



Public Comment Received for:

Item III.A: Suggested Modifications to the Title 28 Ordinance Amendments for Accessory Dwelling Units

(PLN2020-00484)

| Name of Sender | Distributed prior to hearing | Distributed after the hearing |
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| 1. Steve Johnson | x | |
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From: [Steve Johnson](#)
To: [Community Development PC Secretary](#)
Cc: [Teri Green](#); [Brenda Beltz](#)
Subject: Certification of ADU Ordinance in the Coastal Zone - PC hearing Jan 20
Date: Thursday, January 13, 2022 4:30:41 PM
Attachments: [buenapark-adu-final07272020.pdf](#)
[ATT00001.htm](#)
[ADU Memo LA City anno.pdf](#)
[ATT00002.htm](#)
[ADU Ord PC Presentation 8_6_20 p16.pdf](#)
[ATT00003.htm](#)

EXTERNAL

Santa Barbara's ADU ordinances (both Title 28 and Title 30) have a defect: they limit the size of detach ADUs added to multifamily property.

“Special” ADUs (as defined in Santa Barbara's ADU code) are supposed to conform with CA State law, in particular 65852.2 (e).

65852.2 (e) (1) (D) allows two detached ADUs to be added to existing multifamily property:

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

No size limit is imposed.

My assertion is confirmed by the attached ADU Ordinance Review letter:

- sent by Megan Kirkeby (Deputy Director, CA HCD, Division of Housing Development)
- sent to Joel W. Rosen, Director Community Development Department City of Buena Park

Page 2 of the letter states:

- *Dwelling Unit Size (Multifamily):* ADUs created on a lot with an existing multifamily dwelling are exempt from certain development standards, including dwelling unit size. As such,

ADUs created on a lot with an existing multifamily dwelling are not subject to any minimum or maximum size requirement.

Currently, the city's ordinance requires ADUs on a lot with an existing multifamily structure to be a minimum of 500 square feet and restricts these ADUs to 850 square feet.

The city should revise this requirement and remove any minimum or maximum size for ADUs created on lots with an existing multifamily dwelling.

I am also attaching:

- a page from powerpoint shown to the PC during review of Santa Barbara's ADU code
- City of Los Angeles Inter-Departmental Memo dated Feb 27, 2020 - page 3

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**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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July 27, 2020

Joel W. Rosen, Director
Community Development Department
City of Buena Park
6650 Beach Blvd.
Buena Park, CA 90621

Dear Joel W. Rosen:

RE: Buena Park's Accessory Dwelling Unit (ADU) Ordinance

The purpose of this letter is to submit written findings on the City of Buena Park's adopted ADU ordinance (Ordinance No. 1674), received by the California Department of Housing and Community Development (HCD) on January 29, 2020. Pursuant to Government Code section 65852.2, subdivision (h), and is submitting these written findings. Our findings were facilitated by a telephone conversation on March 10, 2020 with Joel Rosen, Community Development Director.

The adopted ADU ordinance meets many statutory requirements. However, the ordinance must be revised to comply with ADU law (Gov. Code section 65852.2), as follows:

- *Number of Dwelling Units:* The city's limitation on the number of allowable units within a single-family zone is more restrictive than what is allowed. Within a single-family zone, an applicant is allowed one junior accessory dwelling unit (JADU), and one ADU. Currently, the city's ordinance is more restrictive on the number of units allowed on a lot and should be revised to comply with the minimum ADU standard of one ADU and one JADU per lot. (Gov. Code, § 65852.2, subd. (e)(1)(A) and (B)).
- *Dwelling Unit Size (Single-family):* Local agencies may establish minimum and maximum unit size requirements for both attached and detached ADUs. Through an adopted ordinance, a local agency shall not establish a maximum square footage requirement for either an attached or detached ADU that is less than 850 square feet or 1,000 square feet depending on the number of bedrooms. Currently, the city's ordinance restricts the size of all ADUs to 850 square feet. The city should revise the ordinance to accommodate both the 850 square foot and 1,000 square foot ADU option. (Gov. Code, § 65852.2, subd. (c)(2)(B)(i) and (ii)).

- *Dwelling Unit Size (Multifamily)*: ADUs created on a lot with an existing multifamily dwelling are exempt from certain development standards, including dwelling unit size. As such, ADUs created on a lot with an existing multifamily dwelling are not subject to any minimum or maximum size requirement. Currently, the city's ordinance requires ADUs on a lot with an existing multifamily structure to be a minimum of 500 square feet and restricts these ADUs to 850 square feet. The city should revise this requirement and remove any minimum or maximum size for ADUs created on lots with an existing multifamily dwelling. (Gov. Code, § 65852.2, subd. (e)).
- *Number of Bedrooms*: ADU ordinances should not limit the number of bedrooms in an ADU. Limits on the number of bedrooms could have a discriminatory effect such as limiting housing choices based on familial status. Furthermore, limits on the number of bedrooms unduly burdens the development of ADUs and acts as a constraint on the development of housing. Currently, the city's ordinance restricts ADUs to one bedroom. The city should remove this limit on the number of bedrooms from the ordinance. (Gov. Code, § 65852.150, and Gov. Code, § 65852.2, subd. (c)).
- *Restricted Areas*: Local agencies may designate areas where ADUs are permitted. The designation may be based on the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety. If the local agency does not provide water or sewer services, the agency shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where ADUs may be permitted. The city is responsible for designating these areas, not the applicant; an applicant should not be required to provide evidence that adequate sewer, streets, and water are available. A requirement to do so is viewed as excessive and burdensome, having the effect of unduly constraining a homeowner's ability to create ADUs in zones in which they are authorized by a local ordinance. The city should consider alternative method to satisfy water and sewer service requirements. (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- *Minimum Street Width and Ministerial Approval*: ADUs are allowed in areas zoned to allow single-family or multifamily dwelling residential use. Additionally, the consideration and approval of ADUs shall be a ministerial process without discretionary review or a hearing. The approval of an ADU that complies with standards set in Government Code section 65852.2 shall not be subject to a conditional use permit. The city's minimum street width and conditional use permit requirements are potentially a constraint on the creation of ADUs. Unless based on health and safety issues, the city should reconsider these requirements. (Gov. Code, § 65852.2, subd. (a)(1)).
- *Efficiency Kitchen*: The definition of an efficiency kitchen is limited to a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU. Any additional specifications shall be limited to the

city's adopted building code. Currently, the city requires a food preparation counter at least 8 square feet in area and food storage cabinets that total at least 16 square feet of shelf space. These may act as constraints. The city should modify the prescribed size requirements and could consider the standards set forth in Government Code section 65852.22, subdivisions (a)(6)(A) and (B).

This date on this letter shall serve as the start of the 30-day period for the local agency to respond to the findings before HCD takes any other action authorized pursuant to Government Code section 65852, subdivision (h). The city may choose to amend the ordinance to comply with this Section or adopt the ordinance without any changes. Should the city choose to adopt without any changes, the city shall include findings in its resolution that explain the reasons the local agency finds that the ordinance complies with this section despite the findings made by HCD. Please note that failure to do either of the above may lead to a referral to the Attorney General's Office.

HCD appreciates the city's efforts in the preparation and adoption of the ordinance and welcomes the opportunity to assist the city in fully complying with ADU Law. Please feel free to contact Jose Ayala, of our staff, at (916) 263-5116 or at Jose.Ayala@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Megan Kirkeby', with a small dot at the end of the signature.

Megan Kirkeby
Deputy Director



CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

February 27, 2020

TO: Department of City Planning Staff;
Structural Plan Check Engineers and Building Inspectors;
Interested Parties

FROM: Estineh Mailian, Chief Zoning Administrator, Department of City Planning *EM*
Chad Doi, Zoning Engineer, Department of Building and Safety *CD*

SUBJECT: Implementation of 2019 Accessory Dwelling Unit (ADU) Ordinance and State ADU Law

The City's Accessory Dwelling Unit (ADU) Ordinance No. 186,481 became effective December 19, 2019. Among additional matters, it added Los Angeles Municipal Code (LAMC) Section 12.22 A.33. This new section includes local development standards and incorporates certain state law development standards and requirements for ADUs and Junior Accessory Dwelling Units (JADUs) in Government Code (GC) Sections 65852.2 and 65852.22.

The first section of this memorandum summarizes the development standards and requirements for the different types of ADUs along with JADUs permitted in the City. The second section further outlines the development standards for ADUs and JADUs required to be approved per GC Section 65852.2(e)(1) incorporated by reference into the ADU Ordinance. The third section describes additional state law provisions applicable to ADUs and JADUs but not included in the ADU Ordinance. Section four answers common questions related to implementation of the ADU Ordinance and state law.

This memorandum supersedes and replaces all documents previously issued by Los Angeles City Planning (LACP) and the Los Angeles Department of Building and Safety (LADBS) pertaining to implementation of ADU and second dwelling unit regulations, such as Zoning Administrator's Interpretations, Zoning Administrator Memorandums, Inter-Departmental memoranda, and Intra-Departmental correspondence.

I. Summary of ADU and JADU Development Standards and Requirements

ADUs are permitted through a ministerial process in all zones which allow for any type of residential use and where there is a proposed or existing dwelling unit (or units) on the Lot. JADUs are similarly permitted in single-family zones where there is a proposed or existing single-family dwelling on the Lot. Multiple ADUs may be permitted on a Lot, zoned for residential uses, and developed with an existing multifamily dwelling.

Table 1 and Table 2 on the following pages provide a summary of the key provisions found in the ADU Ordinance and state law. Table 1 summarizes key provisions applicable to detached ADUs (located in an accessory building) and Movable Tiny Houses (MTHs). Table 2 summarizes key provisions applicable to attached ADUs (physically attached to the primary dwelling) and JADUs.

The “Combinations of ADUs and JADUs” subsection that follows the tables explains when more than one ADU/JADU is allowed on the same Lot.

Table 1: Detached Accessory Dwelling Units and Movable Tiny Houses¹

| | Detached ADU Options (located in an accessory building) | | | | Movable Tiny House per Ordinance |
|--|--|---|---|---|--|
| | Conversion of Accessory Building per State Law | 800 SF max New Construction per State Law | 1,200 SF max per Ordinance | Two ADUs per State Law | |
| Required Main Use on the Lot | Existing single-family dwelling | Existing or proposed single-family dwelling | Existing or proposed single or multifamily dwelling | Existing multifamily dwelling | Existing or proposed single or multifamily dwelling |
| Applicable Code Section(s) for Listed Option | CA Govt. Code 65852.2(e)(1)(A) | CA Govt. Code 65852.2(e)(1)(B) and applicable part ² of LAMC 12.22 A.33 (c)-(d), (g) | LAMC 12.22 A.33 (c)-(d) | CA Govt. Code 65852.2(e)(1)(D) and applicable part ² of LAMC 12.22 A.33 (c)-(d), (g) | LAMC 12.22 A.33(f) and those in (c) not applied solely to buildings and structures |
| Number of ADUs Allowed by Option | 1 per Lot | 1 per Lot | 1 per Lot | up to 2 per Lot | 1 per Lot (limit of one approval per year) |
| Additional ADU/JADU Options for the Lot³ | Plus 1 JADU (in single-family zones) | Plus 1 JADU (in single-family zones) | Plus 1 JADU (in single-family zones) | Plus attached ADU(s) | Plus 1 JADU (in single-family zones) |
| Very High Fire Hazard Severity Zone/Hillside Area Restriction⁴ | No | Yes | Yes | Yes | Yes |
| ADU Size Limit | None, plus 150 SF max addition for ingress/egress | 800 SF | 1,200 SF ⁵ | None | 150 SF min to 430 SF max |
| ADU Height/Story Limit | None | 16 feet | 2 stories, plus zoning height limit if new building or addition | 16 feet (even for conversions of existing space) | 2 stories |
| ADU Minimum Side and Rear Yard Setbacks | None | 4 feet ⁶ | 4 feet if new building ⁶ or addition | 4 feet (even for conversions of existing space) | 4 feet |
| ADU Automobile Parking⁷ | None | Yes (see LAMC 12.22 A.33(c)(12)) | Yes (see LAMC 12.22 A.33(c)(12)) | Yes (see LAMC 12.22 A.33(c)(12)) | Yes (see LAMC 12.22 A.33(c)(12)) |

¹ The information shown in this table is only a summary of the key provisions for each option. Refer to the listed code section(s) for all the required development standards and regulations.

² Except for those provisions which do not allow such an ADU otherwise in compliance with all applicable provisions in Government Code Section 65852.2(e) and LAMC 12.22 A.33(g).

³ Refer to the "Combinations of ADUs and JADUs" subsection for details regarding when more than one ADU/JADU option is allowed on the same Lot.

⁴ Exceptions provided in LAMC 12.22 A.33(c)(4)(i) and (ii).

⁵ Unless limited by other applicable zoning rules such as floor area limits for the Lot, Lot coverage limits, or location of accessory building regulations; however, standards that limit floor area or Lot coverage may not preclude an ADU that is up to 800 square feet maximum, if no more than 16 feet in height and with 4 foot minimum side and rear yard setbacks per LAMC 12.22 A.33(c)(1)(iii).

⁶ No additional setbacks are required for a structure that is constructed in the same location and to the same dimensions as an existing structure per LAMC 12.22 A.33(c)(8).

⁷ One space is required for an ADU unless 1) located within ½ mile walking distance from a bus or rail stop, 2) one block from a designated car share pickup or drop off location, 3) within an applicable historic district, or 4) when an ADU is fully contained within an existing accessory structure. In addition, replacement parking is not needed when a garage, carport or parking structure is demolished in conjunction with ADU construction.

Table 2: Attached Accessory Dwelling Units and Junior Accessory Dwelling Units⁸

| | Attached ADU Options (physically attached to the primary dwelling) | | | | Junior ADU per State Law |
|---|---|--|--|--|--|
| | Attached ADU Contained in Existing SFD per State Law | Attached ADU Contained in Proposed SFD per State Law | Attached ADU per Ordinance | Multiple ADUs per State Law | |
| Required Main Use on the Lot | Existing single-family dwelling | Proposed single-family dwelling | Existing or proposed single or multifamily dwelling | Existing multifamily dwelling | Existing or proposed single-family dwelling |
| Applicable Code Section(s) for Listed Option | CA Govt. Code 65852.2(e)(1)(A) | CA Govt. Code 65852.2(e)(1)(A) ⁹ | LAMC 12.22 A.33(c) and (e) | CA Govt. Code 65852.2(e)(1)(C) | CA Govt. Code 65852.2(e)(1)(A) and 65852.22 ⁹ |
| Number of ADUs/JADUs Allowed by Option | 1 per Lot | 1 per Lot | 1 per Lot | Up to 25% of existing units in the building (1 minimum) | 1 per single-family zoned Lot |
| Additional ADU/JADU Options for the Lot¹⁰ | None | None | None | Plus up to 2 detached ADUs | Plus 1 detached ADU or 1 MTH |
| Very High Fire Hazard Severity Zone/Hillside Area Restriction¹¹ | No | No | Yes | No | No |
| ADU/JADU Size Limit | None | None | 50% of existing dwelling, or none if new building ^{12 13} | None, but only existing non-livable space can be used for ADUs | 500 SF |
| ADU/JADU Height/Story Limit | N/A | Zoning height limit | Zoning height limit if new building or addition | None | Zoning height limit if new building |
| ADU/JADU Min. Side and Rear Yard Setbacks | N/A | Zoning setbacks | 4 feet for ADU portion if new building or addition | N/A | Zoning setbacks if new building |
| ADU/JADU Automobile Parking¹⁴ | None | None | Yes (see LAMC 12.22 A.33(c)(12)) | None | None |

⁸ The information shown in this table is only a summary of the key provisions for this option. Refer to the listed code section(s) for all the required development standards and regulations.

⁹ When part of a proposed single-family dwelling, applicable development standards will apply to the entire building.

¹⁰ Refer to the "Combinations of ADUs and JADUs" subsection for details regarding when more than one ADU/JADU option is allowed on the same Lot.

¹¹ Exceptions provided in LAMC 12.22 A.33(c)(4)(i) and (ii).

¹² Unless limited by other applicable zoning rules such as floor area limits for the Lot, Lot coverage limits, or yard setbacks; however, standards that limit floor area or Lot coverage may not preclude an ADU that is up to 800 square feet maximum, if no more than 16 feet in height and with 4 foot minimum side and rear yard setbacks per LAMC 12.22 A.33(c)(1)(iii).

¹³ Except that an attached ADU with a floor area of less than 850 square feet, or less than 1,000 square feet for an attached ADU that provides for more than one bedroom, is allowed to exceed this 50% limit and any overall floor area limit for the Lot per LAMC 12.22 A.33(e)(3).

¹⁴ One space is required for an ADU unless 1) located within ½ mile walking distance from a bus or rail stop, 2) one block from a designated car share pickup or drop off location, 3) within an applicable historic district, or 4) part of a proposed or existing residence. In addition, replacement parking is not needed when a garage, carport or parking structure is demolished in conjunction with ADU construction.

Combinations of ADUs and JADUs

On single-family zoned Lots with a single-family dwelling, state law allows one JADU to be created per GC Section 65852.2(e)(1)(A). The JADU may be permitted in addition to either a detached ADU or a Movable Tiny House on the same Lot.

On Lots with an existing multifamily dwelling, up to two detached ADUs created per GC Section 65852.2(e)(1)(D) may be permitted, along with one or more ADUs created within the existing space of a multifamily dwelling described in subparagraph (C).

II. Development Standards for ADUs and JADUs Required to be Approved by Government Code Section 65852.2(e)(1)

As indicated in Tables 1 and 2 above, the ADU Ordinance contains provisions for establishing detached ADUs, attached ADUs, and MTHs and provides the required development standards for each option (see paragraphs (d), (e), and (f) respectively, of LAMC Section 12.22 A.33). The remaining options listed in the tables for detached ADUs, attached ADUs, and JADUs are incorporated by reference in the ADU Ordinance (LAMC 12.22 A.33(b)(4), (5), and (6)) but are more fully explained in state law (see subparagraphs (A), (B), (C), and (D) of GC Section 65852.2(e)(1)). The applicable standards and requirements for these state law options are presented below as a reference for implementation.

As referenced in LAMC Sections 12.22 A.33(b)(4), (5) and (6) and 12.22 A.33(g), there are four provisions for ADUs and JADUs in state law (GC 65852.2(e)(1)(A)-(D)) that provide special allowances from otherwise applicable ADU development standards. Their applicability depends on whether the ADU/JADU will be located on a Lot with a single-family or multifamily dwelling and meets the specified requirements. The ADU Ordinance includes these four state provisions by reference in LAMC 12.22 A.33(b)(4)-(6). The full relevant portions of GC 65852.2(e)(1) are copied below:

(A) One ADU or JADU per lot with a proposed or existing single-family dwelling, if all of the following apply:

- (i) The ADU or JADU 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.*
- (ii) The space has exterior access from the proposed or existing single-family dwelling.*
- (iii) The side and rear setbacks are sufficient for fire and safety.*
- (iv) The JADU complies with the requirements of Section 65852.22.*

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

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

(C)

- (i) *Multiple ADUs 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.*
- (ii) *A local agency shall allow at least one ADU within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.*

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

A. ADUs Required to be Approved by State Law

1. State Law ADUs within Single-Family and Multifamily Dwellings and Existing Accessory Buildings (Detached ADUs, Attached ADUs, and JADUs per GC 65852.2(e)(1)(A) and (C))

A JADU converted within an existing single-family dwelling described in GC 65852.2(e)(1)(A) or an ADU converted within an existing building described in either GC 65852.2(e)(1)(A) or (C) shall be approved if in compliance with all of the applicable provisions in state law. A building that includes an ADU or JADU within the space of a proposed single-family dwelling shall be subject to development standards that apply to a single-family dwelling. Both of these ADU and JADU options are referred to in LAMC 12.22 A.33(b)(4) and (5) and are exempt from the restriction in the Very High Fire Hazard Severity Zone, which is applicable to other types of ADUs.

Subparagraph (A) in GC 65852.2(e)(1) allows one ADU or JADU on a Lot if the ADU or JADU is located within a proposed or existing single-family dwelling. Alternatively, the ADU may be located within the existing space of an accessory structure, which may include an expansion not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. The 150 square foot expansion is limited to accommodating ADU ingress and egress, such as when the addition includes an entryway or window used for a code-compliant entrance or exit.

Subparagraph (C) in GC 65852.2(e)(1) allows at least one ADU on a Lot with an existing multifamily dwelling if the ADU (or ADUs) are located within the portions of the existing multifamily dwelling structure that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, recreation rooms, interior passageways, attics, basements, or garages. ADUs may be created within non-livable spaces regardless of zoning inconsistencies such as parking and open space that may result, but the number of ADUs shall not exceed 25 percent of the number of existing permitted units in the structure.

2. State Law ADUs Detached from Single-Family and Multifamily Dwellings (GC 65852.2(e)(1)(B) and (D))

Detached ADUs per subparagraphs (B) and (D) of GC Section 65852.2(e)(1) are subject to objective zoning standards, except for those provisions that do not allow an ADU outlined in these sections, as well as all of the provisions provided in Paragraph (g) (see LAMC 12.22 A.33(b)(6)). Paragraph (g) specifies that the restriction on ADUs in the Very High Fire Hazard Severity Zone applies to both of these detached ADU options.

Subparagraph (B) allows for a maximum of one detached, new construction, ADU on a Lot with a single-family dwelling if the ADU has a total floor area not exceeding 800 square feet, a maximum height of 16 feet and minimum four-foot rear and side yard setbacks. Other zoning standards, including front yard setback requirements, still apply to the ADU. However, as stated in the previous paragraph, an otherwise applicable development standard may not be applied to the extent that it precludes an ADU otherwise meeting the standards of GC Section 65852.2(e)(1)(B). For example, a Residential Floor Area (RFA) zoning limit or Historic Preservation Overlay Zone (HPOZ) standard that would normally limit an ADU to 700 square foot would be superseded to allow an ADU up to 800 square feet.

Subparagraph (D) allows for a maximum of two detached ADUs on a Lot with an existing multifamily dwelling which are subject to a height limit of 16 feet and minimum four-foot rear and side yard setbacks. As with the detached ADU option in subparagraph (B), other zoning standards apply to the extent that they do not preclude an ADU that otherwise meets the standards of GC 65852.2(e)(1)(D).

B. Junior Accessory Dwelling Units (JADUs) Required to be Approved by State Law

A JADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing single-family residence. A JADU shall comply with all of the applicable provisions in GC Sections 65852.2(e)(1)(A) and 65852.22, summarized as follows:

- A JADU shall be located on a Lot zoned for single-family residences (One-Family Dwellings) including A1, A2, RA, RE, RS, R1, RU, RZ and RW zones.
- A JADU shall be located within the walls of a proposed or existing single-family dwelling.
- One JADU is permitted per residential Lot with a single-family residence already built, or proposed to be built, on the Lot.
- A JADU shall have exterior access separate from the main entrance to the proposed or existing single-family dwelling and may have an internal connection(s) with the dwelling (including double doors or locked doors).
- A JADU shall maintain side and rear setbacks sufficient for fire and safety, as determined by LADBS.
- The single-family residence in which the JADU will be permitted must be owner occupied, unless the owner is a governmental agency, land trust, or housing organization (see definition in GC 65589.5). The owner may reside in either the remaining portion of the structure or the newly created JADU.

- The owner of the JADU shall record in the Office of the Los Angeles County Registrar-Recorder/County Clerk, as a condition of receiving a building permit for the JADU, a deed restriction that is approved by LADBS, which shall contain a reference to the deed under which the property was acquired by the owner stating (at least) that:
 - The JADU shall not be sold separately from the single-family residence;
 - The JADU shall be considered legal only so long as either the primary residence or the JADU is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or housing organization; and
 - Restricts the size and attributes of the JADU in accordance with Government Code Sections 65852.2 and 65852.22.
 - The restrictions shall run with the land and be binding upon any successor in ownership of the property.
- The JADU shall include at least an efficiency kitchen, which shall include all of the following:
 - A cooking facility with at least two appliances, including but not limited to small plug-in appliances such as a microwave and hotplate.
 - A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- No parking is required for a JADU.
- A JADU shall not be considered a separate or new “dwelling unit” for the purposes of any fire or life protection ordinance or regulation, or for providing service for water, sewer, or power, including a connection fee.
- Regulations that apply to a single-family residence that contains a JADU may be applied to the structure, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a JADU.

III. Additional State Law Provisions Applicable to ADUs and JADUs

State law includes additional ADU provisions that do not impact planning or zoning related development standards and therefore were not included in the City’s ADU ordinance. For reference, the following is a summary of some important changes:

A. Common Interest Developments (CIDs)

Assembly Bill (AB) 670 (2019) prohibits common interest developments (CIDs) from prohibiting or unreasonably restricting the construction of an ADU or JADU. CIDs include condominiums, planned unit developments, stock cooperatives and community apartments. Homeowner associations may impose reasonable restrictions on construction of ADUs or JADUs, provided they do not unreasonably increase the cost to construct, or effectively prohibit the construction of an ADU or JADU consistent with existing law regarding ADUs and JADUs (Civil Code Section 4751).

B. Owner Occupancy

Senate Bill (SB) 13 (2019) removes, until January 1, 2025, authority for local agencies to require owner-occupancy of the ADU or the primary dwelling. JADUs, on the other hand, are required to file a deed restriction to document owner occupancy for the primary residence or JADU.

C. Onsite Water Treatment Systems

AB 68 (2019) addresses ADUs connected to an onsite water treatment system, including that a local agency may require a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

D. Impact Fees

SB 13 (2019) removes “impact fees” for ADUs (and JADUs) smaller than 750 square feet and reduces them for ADUs 750 feet or larger to a proportional rate in relation to the square footage of the primary dwelling unit, or average dwelling unit. An impact fee has the same meaning as the term “fee” is defined in subdivision (b) of Government Code Section 66000, except that it also includes parks 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. The following impact fees are affected by this change: LAUSD School District Fee, Residential Development Fee (LAMC 21.13.3) and Dwelling Unit Construction Tax (LAMC 21.10.3). ADUs and JADUs are exempt from Park Fees (LAMC 12.33) and the Affordable Housing Linkage Fee (LAMC 19.18).

E. Connection Fees

State law also revised the basis for calculating any applicable connection fee or capacity charge so that it shall be “proportionate to the burden of the proposed ADU” 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.

F. Enforcement

SB 13 (2019) established a new requirement that local enforcement agencies (LADBS and HCIDLA), when issuing a notice to correct (Order to Comply) for a ADU that is in violation of any provision of any building standard¹⁵, include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to Section 17980.12 of the Health and Safety Code. If an owner requests delay, then the enforcement agency shall delay enforcement of building standards (subject to compliance with 17980.12). This section applies to ADUs meeting the following criteria:

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

¹⁵ 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 was built on or after January 1, 2020, in a local jurisdiction that, at the time the ADU was built, had a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made.

IV. Common Questions Related to Implementation of the ADU Ordinance and State Law

This section answers common questions related to implementation of the ADU Ordinance and state law. Italicized terms refer to terms used in LAMC 12.22 A.33 and state law.

Q.1 What is a *dwelling*, *primary dwelling*, or *primary residence*?

- A. For the purpose of implementing LAMC 12.22 A.33, *dwelling*, *primary dwelling*, or *primary residence* mean any single-family or multifamily dwelling (see Q.2).

Q.2 What is a *single-family* and *multifamily dwelling or use*?

- A. A *single-family dwelling or use* means a Dwelling, One-Family. A *multifamily dwelling or use* means any Structure with more than one Dwelling Unit or Guest Room, and used for long-term dwelling. Transient short-term rental uses established or used for less than 30 days are not considered dwellings for the purpose of implementing LAMC 12.22 A.33. Areas zoned for these uses means zones in which these uses are a permitted use in the respective zone classification.

Q.3 How are *square footage*, *square-feet* and *size* calculated?

- A. *Square footage*, *square-feet* and *size* are used in the ADU Ordinance to refer to various direct ADU size regulations (such as the 1,200 square foot limitation). These terms refer to the definition of Floor Area in LAMC 12.03, but does not include the definition of Residential Floor Area (RFA), nor does it include any non-conditioned spaces such as porches, patios or breezeways with solid or lattice roofs. Physically connected spaces that are conditioned but do not have an interior connection to the ADU are also not counted as ADU square footage. This definition does not apply to a Movable Tiny House (MTH), which is subject to distinct size provisions as described in the definition of a MTH.

Indirect limits on ADU size through other zoning provisions such as Floor Area Ratio (including RFA in the R1, RE, RS and RA zones) or lot coverage may apply separately which may further limit allowable ADU square footage. Refer to LAMC 12.22 A.33(b) for more information on applicable development standards.

Q.4 What is *living area* as referenced in LAMC Section 12.22 A.33(c)(8)?

- A. *Living area* is defined in state ADU law as “the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.”

Q.5 How is height measured for an ADU?

- A. Height of an ADU is generally measured as any other structure would be measured under the LAMC, given the governing height limit standards in the applicable zone, Height District, Hillside

Area, Specific Plan area, or other Overlay. For the purposes of applying the 16 feet maximum height standard as required by state law (referenced in LAMC Section 12.22 A.33(c)(1)(iii), (g)(1), and GC Section 65852.2(e)(1)(D)), height shall be measured according to the standard Zoning Code definition of Height of Building or Structure in LAMC Section 12.03.

Q.6 For the purpose of assessing a per-unit impact fee to an ADU that is 750 square feet or larger on a Lot with an existing single-family dwelling, how is the square footage of the single-family dwelling determined?

- A. Los Angeles County Tax Assessor's records may be used to establish the square footage of the single-family dwelling for the purpose of calculating the required impact fee for the ADU.

Q.7 For the purposes of assessing a per-unit impact fee to an ADU that is 750 square feet or larger on a Lot with a multifamily dwelling structure, how is the square footage of the primary residence determined?

- A. The fee must be proportional to the average size of all dwelling units on the Lot. Floor plans showing the sizes of all units may be required to make this determination. An applicant may choose to pay the full fee in lieu of providing these plans.

Q.8 Does the presence of a JADU change the designation of a One-Family Dwelling Unit? How is a JADU reported?

- A. A JADU shall be identified as a JADU on Building Permits, Certificate of Occupancy and other pertinent City records. The addition of a JADU changes the designation of the One-Family Dwelling to a One-Family Dwelling and JADU. For purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate or new dwelling unit per GC 65852.22(d). However, JADUs may be counted as housing units in reports to the Department of Finance as well as for the Regional Housing Needs Assessment (RHNA) and other housing unit reporting.

Q.9 What is the minimum size of an *efficiency unit* as referenced in LAMC Section 12.22 A.33(c)(1)(ii), and what is the applicability of this provision?

- A. The minimum size of an efficiency unit is 220 square feet, plus a code compliant closet and bathroom; however, the Ordinance does not specify any minimum square footage requirements for an ADU or JADU, except for Movable Tiny Houses (MTHs). This provision refers to any other current or future zoning ordinances that would prohibit an efficiency unit ADU.

Q.10 What is *car share* as referenced in LAMC Section 12.22 A.33(c)(12)(i)(b)?

- A. *Car share* means a vehicle rental program designed for people to rent vehicles for short periods of time, such as a few hours, pay only for their usage, and access the car at any hour, not just during business hours. The vehicles may be commercially or personally owned. Commercial car share companies generally offer a fleet of vehicles which may be picked up and returned to a designated parking spot, or are picked up and returned to non-designated parking spots. Personal vehicle sharing (peer-to-peer car sharing) allows private car owners to make their vehicles available for rental. Some car share companies operating in Los Angeles include, but are not

limited to: BlueLA, Zipcar, Ryde, Waive, Getaround, Transfr, PiTcarz, Maeve, Turo, Envoy, and Animo. For the purposes of determining the applicability of this parking exemption, pick-up and drop-off locations are provided by the ADU applicant and verified online. If LADBS staff has questions on information an applicant supplies to demonstrate a car share program or location, they should consult with the Department of Transportation.

Q.11 What is a *mixed-use zone* per Paragraph (g) of LAMC Section 12.22 A.33?

- A. *Mixed-use zone* refers to any zone classification that allows for both residential and non-residential uses on the same Lot.

Q.12 How is *walking distance* calculated per LAMC Section 12.22.A 33(c)(12)(i)(a)?

- A. *Walking distance* is measured by the shortest distance that can be traveled by walking on public streets and sidewalks from a transit stop to the closest point on the subject Lot, as determined by generally available mapping systems, such as Google Maps.

Q.13 Determination of when a garage, carport, or covered parking structure is demolished *in conjunction with the construction of an ADU or JADU* for the purposes of determining when no parking is required for an ADU (LAMC Section 12.22 A.33(c)(12)(iii)).

- A. For the purpose of this provision, *in conjunction* means when a building permit application to remove covered parking and a building permit application for the construction of an ADU on the same Lot are submitted at the same time, or where one building permit application is submitted while the other building permit application or building permit is still open and valid.

Q.14 Determination of when requirements for a passageway or space between buildings are considered *in conjunction with the construction of an ADU* (LAMC Section 12.22 A.33(c)(7)).

- A. The defined passageway and space between buildings regulation does not apply to the ADU or any residential building on the same Lot during the approval or construction of an ADU, whether through a zoning review, building permit plan check or inspection.

In the event that new (non-ADU) structures or additions to structures are constructed on the site subsequent to the creation of the ADU, any applicable regulations pertaining to passageways or space between buildings would apply to the new structure or addition, consistent with the Zoning Code standards in place at the time that the plan check fee for the structure or addition is paid in accordance with LAMC 12.26 A.3.

Q.15 When is automobile parking required for an ADU *which is part of the proposed or existing primary residency or an accessory structure* (LAMC Section 12.22 A.33(c)(12)(i)d)?

- A. Automobile parking is not required for ADUs created within an existing or proposed main home or an existing accessory structure. ADU parking may be required if the ADU exceeds the existing square footage of an existing main home (primary residence) or accessory structure, as well as for a newly constructed detached ADU. Other parking waivers in LAMC Section 12.22 A.33(c)(12)(i) may also apply.

Q.16 May an ADU be created on a Lot that is a substandard Lot (for instance, due to an illegal Lot split in the past)?

- A. State law allows a local ADU ordinance to establish certain ADU development standards. However, these standards shall not include minimum lot size (see GC Section 65852.2(a)(1)(B)(i)). Therefore, a minimum Lot size requirement for a given zone classification shall not be the basis of a denial of a new ADU.

Q.17 What general development standards from LAMC Section 12.22 A.33(c) apply to Movable Tiny Houses (MTHs)?

- A. LAMC 12.22 A.33(b)(3) states that a MTH shall be approved if in compliance with all of the provisions in Paragraph (c), except for those provisions that apply solely to buildings and structures (as well as all of the provisions in Paragraph (f)). This is because MTHs are not considered “structures” under the Zoning Code or Building Code. The following standards in LAMC 12.22 A.33(c) do not apply to MTHs, as they apply solely to buildings and structures (LADBS may determine that other standards do not apply to MTHs):

- Building Code regulations (LAMC Section 12.22 A.33(c)(9))
- Fire sprinkler requirements (LAMC Section 12.22 A.33(c)(10))

Q.18 Does the density calculation described in LAMC Section 12.22 A.33(h)(2) only apply to dwelling unit calculations?

- A. No, this provision applies if either additional dwelling units or guest rooms are added to a lot after the creation of the ADU or JADU.

Q.19 What regulations apply when an existing ADU or JADU is later proposed to be converted to another use?

- A. The proposed conversion will be subject to all zoning code and fire sprinkler regulations in place at the time of the proposed change of use. If the ADU or JADU was constructed within an existing building, non-conforming rights from the building and use that existed prior to the ADU or JADU may be considered at the discretion of LADBS.

Q.20 Can there be other residential uses on the Lot besides the proposed or existing dwelling mentioned in LAMC 12.22 A.33(c)(6)?

- A. Yes, the Lot may contain any other residential use(s), in addition to the non-residential uses and accessory residential uses mentioned in 12.22 A.33(c)(6)

Q.21 Can an ADU request a Zone Variance from the provisions in 12.22 A.33?

- A. No, the LAMC does not permit deviations from development standards provided in LAMC 12.22 A.33 (Exceptions) because these provisions are already exceptions from the Code; however, an

ADU may request the appropriate entitlement(s) to deviate from development standards provided in other sections of the Code that are not specifically defined in LAMC 12.22 A.33.

Q.22 How does vesting apply to projects that submitted prior to the ADU Ordinance?

- A. Projects that have paid a plan check fee and had their plans accepted by LADBS prior to the effective date of the ADU Ordinance (December 19, 2019) are provided a vested right to proceed with its development in compliance with the development rules and regulations in force on the date that the plan check fee was paid. Applicants that wish for their projects to take advantage of new provisions in the ADU Ordinance (and state law) will need to file a supplemental permit application, which will void the vesting rights under the prior development rules and subject the project to the new ADU Ordinance and any other new regulations.