



# County of Santa Cruz

## Department of Community Development and Infrastructure

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**Agenda Date: May 14, 2025**

Planning Commission  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**Subject: Public Hearing to Review and Provide Recommendation to Board of Supervisors Regarding Proposed Amendments to County Code for Accessory Dwelling Units, and CEQA Notice of Exemption. Amendments to County Code Chapter 13.10 are Coastal Implementing and will require Coastal Commission certification after County Adoption.**

### **RECOMMENDED ACTIONS:**

- 1) Conduct a public hearing to review proposed amendments to the Santa Cruz County Code (SCCC) that would modify regulations related to Accessory Dwelling Units (ADUs), with associated CEQA Notice of Exemption, and
- 2) Adopt the attached resolution (Exhibit A), recommending that the Board of Supervisors:
  - a. Direct staff to file the California Environmental Quality Act (CEQA) Notice of Exemption (Exhibit B) with the Clerk of the Board; and
  - b. Adopt the ordinance (Exhibit C) modifying County Code regarding Accessory Dwelling Units.

### **EXECUTIVE SUMMARY**

Updates to the SCCC are proposed for the purpose of aligning the ADU regulations with recent updates to state law, resolving points of confusion in existing ADU regulations, further streamlining ADU development in Santa Cruz County, aligning with the ADU Handbook released by the California Department of Housing and Community Development (HCD) and addressing HCD's comments. A proposed ordinance is presented for Commission recommendation to the Board of Supervisors.

### **BACKGROUND**

The County's ADU regulations have been in place for many years and were most recently updated in October 2021, in response to state laws passed in 2019 and 2020. More recently, additional state ADU laws have been enacted that require amendments to local ADU regulations. HCD developed an "ADU Handbook" (Exhibit F) that clarifies and interprets the provisions of state ADU law and released an updated version in 2025. In addition, there are some aspects of the County's ADU regulations that could be updated to resolve points of confusion for staff and applicants.

The intent of state ADU law is to remove barriers to ADU construction. County Code may be more lenient but may not be more restrictive than state law in terms of allowing for ADU construction. For topics that are not covered by state law, the County has flexibility as to what ADU regulations to impose, although it may be desirable to align County regulations with the overall intent of state law. In the Coastal Zone, ADU regulations must be balanced with provisions of the California Coastal Act.

On October 23, 2024, the Planning Commission held a public hearing on this item and took action to recommend the Board of Supervisors adopt the proposed Ordinance amending the ADU regulations. The Board of Supervisors public hearing was originally scheduled for January 14, 2025, and deferred to on or before June 24, 2025, with the expectation of further aligning the County's ADU regulations with recent changes to state ADU law as interpreted in the updated ADU Handbook published in January 2025 and consultations with HCD staff.

The County is required to submit a copy of an adopted ADU ordinance to HCD for a determination as to whether the ordinance complies with state ADU law. Prior to final adoption, HCD will review and comment on draft ordinances prior to adoption by a local jurisdiction and County staff pursued this option in an effort to ensure HCD finds the adopted ordinance in compliance with state law. Based on the consultations with HCD staff and review of the updated ADU Handbook, County staff determined additional changes to the ordinance are necessary compared to the version reviewed by the Planning Commission in October 2024. Because the changes are substantial, another public hearing before the Planning Commission is needed before the proposed amendments can be presented to the Board of Supervisors.

## **ANALYSIS**

The proposed ordinance is presented in Exhibit C (clean) and Exhibit D (track changes) and this analysis provides a detailed account of the changes including changes presented to the Planning Commission in October 2024 and more recent proposed changes.

### Cross References

Pursuant to Senate Bill (SB) 477, state laws for ADUs and Junior ADUs (JADUs) were relocated and consolidated in a different section of the Government Code. Cross references to the state law in the County Code have been updated accordingly. In addition, as a result of the Sustainability Update and Code modernization project some internal cross references within the ADU regulations to other sections of the County Code have changed and these cross references have been updated.

### Use Charts 13.10.312, 13.10.352, & 13.10.372

The Use Charts would be updated to clarify permit requirements and references.

### Definition of ADU 13.10.681(B)(1) & 13.10.700-A

The definition of an ADU in both sections of the County Code, the ADU regulations and the Definitions section would be updated for internal consistency.

HCD clarified that a tiny home on wheels (THOW) does not meet the definition of an ADU because it is not a permanent structure. Therefore, the reference to a THOW is deleted from the definition of an ADU in the Ordinance. This only impacts their use as ADUs, however. The County has a separate THOW ordinance that contains provisions for permitting and occupancy of THOWs single-family dwellings which is unaffected by this change to the ADU ordinance.

Junior ADU Cooking Facilities 13.10.681(B)(2) & 13.10.700-J

The definition of a JADU in both sections of the County Code, the ADU regulations and the Definitions section would be updated for internal consistency. State law provides a general definition for cooking facilities in a JADU. Updates to the County Code would provide greater consistency with state law by deleting the reference to the detailed definition of an efficiency kitchen and replacing it with the definition from state law. This would also be consistent with actual practice, which is to allow flexibility in what types of kitchen facilities are provided in a JADU. In addition, JADUs must be entirely within the existing or proposed single-family dwelling

Conversion ADU 13.10.681(B)(4)

A new state law SB 2533 and reflected in SCCC 13.10.681(K) is meant to address the permitting of unpermitted ADUs constructed prior to January 1, 2020. Therefore, the language in this section is revised to refer to unpermitted structures constructed after that date. All such structures, whenever constructed, would be subject to inspection to ensure that the structure can be permitted to meet habitation standards.

Presence of Primary Dwelling Unit 13.10.681(D)(2)

To address the situation of an unpermitted primary dwelling unit, language is added to this section allowing an unpermitted primary dwelling and the ADU/JADU to be permitted concurrently.

Number of ADUs allowed 13.10.681(D)(3)(a) & (b)

Revised language in these sections would clarify that under state law, ADU allowances are per lot not per single-family dwelling. Revised language would provide the correct and simplified definition of multifamily dwelling for purposes of the ADU regulations. Revised language would use the term livable space which is defined differently compared to living space and is consistent with the language in state ADU law.

The updated ADU Handbook reinterprets state ADU law regarding the number of ADUs allowed. The new interpretation of Government Code 66323 would allow one conversion ADU, one JADU and one attached or detached ADU, or up to three ADUs on a lot with an existing or proposed single-family dwelling. The County's ordinance currently allows one ADU (conversion, attached, or detached) and one JADU or up to two ADUs on a lot. Revisions to the County ADU regulations would reflect this new interpretation in the current version of the ADU Handbook.

A new state law (SB 1211) changed and clarified the number of ADUs allowed on multifamily dwelling parcels. The law clarified that on parcels with proposed multifamily dwellings, up to two detached ADUs are allowed. On parcels with existing multifamily dwellings, the number of detached ADUs allowed was increased from two to not more than eight detached ADUs or not more than the existing number of multifamily units, whichever is less. Revisions to the County ADU regulations would reflect these new provisions in state law.

ADU Location 13.10.681(D)(4)(a)

The language in this section is revised to be consistent with state ADU law by clarifying JADUs must be within the walls of the primary single-family dwelling.

Access 13.10.681(D)(5)(a)

Language in this section is revised to be consistent with a new state law (SB 897) that clarifies that a JADU that does not include a separate bathroom must have a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

ADU Size 13.10.681(D)(6)(c)(ii)

According to the ADU Handbook, local agencies may utilize a percentage (e.g., not greater than 50 percent) of the existing primary dwelling as a maximum unit size for attached ADUs, but only if it does not restrict an ADU's size to less than 850 square feet, or 1,000 square feet for ADUs with more than one bedroom. The existing language in the County's ADU regulations based on percentage could potentially limit the size of an ADU to less than 850 or 1,000 square feet depending on the size of the existing single-family dwelling. Revised language is proposed to refer to the larger of the percentage or the minimum square feet allowance.

Conversion ADU Setbacks 13.10.681(D)(7)(a)(i)(A)

Language is added to this section to make it more consistent with state ADU law, which requires setbacks shall be sufficient for fire and safety in addition to meeting the basic setbacks that would apply to a new construction ADU.

Title 16 Setbacks 13.10.681(D)(7)(a)(i)(B), 13.10.681(D)(7)(a)(ii)(B) & 13.10.681(D)(7)(a)(ii)(C)

Based on the ADU Handbook, application of the County's environmental and resource protection setbacks (County Code Title 16) for ADUs must be based on objective standards. The County's Title 16 setbacks that would typically apply to an ADU include riparian setbacks, agricultural buffer setbacks, and a limitation on disturbed area for certain lots in Sandhills, which is habitat for several plant and insect species federally listed as endangered. These setback requirements are necessary not only for environmental and resource protection but, in the case of riparian and agricultural buffer setbacks, they provide important public health and safety protections. Riparian setbacks also provide protection from flooding and erosion impacts and agricultural buffer setbacks provide protection from sounds, odors, dust, and hazardous chemicals associated with agricultural operations. These are examples of Title 16 setback requirements that represent objective standards and the language in the County's ADU would be revised to clarify that only the objective standards in Title 16 can be applied to ADUs.

ADU Setbacks 13.10.681(D)(7)(a)(ii)(A)

The language in this section is revised because state ADU law prohibits requiring side and rear setbacks of more than 4 feet.

Front Setback 13.10.681(D)(7)(a)(ii)(E)

A new state law (SB 1211) eliminates the requirement for a front setback for an ADU if it would preclude the construction of an ADU no more than 800 square feet and adheres to other setback requirements. HCD has further interpreted this to mean that jurisdictions can impose a front setback but must allow an ADU of 800 square feet or fewer in the front setback, regardless of whether such an ADU could exist somewhere else on the lot. The County's ADU regulations would be revised to reflect this new state law.

ADU Separation 13.10.681(D)(7)(a)(iii)

Language in this section is revised to eliminate the reference to minimum 3-foot separate distance between the ADU and other structure and refer to separation requirements in the Building and Fire Codes.

Height 13.10.681(D)(7)(b)(ii)(F) & (G)

A new state law (SB 897) added new provisions related to the height of ADUs. Inside the Urban Services Line (USL) a new construction detached ADU that is within ½ mile of a high-quality transit corridor can be up to 18 feet with an additional two feet allowed if the roof pitch aligns with the primary unit. A high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. Such corridors

existing along Soquel Drive in the mid-county area and along Freedom Boulevard in the Watsonville area and they are mapped on the County GISWeb. The height of a detached ADU associated with a multifamily dwelling can be up to 18 feet.

Lot Coverage 13.10.681(D)(7)(c)(i)

Language in this section is revised to clarify that all ADUs, attached or detached, not exceeding 800 sq ft are exempt from lot coverage and FAR. The references to JADUs is removed because JADUs are located entirely within the existing or proposed single-family dwelling.

Parking 13.10.681(D)(7)(d)(ii)

According to the ADU Handbook, state law exempts ADUs no more than 800 square feet from the requirement to provide one parking space. This section of the County ADU regulations would be revised to include this additional exemption. Other provisions of state ADU law require one parking space per ADU or per bedroom, whichever is less, and this is reflected in the County's ordinance.

Parking 13.10.681(D)(7)(d)(ii)(B)

The County's ordinance repeats state ADU law in that parking is allowed in setback areas unless findings are made that parking in setback areas is not feasible based upon specific site or regional topographical and/or fire and life safety conditions. This section would be revised to clarify that only objective standards can be used to make the required findings.

Parking 13.10.681(D)(7)(d)(ii)(D)

Language is added to this section clarifying that the parking exemption under certain circumstances applies to an ADU on site with an existing single-family or multi-family dwelling or to an ADU permit application submitted with an application for a single-family or multi-family dwelling.

Parking 13.10.681(D)(7)(d)(iv)

For consistency with SB 1211, a minor clarification is proposed to the replacement parking provision to make clear that uncovered surface parking does not have to be replaced when it is converted for construction of an ADU.

Existing Conditions of Approval 13.10.681(D)(8)

Language in this section is modified to clarify that ADU regulations supersede any conflicting conditions of approval related to a conversion ADU

Other Accessory Uses 13.10.681(D)(9)(a)

The language restricting the number of ADUs on a lot with farmworker housing is deleted because there is no basis in state ADU law for restricting the number of ADUs that would normally be allowed on a parcel.

Utility, Infrastructure, and Service Requirements 13.10.681(D)(10)(a)(ii)

A new state law (SB 897) does not allow the construction of an ADU to trigger a requirement for fire sprinklers in the existing primary dwelling. However, as noted above, pursuant to the Fire Code and County staff's interpretation of state ADU law, sprinklers are required if an attached ADU exceeds 50 percent of the existing primary dwelling square footage.

Utility, Infrastructure, and Service Requirements 13.10.681(D)(10)(a)(iii)

Language in this section is modified to delete reference to an internal connection from the JADU to the single-family dwelling. State ADU law does not require an internal connection for the

JADU to not be considered a separate or new dwelling.

Utility, Infrastructure, and Service Requirements 13.10.681(D)(10)(a)(iv)

Language in this section is modified to clarify that while JADUs may have an internal connection, attached ADUs cannot have an internal connection to the single-family dwelling because they are complete independent living facilities.

Utility, Infrastructure, and Service Requirements 13.10.681(D)(10)(a)(v)

SB 897 also prevents the construction of an ADU from triggering a change of occupancy classification unless the Building Official makes specific findings that a change of occupancy classification is necessary to address an impact on health and safety. In some cases, the construction of dwelling units on a property can trigger a change of occupancy classification under the building and fire codes, which also triggers enhanced building code requirements and additional requirements for inspections. This was seen as a potential barrier to ADU construction prompting the enactment of this particular state law. Corresponding language is added to the County's ADU regulations.

Utility, Infrastructure, and Service Requirements 13.10.681(D)(10)(b)(i)

Language in this section is modified to clarify that JADUs are not subject to requirements for separate utility connections or capacity charges but are only subject to service and connection fees that apply to the single-family dwelling.

Nonconforming Conditions 13.10.681(E)(1)

As a result of a new state law (SB 897), this subsection was clarified to add County Code violations and unpermitted structures to the list of conditions that cannot be required to be corrected as a condition of ADU or JADU approval unless they present a threat to public health and safety and are affected by the construction of the ADU.

Nonconforming Conditions 13.10.681(E)(1)

This section is an example of the interaction of state ADU law and the Coastal Act in that nothing in state ADU law shall be construed to supersede or in any way alter or lessen the effect or application of the Coast Act the applies within the Coastal Zone of the County except that the County cannot require local public hearings for coastal development permit applications for ADUs.

Design 13.10.681(F)(1)(f)

Language in this section is modified to provide a more objective standard for fence height to screen an ADU by specifying the fence height shall be the maximum height allowed without a permit.

Design 13.10.681(F)(3)

This section was added to clarify the allowance in state ADU law for a certain type of ADU that is not subject to architectural review and historic preservation standards.

Occupancy 13.10.681(G)(3)

Language in this section is modified to clarify that state ADU law does not restrict a JADU from short term rental occupancy and provide a reference to the County's short term rental program.

Occupancy 13.10.681(G)(4)

A new state law (SB 976) removed the owner-occupancy requirement for ADUs (not JADUs). Therefore, references to ADUs are deleted from this section.

Application Processing 13.10.681(H)(1)(a)(i)

This section is amended to clarify the processing of applications for ADUs in the Coastal Zone. If a Coastal Development Permit (CDP) is required, the procedure for a combined building permit and CDP with no public hearing is outlined in SCCC 13.20.107 and .108. In addition to the required findings for the CDP, special findings are also required if the ADU is located in the Commercial Agriculture (CA), Parks and Recreation (PR), or Timber Production (TP) zone districts. The use charts for those zone districts are also proposed to be amended to clarify permit processing level and code references for ADUs and JADUs.

Unpermitted ADUs 13.10.681(K)

A new state law (SB 2533) addresses ADUs constructed prior to 2020 without permits. A local agency cannot deny an application for a permit for such an ADU or JADU due to either a building or fire code violation or noncompliance with local ADU laws. However, the local agency may deny the application based on a finding that correcting the violation is necessary to correct a condition that would qualify the structure as a substandard building pursuant to the State Health and Safety Code. This provision would not apply to a substandard structure that cannot be brought into compliance with state housing laws through correcting specific conditions and the entire structure is deemed substandard.

13.10.681(L)

Language in this section is modified to reflect actual practice. For many years, the General Plan Annual Report has included an analysis of the impacts of ADU construction in the County, and those reports are reviewed by both the Planning Commission and the Board of Supervisors. Thus far, no significant impacts have been noted on traffic, water, public views, or environmentally sensitive habitat areas. Because the General Plan Annual Report is not submitted to the Coastal Commission for review, reference to such a review is deleted.

AB 1033

Existing law prohibits an ADU from being sold or otherwise conveyed separate from the primary residence, except to a qualified buyer if certain conditions are met, including that the property was built or developed by a qualified nonprofit corporation and that the property is held pursuant to a recorded tenancy in common agreement that meets specified requirements. This law, enacted in 2023, authorizes local agencies to allow ADUs to be sold separately or conveyed from the primary residence as a condominium. The process to establish the condominiums must comply with both the Davis-Stirling Common Interest Development Act, which governs homeowners associations (HOAs), and the Subdivision Map Act, which governs the subdivision of property. Any lienholder must consent to the establishment of the condominiums and any existing homeowners association, that homeowners association must approve the creation of the condominium. The Board of Supervisors has directed the Housing Advisory Commission to review the option provided by AB 1033 and report back with recommendations no later than August 19, 2025.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Amendments to the County's ADU regulations that are consistent with state law are exempt from California Environmental Quality Act (CEQA) review per CEQA §15282(h): "adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code." Note that Assembly Bill 477 approved by the Governor in March 2024 made organizational changes to the state ADU regulations,

relocating the regulations to Government Code Sections 66310 through 66339. Further, Assembly Bill 3057, approved by the Governor in August 2024, expands this CEQA exemption to include the adoption of the ordinance regarding JADUs.

A notice of exemption has been prepared (Exhibit B).

### **GENERAL PLAN AND LOCAL COASTAL PROGRAM CONSISTENCY**

The ADU regulations and the proposed amendments are consistent with and implement the goals and policies of the Housing Element of the General Plan. Policies and programs in the Housing Element encourage and support the development of ADUs in accordance with state law. The proposed amendments will further align local ADU regulations with state ADU law.

The proposed amendments will require a Local Coastal Program Amendment because SCCC Chapter 13.10 are implementing ordinances of the Santa Cruz County Local Coastal Program. After Board of Supervisors approval, the proposed ordinance will be reviewed at a Coastal Commission public hearing and will become active after certification by the California Coastal Commission.

State ADU law does not supersede or in any way alter or lessen the effect or application of the Coastal Act. Therefore, local agencies may enact different ADU rules in the Coastal Zone from what is required by state law if it can be demonstrated that the statewide rules will have a negative impact on application of the Coastal Act. For this reason, the existing ADU regulations include provisions to retain some off-street ADU parking in coastal access visitor hot spots, for example. In addition, state ADU law does not require the County to hold a public hearing for coastal development permit (CDP) applications for ADUs. However, SCCC 13.20 Coastal Zone Regulations includes provisions for processing CDPs for ADUs with a streamlined process that provides for public notice but no public hearing.

The County's ADU regulations have previously been found to be in conformity with and adequate to carry out the certified land use plan (LCP). Because the proposed amendments would further align the County ADU regulations with state law and make other clarifying changes without altering or lessening the effect or application of the Coastal Act, the proposed amendments can be found to be in conformity with the certified LCP.

### **STRATEGIC PLAN**

The proposed amendments advance the County Strategic Plan's "Affordable Housing" and "Local Inventory" goals within the "Attainable Housing" focus area by further streamlining the approval process and development standards related to ADUs. These housing units are often affordable by design to renters due to their small size, and the income generated by ADUs and JADUs enable property owners to remain in Santa Cruz County amid increasing housing costs.

Submitted by:

David Carlson  
Resource Planner

Reviewed by:

Mark Connolly  
Principal Planner  
Policy Section



Exhibits:

- A: Resolution
- B: CEQA Notice of Exemption
- C: Ordinance amending Chapter 13.10 SCCC
- D: Ordinance Chapter 13.10 edits (strikeout-underline)
- E: HCD Flyover Review
- F: ADU Handbook (Link: [2025 ADU Handbook](#))
- G: Government Code 66314 through 66342
- H: Correspondence

BEFORE THE PLANNING COMMISSION  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. \_\_\_\_\_

On the motion of Commissioner  
duly seconded by Commissioner  
the following Resolution is adopted:

**RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY  
OF SANTA CRUZ RECOMMENDING ADOPTION OF PROPOSED  
AMENDMENTS TO SANTA CRUZ COUNTY CODE AMENDING  
SECTIONS 13.10.312, 13.10.352, 13.10.372, 13.10.681, AND 13.10.700  
REGARDING ACCESSORY DWELLING UNITS, AND  
RECOMMENDING THE FILING OF A CEQA NOTICE OF EXEMPTION**

WHEREAS, the County of Santa Cruz (“County”) has maintained an accessory dwelling unit (“ADU”) ordinance since 1983; and

WHEREAS, in 2020 and 2021, the Santa Cruz County Code (“County Code” or “SCCC”) was amended to comply with state ADU regulations contained in California Government Code Sections 66310 through 66339 (formerly Government Code Sections 65852.2, 65852.22, 65852.23, 65852.150) and Health and Safety Code Section 17980.12; and

WHEREAS, in September 2020, the California Department of Housing and Community Development released the ADU Handbook, which was update in July 2022, and again in January 2025 and which provided interpretations and clarifications to the state ADU regulations; and

WHEREAS, in September 2022 Governor Newsom signed AB 2221 and SB 897, which took effect on January 1, 2023;

WHEREAS, in October 2023 Governor Newsom signed AB 976, which took effect on January 1, 2024;

WHEREAS, in May 2024 Governor Newsom signed SB 477, which makes organizational changes to the state ADU regulations, relocating the regulations to Government Code Sections 66310 through 66339;

WHEREAS, in September 2024 Governor Newsom signed four more ADU bills (AB 2533, Ab 3057, SB 1211, and SB 1077), that will each take effect on January 1, 2025;

WHEREAS, the County wishes to amend SCCC 13.10 to comply with the ADU Handbook and updated state ADU regulations, and resolve points of confusion in the existing County Code; and

WHEREAS, SCCC 13.10 is a Local Coastal Program implementing ordinance; and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 14, 2025, and has reviewed the County's proposed County Code amendments and finds that they are necessary to implement the State's updated ADU regulations, are consistent with all elements of the General Plan/Local Coastal Program, and comply with the California Coastal Act; and

WHEREAS, the proposed County Code amendments are exempt from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 because they serve to implement state ADU and JADU regulations and CEQA Guidelines Section 15061(b)(3) because the amendments present no possibility of a significant impact on the environment;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the Board of Supervisors adopt the proposed amendments to the Santa Cruz County Code as presented on this date.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors confirm that a Notice of Exemption is appropriate under CEQA.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2025 by the following vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSENT: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:

\_\_\_\_\_  
Chairperson

ATTEST: \_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

Signed by:  
  
\_\_\_\_\_  
D52DG6AA0E74498...  
OFFICE OF THE COUNTY COUNSEL

cc: County Counsel  
Community Development and Infrastructure Department



## County of Santa Cruz

### Department of Community Development and Infrastructure

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Matt Machado –Deputy CAO, Director of Community Development & Infrastructure

### NOTICE OF EXEMPTION

**To:** Clerk of the Board  
701 Ocean Street, Room 500  
Santa Cruz, CA 95060

**Project Name:** Accessory Dwelling Unit Regulations Update

**Project Location:** Countywide

**Assessor Parcel No.:** N/A

**Project Applicant:** County of Santa Cruz Planning Department

**Project Description:** The project updates the Santa Cruz County Code for Accessory Dwelling Units to comply with California state laws and remove areas of confusion in the County regulations.

**Agency Approving Project:** County of Santa Cruz Board of Supervisors

**County Contact:** David Carlson

**Telephone No.** 831-454-3173

**Date Completed:** [Date]

This is to advise that the County of Santa Cruz Board of Supervisors has approved the above described project on \_\_\_\_\_ (date) and found the project to be exempt from CEQA under the following criteria:

Exempt status: (*check one*)

- ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
- ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- ☐ The proposed activity is exempt from CEQA as specified under CEQA Guidelines Section 15061(b)(3).
- ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.

☒ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type: 15282(h)

☐ **Categorical Exemption**

Class 1

#### Reasons why the project is exempt:

Amendments to the County's ADU regulations that are consistent with state law are exempt from California Environmental Quality Act (CEQA) review per CEQA §15282(h): "adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code." Note that Assembly Bill 477 approved by the Governor in March 2024 made organizational changes to the state ADU regulations, relocating the regulations to Government Code Sections 66310 through 66339. Further, Assembly Bill 3057, approved by the Governor in August 2024, expands this CEQA exemption to include the adoption of the ordinance regarding JADUs.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: Environmental Coordinator

### 13.10.312 Uses in agricultural districts.

**Table 13.10.312-1: Agricultural Uses Chart**

| USE   | PERMIT REQUIRED BY ZONE |   | REFERENCES AND NOTES   |
|---|-------------------------|---|--|
|   | CA                      | A |  |
| Housing - Residential Units   |                         |   |  |
| Accessory Dwelling Unit (ADU) located within 100 feet of the primary dwelling | P <sup>A</sup>          | P | 13.10,313<br>13.10.681<br>13.11.037<br>13.20.107 & 108<br>13.10.314<br>16.50.095 |

### 13.10.352 Uses in the Parks, Recreation and Open Space PR District.

**Table 13.10.352-1: Parks, Recreation and Open Space PR Uses Chart**

| USE                           | Permit Required <sup>1</sup> | References and Notes                                   |
|-------------------------------|------------------------------|--|
| <b>Residential Units</b>      |                              |  |
| Accessory Dwelling Unit (ADU) | P                            | 13.10.681<br>13.20.107 & 108<br>13.10.418<br>13.10.354 |
| Junior ADU                    | P                            | 13.10.681  |

### 13.10.372 Uses in the Timber Production TP District.

**Table 13.10.372-1: Timber Production TP Uses Chart**

| USE   | Permit Required <sup>1</sup> | References and Notes                      |
|---|------------------------------|---|
| <b>Residential Units</b>  |                              |   |
| Accessory dwelling unit (ADUs) or junior accessory dwelling units (JADUs) | P <sup>A</sup>               | 13.10.681<br>13.20.107 & 108<br>13.10.374 |

### 13.10.681 Accessory dwelling units.

(A) Purpose. The purpose of this section is to provide for and regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in order to provide needed housing

for County residents and to further the housing goals of the Housing Element of the County General Plan.

(B) Definitions. For the purposes of this section, terms shall be defined as follows:

(1) “Accessory Dwelling Unit” (ADU) shall be defined per SCCC 13.10.700-A: In compliance with California Government Code Section 66313, an attached or detached residential dwelling unit which 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 (area meeting the definition of Kitchen), and sanitation. .

(2) “Junior Accessory Dwelling Unit” (JADU) shall be defined per SCCC 13.10.700-J: In compliance with California Government Code Section 66313, a residential living area contained within a proposed or existing single-family residence that is no more than 500 square feet in size. JADUs shall include independent provisions for living, sleeping, eating, and cooking (cooking facility with appliances and food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU), and shared or separate sanitation facilities with the main dwelling unit.

(3) “New Construction ADU” shall be defined per SCCC 13.10.700-N: An ADU that does not meet the definition of Conversion ADU. A tiny home on wheels may be used as a new construction ADU.

(4) “Conversion ADU” shall be defined per SCCC 13.10.700-C: The conversion of any portion of a legal accessory structure, or any portion of a single-family dwelling, or any garage, for the purpose of creating an ADU. Conversion ADUs can include demolition and rebuilding of a structure with the same footprint and building envelope. Conversion ADUs can also include additions of up to 150 square feet. Any conversion that exceeds this limit shall be considered a New Construction ADU for the purposes of this section.

If converting an existing accessory structure constructed after January 1, 2020, applicant must be able to show that the structure was erected with all required permits, or that the structure is legal nonconforming. Structures that were built without benefit of permits are not eligible for conversion under this section and must be processed as a New Construction ADU. Refer to SCCC 13.10.681(K) for structures constructed before January 1, 2020.

(5) “Attached,” in reference to ADUs throughout the Santa Cruz County Code, shall mean sharing any part of a wall, ceiling or floor with the primary dwelling on the property, with the ADU located above, below, beside, or in some combination with the primary dwelling on the property.

(6) “Detached,” in reference to ADUs throughout the Santa Cruz County Code, shall mean any ADU that does not meet the definition of “Attached.”

(C) Accessory Use. ADUs and JADUs are accessory uses to the primary residential dwelling and shall not be considered in calculation of residential density for a parcel.

(D) Site Requirements. Before a permit for an ADU or JADU can be granted, the following requirements shall be met:

(1) Zoning and General Plan. The parcel must allow residential land use either by zoning or General Plan designation.

(2) Presence of Primary Dwelling Unit. A permitted primary dwelling unit must exist or be proposed for construction concurrently with the proposed ADU or JADU. In the case of an unpermitted primary dwelling unit, the primary dwelling unit and the ADU or JADU must be permitted concurrently.

(a) Exception. An ADU may be constructed prior to a primary dwelling in the case of rebuilding after a disaster. The location for the development envelope for the future primary dwelling must be indicated on the plans submitted for the ADU.

(3) Number of ADUs Allowed.

(a) Single-Family Dwellings. On parcels with existing or proposed single-family dwellings: one ADU, one JADU, and one conversion ADU are allowed per lot.

(i) Dwellings that share walls but are located on separate parcels with separate building footprints (such as townhomes or halfplexes) are considered single-family dwellings for the purposes of determining the number of ADUs allowed.

(ii) Properties with dwelling groups (multiple single-family dwellings) are allowed one ADU, one JADU, and one conversion ADU per lot. An existing dwelling in a dwelling group may be relabeled as an ADU if it meets ADU use and development standards.

(b) Multifamily Dwellings. On parcels with existing or proposed multifamily dwellings, defined as two or more attached dwellings on a single lot, the following are allowed:

(i) On parcels with proposed multifamily dwelling structures, up to two detached ADUs, which may be attached to each other; and

(ii) On parcels with existing multifamily dwellings, not more than eight detached ADUs, which may be attached to each other, or not more than the number of existing units on the parcel, whichever is less; and

(iii) Conversion ADUs associated with up to 25 percent of existing multifamily units. Conversion ADUs in existing multifamily developments must be converted from areas 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. Conversion ADUs cannot be proposed simultaneously with new development.

(c) Nonconforming Land Uses. Regardless of existing dwelling conformity with land use and density requirements for a parcel's zone district or General Plan designation, permitted single-family dwellings shall be subject to subsection (D)(3)(a) of this section and permitted multifamily dwellings shall be subject to subsection (D)(3)(b) of this section.

(4) ADU Location on a Parcel.

(a) ADUs may be attached or detached from the primary dwelling unit. JADUs must be constructed within the walls of the proposed or existing single-family residence.

(b) ADUs and JADUs shall be subject to the setback requirements in subsection (D)(7)(a) of this section.

(5) Access. The ADU or JADU shall have an exterior entrance that is independent of the existing primary dwelling. A JADU may also be internally connected to the primary dwelling.

(a) If a JADU does not include a separate bathroom, the JADU shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

(6) Unit Size. The habitable floor area as defined in SCCC 13.10.700-H shall be as follows:

(a) Minimum unit size, JADU or ADU: 150 square feet ("efficiency unit" per California Health and Safety Code Section 17958.1).

(b) Maximum unit size, JADU: 500 square feet.

(c) Maximum unit size, ADU:

(i) Conversion ADU: No maximum size.

(ii) New Construction ADU, Attached:

850 square feet (studio or one bedroom), 1,000 square feet (two or more bedrooms), or, if there is an existing primary dwelling, 50 percent of existing primary dwelling habitable square footage, whichever is larger.

(iii) New Construction ADU, Detached:

A. Parcel size less than one acre: 850 square feet (studio or one bedroom), 1,000 square feet (two or more bedrooms).



B. Parcel size greater than or equal to one acre: 1,200 square feet.

(iv) Regardless of subsections (D)(6)(c)(i) through (iii) of this section, an ADU of at least 800 square feet shall be allowed.

(7) Development Standards. All objective development standards for the applicable zone district shall be satisfied and the development shall be consistent with all County policies and ordinances, except that regardless of any other zone district standards, the following objective provisions shall apply to ADUs:

(a) Setbacks.

(i) Conversion ADUs.

A. Additions up to 150 square feet shall meet setback requirements for New Construction ADUs and for fire and safety.

B. Existing structures with nonconforming setbacks can be demolished and rebuilt with the same setbacks, except where larger setbacks are required pursuant to SCCC 7.92 (Fire Code), SCCC 12.10 (Building Regulations).

(ii) New Construction ADUs. ADUs shall comply with front setbacks for the applicable zone district. Minimum side and rear setbacks shall be four feet or the setback for the applicable zone district, whichever is less, including on double frontage lots and corner lots, with the following exceptions:

A. Setbacks shall be sufficient for fire safety in conformance with SCCC 7.92 (Fire Code) and SCCC 12.10 (Building Regulations).

B. ADUs located in the Seascapes Beach Estates Combining District shall meet the setback requirements in SCCC 13.10.436.

C. A front setback shall not be imposed if it would preclude construction of an ADU no more than 800 square feet and adheres to 4-foot minimum rear and side setbacks and other setback requirement in this section.

(iii) Minimum separation distance between ADUs and other structures shall comply with the Santa Cruz County Building and Fire Codes.

(b) Height.

(i) Conversion ADUs. Additions up to 150 square feet shall meet height standards for New Construction ADUs.

(ii) New Construction ADUs. Height is subject to the applicable zone district height standard with the following exceptions:

A. Inside the urban services line, new construction detached ADUs shall be a maximum of 16 feet. This exception does not apply in the Seascape Beach Estates Combining District (see SCCC 13.10.436).

B. Inside the urban services line, ADUs that are built above detached garages shall be a maximum of 20 feet at exterior wall and 24 feet at roof peak. This exception does not apply in the Pleasure Point or Seascape Beach Estates Combining Zone Districts.

C. Inside the Pleasure Point Combining Zone District, ADUs that are built above attached and detached garages shall be maximum 18 feet at exterior wall and 22 feet at roof peak.

D. Building height up to five feet in excess of an applicable zoning standard, but in no case exceeding 28 feet, may be allowed subject to design review findings (SCCC 18.10.230(A)(2)), development permit findings (SCCC 18.10.230), and the coastal view protection standards of SCCC 13.20.130(B)(7) (if located in the coastal zone), and subject to approval by the Zoning Administrator following a public hearing.

F. Notwithstanding 13.10.681(D)(7)(b)(ii)(A), inside the urban services line, the height of a new construction detached ADU that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor shall be a maximum of 18 feet. An additional two feet in height is allowed to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

G. Inside the urban services line, the height of a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling shall be a maximum of 18 feet.

(c) Lot Coverage and Floor Area Ratio (FAR).

(i) Parcels with ADUs shall meet lot coverage and FAR standards for the applicable zone district, except that ADU square footage up to 800 square feet, whether attached or detached, may be excluded from FAR and lot coverage calculations for both existing and new parcels.

(ii) ADUs and JADUs shall not be counted in large dwelling unit calculations per SCCC 13.10.324.

(d) Parking.

- (i) JADUs, Conversion ADUs, and detached new construction ADUs not exceeding 800 square feet with minimum four-foot side and rear setbacks and meeting height standards in SCCC 13.10.681(D)(7)(b): no required off-street parking.
- (ii) New Construction ADUs: one off-street parking space per ADU.
  - A. ADU parking can be provided as double or triple tandem parking.
  - B. ADU parking may be located within setback areas unless findings are made that parking in setback areas would violate objective standards related to specific site or regional topographical and/or fire and life safety conditions.
  - C. If the primary dwelling unit has less than the required parking per SCCC 13.16.050, one new parking space must be provided for the ADU but parking for the primary dwelling may remain nonconforming.
  - D. No additional parking for an ADU shall be required if the ADU is located within one-half mile walking distance of any public transit stop, within a designated historic district, or within one block of a dedicated parking space reserved for a publicly available car share vehicle. This exemption also applies to an ADU permit application submitted with an application for a single-family or multi-family dwelling on the same lot.
- (iii) Parking Permits. Where parking permits are required for on-street parking during any part of the year, permits shall be offered to the occupants of the ADU and/or JADU.
- (iv) Replacement Parking. When a garage, carport, covered parking structure, or uncovered surface parking is demolished or converted for construction of an ADU, no replacement parking is required.
- (v) Special Coastal Zone Parking Requirements. In the following coastal zone locations, one parking space is required for New Construction ADUs, with no exceptions, and replacement parking is required when existing parking is demolished or converted for construction of an ADU:
  - A. Live Oak Designated Area (LODA) as defined in SCCC 13.10.694(C).
  - B. Sea Cliff/Aptos/La Selva Designated Area (SALSDA) as defined in SCCC 13.10.694(C).
  - C. Davenport/Swanton Designated Area (DASDA) as defined in SCCC 13.10.694(C).

D. Opal Cliff Drive between 41st Avenue and the City of Capitola.

(8) Existing Conditions of Approval. For proposed additions of not more than 150 square feet associated with Conversion ADUs shall comply with any existing development permit conditions of approval except state ADU law and SCCC 13.10.681 supersede conflicting conditions from a prior approval.

(9) Other Accessory Uses.

(a) Non-ADU habitable and nonhabitable accessory structures may be allowed subject to all applicable requirements of the underlying zone district and SCCC 13.10.611.

(10) Utility, Infrastructure, and Service Requirements.

(a) Life Safety. All requirements of the respective service agencies shall be satisfied, and all ADUs shall comply with all applicable provisions of SCCC 7.92 (Fire Code) and SCCC 12.10 (Building Regulations).

(i) Fire sprinklers shall not be required for an ADU or JADU where they are not also required for the primary dwelling, except sprinklers are required for detached ADUs larger than 1,200 square feet and ADUs that constitute or are part of an addition to the primary dwelling equal to 850 square feet (studio or one bedroom), 1,000 square feet (two or more bedrooms), or more than 50 percent of the existing primary dwelling square footage, whichever is larger, pursuant to SCCC 7.92.903.1 (Fire Code).

(ii) The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

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

(iv) JADUs that do not have an internal connection to the primary dwelling and ADUs shall maintain a separate street address from the primary dwelling unit.

(v.) Change of Occupancy Classification. The construction of an ADU shall not constitute a "Group R" occupancy change under SCCC 12.10 (Building Regulations) unless the Building Official or Fire Code Official makes a written finding based on substantial evidence in the record that the ADU could have a specific, adverse impact on health and safety. This paragraph shall not be interpreted to prevent the Building Official from changing the occupancy code of a space that was non-habitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this Section.

(b) Utility Connections and Fees.

(i) Conversion ADUs: new utility connection or capacity charges may only be charged for Conversion ADUs built concurrently with a primary dwelling.

(ii) New Construction ADUs: A local agency, special district, or water corporation may require a new or separate utility connection directly between the ADU and the utility, subject to a connection fee or capacity charge proportionate to the burden of the ADU on the water or sewer system, based upon either the square footage of the ADU or its drainage fixture unit values as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials.

(iii) The sewage disposal system and water supply for the parcel shall comply with all applicable requirements of the Environmental Health Officer.

A. As part of the application to create an ADU connected to an on-site water treatment system, a percolation test must be completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

(c) Public Improvements. Frontage improvements and other public right-of-way work cannot be required as a condition of approval for an ADU or JADU, unless required per SCCC 7.92 (Fire Code) or SCCC 12.10 (Building Regulations) or to correct illegal right-of-way encroachments.

(E) Nonconforming Conditions.

(1) Outside the Coastal Zone, correction of existing nonconforming zoning conditions, County Code violations, or unpermitted structures cannot be required as a condition of ADU or JADU approval unless the corrections are required to address a threat to public health and safety and are affected by the construction of the ADU.

(2) Within the Coastal Zone, corrections shall be required in accordance with SCCC Section 13.20.170(C) unless the scope of development is limited to the ADU itself and all unpermitted development meets requisite coastal resource protection requirements (e.g., ESHA, wetland, and geologic hazard setbacks and associated requirements) and satisfies the Coastal Development Permit Findings set forth in SCCC 13.20.110.

(F) Design.

(1) Architectural Design. Exterior design of ADUs and JADUs that are visible from a road or other public area shall include three or more of the following elements:

(a) Roof pitch matching dominant roof slope primary dwelling(s). Dominant roof slope is the slope shared by the largest portion of the roof.

- (b) Roof material matching primary dwelling(s).
- (c) Primary siding material or color matching primary dwelling(s).
- (d) Window and door trim matching primary dwelling(s).
- (e) Porch, bay window, or other facade articulation to break up flat wall planes.
- (f) Fencing or landscaping to buffer the view of the ADU or JADU from a road or other public area. Fencing shall be the maximum fence height without a permit subject to SCCC 13.10.525, Regulations for fences and retaining walls within required yards.

(2) Historic Preservation. ADUs and JADUs on properties in the L (Historic Landmark) Combining District that do not involve demolition, relocation, or alterations to the exterior of historic buildings shall meet the provisions of SCCC 16.42.060(D) to be reviewed ministerially. ADUs and JADUs that exceed these provisions shall be subject to discretionary review per SCCC 16.42.060.

(3) Exception. Outside the Coastal Zone, conversion ADUs and detached new construction ADUs that do not exceed four-foot side and rear yard setbacks, do not exceed a total floor area of 800 square feet, and meets the height limitations in SCCC 13.10.681(D)(7)(b) are exempt from architectural design and historic preservation standards.

(G) Occupancy. The following occupancy standards shall be applied to every ADU and JADU and shall be conditions for any approval under this section:

(1) Occupancy Restrictions. The maximum occupancy of an ADU or JADU may not exceed that allowed by the State Uniform Housing Code, or other applicable State law.

(2) Sale. ADUs and JADUs shall not be sold separately from the primary residence with the following exception:

(a) An ADU can be sold or conveyed separately from the primary residence to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and all provisions of California Government Code Section 66341 are met.

(3) Short-Term Rental Use. In no case shall a short-term rental use of 30 days or less be permitted in an ADU. A property with an ADU shall not be eligible for participation in the short-term rental program, except as provided by SCCC 13.10.695.

(4) Owner Residency. The following requirements apply to all JADUs:

(a) Unless owned by a government agency, land trust, or public or nonprofit housing organization, the property owner or relative of the property owner shall permanently reside, as evidenced by a homeowner's property tax exemption, or by other satisfactory documentation of residence, on the parcel in either the

primary dwelling unit or JADU. If the JADU is newly constructed on a parcel within a subdivision, then the purchaser or relative of the purchaser of said property shall permanently reside in either the main dwelling or the JADU, shall be required to submit a property tax exemption prior to occupancy of the JADU, and shall be subject to the deed restriction noted in subsection (G)(4)(b) of this section.

(i) Exception. Temporary rental of both a primary dwelling unit and a JADU may be authorized by the Director of the Community Development and Infrastructure Department in the case of sudden and unexpected changes in life circumstances. Property owners may be authorized to rent both the primary dwelling and the JADU if the property owner or relative of the property owner is unable to continue to occupy the property temporarily by reason of illness or absence from the area for other than short-term rental purposes as determined by the Director of the Community Development and Infrastructure Department in their sole discretion based on reasonable evidence. Evidence shall be submitted to the Community Development and Infrastructure Department in writing, and requests for extension of the absence shall also require evidence in writing. The authorization to rent both units shall be limited to one year and may be extended at the discretion of the Director of the Community Development and Infrastructure Department.

(b) Deed Restriction. Prior to the issuance of a building permit, the property owner shall provide to the Community Development and Infrastructure Department proof of recordation of a declaration of restrictions containing reference to the deed under which the property was acquired by the present owner and containing the following provisions:

(i) The declaration shall provide that the property owner or relative of the property owner permanently resides in either the primary dwelling or the JADU, as evidenced by a homeowner's property tax exemption on the parcel or by other satisfactory documentation of owner residence. If the property is owned by a government agency, land trust, or public or nonprofit housing organization that is providing housing for special populations, the declaration of restrictions shall indicate that any subsequent nonpublic owner shall abide by the terms of this subsection.

(ii) The declaration shall be binding on all successors in interest.

(iii) The declaration shall provide for the recovery by the County of reasonable attorney's fees and costs in bringing legal action to enforce the declaration together with recovery of any rents collected during any unauthorized occupancy or, in the alternative, for the recovery of the reasonable value of the unauthorized occupancy.

(iv) The declaration shall provide a restriction on the size and attributes of the JADU that conforms with this section.

(v) The declaration shall provide a prohibition on the sale of the JADU separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(H) Application Processing.

(1) Ministerial Review. Pursuant to Government Code Sections 66317 and 66335, applications for ADUs and JADUs shall be approved or denied ministerially with a building permit, and no public notice or hearing shall be required, with the following exceptions:

(a) Exceptions to Ministerial Review.

(i) Inside the coastal zone, the following discretionary review requirements apply:

A. ADUs and JADUs that do not meet the standard for exemption or exclusion under SCCC 13.20.061 or 13.20.071, respectively, require issuance of a combined coastal development permit (CDP) and building permit, with noticing and appeal requirements per SCCC 13.20.107 and 13.20.108, and subject to findings per SCCC 13.20.110.

B. ADUs and JADUs located in the Commercial Agricultural (CA) zone district shall be subject to additional findings per SCCC 13.10.314(B).

C. ADUs in the Parks and Recreation (PR) zone district shall be subject to special conditions per SCCC 13.10.354(B). JADU applications in the PR zone district shall be reviewed ministerially.

D. ADUs and JADUs in the Timber Production (TP) zone district shall be subject to special findings per SCCC 13.10.374(A).

(ii) ADU and JADU applications that do not meet the development standards contained in this section may require a variance (per SCCC 13.10.230), minor exception (per SCCC 13.10.235), or other discretionary approval.

(2) Ministerial Review Time. ADU and JADU applications that are subject to ministerial review must be approved, or a notice of deficiency sent, within 60 days of receipt of a completed building permit application. Such applications resubmitted in response to a notice of deficiency must be approved or a notice of deficiency sent, within 60 days.

(a) Exception to Ministerial Review Time. When a permit application to create an ADU or JADU is submitted along with a permit application for a new primary dwelling, the permit application for the ADU or JADU shall not be subject to a 60-day approval period but shall instead be subject to the approval



period for the primary dwelling. If the new primary dwelling application requires discretionary review, the application for the ADU or JADU shall still be considered as a ministerially allowable use/development, unless the application meets one of the exceptions in subsection (H)(1)(a) of this section.

(3) Fees. Prior to the issuance of a building permit for the ADU, the applicant shall pay to the County of Santa Cruz fees in accordance with the Community Development and Infrastructure Department's fee schedule as may be amended from time to time, and any other applicable fees.

(a) The County of Santa Cruz and any other local agency, special district or water corporation shall not impose any impact fee upon the development of a JADU or an ADU less than 750 square feet.

(b) Impact fees charged for ADUs greater than or equal to 750 square feet shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(c) For the purposes of this section, "impact fee" includes "fees" as defined in California Government Code Section 66000(b) and fees specified in California Government Code Section 66477. Impact fees do not include utility connection fees or capacity charges.

(4) Declarations of Restriction for Nonhabitable Structures. A recorded declaration of restriction limiting an existing accessory structure to nonhabitable use must be rescinded to allow ADUs in these structures.

(I) Permit Allocations. Each ADU and JADU is exempt from the residential permit allocation system of SCCC 12.02.

(J) Code Enforcement Amnesty. Per California Government Code Section 17980.12, the following amnesty provisions are available until January 1, 2030, for ADUs and JADUs that were built before January 1, 2020:

(1) A notice to correct a violation of any provision of any building standard for an ADU or JADU shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement.

(2) The owner of an eligible ADU or JADU who receives a notice to correct violations or abate nuisances related to any building standard may submit a letter to the County of Santa Cruz Community Development and Infrastructure Department, Code Enforcement Division, requesting that enforcement of the violation be delayed for up to five years on the basis that correcting the violation is not necessary to address an imminent hazard or dangerous condition.

(3) The County of Santa Cruz shall grant a delay in enforcement if the Community Development and Infrastructure Department Code Enforcement Division, in consultation with the Building Official, determines that correcting the violation is not necessary to

protect health and safety. The provisions of SCCC 12.01.070 shall not apply to ADUs for which this delay has been granted.

(K) Unpermitted ADUs

(1) Notwithstanding any other law, and except as otherwise provided in SCCC 13.10.681(K)(2), a permit for an unpermitted ADU or unpermitted JADU that was constructed before January 1, 2020, shall not be denied due to either of the following:

(a) The ADU or JADU 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 (Enforcement of Building and Fire Codes).

(b) The ADU does not comply with state or local ADU or JADU laws.

(2) Notwithstanding SCCC 13.10.681(K)(1), a permit for an ADU subject to SCCC 13.10.681(K)(1) may be denied if the local agency makes a finding that correcting the violation is necessary to comply with the standards specified in Section 17920.3 of the Health and Safety Code.

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

(L) Annual Review of Impacts. As part of the County's annual review of the General Plan and County growth management system, the County shall include a section analyzing the impacts of the ADU ordinance. The annual analysis shall include the number of ADUs constructed and the impacts such construction has created in each planning area, with particular attention to the cumulative impacts within the coastal zone. JADUs are not required to be accounted for and reported upon in this annual review. The cumulative impact issue areas to be covered include, but are not limited to, traffic, water supply (including the City of Santa Cruz water supply from Laguna, Majors, and Reggiardo Creeks, and the Davenport water supply from Mill and San Vicente Creeks), public views, and environmentally sensitive habitat areas.

**13.10.700-A "A" definitions.**

"Accessory dwelling unit" or "ADU" means, in compliance with California Government Code Section 66313, an attached or detached residential dwelling unit which 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 (area meeting the definition of "kitchen"), and sanitation. See also "junior accessory dwelling unit," "conversion ADU," and "new construction ADU."

**13.10.700-J "J" definitions.**

"Junior accessory dwelling unit" or "JADU" means, in compliance with California Government Code Section 66313, a residential living area contained within a proposed or existing single-family residence that is no more than 500 square feet in size. JADUs can include additions to an existing structure of no more than 150 square feet. JADUs shall include independent provisions for living, sleeping, eating, and cooking (cooking facility with appliances and food preparation

counter and storage cabinets that are of reasonable size in relation to the size of the JADU), and shared or separate sanitation facilities with the main dwelling unit. See also “Accessory dwelling unit.”

### 13.10.312 Uses in agricultural districts.

**Table 13.10.312-1: Agricultural Uses Chart**

| USE  | PERMIT REQUIRED BY ZONE |   | REFERENCES AND NOTES  |
|--|-------------------------|---|---|
|  | CA                      | A |   |
| Housing - Residential Units  |                         |   |   |
| Accessory Dwelling Unit (ADU) <del>or Junior ADU</del> located within 100 feet of the primary dwelling | P <sup>A</sup>          | P | 13.10,313<br>13.10.681<br>13.11.037<br>13.20.107 & 108<br><u>13.10.314</u><br>16.50.095 |

### 13.10.352 Uses in the Parks, Recreation and Open Space PR District.

**Table 13.10.352-1: Parks, Recreation and Open Space PR Uses Chart**

| USE                           | Permit Required <sup>1</sup> | References and Notes   |
|-------------------------------|------------------------------|--|
| <b>Residential Units</b>      |                              |  |
| Accessory Dwelling Unit (ADU) | P <del>MUP</del>             | <del>P outside coastal zone;</del><br><del>MUP inside coastal zone.</del><br>13.10.681<br><u>13.20.107 &amp; 108</u><br><u>13.10.418</u><br><u>13.10.354</u> |
| Junior ADU                    | P                            | 13.10.681  |

### 13.10.372 Uses in the Timber Production TP District.

**Table 13.10.372-1: Timber Production TP Uses Chart**

| USE   | Permit Required <sup>1</sup>              | References and Notes  |
|---|---|---|
| <b>Residential Units</b>  |   |   |
| Accessory dwelling unit (ADUs) or junior accessory dwelling units (JADUs) | P <sup>A</sup> <del>MUP<sup>A</sup></del> | 13.10.681<br><u>13.20.107 &amp; 108</u><br><u>13.10.374</u> |

### 13.10.681 Accessory dwelling units.

(A) Purpose. The purpose of this section is to provide for and regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in order to provide needed housing

for County residents and to further the housing goals of the Housing Element of the County General Plan.

(B) Definitions. For the purposes of this section, terms shall be defined as follows:

(1) “Accessory Dwelling Unit” (ADU) shall be defined per SCCC 13.10.700-A: In compliance with California Government Code Section ~~65852.2~~66313, an attached or detached residential dwelling unit which 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 (area meeting the definition of Kitchen), and sanitation. ~~A tiny home on wheels may be used as an ADU.~~

(2) “Junior Accessory Dwelling Unit” (JADU) shall be defined per SCCC 13.10.700-J: In compliance with California Government Code Section ~~65852.22~~66313, a residential living area contained within a proposed or existing single-family residence that is no more than 500 square feet in size. ~~JADUs can include additions to an existing structure of no more than 150 square feet.~~ JADUs shall include independent provisions for living, sleeping, eating, and cooking (~~area meeting the definition of Efficiency Kitchen but not a standard Kitchen~~cooking facility with appliances and food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU), and shared or separate sanitation facilities with the main dwelling unit.

(3) “New Construction ADU” shall be defined per SCCC 13.10.700-N: An ADU that does not meet the definition of Conversion ADU. A tiny home on wheels may be used as a new construction ADU.

(4) “Conversion ADU” shall be defined per SCCC 13.10.700-C: The conversion of any portion of a legal accessory structure, or any portion of a single-family dwelling, or any garage, for the purpose of creating an ADU. Conversion ADUs can include demolition and rebuilding of a structure with the same footprint and building envelope. Conversion ADUs can also include additions of up to 150 square feet. Any conversion that exceeds this limit shall be considered a New Construction ADU for the purposes of this section.

If converting an existing accessory structure constructed after January 1, 2020, applicant must be able to show that the structure was erected with all required permits, or that the structure is legal nonconforming. Structures that were built without benefit of permits are not eligible for conversion under this section and must be processed as a New Construction ADU. Refer to SCCC 13.10.681(K) for structures constructed before January 1, 2020.

(5) “Attached,” in reference to ADUs throughout the Santa Cruz County Code, shall mean sharing any part of a wall, ceiling or floor with the primary dwelling on the property, with the ADU located above, below, beside, or in some combination with the primary dwelling on the property.

(6) “Detached,” in reference to ADUs throughout the Santa Cruz County Code, shall mean any ADU that does not meet the definition of “Attached.”

(C) Accessory Use. ADUs and JADUs are accessory uses to the primary residential dwelling and shall not be considered in calculation of residential density for a parcel.

(D) Site Requirements. Before a permit for an ADU or JADU can be granted, the following requirements shall be met:

(1) Zoning and General Plan. The parcel must allow residential land use either by zoning or General Plan designation.

(2) Presence of Primary Dwelling Unit. A permitted primary dwelling unit must exist or be proposed for construction concurrently with the proposed ADU or JADU. In the case of an unpermitted primary dwelling unit, the primary dwelling unit and the ADU or JADU must be permitted concurrently.

(a) Exception. An ADU may be constructed prior to a primary dwelling in the case of rebuilding after a disaster. The location for the development envelope for the future primary dwelling must be indicated on the plans submitted for the ADU.

(3) Number of ADUs Allowed.

(a) Single-Family Dwellings. On parcels with existing or proposed single-family dwellings: one ADU, ~~and one JADU,~~ and one conversion ADU are allowed per ~~lotsingle family dwelling.~~

(i) Dwellings that share walls but are located on separate parcels with separate building footprints (such as townhomes or halfplexes) are considered single-family dwellings for the purposes of determining the number of ADUs allowed.

(ii) Properties with dwelling groups (multiple single-family dwellings) are allowed one ADU, ~~and one JADU,~~ and one conversion ADU per ~~lot, single family dwelling if the dwelling group is conforming with maximum density for the zone district.~~ An existing dwelling in a dwelling group may be relabeled as an ADU if it meets ADU use and development standards. ~~If the dwelling group is nonconforming with maximum density for the zone district, see SCCC 13.10.261(B)(3).~~

(b) Multifamily Dwellings. On parcels with existing or proposed ~~attached~~ multifamily dwellings, ~~such as apartments, condominiums, or a combination of single and multifamily dwellings,~~ defined as two or more attached dwellings on a single lot, the following are allowed:

(i) On parcels with proposed multifamily dwelling structures, ~~Up to~~ two detached ADUs, which may be attached to each other; and

(ii) On parcels with existing multifamily dwellings, not more than eight detached ADUs, which may be attached to each other, or not more than the number of existing units on the parcel, whichever is less; and

(~~iii~~) Conversion ADUs associated with up to 25 percent of existing multifamily units. Conversion ADUs in existing multifamily developments must be converted from areas not ~~previously~~ used as livinglivable 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. Conversion ADUs cannot be proposed simultaneously with new development.

(c) Nonconforming Land Uses. Regardless of existing dwelling conformity with land use and density requirements for a parcel's zone district or General Plan designation, permitted single-family dwellings shall be subject to subsection (D)(3)(a) of this section and permitted multifamily dwellings shall be subject to subsection (D)(3)(b) of this section.

(4) ADU Location on a Parcel.

(a) ADUs may be attached or detached from the primary dwelling unit. JADUs must be ~~attached~~ constructed within the walls of the proposed or existing single-family residence.

(b) ADUs and JADUs shall be subject to the setback requirements in subsection (D)(7)(a) of this section.

(5) Access. The ADU or JADU shall have an exterior entrance that is independent of the existing primary dwelling. A JADU may also be internally connected to the primary dwelling.

(a) If a JADU does not include a separate bathroom, the JADU shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

(6) Unit Size. The habitable floor area as defined in SCCC 13.10.700-H shall be as follows:

(a) Minimum unit size, JADU or ADU: 150 square feet ("efficiency unit" per California Health and Safety Code Section 17958.1).

(b) Maximum unit size, JADU: 500 square feet.

(c) Maximum unit size, ADU:

(i) Conversion ADU: No maximum size.

(ii) New Construction ADU, Attached:

~~A. Parcel size less than one acre:~~ 850 square feet (studio or one bedroom), 1,000 square feet (two or more bedrooms), or, if

~~there is an existing primary dwelling, 50 percent of existing~~  
primary dwelling habitable square footage, whichever is  
~~smallerlarger.~~

~~B. Parcel size greater than or equal to one acre and where  
there is an existing primary dwelling: 50 percent of primary  
dwelling habitable square footage.~~

(iii) New Construction ADU, Detached:

A. Parcel size less than one acre: 850 square feet (studio or one bedroom), 1,000 square feet (two or more bedrooms).

B. Parcel size greater than or equal to one acre: 1,200 square feet.

(iv) Regardless of subsections (D)(6)(c)(i) through (iii) of this section, an ADU of at least 800 square feet shall be allowed.

(7) Development Standards. All objective development standards for the applicable zone district shall be satisfied and the development shall be consistent with all County policies and ordinances, except that regardless of any other zone district standards, the following objective provisions shall apply to ADUs:

(a) Setbacks.

(i) ~~JADUs and~~ Conversion ADUs.

A. Additions up to 150 square feet shall meet setback requirements for New Construction ADUs and for fire and safety.

B. Existing structures with nonconforming setbacks can be demolished and rebuilt with the same setbacks, except where larger setbacks are required pursuant to ~~Chapter SCCC~~ 7.92 ~~SCCC~~ (Fire Code), ~~Chapter SCCC~~ 12.10 ~~SCCC~~ (Building Regulations), ~~or SCCC Title 16 (Environmental and Resource Protection).~~

(ii) New Construction ADUs. ADUs shall comply with front setbacks for the applicable zone district. Minimum side and rear setbacks shall be four feet or the setback for the applicable zone district, whichever is less, including on double frontage lots and corner lots, with the following exceptions:

~~A. An eight-foot rear yard setback is required for any portion of an ADU that is more than 16 feet tall. Stairways may encroach into the rear yard setback if stairway windows are minimum 52 inches from floor level.~~



~~B.A.~~ Setbacks shall be sufficient for fire safety in conformance with ~~Chapter SCCC~~ 7.92 ~~SCCC~~ (Fire Code) and ~~Chapter SCCC~~ 12.10 ~~SCCC~~ (Building Regulations).

~~C.~~ ADUs shall be subject to environmental buffers and constraints identified per all objective standards contained in ~~SCCC Title 16 (Environmental and Resource Protection)~~, including but not limited to riparian corridors, geologic hazards, sensitive habitats, and agricultural buffers.

~~D.~~ On parcels zoned or designated agricultural, a detached ADU shall be located within 100 feet of the primary dwelling on the property unless additional distance is required to meet the minimum agricultural buffer setback standards in ~~SCCC 16.50.095~~.

~~E.B.~~ ADUs located in the Seascape Beach Estates Combining District shall meet the setback requirements in SCCC 13.10.436.

C. A front setback shall not be imposed if it would preclude construction of an ADU no more than 800 square feet and adheres to 4-foot minimum rear and side setbacks and other setback requirement in this section.

(iii) Minimum separation distance between ADUs and other structures shall ~~be three feet~~shall comply with the Santa Cruz County Building and Fire Codes.

(b) Height.

(i) ~~JADUs and~~ Conversion ADUs. Additions up to 150 square feet shall meet height standards for New Construction ADUs.

(ii) New Construction ADUs. Height is subject to the applicable zone district height standard with the following exceptions:

A. Inside the urban services line, new construction detached ADUs shall be a maximum of 16 feet. This exception does not apply in the Seascape Beach Estates Combining District (see SCCC 13.10.436).

B. Inside the urban services line, ADUs that are built above detached garages shall be a maximum of 20 feet at exterior wall and 24 feet at roof peak. This exception does not apply in the Pleasure Point or Seascape Beach Estates Combining Zone Districts.

C. Inside the Pleasure Point Combining Zone District, ADUs that are built above attached and detached garages shall be maximum 18 feet at exterior wall and 22 feet at roof peak.

D. Building height up to five feet in excess of an applicable zoning standard, but in no case exceeding 28 feet, may be allowed subject to design review findings (SCCC 18.10.230(A)(2)), development permit findings (SCCC 18.10.230), and the coastal view protection standards of SCCC 13.20.130(B)(7) (if located in the coastal zone), and subject to approval by the Zoning Administrator following a public hearing.

F. Notwithstanding 13.10.681(D)(7)(b)(ii)(A), inside the urban services line, the height of a new construction detached ADU that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor shall be a maximum of 18 feet. An additional two feet in height is allowed to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

G. Inside the urban services line, the height of a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling shall be a maximum of 18 feet.

(c) Lot Coverage and Floor Area Ratio (FAR).

(i) Parcels with ADUs ~~and JADUs~~ shall meet lot coverage and FAR standards for the applicable zone district, except that ~~JADU and/or~~ ADU square footage up to 800 square feet, whether attached or detached, may be excluded from FAR and lot coverage calculations for both existing and new parcels.

(ii) ADUs and JADUs shall not be counted in large dwelling unit calculations per ~~SCCC 13.10.325~~ SCCC 13.10.324.

(d) Parking.

(i) ~~JADUs, and~~ Conversion ADUs, and detached new construction ADUs not exceeding 800 square feet with minimum four-foot side and rear setbacks and meeting height standards in SCCC 13.10.681(D)(7)(b): no required off-street parking ~~for the JADU and/or Conversion ADU~~.

(ii) New Construction ADUs: one off-street parking space per ADU.

A. ADU parking can be provided as double or triple tandem parking.

B. ADU parking may be located within setback areas unless findings are made that parking in setback areas ~~is not feasible~~

~~based upon~~ would violate objective standards related to specific site or regional topographical and/or fire and life safety conditions.

C. If the primary dwelling unit has less than the required parking per SCCC 13.16.050, one new parking space must be provided for the ADU but parking for the primary dwelling may remain nonconforming.

D. No additional parking for an ADU shall be required if the ADU is located within one-half mile walking distance of any public transit stop, within a designated historic district, or within one block of a dedicated parking space reserved for a publicly available car share vehicle. This exemption also applies to an ADU permit application submitted with an application for a single-family or multi-family dwelling on the same lot.

(iii) Parking Permits. Where parking permits are required for on-street parking during any part of the year, permits shall be offered to the occupants of the ADU and/or JADU.

(iv) Replacement Parking. When a garage, carport, covered parking structure, or uncovered surface parking is demolished or converted for construction of an ADU ~~or JADU~~, no replacement parking is required ~~for the primary dwelling unit.~~

(v) Special Coastal Zone Parking Requirements. In the following coastal zone locations, one parking space is required for New Construction ADUs, with no exceptions, and replacement parking is required when existing parking is demolished or converted for construction of an ADU:

A. Live Oak Designated Area (LODA) as defined in SCCC 13.10.694(C).

B. Sea Cliff/Aptos/La Selva Designated Area (SALSDA) as defined in SCCC 13.10.694(C).

C. Davenport/Swanton Designated Area (DASDA) as defined in SCCC 13.10.694(C).

D. Opal Cliff Drive between 41st Avenue and the City of Capitola.

(8) Existing Conditions of Approval. For P~~ro~~posed additions of not more than 150 square feet associated with Conversion ADUs shall comply with any existing development permit conditions of approval ~~that are not otherwise superseded by provisions of SCCC 13.10.681.~~ except state ADU law and SCCC 13.10.681 supersede conflicting conditions from a prior approval.

(9) Other Accessory Uses.

~~(a) One ADU may be associated with a single family dwelling unit on a parcel that also has farmworker housing as defined in SCCC 13.10.631.~~

(b) Non-ADU habitable and nonhabitable accessory structures may be allowed subject to all applicable requirements of the underlying zone district and SCCC 13.10.611.

(10) Utility, Infrastructure, and Service Requirements.

(a) Life Safety. All requirements of the respective service agencies shall be satisfied, and all ADUs shall comply with all applicable provisions of ~~Chapter SCCC~~ 7.92 ~~SCCC~~ (Fire Code) and ~~Chapter SCCC~~ 12.10 ~~SCCC~~ (Building Regulations).

(i) Fire sprinklers shall not be required for an ADU or JADU where they are not also required for the primary dwelling, except sprinklers are required for detached ADUs larger than 1,200 square feet and ADUs that constitute or are part of an addition to the primary dwelling equal to 850 square feet (studio or one bedroom), 1,000 square feet (two or more bedrooms), or more than 50 percent of the existing primary dwelling square footage, whichever is larger, per California Residential Code Section R313.2, pursuant to SCCC 7.92.903.1 (Fire Code).

(ii) The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling. ,except sprinklers are required for the primary dwelling if the attached ADU exceeds 50 percent of the existing primary dwelling square footage pursuant to SCCC 7.92.903.1 (Fire Code).

(iii) For the purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate or new dwelling unit ~~if an internal connection to the primary dwelling unit is maintained.~~

~~(iiiiv)~~ ADUs and JADUs that do not have an internal connection to the primary dwelling and ADUs shall maintain a separate street address from the primary dwelling unit.

(v.) Change of Occupancy Classification. The construction of an ADU shall not constitute a "Group R" occupancy change under SCCC Chapter 12.10 (Building Regulations) unless the Building Official or Fire Code Official makes a written finding based on substantial evidence in the record that the ADU could have a specific, adverse impact on health and safety. This paragraph shall not be interpreted to prevent the Building Official from changing the occupancy code of a space that was non-habitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this Section.

(b) Utility Connections and Fees.

(i) ~~JADUs and~~ Conversion ADUs: new utility connection or capacity charges may only be charged for Conversion ADUs ~~and JADUs~~ built concurrently with a primary dwelling.

(ii) New Construction ADUs: A local agency, special district, or water corporation may require a new or separate utility connection directly between the ADU and the utility, subject to a connection fee or capacity charge proportionate to the burden of the ADU on the water or sewer system, based upon either the square footage of the ADU or its drainage fixture unit values as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials.

(iii) The sewage disposal system and water supply for the parcel shall comply with all applicable requirements of the Environmental Health Officer.

A. As part of the application to create an ADU connected to an on-site water treatment system, a percolation test must be completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

(c) Public Improvements. Frontage improvements and other public right-of-way work cannot be required as a condition of approval for an ADU or JADU, unless required per ~~Chapter SCCC~~ 7.92 ~~SCCC~~ (Fire Code) or ~~Chapter SCCC~~ 12.10 ~~SCCC~~ (Building Regulations) or to correct illegal right-of-way encroachments.

(E) Nonconforming Conditions.

(1) Outside the Coastal Zone, ~~C~~correction of existing nonconforming zoning conditions, ~~County Code violations, or unpermitted structures~~ cannot be required as a condition of ADU or JADU approval ~~unless the corrections are required to address a threat to public health and safety and are affected by the construction of the ADU.~~

(2) Within the Coastal Zone, corrections shall be required in accordance with SCCC Section 13.20.170(C) unless the scope of development is limited to the ADU itself and all unpermitted development meets requisite coastal resource protection requirements (e.g., ESHA, wetland, and geologic hazard setbacks and associated requirements) and satisfies the Coastal Development Permit Findings set forth in SCCC 13.20.110.

(F) Design.

(1) Architectural Design. Exterior design of ADUs and JADUs that are visible from a road or other public area shall include three or more of the following elements:

(a) Roof pitch matching dominant roof slope primary dwelling(s). Dominant roof slope is the slope shared by the largest portion of the roof.

- (b) Roof material matching primary dwelling(s).
- (c) Primary siding material or color matching primary dwelling(s).
- (d) Window and door trim matching primary dwelling(s).
- (e) Porch, bay window, or other facade articulation to break up flat wall planes.
- (f) Fencing or landscaping to buffer the view of the ADU or JADU from a road or other public area. Fencing shall be the maximum fence height without a permit subject to SCCC 13.10.525, Regulations for fences and retaining walls within required yards. ~~Landscaping shall be subject to Chapter 13.13 SCCC, Water Conservation—Water Efficient Landscaping.~~

(2) Historic Preservation. ADUs and JADUs on properties in the L (Historic Landmark) Combining District that do not involve demolition, relocation, or alterations to the exterior of historic buildings shall meet the provisions of SCCC 16.42.060(D) to be reviewed ministerially. ADUs and JADUs that exceed these provisions shall be subject to discretionary review per SCCC 16.42.060.

(3) Exception. Outside the Coastal Zone, conversion ADUs and detached new construction ADUs that do not exceed four-foot side and rear yard setbacks, do not exceed a total floor area of 800 square feet, and meets the height limitations in SCCC 13.10.681(D)(7)(b) are exempt from architectural design and historic preservation standards.

(G) Occupancy. The following occupancy standards shall be applied to every ADU and JADU and shall be conditions for any approval under this section:

(1) Occupancy Restrictions. The maximum occupancy of an ADU or JADU may not exceed that allowed by the State Uniform Housing Code, or other applicable State law.

(2) Sale. ADUs and JADUs shall not be sold separately from the primary residence with the following exception:

(a) An ADU can be sold or conveyed separately from the primary residence to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and all provisions of California Government Code Section 65852.2666341 are met.

(3) Short-Term Rental Use. In no case shall a short-term rental use of ~~less than~~ 30 days or less be permitted in an ADU ~~or JADU~~. A property with an ADU ~~or JADU~~ shall not be eligible for participation in the ~~vacation rental or hosted rental programs~~ short-term rental program, except as provided by SCCC 13.10.695.

(4) Owner Residency. The following requirements apply to all JADUs ~~and apply to all ADUs except those permitted between January 1, 2020, and January 1, 2025:~~

(a) Unless owned by a government agency, land trust, or public or nonprofit housing organization, the property owner or relative of the property owner shall permanently reside, as evidenced by a homeowner's property tax exemption, or by other satisfactory documentation of residence, on the parcel in either the primary dwelling unit, ~~ADU~~ or JADU. If the ~~ADU or~~ JADU is newly constructed on a parcel within a subdivision, then the purchaser or relative of the purchaser of said property shall permanently reside in either the main dwelling or the ~~ADU or~~ JADU, shall be required to submit a property tax exemption prior to occupancy of the ~~ADU or~~ JADU, and shall be subject to the deed restriction noted in subsection (G)~~(5)(4)(b)~~ of this section.

(i) Exception. Temporary rental of both a primary dwelling unit and ~~an ADU or~~ JADU may be authorized by the ~~Planning~~ Director of the Community Development and Infrastructure Department in the case of sudden and unexpected changes in life circumstances. Property owners may be authorized to rent both the primary dwelling and the ~~ADU or~~ JADU if the property owner or relative of the property owner is unable to continue to occupy the property temporarily by reason of illness or absence from the area for other than ~~vacation~~ short-term rental purposes as determined by the ~~Planning~~ Director of the Community Development and Infrastructure Department in their sole discretion based on reasonable evidence. Evidence shall be submitted to the ~~Planning~~ Community Development and Infrastructure Department in writing, and requests for extension of the absence shall also require evidence in writing. The authorization to rent both units shall be limited to one year and may be extended at the discretion of the ~~Planning~~ Director of the Community Development and Infrastructure Department.

(b) Deed Restriction. Prior to the issuance of a building permit, the property owner shall provide to the ~~Community Development and Infrastructure Planning~~ Department proof of recordation of a declaration of restrictions containing reference to the deed under which the property was acquired by the present owner and containing the following provisions:

(i) The declaration shall provide that the property owner or relative of the property owner permanently resides in either the primary dwelling or the JADU, as evidenced by a homeowner's property tax exemption on the parcel or by other satisfactory documentation of owner residence. If the property is owned by a government agency, land trust, or public or nonprofit housing organization that is providing housing for special populations, the declaration of restrictions shall indicate that any subsequent nonpublic owner shall abide by the terms of this subsection.

(ii) The declaration shall be binding on all successors in interest.

(iii) The declaration shall provide for the recovery by the County of reasonable attorney's fees and costs in bringing legal action to enforce the declaration together with recovery of any rents collected during any



unauthorized occupancy or, in the alternative, for the recovery of the reasonable value of the unauthorized occupancy.

(iv) The declaration shall provide a restriction on the size and attributes of the ~~ADU or~~ JADU that conforms with this section.

(v) ~~JADUs only~~. The declaration shall provide a prohibition on the sale of the JADU separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(H) Application Processing.

(1) Ministerial Review. Pursuant to Government Code Sections ~~65852.266317 and 66335~~, applications for ADUs and JADUs shall be approved or denied ministerially with a building permit, and no public notice or hearing shall be required, with the following exceptions:

(a) Exceptions to Ministerial Review.

(i) Inside the coastal zone, the following discretionary review requirements apply:

A. ADUs and JADUs that do not meet the standard for exemption or exclusion under SCCC ~~13.20.050~~13.20.061 or ~~13.20.051~~13.20.071, respectively, require issuance of a combined coastal development permit (CDP) and building permit, with noticing and appeal requirements per SCCC 13.20.107 and 13.20.108, and subject to findings per SCCC 13.20.110.

~~B.~~ CDPs for ADUs and JADUs located in the Commercial Agricultural (CA) zone district shall be subject to additional findings per SCCC 13.10.314~~(A) and (B)~~.

~~BC.~~ ADUs ~~applications in the coastal zone~~ in the Parks and Recreation (PR) zone district shall be ~~processed per SCCC 13.10.352(B)~~, subject to special findings conditions per SCCC 13.10.35~~54~~(B). JADU applications in the PR zone district shall be reviewed ministerially.

~~CD.~~ ADUs and JADUs ~~applications in the coastal zone~~ in the Timber Production (TP) zone district shall be ~~processed per SCCC 13.10.372(B), with~~ subject to special findings per SCCC 13.10.37~~54~~(A).

(ii) ADU and JADU applications that do not meet the development standards contained in this section may require a variance (per SCCC 13.10.230), minor exception (per SCCC 13.10.235), or other discretionary approval.



(2) Ministerial Review Time. ADU and JADU applications that are subject to ministerial review must be approved, or a notice of deficiency sent, within 60 days of receipt of a completed building permit application. Such applications resubmitted in response to a notice of deficiency must be approved or a notice of deficiency sent, within 60 days.

(a) Exception to Ministerial Review Time. When a permit application to create an ADU or JADU is submitted along with a permit application for a new primary dwelling, the permit application for the ADU or JADU shall not be subject to a 60-day approval period but shall instead be subject to the approval period for the primary dwelling. If the new primary dwelling application requires discretionary review, the application for the ADU or JADU shall still be considered as a ministerially allowable use/development, unless the application meets one of the exceptions in subsection (H)(1)(a) of this section.

(3) Fees. Prior to the issuance of a building permit for the ADU, the applicant shall pay to the County of Santa Cruz fees in accordance with the Community Development and Infrastructure Planning Department's fee schedule as may be amended from time to time, and any other applicable fees.

(a) The County of Santa Cruz and any other local agency, special district or water corporation shall not impose any impact fee upon the development of a JADU or an ADU less than 750 square feet.

(b) Impact fees charged for ADUs greater than or equal to 750 square feet shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(c) For the purposes of this section, "impact fee" includes "fees" as defined in California Government Code Section 66000(b) and fees specified in California Government Code Section 66477. Impact fees do not include utility connection fees or capacity charges.

(4) Declarations of Restriction for Nonhabitable Structures. A recorded declaration of restriction limiting an existing accessory structure to nonhabitable use must be rescinded to allow ADUs ~~or JADUs~~ in these structures.

(I) Permit Allocations. Each ADU and JADU is exempt from the residential permit allocation system of ~~Chapter SCCC~~ 12.02-~~SCCC~~.

(J) Code Enforcement Amnesty. Per California Government Code Section 17980.12, the following amnesty provisions are available until January 1, 2030, for ADUs and JADUs that were built before January 1, 2020:

(1) A notice to correct a violation of any provision of any building standard for an ADU or JADU shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement.

(2) The owner of an eligible ADU or JADU who receives a notice to correct violations or abate nuisances related to any building standard may submit a letter to the County of Santa Cruz Community Development and Infrastructure Planning Department, Code Enforcement Division, requesting that enforcement of the violation be delayed for up to five years on the basis that correcting the violation is not necessary to address an imminent hazard or dangerous condition.

(3) The County of Santa Cruz shall grant a delay in enforcement if the Community Development and Infrastructure Planning Department Code Enforcement Division, in consultation with the Building Official, determines that correcting the violation is not necessary to protect health and safety. The provisions of SCCC 12.01.070 shall not apply to ADUs for which this delay has been granted.

(K) Unpermitted ADUs

(1) Notwithstanding any other law, and except as otherwise provided in SCCC 13.10.681(K)(2), a permit for an unpermitted ADU or unpermitted JADU that was constructed before January 1, 2020, shall not be denied due to either of the following:

(a) The ADU or JADU 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 (Enforcement of Building and Fire Codes).

(b) The ADU does not comply with state or local ADU or JADU laws.

(2) Notwithstanding SCCC 13.10.681(K)(1), a permit for an ADU subject to SCCC 13.10.681(K)(1) may be denied if the local agency makes a finding that correcting the violation is necessary to comply with the standards specified in Section 17920.3 of the Health and Safety Code.

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

~~(KL)~~ Annual Review of Impacts. As part of the County's annual review of the General Plan and County growth management system, the County shall include a section analyzing the impacts of the ADU ordinance. The annual analysis shall include the number of ADUs constructed and the impacts such construction has created in each planning area, with particular attention to the cumulative impacts within the coastal zone. JADUs are not required to be accounted for and reported upon in this annual review. The cumulative impact issue areas to be covered include, but are not limited to, traffic, water supply (including the City of Santa Cruz water supply from Laguna, Majors, and Reggiardo Creeks, and the Davenport water supply from Mill and San Vicente Creeks), public views, and environmentally sensitive habitat areas. ~~The preliminary report shall be sent to the Executive Director of the Coastal Commission for review and comment 14 days prior to submittal to the Board of Supervisors, on an annual basis.~~

~~If the Executive Director determines that specific enumerated cumulative impacts are quantifiably threatening to specific coastal resources that are under the authority of the Coastal Commission, the Executive Director shall inform the County in writing. Within 60 days of receipt of the Executive Director's written notice of a threat to coastal resources the County shall~~

~~cease accepting applications for coastal development permits under this section in the planning area(s) in which the threat of coastal resources has been identified, pending review and approval by the Coastal Commission of the County's proposed method(s) of protecting the threatened resource.~~

### **13.10.700-A "A" definitions.**

"Accessory dwelling unit" or "ADU" means, in compliance with California Government Code Section ~~65852.22~~66313, an attached or detached residential dwelling unit which 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 (area meeting the definition of "kitchen"), and sanitation. See also "junior accessory dwelling unit," "conversion ADU," and "new construction ADU."

### **13.10.700-J "J" definitions.**

"Junior accessory dwelling unit" or "JADU" means, in compliance with California Government Code Section ~~65852.22~~66313, a residential living area contained within a proposed or existing single-family residence that is no more than 500 square feet in size. JADUs can include additions to an existing structure of no more than 150 square feet. JADUs shall include independent provisions for living, sleeping, eating, and cooking (~~area meeting the definition of efficiency-kitchen but not a standard kitchen~~ cooking facility with appliances and food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU), and shared or separate sanitation facilities with the main dwelling unit. See also "Accessory dwelling unit."

January 31, 2025

## County of Santa Cruz Draft ADU Ordinance Flyover

Reviewed by: David Barboza

The following comments reflect conflicts between current State Accessory Dwelling Unit (ADU) Laws and the ADU regulations found in the County of Santa Cruz's Draft ADU Ordinance received on October 3, 2024. Where local ADU regulations conflict with State ADU Law without basis in any superseding laws, the City must amend the ADU Ordinance to bring the local regulations into compliance with State ADU Law. This flyover review represents a non-exhaustive list of conflicts to identify major inconsistencies particularly due to recent State ADU Law updates.

### Findings

1. Section 13.10.312, Table 13.10.312-1,<sup>1</sup> requires the ADU or JADU to be within 100 feet of the primary dwelling in the CA and A zones. This requirement may not be imposed on a detached ADU proposed under Government Code section 66323. A JADU must be developed within a single-family residence.<sup>2</sup>
2. Section 13.10.681(B)(1) defines an ADU. However, there is another definition of an ADU in section 13.10.700-A and the two definitions are not identical. The same term may not have two different definitions.<sup>3</sup> Government Code section 66313, subdivision (a) defines an ADU. An ADU must include permanent provisions for living, sleeping, eating cooking and sanitation, and therefore a "tiny home on wheels" is not an ADU. However, an ADU may be a manufactured home or an efficiency unit.
3. Section 13.10.681(B)(2) includes in the definition of a JADU: "JADUs can include additions to an existing structure of no more than 150 square feet." However, State JADU Law does not allow a 150 square-foot addition in conjunction with the creation of a JADU, which must be converted from space in the single-family residence. By contrast, a 150 square-foot addition to a single-family conversion ADU is allowed if the ADU is being converted from an accessory structure and the addition is for ingress and egress.<sup>4</sup>
4. Section 13.10.681(B)(4) defines a "conversion ADU" as "The conversion of any portion of a **legal** accessory structure, or any portion of a single-family dwelling, or any garage, for the purpose of creating an ADU" (emphasis added). It continues with: "If converting an existing accessory structure, applicant must be

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<sup>1</sup> All references to sections listed first in each finding are to the Draft ADU Ordinance received on October 3, 2024, unless otherwise noted.

<sup>2</sup> Gov. Code, § 66323, subds. (a) & (b) limit the applicable development standards to those listed or referenced in that section. Gov. Code, § 66333, subd. (d).

<sup>3</sup> We recommend against repeating definitions in the County Code to reduce the risk that the same term will be defined in conflicting ways as the code is amended over time.

<sup>4</sup> Gov. Code, §§ 66323, subd. (a)(1)(A) & 66333, subd. (d).

able to show that the structure was erected with all required permits, or that the structure is legal nonconforming. Structures that were built without benefit of permits are not eligible for conversion under this section and must be processed as a New Construction ADU.” However, while State ADU Law requires permits for an ADU, an accessory structure that an applicant proposes to convert to an ADU is eligible to be permitted as a conversion ADU even if it was originally built without permits.<sup>5</sup>

5. Section 13.10.681(D)(3) states: “On parcels with existing or proposed single-family dwellings: one ADU and one JADU are allowed per single-family dwelling.” However, State ADU Law requires a local agency to approve one conversion ADU, one JADU and one detached ADU if proposed on a lot in a residential or mixed-use zone with an existing or proposed single-family dwelling.<sup>6</sup>
6. Section 13.10.681(D)(3)(a)(ii) states: “Properties with dwelling groups (multiple single-family dwellings) are allowed one ADU and one JADU per single-family dwelling if the dwelling group is conforming with maximum density for the zone district. An existing dwelling in a dwelling group may be relabeled as an ADU if it meets ADU use and development standards.” However, Government Code section 66323, subdivision (a) requires a local agency to approve one conversion ADU, one JADU and one detached ADU per lot with one or more existing or proposed single-family dwellings, regardless of whether those dwellings are conforming to the maximum density for the zone. It is unclear if the ordinance grants the City unilateral authority to relabel a dwelling unit in a dwelling group as an ADU or if this would only occur upon request of an applicant.
7. Section 13.10.681(D)(3)(b) states: “On parcels with existing or proposed attached multifamily dwellings, such as apartments, **condominiums**, or a combination of single- and multifamily dwellings, the following are allowed:” (emphasis added). However, condominium developments do not always contain multifamily dwellings. For example, a condominium development consisting of townhomes consists of single-family dwellings, since each unit is on its own lot and there are no units above or below.<sup>7</sup>
8. Section 13.10.681(D)(3)(b)(iii) allows: “Conversion ADUs associated with up to 25 percent of existing multifamily units.” However, the number of multifamily conversion ADUs allowed by State ADU Law is equal to the number multifamily dwelling units, multiplied by 0.25 (rounded down); or one ADU, whichever is greater. The section continues: “Conversion ADUs in existing multifamily developments must be converted from areas not previously used as living space”. However, State ADU Law uses the term “livable space” instead. This distinction is significant because statute defines “livable space” differently from “living area.”<sup>8</sup>
9. Section 13.10.681(D)(3)(b)(iv) states: “New multifamily dwelling projects for which applications are submitted and constructed after January 1, 2020 are

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<sup>5</sup> Gov. Code, § 66314, subd. (d)(3) & 66323, subd. (a)(1)(A).

<sup>6</sup> Gov. Code, § 66323, subds. (a)(1) & (a)(2).

<sup>7</sup> See Draft Ordinance § 13.10.681(D)(3)(a)(i).

<sup>8</sup> Gov. Code, §§ 66313, subds. (e) and (f) & Gov. Code, 66323, subd. (a)(3).

ineligible for detached ADUs or conversion ADUs pursuant to 13.10.681(D)(3)(b)(ii) or 13.10.681(D)(3)(b)(iii).” However, there is no basis in State ADU Law for restricting multifamily conversion or multifamily detached ADUs based on when the multifamily dwelling units were built.<sup>9</sup>

10. Section 13.10.681(D)(3)(c) states: “Regardless of existing dwelling conformity with land use and density requirements for a parcel’s zone district or General Plan designation, **permitted** single-family dwellings shall be subject to subsection (D)(3)(a) of this section and **permitted** multifamily dwellings shall be subject to subsection (D)(3)(b) of this section” (emphasis added). However, this has the effect of prohibiting ADUs on properties with unpermitted primary dwellings. A certificate of occupancy for an ADU may not be issued before the certificate of occupancy for the primary dwelling, but in this scenario the primary dwelling and the ADU may be permitted concurrently.<sup>10</sup>
11. Section 13.10.681(D)(4) states: “JADUs must be attached” to the primary dwelling unit. However, more specifically, JADUs must be “constructed within the walls of the proposed or existing single-family residence.”<sup>11</sup>
12. Section 13.10.681(D)(6)(c)(ii)(A) sets the maximum unit size for an attached new-construction ADU on a parcel of less than one acre as follows: “850 square feet (studio or one bedroom), 1,000 square feet (two or more bedrooms), or 50 percent of primary dwelling habitable square footage, whichever is smaller.” However, the 50 percent rule only applies when the primary dwelling is existing and “whichever is smaller” should read “whichever is greater.”<sup>12</sup>
13. Section 13.10.681(D)(6)(c)(ii)(B) sets the maximum unit size for an attached new-construction ADU on a parcel of one acre or greater at: “50 percent of primary dwelling habitable square footage.” However, the 50 percent rule only applies when the primary dwelling is existing and an ADU floor area of 850 square feet or 1,000 square feet (if the ADU has more than one bedroom) must be allowed regardless of the 50 percent rule.<sup>13</sup>
14. Section 13.10.681(D)(7) states: “**All development standards** for the applicable zone district shall be satisfied and the development shall be consistent with all County policies and ordinances, except that regardless of any other zone district standards, the following provisions shall apply to ADUs” (emphasis added). However, ADUs may only be held to **objective development standards**, except to the extent that subjective standards may be necessary for Coastal Act compliance.<sup>14</sup> State ADU Law also contains two major exceptions to the applicability of certain objective development standards.<sup>15</sup>
15. Section 13.10.681(D)(7)(a)(i)(A) states: “Additions up to 150 square feet shall meet setback requirements for New Construction ADUs.” However, State ADU

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<sup>9</sup> SB 1211 (Chapter 296, Statutes of 2024) & Gov. Code, § 66323, subd. (a).

<sup>10</sup> Gov. Code, § 66328.

<sup>11</sup> Gov. Code, § 66333, subd. (d).

<sup>12</sup> Gov. Code, §§ 66314, subd. (d)(4) & 66321, subd. (b)(2).

<sup>13</sup> Ibid.

<sup>14</sup> Gov. Code, § 66314, subd. (b)(1).

<sup>15</sup> The exceptions are described in Gov. Code, §§ 66321, subd. (b)(3) & 66323.

Law requires the 150 square-foot addition described in Government Code section 66323, subdivision (a)(1) to meet side and rear setbacks “sufficient for fire and safety,” which is a reference to fire separation requirements in the California Building Standards Code, which may or may not apply depending on the type of construction proposed.<sup>16</sup>

16. Section 13.10.681(D)(7)(a)(i)(B) states: “Existing structures with nonconforming setbacks can be demolished and rebuilt with the same setbacks, except where larger setbacks are required pursuant to Chapter 7.92 SCCC (Fire Code), Chapter 12.10 SCCC (Building Regulations), or SCCC Title 16 (Environmental and Resource Protection).” However, special environmental and resource protection setbacks do not apply to ADUs outside of the coastal zone.<sup>17</sup>
17. Section 13.10.681(D)(7)(a)(ii) states: “ADUs shall comply with front setbacks for the applicable zone district.” However, State ADU Law contains two exceptions to this requirement.<sup>18</sup>
18. Section 13.10.681(D)(7)(a)(ii)(A) states: “An eight-foot rear yard setback is required for any portion of an ADU that is more than 16 feet tall.” However, local agencies may not require rear yard setbacks greater than four feet for ADUs.<sup>19</sup>
19. Section 13.10.681(D)(7)(a)(ii)(C) states: “ADUs shall be subject to environmental buffers and constraints identified per SCCC Title 16 (Environmental and Resource Protection), including but not limited to riparian corridors, geologic hazards, sensitive habitats, and agricultural buffers.” However, inland of the coastal zone, some of these regulations may not be applicable to ADUs or JADUs, particularly if they are not objective or if they are applied to 66323 units<sup>20</sup> and are not necessary to protect public health and safety.
20. Section 13.10.681(D)(7)(a)(ii)(D) states: “On parcels zoned or designated agricultural, a detached ADU shall be located within 100 feet of the primary dwelling on the property unless additional distance is required to meet the minimum agricultural buffer setback standards in SCCC 16.50.095.” However, this standard is not applicable to a 66323 unit.
21. Section 13.10.681(D)(7)(a)(ii)(F), regarding front setbacks, states: “Adequate sight distance shall be maintained pursuant to SCCC 13.16.093” However, in cases where State ADU Law preempts front setback requirements,<sup>21</sup> it does not make exceptions for vision triangles such as those referenced in the quote.
22. Section 13.10.681(D)(7)(a)(iii) states: “Minimum separation distance between ADUs and other structures shall be three feet.” However, this requirement does not apply to a 66323 unit.
23. Section 13.10.681(D)(7)(b)(ii)(A) states: “Inside the urban services line, new construction detached ADUs shall be a maximum of 16 feet.” However, State

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<sup>16</sup> See for example, California Residential Code, § R302.1.

<sup>17</sup> Gov. Code, § 66314, subd. (d)(7).

<sup>18</sup> Gov. Code, §§ 66321, subd. (b)(3) & 66323.

<sup>19</sup> Gov. Code, §§ 66314, subd. (d)(7); 66323, subds. (a)(2) & (a)(4).

<sup>20</sup> A “66323 unit” is an ADU or a JADU approved under Government Code section 66323.

<sup>21</sup> Gov. Code, §§ 66321, subd. (b)(3) & 66323.

- ADU Law lays out four scenarios for allowable ADU height, which do not vary based on whether the ADU is located inside or outside an urban services line.<sup>22</sup>
24. Section 13.10.681(D)(7)(c)(i) states: “Parcels with ADUs and JADUs shall meet lot coverage and FAR standards for the applicable zone district, except that JADU and/or ADU square footage up to 800 square feet may be excluded from FAR and lot coverage calculations for both existing and new parcels.” However, all 66323 units are exempt from such requirements.<sup>23</sup>
25. Section 13.10.681(D)(7)(d)(ii) requires “one off-street parking space per ADU.” However, efficiency units are exempt from this requirement because they do not have a separate bedroom.<sup>24</sup>
26. Section 13.10.681(D)(7)(d)(ii)(B) states: “ADU parking may be located within setback areas unless findings are made that parking in setback areas is not feasible based upon specific site or regional topographical and/or fire and life safety conditions.” However, the ordinance does not designate any such areas, nor does it list any objective criteria for designating them on a project-by-project basis.<sup>25</sup>
27. Section 13.10.681(D)(7)(d)(ii)(C) states: “If the primary dwelling unit has less than the required parking per SCCC 13.16.050, one new parking space must be provided for the ADU but parking for the primary dwelling may remain nonconforming.” However, there is no basis in State ADU Law for this requirement and ADU applications may not be denied due to nonconforming zoning conditions that do not present a threat to public health and safety and are not affected by the construction of the ADU.<sup>26</sup>
28. Section 13.10.681(D)(7)(d)(ii)(D) lists exemptions from parking requirements. However, it is missing the exemption described in Government Code section 66322, subdivision (a)(6).
29. Section 13.10.681(D)(7)(d)(iv) states: “When a garage, carport, covered parking structure, or uncovered surface parking is demolished or converted for construction of an ADU or JADU, no replacement parking is required **for the primary dwelling unit**” (emphasis added). However, State ADU Law does not limit this protection to replacement parking that is required for the primary dwelling unit.<sup>27</sup>
30. Section 13.10.681(D)(8) states: “Proposed additions associated with Conversion ADUs shall comply with any existing development permit conditions of approval that are not otherwise superseded by provisions of SCCC 13.10.681.” However, SCCC is not fully compliant with State ADU Law. Inland of the coastal zone, for

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<sup>22</sup> Gov. Code, § 66321, subd. (b)(4).

<sup>23</sup> Conversion ADUs under Government Code section 66323, subdivisions (a)(1) and (a)(3) and multifamily detached ADUs under subdivision (a)(4) are also exempt regardless of their floor area.

<sup>24</sup> Gov. Code, § 66314, subd. (d)(10)

<sup>25</sup> Gov. Code, §§ 66314, subds. (b)(1) & (d)(10)(B).

<sup>26</sup> Gov. Code, § 66322, subd. (b).

<sup>27</sup> Gov. Code, § 66314, subd. (d)(11). Instead “the local agency shall not require” replacement parking in general.



this type of ADU application, State ADU Law supersedes conflicting conditions from a prior approval.

31. Section 13.10.681(D)(9)(a) states: “One ADU may be associated with a single-family dwelling unit on a parcel that also has farmworker housing as defined in SCCC 13.10.631.” However, there is no basis in State ADU Law to restrict the number of 66323 units which would normally be allowed because there is farmworker housing on a property, unless such units were permitted as ADUs, and the property has reached the maximum number of 66323 units allowed. Special requirements may apply on lands with an agricultural conservation easement.<sup>28</sup>
32. Section 13.10.681(D)(10)(a)(iii) states: “For the purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate or new dwelling unit if an internal connection to the primary dwelling unit is maintained.” However, State JADU Law does not require the internal connection for the JADU not to be considered a separate or new dwelling unit for these purposes.<sup>29</sup>
33. Section 13.10.681(D)(10)(a)(iv) states: “ADUs and JADUs that do not have an internal connection to the primary dwelling shall maintain a separate street address from the primary dwelling unit.” However, ADUs are not permitted to have an internal connection to the primary dwelling unit because they are distinct dwelling units that must provide “complete independent living facilities.”<sup>30</sup>
34. Section 13.10.681(D)(10)(b)(i) states: “new utility connection or capacity charges may only be charged for Conversion ADUs and JADUs built concurrently with a primary dwelling.” However, in the case of a JADU, the connection requirement and associated fee are for the single-family residence and the JADU may not be required to have a separate direct connection for water, sewer or power or be charged an associated fee for such a connection.<sup>31</sup>
35. Section 13.10.681(E) states: “Correction of existing nonconforming zoning conditions, County Code violations, or unpermitted structures cannot be required as a condition of ADU or JADU approval unless the corrections are required to address a threat to public health and safety **or** are affected by the construction of the ADU” (emphasis added). However, where “or” appears in bold State ADU Law states “and,” meaning a threat to public health and safety must be affected by the construction of the ADU for a denial based on nonconforming zoning conditions, building code violations or unpermitted structures to be valid.
36. Section 13.10.681(F)(1) states: “Exterior design of ADUs and JADUs that are visible from a road or other public area shall include three or more of the following elements:”. However, 66323 units are exempt from these requirements.
37. Section 13.10.681(F)(1)(f) lists one of six elements of which the Draft Ordinance requires ADUs and JADUs to comply with three: “Fencing or landscaping to buffer the view of the ADU or JADU from a road or other public area. Fencing

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<sup>28</sup> Pub. Res. Code, § 10238, subd. (b)(6).

<sup>29</sup> Gov. Code, § 66337.

<sup>30</sup> Gov. Code, § 66313, subd. (a).

<sup>31</sup> Gov. Code, § 66338.

shall be subject to SCCC 13.10.525, Regulations for fences and retaining walls within required yards.” However, the referenced code section provides maximum fence heights. The standard is not objective with regard to what is the minimum fence height that would constitute adequate buffering, and development standards on ADUs and JADUs must be objective.<sup>32</sup>

38. Section 13.10.681(F)(2) states: “ADUs and JADUs on properties in the L (Historic Landmark) Combining District that do not involve demolition, relocation, or alterations to the exterior of historic buildings shall meet the provisions of SCCC 16.42.060(D) to be reviewed ministerially.” However, 66323 units are exempt from such requirements.<sup>33</sup> For other ADUs, the requirements must be objective and must protect resources listed on the California Register of Historical Resources.
39. Section 13.10.681(G)(2) states: “ADUs and JADUs shall not be sold separately from the primary residence with the following exception” and references Government Code section 66341. However, the County may also allow ADUs to be sold separately as condominium units, if it chooses to do so in its ADU ordinance.<sup>34</sup>
40. Section 13.10.681(G)(3) states: “In no case shall a short-term rental use of less than 30 days be permitted in an ADU or JADU.” However, there is no basis in State JADU Law to prohibit short-term rental of a JADU.<sup>35</sup>
41. Section 13.10.681(G)(4) states: “If the ADU or JADU is newly constructed on a parcel within a subdivision, then the purchaser or relative of the purchaser of said property shall permanently reside in either the main dwelling or the **ADU or JADU, shall be required to submit a property tax exemption prior to occupancy of the ADU or JADU**, and shall be subject to the deed restriction noted in subsection (G)(5)(4)(b) of this section.” However, State ADU Law prohibits owner occupancy requirements for regular ADUs.<sup>36</sup> While there is an owner occupancy requirement for JADUs, requiring proof of a homeowner’s property tax exemption, without providing an alternate option to prove owner occupancy, is unreasonable because the homeowner’s property tax exemption is not immediately available and is not available to all homeowner-occupants.<sup>37</sup>
42. Section 13.10.681(H)(4) states: “A recorded declaration of restriction limiting an existing accessory structure to nonhabitable use must be rescinded to allow ADUs or JADUs in these structures.” However, deed restrictions that effectively

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<sup>32</sup> Gov. Code, § 66314, subd. (b).

<sup>33</sup> An exception applies if the County adopted an ordinance by July 1, 2018, which provided for the approval of ADUs in multifamily dwelling structures. If such an ordinance exists, please provide us with a copy and indicate which section of the ordinance permits multifamily conversion ADUs. Gov. Code, § 66323, subd. (g).

<sup>34</sup> Gov. Code, § 66342.

<sup>35</sup> Gov. Code, §§ 66333-66339.

<sup>36</sup> Gov. Code, § 66315.

<sup>37</sup> [“Homeowner’s Exemption,”](#) California State Board of Equalization. Accessed 1/28/2025. California Constitution, Article XIII, § 3, subd. (k).

prohibit or unreasonably restrict an ADU or a JADU are void and unenforceable.<sup>38</sup>

43. Section 13.10.681(L) requests that the Executive Director of the Coastal Commission assess whether cumulative impacts from the local coastal program are threatening coastal resources, which would lead to the County refusing to accept applications for coastal development permits. However, while State ADU Law defers to the Coastal Act, it also excludes ADUs from “the application of any local ordinance, policy, or program to limit residential growth.”<sup>39</sup>

## Next Steps

Please contact us using the information below if you have any questions or comments about this review.

## Contact Information



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<sup>38</sup> Civ. Code, § 714.3.

<sup>39</sup> Gov. Code, §§ 66318, subd. (b) & 66319.

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### GOVERNMENT CODE - GOV

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** ( Heading of Title 7 amended by Stats. 1974, Ch. 1536. )

**DIVISION 1. PLANNING AND ZONING [65000 - 66342]** ( Heading of Division 1 added by Stats. 1974, Ch. 1536. )

**CHAPTER 13. Accessory Dwelling Units [66310 - 66342]** ( Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20. )

### ARTICLE 1. General Provisions [66310 - 66313] ( Article 1 added by Stats. 2024, Ch. 7, Sec. 20. )

**66310.** The Legislature finds and declares all of the following:

- (a) Accessory dwelling units are a valuable form of housing in California.
  - (b) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.
  - (c) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.
  - (d) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.
  - (e) California faces a severe housing crisis.
  - (f) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.
  - (g) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.
  - (h) Accessory dwelling units are, therefore, an essential component of California's housing supply.
- (Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)

**66311.** It is the intent of the Legislature that an accessory dwelling unit 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.

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

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

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

**66313.** For purposes of this chapter:

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

- (1) An efficiency unit.
- (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

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

*(Amended by Stats. 2024, Ch. 296, Sec. 1. (SB 1211) Effective January 1, 2025.)*


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**CHAPTER 13. Accessory Dwelling Units [66310 - 66342]** ( Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20. )

**ARTICLE 2. Accessory Dwelling Unit Approvals [66314 - 66332]** ( Article 2 added by Stats. 2024, Ch. 7, Sec. 20. )

**66314.** A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(a) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(b) (1) Impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. These standards shall not include requirements on minimum lot size.

(2) Notwithstanding paragraph (1), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

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

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

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

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

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

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

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

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

(7) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit

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

(8) Local building code requirements that apply to detached dwellings, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this paragraph shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this article.

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

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

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

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

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

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

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

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

*(Amended by Stats. 2024, Ch. 296, Sec. 2. (SB 1211) Effective January 1, 2025.)*

**66315.** Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer.

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

**66316.** An existing accessory dwelling unit ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this article. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this article, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this article for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this article.

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

**66317.** (a) 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.

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

**66318.** (a) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this article.

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

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

**66319.** An accessory dwelling unit that conforms to Section 66314 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

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

**66320.** (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.

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

**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.

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

**66322.** Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with Section 66314, all of the following shall apply:

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

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

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

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

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

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

(6) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

sprinklers to be installed in the existing multifamily dwelling.

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

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

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

*(Amended by Stats. 2024, Ch. 296, Sec. 3. (SB 1211) Effective January 1, 2025.)*

**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.

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

**66325.** (a) Except as provided in subdivision (b), this article shall supersede a conflicting local ordinance.

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

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

**66326.** (a) A local agency shall submit a copy of the ordinance adopted pursuant to Section 66314 to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this article.

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

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

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

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

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

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

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

**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.

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

**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.

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

**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.

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

**66330.** A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

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

**66331.** In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in subdivision (a) or (b), a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 2024, Ch. 834, Sec. 1. (AB 2533) Effective January 1, 2025.)*

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**GOVERNMENT CODE - GOV****TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** ( Heading of Title 7 amended by Stats. 1974, Ch. 1536. )**DIVISION 1. PLANNING AND ZONING [65000 - 66342]** ( Heading of Division 1 added by Stats. 1974, Ch. 1536. )**CHAPTER 13. Accessory Dwelling Units [66310 - 66342]** ( Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20. )**ARTICLE 3. Junior Accessory Dwelling Units [66333 - 66339]** ( Article 3 added by Stats. 2024, Ch. 7, Sec. 20. )

**66333.** Notwithstanding Article 2 (commencing with Section 66314), a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

- (a) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
- (b) 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.

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

**66334.** (a) A junior accessory dwelling unit ordinance adopted pursuant to Section 66333 shall not require additional parking as a condition to grant a permit.

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



standards.

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

**66335.** (a) (1) An application for a permit pursuant to this article shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing.

(2) 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.

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

**66336.** A local agency shall not deny an application for a permit to create a junior accessory dwelling unit pursuant to this article due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit.

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

**66337.** (a) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

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

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

**66338.** (a) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

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

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

**66339.** If a local agency has not adopted a local ordinance pursuant to this article, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in paragraph (1) of subdivision (a) of Section 66323 and the requirements of this article.

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




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### GOVERNMENT CODE - GOV

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** ( Heading of Title 7 amended by Stats. 1974, Ch. 1536. )

**DIVISION 1. PLANNING AND ZONING [65000 - 66342]** ( Heading of Division 1 added by Stats. 1974, Ch. 1536. )

**CHAPTER 13. Accessory Dwelling Units [66310 - 66342]** ( Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20. )

**ARTICLE 4. Accessory Dwelling Unit Sales [66340 - 66342]** ( Article 4 added by Stats. 2024, Ch. 7, Sec. 20. )

**66340.** For purposes of this article:

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

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

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

**66341.** A local agency shall allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

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

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

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

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

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

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

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

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

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

(B) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the

property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

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

(d) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

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

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

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

**66342.** In addition to the requirement that a local agency allow the separate sale or conveyance of an accessory dwelling unit pursuant to Section 66341, a local agency may also adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums. Any such ordinance shall include all of the following requirements:

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

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

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

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

(A) A lienholder may refuse to give consent.

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

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

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

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

(A) The lienholder's signature.

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

(C) The legal description of the real property.

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

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

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

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

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

(a) Paying off your current lender.

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

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

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

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

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

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

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

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

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



**Nov 4, 2024**

**County of Santa Cruz**  
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**Re:** Proposed Changes to the County's ADU Ordinance

Dear Santa Cruz County Planning Commission and staff,

The California Housing Defense Fund ("CalHDF") submits this letter regarding the proposed amendments to the County's accessory dwelling unit ("ADU") ordinance, which were heard by the Commission on October 23, 2024.

CalHDF appreciates that the County is amending its ADU ordinance to keep pace with change in state law. However, the proposed ordinance has areas where it does not comply with state law. Furthermore, the proposed ordinance directly conflicts with policies and programs in the County's Housing Element.

### **Background**

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

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

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**[hi@calhdf.org](mailto:hi@calhdf.org)**

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

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

### **Illegal Prohibition on Conversion of Unpermitted Structures**

County code section 13.10.681(B)(4) prohibits the conversion of unpermitted structures into ADUs. The County has no authority to prohibit such conversions under state law. As discussed above, Government Code Section 66315 restricts what the County may regulate to items specifically enumerated in section 66314, and section 66323 further limits the County’s ability to regulate ADU development to basic height and setback for a specific class of ADUs. Nowhere does state ADU law allow the County to forbid the conversion of unpermitted structures into ADUs.

### **Illegal Prohibition on Conversion of Multifamily Non-residential Spaces**

Code section 13.10.681(D)(3)(b)(iv) prohibits multifamily buildings developed after January 1, 2020 from converting non-residential spaces into ADUs, and it also prohibits such buildings from developing eight detached ADUs. State law does not allow the County to prohibit such conversions, nor does it allow the County to condition development permits on the removal of such spaces. State law also does not allow the County to forbid up to eight detached ADUs on multifamily buildings developed after January 1, 2020. Government Code section 66323, which regulates multifamily conversions and also detached ADUs on multifamily properties, is effective for any building that exists upon the date of application for permits and is not limited to buildings extant on January 1, 2020.

And while the staff report referenced the Density Bonus Law (“DBL”), the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the Town “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.) The County there may not condition approval on the removal of these spaces, as the additional spaces are part of the project as designed..

### **Unlawful Restriction on Attached ADU Size**

Code section 13.10.681(D)(6)(c)(ii) restricts attached ADUs at 50% of the primary dwellings habitable square footage. This violates the provisions of Government Code section 66321, subdivision (b)(2), which forbids local agencies from establishing maximum unit sizes for attached ADUs smaller than 850 square feet, or 1000 square feet if the ADU includes more than one bedroom. While Government Code section 66314, subdivision (d)(4), separately regulates attached ADU size, the more specific provision of Section 66321, subdivision (b)(2), overrules the more general provision of section 66314 subdivision (d)(4). (*Lopez v. Sony Elecs., Inc.* (2018) 5 Cal.5th 627.) The County must amend this section of code to include a proviso that an applicant is allowed an 850 square foot attached ADU, or 1000 square foot attached ADU with more than one bedroom, regardless of the size of the primary dwelling unit.

### **Unlawful Setback Requirements**

Code section 13.10.681(D)(7)(a)(i)(A) requires that additions up to 150 square feet for conversion ADUs must meet the setback requirements for new construction ADUs. However, this is not permitted by state law. Government Code section 66323, subdivision (a)(1), which is the state law authority for such 150 square foot ingress/egress allowance, requires only that side and rear setbacks must be sufficient for fire and safety. (Gov. Code, § 66323, subd. (a)(1)(C).) The County must therefore remove these setback requirements.

Code section 13.10.681(D)(7)(a)(ii)(A) requires an eight-foot rear setback for portions of ADUs greater than 16 feet in height. However, Government Code section 66323, subdivisions (a)(2)(B) and (a)(4)(A) allows detached ADUs up to 18 feet if they are within one half mile walking distance of a major transit stop or a high-quality transit corridor, or if they are on a parcel with an existing or proposed multifamily dwelling. Furthermore, ADUs may be built two feet higher than this to match the roof pitch of the primary dwelling. In all such cases, the ADUs need only comply with a four foot rear setback, and the County may not require an eight foot setback instead.

Code section 13.10.681(D)(7)(a)(ii)(C) requires all ADUs to be subject to environmental constraints and buffers in the County code. Code section 13.10.681(D)(7)(a)(ii)(D) requires ADUs to be within 100 feet of the primary dwelling on agriculturally zoned land. Code section 13.10.681(D)(7)(a)(ii)(E) requires ADUs located in the Seascape Beach Estates Combining District to meet the setback requirements in SCCC 13.10.436. Code section 13.10.681(D)(7)(a)(ii)(F) requires adequate sight distance to be maintained pursuant to SCCC 13.16.093.

All these requirements are plainly forbidden by state law. As discussed above, Government Code section 66323 mandates that the County approve a specific class of ADUs subject only to specified height and setback requirements, notwithstanding any local code requirements

to the contrary. SB 1211 made this even more explicit: Gov. Code, § 66323, subdivision (b): “A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).”

Additionally, Code section 13.10.681(D)(7)(a)(ii)(F) only lifts the front setback requirement if it would otherwise preclude an ADU of 800 square feet on the property. However, Government Code section 66323 does permit any application of front setback requirements to ADUs that qualify for its protections, regardless of whether or not an ADU is developable elsewhere on the property. There are many policy reasons for this. For instance, a homeowner may prefer to preserve a private backyard space while redeveloping the less useful front yard. While children may play in the backyard, the front yard is closer to the street and less safe for a variety of activities.

### **Impermissible Parking Requirements**

Code section 13.10.681(D)(7)(d)(ii) requires parking for new construction, off-street ADUs. However, as discussed above, Government Code section 66323 mandates that the County approve a specific class of ADUs subject only to specified height and setback requirements, notwithstanding any local code requirements to the contrary. This means that the County cannot subject such ADUs to parking requirements.

### **Impermissible Floor Area Ratio (FAR) Restrictions**

Code section 13.10.681(D)(7)(c)(i) requires ADUs and JADUs to comply with FAR standards in the underlying district, except for an allowance of up to 800 square feet. However, this is plainly impermissible for certain ADUs subject to the protections of Government Code section 66323. For instance, state law does not allow a size limit on a conversion ADU eligible for the protections of Section 66323, subdivision (a)(1). For a single-family dwelling that has already maximized a lot’s FAR, this County code requirement would forbid the conversion of a 1000-square foot garage to an ADU, as this would exceed the 800 square foot allowance and the County code exempts 225 square feet of garage space from floor area calculations. (Santa Cruz County Code, § 13.10.700-F.)

### **Impermissible Application of Prior Conditions of Approval**

Code section 13.10.681(D)(8) requires conversion ADUs to comply with existing development permit conditions of approval. This is plainly illegal, as the entire purpose of state ADU law is to mandate that local agencies allow more units than otherwise allowed by local zoning.

For instance, a subdivision may have been permitted with a condition of approval restricting the maximum number of dwelling units on the property. Once built, this condition of approval would restrict any of the homeowners from building any ADUs. And no matter



what, the County must permit ADUs that qualify for the protections of Government Code section 66323 on any parcel with a proposed or existing multifamily dwelling, regardless of any conditions of approval to the contrary.

### **Impermissible Sprinklering Requirements**

Code section 13.10.681(D)(10)(a)(i) requires sprinklers for conversion ADUs that are 50% or greater than the size of the existing dwelling, and it also requires sprinklers for detached ADUs greater than 1,200 square feet.. This violates Government Code section 66314, subdivision (d)(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.” If the existing primary dwelling isn’t required to provide sprinklers, then a conversion ADU or a detached new construction ADU is also not required to provide sprinklers, regardless of its size. And it is unclear why the County would require sprinklers for a detached ADU greater than 1,200 square feet, which would otherwise only be subject to the Residential Code, other than to discourage such ADUs by making them more costly.

### **Illegal Design Requirements**

Code section 13.10.681(F) requires ADUs to adhere to various design requirements. However, the City may only require such design requirements for ADUs that don’t qualify for the protections of Government Code section 66323. As discussed above, Government Code section 66323 mandates that the County approve a specific class of ADUs subject only to specified height and setback requirements, notwithstanding any local code requirements to the contrary. SB 1211 made this even more explicit: Gov. Code, § 66323, subdivision (b): “A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).”

Not only are these design requirements illegal, they also deprive County residents of the right to develop a pre-fabricated ADU, which is a right enjoyed by the residents of every other jurisdiction in the state. And it is unclear why the County would do this, other than to discourage ADU development.

### **Illegal Enforcement of Restrictive Covenants**

Code section 13.10.681(H)(4) requires applicants to have restrictive covenants lifted in order to convert a non-inhabitable structure into an ADU. This is not only an inappropriate use of government power, it also violates multiple sections of state law.

Firstly, restrictive covenants are private contracts between property owners. Just as it would be inappropriate for the County to enforce a homeowner association’s rules regarding paint



color or hedge height, it is equally inappropriate for the County to enforce a restrictive covenant on a garage or shed.

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

Most conclusively, Civil Code sections 4751 and 714.3 void any covenants that unreasonably restrict ADU development. Any covenant that restricts the conversion of non-residential space to an ADU is voided by these sections of state law.

### **Housing Element Conflicts**

Not only does the County’s proposed ADU ordinance violate state law, it also contravenes policies and provisions in the County’s Housing Element:

Policy H-1.4 Accessory Dwelling Units. In single-family zones, encourage and support developers to include accessory dwelling units (ADUs) in their projects, in accordance with state law and County Code. In multi-family zones, encourage and support development of multi-family housing at the minimum density level or higher, and allow ADUs in accordance with state law, encouraged as an addition after the project achieves the minimum density standard for the site. Encourage ADUs within SB 9 and SB 10 projects.

Program H-4F Continue to support housing access and affordability for local seniors by: Encourage developers to design multi-generational housing projects such as townhomes or subdivisions with ADUs, or other designs conducive to multi-generational living, so extended families can live together comfortably.

The County’s ADU ordinance actively discourages ADU development. This is distressing, because the County is planning on 478 ADUs during the Housing Element planning period, with 110 of those counting towards the County’s low-income share of its Regional Housing Needs Allocation. It is therefore troubling that the County would have an ordinance that restricts ADU development in so many ways.

This is particularly distressing in light of the continuing homelessness issues in the County. For instance, 9% of UC Santa Cruz students are homeless, according to a University of California [survey](#).



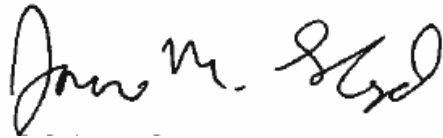
CalHDF urges the County to amend the proposed ordinance to comport with state law. If the County should not do so, CalHDF will report the issue to the California Department of Housing and Community Development for further action.

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

Sincerely,



Dylan Casey  
CalHDF Executive Director



James M. Lloyd  
CalHDF Director of Planning and Investigations