall have no effect thereafter, except that any zoning variance, special use permit, or conditional use permit issued for a dwelling unit before January 1, 2007, pursuant to this section shall remain valid, and a dwelling unit constructed pursuant to such a zoning variance, special use permit, or conditional use permit shall be considered in compliance with all relevant laws, ordinances, rules, and regulations after January 1, 2007.

SEC. 11. Section 65852.150 of the Government Code is repealed.

SEC. 12. Section 65852.2 of the Government Code is repealed.

SEC. 13. Section 65852.21 of the Government Code is amended to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155

of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

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

(f) Notwithstanding Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 6633) of Chapter 13. a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean 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. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

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

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 14. Section 65852.22 of the Government Code is repealed.

SEC. 15. Section 65852.23 of the Government Code is repealed.

SEC. 16. Section 65852.26 of the Government Code is repealed.

SEC. 17. Section 65852.27 of the Government Code is amended to read:

65852.27. (a) Each local agency shall, by January 1, 2025, develop a program for the preapproval of accessory dwelling unit plans. The program shall comply with all of the following:

(1) The local agency shall accept accessory dwelling unit plan submissions for preapproval.

(2) The local agency shall not restrict who may submit accessory dwelling unit plan submissions for preapproval.

(3) (A) The local agency shall approve or deny the application for preapproval pursuant to the standards established in Article 2 (commencing with Section 66314) of Chapter 13.

(B) The local agency may charge the applicant the same permitting fees that the local agency would charge an applicant seeking approval pursuant to Article 2 (commencing with Section 66314) of Chapter 13 for the same-sized accessory dwelling unit in reviewing and approving a preapproval accessory dwelling unit plan submission.

(4) (A) (i) Accessory dwelling unit plans that are preapproved pursuant to this subdivision shall be posted on the local agency's internet website.

(ii) The posting of a preapproved accessory dwelling unit plan pursuant to clause (i) shall not be considered an endorsement of the applicant or approval of the applicant's application for a detached accessory dwelling unit by the local agency.

(B) (i) The local agency shall also post the contact information of the applicant of a preapproved accessory dwelling unit plan, as provided by the applicant.

(ii) The local agency shall not be responsible for the accuracy of the contact information posted pursuant to clause (i).

(C) A local agency shall remove a preapproved accessory dwelling unit plan from their internet website within 30 days of receiving a request for removal from the applicant.

(5) A local agency may also admit the following accessory dwelling unit plans into the program:

(A) Plans that have been developed and preapproved by the local agency.

(B) Plans that have been preapproved by other agencies within the state.

(b) A local agency shall approve or deny an application for a detached accessory dwelling unit ministerially without discretionary review pursuant to Sections 66317 and 66320 except that the local agency shall either approve

or deny the application within 30 days from the date the local agency receives a completed application, if the application utilizes either of the following:

(1) A plan for an accessory dwelling unit that has been preapproved by the local agency pursuant to subdivision (a) within the current triennial California Building Standards Code rulemaking cycle.

(2) A plan that is identical to a plan used in an application for a detached accessory dwelling unit approved by the local agency within the current triennial California Building Standards Code rulemaking cycle.

(c) For purposes of this section, "accessory dwelling unit" and "local agency" have the same meaning as those terms are defined in Section 66313.

(d) The Legislature finds and declares that the lack of housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 18. Section 65863.3 of the Government Code is amended to read:

65863.3. (a) A public agency shall not increase the minimum parking requirement that applies to a single-family residence as a condition of approval of a project to remodel, renovate, or add to a single-family residence provided that the project does not cause the single-family residence to exceed any maximum size limit imposed by the applicable zoning regulations, including, but not limited to, height, lot coverage, and floor-to-area ratio.

(b) For purposes of this section, "public agency" means the state or any state agency, board or commission, any city, county, city and county, including charter cities, or special district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision.

(c) The Legislature finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions. Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.

(d) This section shall not be construed to allow a local agency to impose parking restrictions that are more restrictive than the requirements a local agency is authorized to impose under Article 2 (commencing with Section 66314) of Chapter 13 if the single-family residence is on the same lot as an accessory dwelling unit.

SEC. 19. Section 65913.5 of the Government Code is amended to read:

65913.5. (a) (1) Notwithstanding any local restrictions on adopting zoning ordinances enacted by the jurisdiction that limit the legislative body's ability to adopt zoning ordinances, including, subject to the requirements of paragraph (4) of subdivision (b), restrictions enacted by local initiative, a local government may adopt an ordinance to zone a parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in one of the following:

(A) A transit-rich area.

(B) An urban infill site.

(2) A local government shall not adopt an ordinance pursuant to this subdivision on or after January 1, 2029. However, the operative date of an ordinance adopted under this subdivision may extend beyond January 1, 2029.

(3) An ordinance adopted in accordance with this subdivision, and any resolution to amend the jurisdiction's General Plan, ordinance, or other local regulation adopted to be consistent with that zoning ordinance, shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(4) Paragraph (1) shall not apply to either of the following:

(A) Parcels located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This paragraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(B) Any local restriction enacted or approved by a local initiative that designates publicly owned land as open-space land, as defined in subdivision (h) of Section 65560, or for park or recreational purposes.

(b) A legislative body shall comply with all of the following when adopting a zoning ordinance pursuant to subdivision (a):

(1) The zoning ordinance shall include a declaration that the zoning ordinance is adopted pursuant to this section.

(2) The zoning ordinance shall clearly demarcate the areas that are zoned pursuant to this section.

(3) The legislative body shall make a finding that the increased density authorized by the ordinance is consistent with the city or county's obligation to affirmatively further fair housing pursuant to Section 8899.50.

(4) If the ordinance supersedes any zoning restriction established by a local initiative, the ordinance shall only take effect if adopted by a two-thirds vote of the members of the legislative body.

(c) (1) Notwithstanding any other law that allows ministerial or by right approval of a development project or that grants an exemption from Division 13 (commencing with Section 21000) of the Public Resources Code, a residential or mixed-use residential project consisting of more than 10 new residential units on one or more parcels that are zoned pursuant to an ordinance adopted under this section shall not be approved ministerially or by right and shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) This subdivision shall not apply to a project located on a parcel or parcels that are zoned pursuant to an ordinance adopted under this section, but subsequently rezoned without regard to this section. A subsequent ordinance adopted to rezone the parcel or parcels shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code. Any environmental review conducted to adopt the subsequent

ordinance shall consider the change in the zoning applicable to the parcel or parcels before they were zoned or rezoned pursuant to the ordinance adopted under this section.

(3) The creation of up to two accessory dwelling units and two junior accessory dwelling units per parcel pursuant to Article 2 (commencing with Section 66314) and Article 3 (commencing with Section 66333) of Chapter 13 shall not count towards the total number of units of a residential or mixed-use residential project when determining if the project may be approved ministerially or by right under paragraph (1).

(4) A project may not be divided into smaller projects in order to exclude the project from the prohibition in this subdivision.

(d) (1) An ordinance adopted pursuant to this section shall not reduce the density of any parcel subject to the ordinance.

(2) A legislative body that adopts a zoning ordinance pursuant to this section shall not subsequently reduce the density of any parcel subject to the ordinance.

(e) For purposes of this section:

(1) "High-quality bus corridor" means a corridor with fixed route bus service that meets all of the following criteria:

(A) It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.

(B) It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 p.m., inclusive, on Monday through Friday.

(C) It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

(2) "Transit-rich area" means a parcel within one-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or a parcel on a high-quality bus corridor.

(3) "Urban infill site" means a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(f) The Legislature finds and declares that provision of adequate housing, in light of the severe shortage of housing at all income levels in this state, is a matter of statewide concern and is not a municipal affair as that term is

used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 20. Chapter 13 (commencing with Section 66310) is added to Division 1 of Title 7 of the Government Code, to read:

Chapter 13. Accessory Dwelling Units

Article 1. General Provisions

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.

66311. It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

66312. Notwithstanding Section 65803, this chapter shall also apply to a charter city.

66313. For purposes of this chapter:

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

(1) An efficiency unit.

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

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

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

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

(e) "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.

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

(g) "Nonconforming zoning condition" means a physical improvement on a property that does not conform to current zoning standards.

(h) "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.

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

(j) "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.

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

(*l*) "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.

(m) "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.

Article 2. Accessory Dwelling Unit Approvals

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 unhabitable 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, or covered parking structure 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.

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.

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.

66317. (a) A permit application for an accessory dwelling unit or a junior 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. The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior 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 or a junior 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 or the junior 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 or junior 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 or 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) 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.

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.

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.

66320. (a) 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. The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior 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 or a junior accessory dwelling unit is submitted with a permit application to create or serve 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 or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family or multifamily dwelling, but the application to create or serve the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a 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.

(b) If a permitting agency denies an application for an accessory dwelling unit or 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.

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.

(B) One thousand square feet 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 at least an 800 square foot accessory dwelling unit 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.

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.

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

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

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

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

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

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

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

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

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

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

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

(4) (A) Not more than two accessory dwelling units 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.

(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 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.

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

(d) 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.

(e) 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.

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

66324. (a) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(b) An 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 accessory dwelling 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 less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more 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.

(d) For an 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 accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling 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.

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.

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.

66327. 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 article. 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.

66328. 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.

66329. 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 not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

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.

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.

66332. (a) Notwithstanding any other law, and except as otherwise provided in subdivision (b), a local agency shall not deny a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, due to either of the following:

(1) The 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 does not comply with this article or any local ordinance regulating accessory dwelling units.

(b) Notwithstanding subdivision (a), a local agency may deny a permit for an accessory dwelling unit subject to subdivision (a) if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.

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

Article 3. Junior Accessory Dwelling Units

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

(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.

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.

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) 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.

(3) 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.

(4) 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.

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.

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.

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.

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.

Article 4. Accessory Dwelling Unit Sales

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.

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.

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.

SEC. 21. Section 66411.7 of the Government Code is amended to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of

offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or

is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

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

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.21, 65915, Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in subdivision (a) of Section 66313, or a junior accessory dwelling unit as defined in subdivision (d) of Section 66313.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(*l*) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean 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. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

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

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources

Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 22. Section 66412.2 of the Government Code is amended to read:

66412.2. This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or accessory dwelling units pursuant to Article 2 (commencing with Section 66314) of Chapter 13 of Division 1, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

SEC. 23. Section 66499.41 of the Government Code is amended to read:

66499.41. (a) A local agency shall ministerially consider, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets all of the following requirements:

(1) The proposed subdivision will result in 10 or fewer parcels and the housing development project on the lot proposed to be subdivided will contain 10 or fewer residential units.

(2) The lot proposed to be subdivided meets all of the following sets of requirements:

(A) The lot is zoned for multifamily residential development.

(B) The lot is no larger than five acres and is substantially surrounded by qualified urban uses. For purposes of this subparagraph, the following definitions apply:

(i) "Qualified urban use" has the same meaning as defined in Section 21072 of the Public Resources Code.

(ii) "Substantially surrounded" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 21159.25 of the Public Resources Code.

(C) The lot is a legal parcel located within either of the following:

(i) An incorporated city, the boundaries of which include some portion of an urbanized area.

(ii) An urbanized area or urban cluster in a county with a population greater than 600,000 based on the most recent United States Census Bureau data.

(iii) For purposes of this subparagraph, the following definitions apply:

(I) "Urbanized area" means an urbanized area designated by the United States Census Bureau, as published in the Federal Register, Volume 77, Number 59, on March 27, 2012.

(II) "Urban cluster" means an urbanized area designated by the United States Census Bureau, as published in the Federal Register, Volume 77, Number 59, on March 27, 2012.

(D) The lot was not established pursuant to this section or Section 66411.7.

(3) (A) Except as specified in subparagraph (B), the newly created parcels are no smaller than 600 square feet.

(B) A local agency may, by ordinance, adopt a smaller minimum parcel size subject to ministerial approval under this subdivision.

(4) The housing units on the lot proposed to be subdivided are one of the following:

(A) Constructed on fee simple ownership lots.

(B) Part of a common interest development.

(C) Part of a housing cooperative, as defined in Section 817 of the Civil Code.

(D) Owned by a community land trust. For the purpose of this subparagraph, "community land trust" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:

(i) Has as its primary purposes the creation and maintenance of permanently affordable single-family or multifamily residences.

(ii) All dwellings and units located on the land owned by the nonprofit corporation are sold to qualified owners to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income. For the purpose of this subparagraph, "qualified owner" means a person or family of low or moderate income, including a person or family of low or moderate income who owns a dwelling or unit collectively as a member occupant or resident shareholder of a limited-equity housing cooperative.

(iii) The land owned by the nonprofit corporation, on which a dwelling or unit sold to a qualified owner is situated, is leased by the nonprofit corporation to the qualified owner for the convenient occupation and use of that dwelling or unit for a renewable term of 99 years.

(5) The proposed development will, pursuant to the requirements of this division, meet one of the following, as applicable:

(A) If the parcel is identified in the jurisdiction's housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1, the development will result in at least as many units as projected for that parcel in the housing element. If the parcel is identified to accommodate any portion of the jurisdiction's share of the regional housing need for low- or very low income households, the development will result in at least as many low- or very low income units as projected in the housing element. These units shall be subject to a recorded affordability restriction of at least 45 years.

(B) If the parcel is not identified in the jurisdiction's housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1, the development will result in at least as many units as the maximum allowable residential density.

(6) The average total area of floorspace for the proposed housing units on the lot proposed to be subdivided does not exceed 1,750 net habitable square feet.

(7) The housing development project on the lot proposed to be subdivided complies with any local inclusionary housing ordinances adopted by the local agency.

(8) The development of a housing development project on the lot proposed to be subdivided does not require the demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons and families of low, very low, or extremely low income.

(B) Housing that is subject to any form of rent or price control through a local public entity's valid exercise of its police power.

(C) Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.

(D) A parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(9) The lot proposed to be subdivided is not located on a site that is any of the following:

(A) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(D) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:

(i) The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.

(ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health

and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) Within a special flood hazard area subject to inundation by the 1-percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this paragraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(G) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(H) Land identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or another adopted natural resource protection plan.

(I) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species,

or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(J) Land under conservation easement.

(10) The proposed subdivision conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(11) The proposed subdivision complies with all applicable standards established pursuant to Section 65852.28.

(12) Any parcels proposed to be created pursuant to this section will be served by a public water system and a municipal sewer system.

(b) A housing development project on a proposed site to be subdivided pursuant to this section is not required to comply with any of the following requirements:

(1) A minimum requirement on the size, width, depth, or dimensions of an individual parcel created by the development beyond the minimum parcel size specified in, or established pursuant to, paragraph (3) of subdivision (a).

(2) (A) The formation of a homeowners' association, except as required by the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(B) Subparagraph (A) shall not be construed to prohibit a local agency from requiring a mechanism for the maintenance of common space within the subdivision, including, but not limited to, a road maintenance agreement.

(c) A local agency shall approve or deny an application for a parcel map or a tentative map for a housing development project submitted to a local agency pursuant to this section within 60 days from the date the local agency receives a completed application. If the local agency does not approve or deny a completed application within 60 days, the application shall be deemed approved. If the local agency denies the application, the local agency shall, within 60 days from the date the local agency receives the completed application, 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 applicant can remedy the application.

(d) Any housing development project constructed on the lot proposed to be subdivided pursuant to this section shall comply with all applicable objective zoning standards, objective subdivision standards, and objective design standards as established by the local agency that are not inconsistent with this section and paragraph (2) of subdivision (a) of Section 65852.28.

(e) A local agency may condition the approval and recordation of a subdivision map upon the completion of a residential structure in compliance with all applicable provisions of the California Building Standards Code that contains at least one dwelling unit on each resulting parcel that does not already contain an existing legally permitted residential structure or is reserved for internal circulation, open space, or common area.

(f) A local agency may deny the issuance of a parcel map, a tentative map, or a final map if it makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(g) Notwithstanding Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1, a local agency is not required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels created through the exercise of the authority contained within this section.

(h) (1) Notwithstanding Section 66411.7, a local agency is not required to permit an urban lot split on a parcel created through the exercise of the authority contained within this section.

(2) Notwithstanding Sections 65852.21 and 66411.7, those sections shall not apply to a site that meet both of the following requirements:

(A) The site is located within a single-family residential horsekeeping zone designated in a master plan, adopted before January 1, 1994, that regulates land zoned single-family horsekeeping, commercial, commercial-recreational, and existing industrial within the plan area.

(B) The applicable local government has an adopted housing element that is compliant with applicable law.

(i) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(j) Paragraph (2) of subdivision (h) shall become operative on January 1, 2024. Subdivisions (a) to (g), inclusive, paragraph (1) of subdivision (h), and subdivision (i) shall become operative on July 1, 2024.

SEC. 24. Section 18214 of the Health and Safety Code is amended to read:

18214. (a) "Mobilehome park" is any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes, mobilehomes, or recreational vehicles used for human habitation. The rental paid for a manufactured home, a mobilehome, or a recreational vehicle shall be deemed to include rental for the lot it occupies. This subdivision shall not be construed to authorize the rental of a mobilehome park space for the accommodation of a recreational vehicle in violation of Section 798.22 of the Civil Code.

(b) Notwithstanding subdivision (a), employee housing that has obtained a permit to operate pursuant to the Employee Housing Act (Part 1 (commencing with Section 17000)) and that both meets the criteria of Section 17021.6 and is comprised of two or more lots or units held out for lease or rent or provided as a term or condition of employment shall not be deemed

a mobilehome park for the purposes of the requirement to obtain an initial or annual permit to operate or pay any related fees required by this part.

(c) Notwithstanding subdivision (a), an area or tract of land shall not be deemed a mobilehome park if the structures on it consist of residential structures that are rented or leased, or held out for rent or lease, if those residential structures meet both of the following requirements:

(1) The residential structures are manufactured homes constructed pursuant to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401 et seq.) or mobilehomes containing two or more dwelling units for human habitation.

(2) Those manufactured homes or mobilehomes have been approved by a city, county, or city and county pursuant to subdivision (e) of Section 17951 as an alternate which is at least the equivalent to the requirements prescribed in the California Building Standards Code or Part 1.5 (commencing with Section 17910) in performance, safety, and for the protection of life and health.

(d) Notwithstanding subdivision (a), an area or tract of land shall not be deemed a mobilehome park due to the rental or lease of an accessory dwelling unit created by use of a manufactured home, as defined in Section 66313 of the Government Code.

SEC. 25. Section 50504.5 of the Health and Safety Code is amended to read:

50504.5. (a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in subdivision (a) of Section 66313 of the Government Code.

SEC. 26. Section 50515.03 of the Health and Safety Code is amended to read:

50515.03. Of the amount described in paragraph (2) of subdivision (a) of Section 50515.01, one hundred twenty-five million dollars ($125,000,000) shall be available to jurisdictions to assist in planning for other activities related to meeting the sixth cycle regional housing need assessment, as follows:

(a) (1) The maximum amount that a jurisdiction may receive pursuant to this subdivision shall be as follows:

(A) If the jurisdiction has a population of 750,000 or greater, one million five hundred thousand dollars ($1,500,000).

(B) If the jurisdiction has a population of 300,000 or greater, but equal to or less than 749,999, seven hundred fifty thousand dollars ($750,000).

(C) If the jurisdiction has a population of 100,000 or greater, but equal to or less than 299,999, five hundred thousand dollars ($500,000).

(D) If the jurisdiction has a population of 60,000 or greater, but equal to or less than 99,999, three hundred thousand dollars ($300,000).

(E) If the jurisdiction has a population of 20,000 or greater, but equal to or less than 59,999, one hundred fifty thousand dollars ($150,000).

(F) If the jurisdiction has a population equal to or less than 19,999, sixty-five thousand dollars ($65,000).

(2) For purposes of this subdivision, the population of a jurisdiction shall be based on the population estimates posted on the Department of Finance's internet website as of January 1, 2019.

(b) (1) Until January 31, 2021, a jurisdiction may request an allocation of funds pursuant to this section by submitting an application to the department, in the form and manner prescribed by the department, that contains the following information:

(A) An allocation budget for the funds provided pursuant to this section.

(B) An explanation of how proposed uses will increase housing planning and facilitate local housing production.

(2) The department shall review an application submitted pursuant to this subdivision within 30 days. Upon approval of an application for funds pursuant to this subdivision, the department shall award the moneys for which the jurisdiction qualifies.

(c) A jurisdiction that receives an allocation pursuant to this section shall only use that allocation for housing-related planning activities, including, but not limited to, the following:

(1) Rezoning and encouraging development by updating planning documents and zoning ordinances, such as general plans, community plans, specific plans, sustainable communities' strategies, and local coastal programs.

(2) Completing environmental clearance to eliminate the need for project-specific review.

(3) Establishing a workforce housing opportunity zone pursuant to Article 10.10 (commencing with Section 65620) of Chapter 3 of Division 1 of Title 7 of the Government Code or a housing sustainability district pursuant to Chapter 11 (commencing with Section 66200) of Division 1 of Title 7 of the Government Code.

(4) Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents.

(5) Partnering with other local entities to identify and prepare excess property for residential development.

(6) Revamping local planning processes to speed up housing production.

(7) Developing or improving an accessory dwelling unit ordinance in compliance with Article 1 (commencing with Section 66314) of Chapter 13 of Division 1 of Title 7 of the Government Code.

(8) Covering the costs of temporary staffing or consultant needs associated with the activities described in paragraphs (1) to (7), inclusive.

SEC. 27. Section 50650.3 of the Health and Safety Code is amended to read:

50650.3. (a) Funds appropriated for purposes of this chapter shall be used to enable low- and very low income households to become or remain homeowners as provided in paragraphs (1) and (2), and to provide disaster relief assistance to households at or below 120 percent of the area median income as provided in paragraph (3). Funds shall be provided by the department to local public agencies or nonprofit corporations as any of the following:

(1) Grants for programs that assist individual households.

(2) Loans that assist development projects involving multiple home ownership units, including single-family subdivisions.

(3) Grants for programs that assist individual households as provided in subdivision (d).

(b) (1) Grant funds may be used for any of the following:

(A) Programs that assist individual households with first-time homebuyer mortgage assistance.

(B) Home rehabilitation, including the installation or retrofit of ignition resistant exterior components on existing manufactured homes, mobilehomes, and accessory structures required pursuant to Article 2.3 (commencing with Section 4200) of Subchapter 2 of Chapter 3 of Division 1 of Title 25 of the California Code of Regulations.

(C) Homebuyer counseling.

(D) Home acquisition and rehabilitation.

(E) Construction, repair, reconstruction, or rehabilitation, in whole or in part, of accessory dwelling units, as defined in subdivision (a) of Section 66313 of the Government Code, or junior accessory dwelling units, as defined in subdivision (d) of Section 66313 of the Government Code.

(F) Self-help mortgage assistance programs.

(G) Technical assistance for self-help and shared housing home ownership.

(2) Home rehabilitation funding for the purpose of installing ignition resistant components on manufactured homes, mobilehomes, or accessory structures pursuant to this subdivision shall not be conditioned upon the rehabilitation of additional or unrelated home components unless that rehabilitation is required pursuant to Article 2.3 (commencing with Section 4200) of Subchapter 2 of Chapter 3 of Division 1 of Title 25 of the California Code of Regulations. In administering funding for this purpose, local public agencies and nonprofit corporations may consider the condition and age of the manufactured home or mobilehome, including whether the home was constructed on or after June 15, 1976, in accordance with federal standards and whether the available funds could be more effectively used to replace the manufactured home or mobilehome.

(3) Except as provided in paragraph (4), financial assistance provided to individual households shall be in the form of deferred payment loans, repayable upon sale or transfer of the homes, when they cease to be owner-occupied, or upon the loan maturity date. Financial assistance may

be provided in the form of a secured forgivable loan to an individual household to rehabilitate, repair, or replace manufactured housing located in a mobilehome park and not permanently affixed to a foundation. The loan shall be due and payable in 20 years, with 10 percent of the original principal to be forgiven annually for each additional year beyond the 10th year that the home is owned and continuously occupied by the borrower. Not more than 10 percent of the funds available for the purposes of this chapter in a fiscal year shall be used for financial assistance in the form of secured forgivable loans.

(4) Notwithstanding any other law, the department may, in its discretion, permit the mortgage assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the department's underwriting requirements. The department may permit subordination on those terms and conditions as it determines are reasonable, however subordination shall not be permitted if the borrower has sufficient equity to repay the loan.

(5) All loan repayments shall be used for activities allowed under this section, and shall be governed by a reuse plan approved by the department. Those reuse plans may provide for loan servicing by the grant recipient or a third-party local government agency or nonprofit corporation.

(6) Notwithstanding paragraph (3), loans provided pursuant to the CalHome Program Disaster Assistance for Imperial County that have been made for the purpose of rehabilitation, reconstruction, or replacement of lower income owner-occupied manufactured homes shall be due and payable in 10 years, with 20 percent of the original principal to be forgiven annually for each additional year beyond the fifth year that the manufactured home is owned and continuously occupied by the borrower.

(c) (1) Except as provided in paragraph (6) of subdivision (b), loan funds may be used for purchase of real property, site development, predevelopment, construction period expenses incurred on home ownership development projects, and permanent financing for mutual housing or cooperative developments.

(2) Units within home ownership development projects that receive CalHome funds shall initially be sold to, and occupied by, a lower income household, as defined in Section 50079.5.

(3) Ownership units shall initially be sold to and occupied by a qualified household and shall be subject to a recorded covenant for at least 30 years that includes one or more of the following:

(A) A resale restriction.

(B) Recapture of the CalHome funds upon resale.

(C) Equity sharing upon resale.

(4) Upon completion of construction, the department may convert project loans into grants.

(5) For home ownership development projects that include construction of accessory dwelling units or junior accessory dwelling units, neither this chapter nor any administrative rule or guideline implementing the CalHome

Program precludes those dwelling units from being separately conveyed to separate lower income households on separate parcels created pursuant to Section 66411, 66411.1, or 66411.5 of the Government Code, as applicable.

(d) Notwithstanding any other provision of this chapter, the department may use funds appropriated pursuant to this chapter to make grants to local agencies or nonprofit corporations to assist households at or below 120 percent of the area median income that are victims of a disaster, if one of the following occurs with respect to the county in which the household's residence is located:

(1) The Governor has proclaimed a state of emergency, pursuant to Section 8625 of the Government Code, resulting from a disaster, as defined in Section 8680.3 of the Government Code.

(2) A special appropriation of federal emergency supplemental assistance or a presidential declaration of disaster has occurred.

(e) The department shall review, adopt, amend, and repeal guidelines to implement the making of grants pursuant to subparagraph (E) of paragraph (2) of subdivision (b) and making grants pursuant to subdivision (d). Any guidelines adopted to implement subparagraph (E) of paragraph (2) of subdivision (b) and subdivision (d) shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. In the event of inconsistency regarding the requirements of qualified applicants and eligibility of accessory dwelling units and junior accessory dwelling units, and rents associated with them between those guidelines and any regulations otherwise enacted pursuant to this chapter, those guidelines shall prevail.

(f) The changes made to this section by the act adding this subdivision shall be implemented by the department into program guidelines and notices of funding availability released after December 31, 2024.

SEC. 28. Section 50843.5 of the Health and Safety Code is amended to read:

50843.5. (a) Subject to the availability of funding, the department shall make matching grants available to cities, counties, cities and counties, tribes, and charitable nonprofit organizations organized under Section 501(c)(3) of the Internal Revenue Code that have created and are operating or will operate housing trust funds. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA). The department may adopt guidelines to administer this chapter. Any guidelines employed by the department in implementing this chapter shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Notwithstanding anything to the contrary in this chapter, the terms of this section, and the guidelines authorized above, shall control in the event of any other statutory conflict.

(1) Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

(2) The department shall set aside funding for new trusts, as defined by the department in the guidelines adopted pursuant to this section.

(b) Housing trusts eligible for funding under this section shall have the following characteristics:

(1) Utilization of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.

(2) Receipt of ongoing revenues from dedicated sources of funding such as taxes, fees, loan repayments, or public or private contributions.

(c) The minimum allocation to an applicant that is a newly established trust shall be five hundred thousand dollars ($500,000), or a higher amount as established by the department. The minimum allocation for all other trusts shall be one million dollars ($1,000,000), or a higher amount as established by the department. All funds provided pursuant to this section shall be matched on a dollar-for-dollar basis with moneys that are not required by any state or federal law to be spent on housing, except as authorized by Chapter 2.5 (commencing with Section 50470), if those funds are used to capitalize a regional housing trust fund. An application for an existing housing trust shall not be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match, or evidence of a legally binding commitment to deposit matching funds, and the identity of the source of matching funds. An application for a new trust shall not be considered unless the department has received adequate documentation, as determined by the department, that an ordinance imposing or dedicating a tax or fee to be deposited into the new trust has been enacted or the applicant has received a legally binding commitment to deposit matching funds into the new trust. Funds shall not be disbursed by the department to any trust until all matching funds are on deposit and then funds may be disbursed only in amounts necessary to fund projects identified to receive a loan from the trust within a reasonable period of time, as determined by the department. Applicants shall be required to continue funding the local housing trust fund from these identified local sources, and continue the trust in operation, for a period of no less than five years from the date of award. If the funding is not continued for a five-year period, then (1) the amount of the department's grant to the local housing trust fund, to the extent that the trust fund has unencumbered funds available, shall be immediately repaid, and (2) any payments from any projects funded by the local housing trust fund that would have been paid to the local housing trust fund shall be paid instead to the department and used for the program or its successor. The total amount paid to the department pursuant to (1) and (2), combined, shall not exceed the amount of the department's grant.

(d) (1) Funds shall be used for the predevelopment costs, acquisition, construction, or rehabilitation of the following types of housing or projects:

(A) Rental housing projects or units within rental housing projects. The affordability of all assisted units shall be restricted for not less than 55 years.

(B) Emergency shelters, transitional housing, and permanent supportive housing, as these terms are defined in the guidelines adopted pursuant to this section.

(C) For-sale housing projects or units within for-sale housing projects.

(D) Notwithstanding any other provision of this chapter, the department may use funds appropriated pursuant to this chapter to make grants to trust funds for the construction of accessory dwelling units as defined in subdivision (a) of Section 66313 of the Government Code, or junior accessory dwelling units as defined in subdivision (d) of Section 66313 of the Government Code, and to repair, reconstruct, or rehabilitate, in whole or in part, accessory dwelling units and junior accessory dwelling units.

(2) At least 30 percent of the dwelling units or shelter beds assisted by the grant and the match shall be affordable to, and restricted for, extremely low income households, as defined in Section 50106. No more than 20 percent of the dwelling units assisted by the grant and the match shall be affordable to, and restricted for, moderate-income persons and families whose income does not exceed 120 percent of the area median income. The remaining funds shall be used for projects, units, or shelters that are affordable to, and restricted for, lower income households, as defined in Section 50079.5.

(3) If funds are used for the acquisition, construction, or rehabilitation of for-sale housing projects or units within for-sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the for-sale housing units, unless it is in conflict with the requirements of another public funding source or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section 50052.5, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity-sharing agreement. The grantee shall reuse the proceeds of the equity-sharing agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and their proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon

resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.

(4) Notwithstanding subparagraph (A) of paragraph (1) or paragraph (3), a local housing trust fund shall not be required to record a separate deed restriction or equity agreement for any project or home that it finances, if a restriction or agreement that meets the requirements of subparagraph (A) of paragraph (1) or paragraph (3), as applicable, has been, or will be, recorded against the property by another public agency.

(e) Loan repayments shall accrue to the grantee housing trust for use pursuant to this section. If the trust no longer exists, loan repayments shall accrue to the department for use in the program or its successor.

(f) (1) In order for a city, county, or city and county to be eligible for funding, the applicant shall, at the time of application, meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(2) In order for a nonprofit organization applicant to be eligible for funding, the applicant shall agree to utilize funds provided under this chapter only for projects located in cities, counties, or a city and county that meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(3) A city, county, or city and county that has received an award pursuant to this section shall not encumber any program funds unless it has an adopted housing element the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(g) Recipients shall have held, or shall agree to hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds provided pursuant to this section. As a condition of receiving a grant pursuant to this section, any nonprofit organization shall agree that it will hold one public meeting a year to discuss the criteria that will be used to select projects to be funded. That meeting shall be open to the public, and public notice of this meeting shall be provided, except to the extent that any similar meeting of a city or county would be permitted to be held in closed session.

(h) No more than 5 percent of the funds appropriated to the department for the purposes of this program shall be used to pay the department's costs of administration of this section. Notwithstanding any other law, the department may also allow a grantee to use up to 5 percent of the grant award for administrative costs.

(i) A local housing trust fund shall encumber funds provided pursuant to this section no later than 60 months after receipt. In addition, any award to a local housing trust that was under contract on January 1, 2013, shall be extended by 12 months, subject to progress benchmarks to be established by the department. Any funds not encumbered within that period shall revert to the department for use in the program or its successor.

(j) Recipients shall be required to file periodic reports with the department regarding the use of funds provided pursuant to this section. No later than December 31 of each year in which funds are awarded by the program, the department shall provide a report to the Legislature regarding the number of trust funds created, a description of the projects supported, the number of units assisted, and the amount of matching funds received.

SEC. 29. Section 50952 of the Health and Safety Code is amended to read:

50952. The agency shall also seek to attain all of the following objectives:

(a) Acquisition of the maximum amount of funds available for subsidies for the benefit of persons and families of low or moderate income occupying units financed pursuant to this part.

(b) Housing developments providing a socially harmonious environment by meeting the housing needs of both very low income households and other persons and families of low or moderate income and by avoidance of concentration of very low income households that may lead to deterioration of a development.

(c) Emphasis on housing developments of superior design, appropriate scale and amenities, and on sites convenient to areas of employment, shopping, and public facilities.

(d) Increasing the range of housing choice for minorities in lower income households and other lower income households, rather than maintaining or increasing the impaction of low-income areas, and cooperation in implementation of local and areawide housing allocation plans adopted by cities, counties, and joint powers entities made up of counties and cities.

(e) Reducing the cost of mortgage financing for rental and cooperative housing to provide lower rent for persons and families of low or moderate income.

(f) Reducing the cost of mortgage financing for home purchase, in order to make homeownership feasible for persons and families of low or moderate income.

(g) Identification of areas of low vacancy rates where construction is needed, of areas of substandard housing where rehabilitation is needed, and of areas of credit shortage where financing is needed for transfer of existing housing, so as to maximize the impact of financing activities on employment, reduction of housing costs, and maintenance of local economic activity.

(h) A balance between urban metropolitan, nonmetropolitan, and rural metropolitan housing developments, and between family housing and housing for the elderly and handicapped, in general proportion to the needs identified in the California statewide housing plan.

(i) Minimization of fees and profit allowances of housing sponsors so far as consistent with acceptable performance, in order to maximize the benefit to persons and families of low or moderate income occupying units financed by the agency.

(j) Full utilization of federal subsidy assistance for the benefit of persons and families of low or moderate income.

(k) Full cooperation and coordination with the local public entities of the state in meeting the housing needs of cities, counties, cities and counties, and Indian reservations and rancherias on a level of government that is as close as possible to the people it serves.

(*l*) Promoting the recovery and growth of economically depressed business located in areas of minority concentration and in mortgage-deficient areas.

(m) Revitalization of deteriorating and deteriorated urban areas by attracting a full range of income groups to central-city areas to provide economic integration with persons and families of low or moderate income in those areas.

(n) Implementation of the goals, policies, and objectives of the California Statewide Housing Plan.

(o) Location of housing in public transit corridors with high levels of service.

(p) Reducing the cost of mortgage financing for rental housing development in order to attract private and pension fund investment in such developments.

(q) Reducing the cost of mortgage financing for accessory dwelling units, as defined in subdivision (a) of Section 66313 of the Government Code, in order to make rental housing more affordable for elderly persons and persons and families of low or moderate income.

SEC. 30. Section 10238 of the Public Resources Code is amended to read:

10238. (a) The director shall not disburse any grant funds to acquire agricultural conservation easements that restrict husbandry practices.

(b) The following uses and activities shall be deemed consistent and compatible with any agricultural conservation easement funded under this division and shall not be considered to restrict husbandry practices:

(1) Those uses and activities specified in Sections 10246 and 10262.

(2) The production, processing, and marketing of agricultural crops, agricultural products, and livestock.

(3) The restoration, enhancement, maintenance, protection, and conservation of natural resources if those activities are carried out in accordance with generally accepted best management practices and that the long-term agricultural use of the conserved land is not thereby significantly impaired.

(4) Activities to reduce the agricultural operation's emissions of greenhouse gases, and to improve, promote, or enhance the land's adaptation and resilience to climate change, if the long-term agricultural use of the conserved land is not thereby significantly impaired.

(5) Activities to support water conservation and protection, improved air quality, and fuels reduction and management, including to protect the conserved land and neighboring properties from catastrophic wildfire, if the long-term agricultural use of the conserved land is not thereby significantly impaired.

(6) The construction, reconstruction, and use of secondary dwelling units and farm worker housing, subject to reasonable limitations on size and location, if the long-term agricultural use of the conserved land is not thereby significantly impaired. The limitations on secondary dwelling units and farm worker housing shall not be more restrictive than Article 2 (commencing with Section 66314) of Chapter 13 of Division 1 of Title 7 of the Government Code or Section 17021.6 of the Health and Safety Code, respectively, or local building permit requirements.

(7) The construction, reconstruction, or use of renewable energy facilities to generate energy for the agricultural and residential needs of the conserved land if the long-term agricultural use of the conserved land is not thereby significantly impaired.

SEC. 31. Section 21080.17 of the Public Resources Code is amended to read:

21080.17. This division does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Article 2 (commencing with Section 66314) of Chapter 13 of Division 1 of Title 7 of the Government Code.

SEC. 32. Section 10755.4 of the Water Code is amended to read:

10755.4. Except in those groundwater basins that are subject to critical conditions of groundwater overdraft, as identified in the department's Bulletin 118–80, revised on December 24, 1982, the requirements of a groundwater management plan that is implemented pursuant to this part do not apply to the extraction of groundwater by means of a groundwater extraction facility that is used to provide water for domestic purposes to a single-unit residence and, if applicable, any dwelling unit authorized to be constructed pursuant to Section 65852.1 or Article 2 (commencing with

Section 66314) of Chapter 13 of Division 1 of Title 7 of the Government Code.

SEC. 33. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that California's statutes relating to accessory dwelling units and junior accessory dwelling units are clear and effectively implemented, it is necessary that this act take effect immediately.

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