



# Council Agenda Report

From: John Falkenstien, City Engineer

Subject: Consideration of reductions to Development Impact Fee and Utility Connection Fees for Second (Accessory Dwelling) Residential Units consistent with AB 2299

Date: January 17, 2017

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## **Facts**

1. Secondary residential units are allowed in all single-family residential zones. They are limited to a maximum of 1,200 square feet, or less depending upon the size of the primary residence. They are distinguished from guest houses in that they have kitchen facilities and are intended to be rented to a household separate from the occupants of the primary dwelling.
2. On April 19, 2016, the Council approved Resolution No. 16-039, reducing Development Impact Fees for qualified studio and one-bedroom apartment units.
3. At the August 4, 2016 Housing Constraints and Opportunities Committee meeting, the Committee reviewed secondary unit Development Impact Fees and directed staff to include options for relief for water and sewer capacity connection fees.
4. Currently, secondary residences are subject to impact fees at the multi-family rate. Sewer capacity charges are applied at the multi-family rate. Water capacity charges are only applied if the fixture unit demand of the secondary unit, in addition to the fixture unit demand of the primary unit, exceeds the Plumbing Code prescription for the capacity of the existing meter serving the property.
5. Two related bills, Senate Bill 1069 and Assembly Bill 2299 (collectively, "AB 2299") recently signed by the Governor, preclude agencies from assessing capacity charges for sewer and water facilities on secondary residential units contained within existing single-family residences or accessory structures. AB 2299 went into effect on January 1, 2017. New secondary residential units not meeting the above criteria may be subject to capacity charges based upon either the size of the secondary unit or the number of its plumbing fixtures.
6. AB 2299 does not clearly apply to other development impact fees.
7. The Uptown / Town Centre Specific Plan is a form-based Code where units similar to secondary units are described as "carriage houses" or "rear yard single dwellings" and are permitted in certain "multi-family residential" zones.
8. At the October 26, 2016 Housing Constraints and Opportunities Committee meeting, the Committee recommended the Council review secondary unit Development Impact Fees and aligning them with AB 2299 and the existing studio / one-bedroom apartment unit Development Impact Fees schedule.

## Options

1. Take no action
2. The City Council consider the following policies for secondary residential type units:
  - a. Elimination of the water service capacity charges for water connection shared with main residence,
  - b. Elimination of the sewer service capacity charges,
  - c. Use the studio / one-bedroom apartment Development Impact Fee schedule for secondary units, carriage houses” and “rear yard single dwellings,
  - d. Include the Uptown / Town Centre Specific Plan “Carriage House,” “Rear Yard Single Dwelling,” “Rear Yard Duplex,” and “Duplex” form types in the secondary unit fee policy.
3. Amend Option 2.
4. Continue and refer back to staff for additional analysis

## Analysis and Conclusion

Secondary units are allowed in all single-family residential zones. They are limited to a maximum of 1,200 square feet, or less depending upon the size of the primary residence. They are distinguished from guest houses in that they have kitchen facilities and are intended to be rented to a household separate from the occupants of the primary dwelling. A guest “house” is best described as a detached bedroom that is accessory to the primary household.

In accordance with Council Resolution No. 11-133, secondary units pay sewer capacity charges at the multi-family rate. AB 2299, which took effect on January 1, 2017, precludes agencies from assessing water and sewer capacity charges on secondary residential units contained within existing single-family residences or accessory structures. It allows, but does not require, capacity charges for new secondary units, based on either their size or number of plumbing fixtures, and proportionate to their burden on the water or sewer system.

Staff recommends the Council waive capacity charges for sewer and water connections for the following dwelling types in the specified locations:

- |  |                                     |
|--|-------------------------------------|
| • Second Residential Units                           | all single-family residential zones |
| • Carriage House form type                           | Uptown / Town Centre Specific Plan  |
| • rear yard single-dwelling form type                | Uptown / Town Centre Specific Plan  |
| • <u>Unit 2 only</u> of a Rear Yard Duplex form type | Uptown / Town Centre Specific Plan  |
| • <u>Unit 2 only</u> of any Duplex form type         | Uptown / Town Centre Specific Plan  |

Secondary units are currently subject to the multi-family Development Impact Fee schedule. As a result of Council’s adoption of Resolution 16-039, it may be reasonable to consider that secondary units meeting the criteria for small apartment units would be eligible for the new reduced fees:

- |                                      |                  |
|--------------------------------------|------------------|
| • Studio Units:                      | <450 square feet |
| • One bedroom units:                 | <600 square feet |
| • Standard multi-family residential: | >600 square feet |

However, reducing fees for larger secondary units, over 600 square feet, typically comprising two bedrooms, would seem more difficult to justify. Some assumption would have to be made that these

structures have a lower occupancy rate than other typical multi-family units, and there is little evidence to support such an assumption.

**Development Impact Fees Summary - - Resolution 16-039 Exhibit "A"**  
**July 1, 2016**

Construction Type	Transportation	Police	Fire	General Governmental	Park and Recreation	Library	Total
Single Family - Resolution	\$ 12,354	\$ 78	\$ 1,069	\$ 3,096	\$ 3,027	\$ 999	\$ 20,622
Multiple Family - Resolution	\$ 8,514	\$ 92	\$ 1,069	\$ 3,096	\$ 3,027	\$ 999	\$ 16,796
<b>One Bedroom units<sup>1</sup></b>	<b>\$ 4,801</b>	<b>\$ 56</b>	<b>\$ 602</b>	<b>\$ 1,745</b>	<b>\$ 1,707</b>	<b>\$ 563</b>	<b>\$ 9,474</b>
<b>Studio Units<sup>2</sup></b>	<b>\$ 3,200</b>	<b>\$ 34</b>	<b>\$ 402</b>	<b>\$ 1,164</b>	<b>\$ 1,138</b>	<b>\$ 375</b>	<b>\$ 6,313</b>
Commercial Lodging Motel/Hotel	\$ 2,737	\$ 93	\$ 441	\$ 92	No Fee	No Fee	\$ 3,364
RV Parks & Campgrounds	\$ 2,282	\$ 93	\$ 441	\$ 92	No Fee	No Fee	\$ 2,909
Commercial per sq. ft.	\$ 11.16	\$ 0.12	\$ 0.39	\$ 1.12	NA	NA	\$ 12.81
Industrial per sq. ft.	\$ 3.14	\$ 0.03	\$ 0.21	\$ 0.61	NA	NA	\$ 4.00
<b>GRACE PERIOD *</b>							
<i>Single Family - West Side of Salinas River</i>	\$ 5,213	\$ 78	\$ 1,069	\$ 3,096	\$ 3,027	\$ 999	\$ 13,481
<i>Multiple Family - West Side of Salinas River</i>	\$ 4,171	\$ 92	\$ 1,069	\$ 3,096	\$ 3,027	\$ 999	\$ 12,453
<i>Commercial per sq. ft. - East Side of Salinas River</i>	\$ 8.80	\$ 0.05	\$ 0.58	\$ 0.45	NA	NA	\$ 9.89
<i>Commercial per sq. ft. - West Side of Salinas River</i>	\$ 7.34	\$ 0.05	\$ 0.58	\$ 0.45	NA	NA	\$ 8.43

Single Family Residential: Includes single family detached homes, town homes, condominium units, mobile homes, and pre-fabricated homes.

Multi-Family Residential: Includes buildings comprised of two or more attached dwelling units under common ownership, including apartments

<sup>1</sup> One Bedroom units are limited to a maximum of 600 square feet and are comprised of one room, one kitchen, a bathroom and no other rooms with more than three walls (see Exhibit B).

<sup>2</sup> Studio Units are limited to a maximum of 450 square feet and are comprised of one room including a kitchen, bathroom, and no other room (see Exhibit C).

The Uptown / Town Centre Specific Plan is a form based Code which allows for different types of secondary units. Therefore, it would make sense to have the same fees and incentives for secondary “type” units for the entire community. The Uptown / Town Centre Specific Plan’s “Carriage House,” “Rear Yard Single Dwelling,” “Rear Yard Duplex,” and “Duplex” form types allow for the same type of unit as a single-family residential second unit, and therefore it would be logical to treat them within the secondary unit policy.

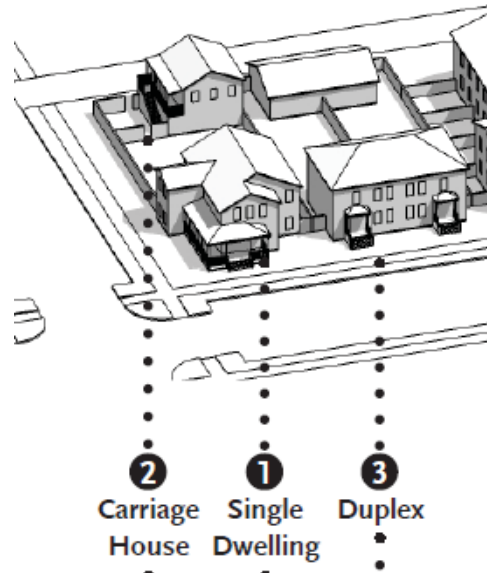


Table 5.5.1: Building Type Standards by Zone

Building Type	Lot Width (min-max) [1,2]	Number of Stories							
		T-3N	T-3F	T-4N	T-4F	T-4NC	TC-1	TC-2	RC
1. Carriage House/ Rear Yard Single Dwelling/ Rear Yard Duplex	45' - 75'	2	2	2	-	-	-	-	-
2. Single Dwelling	40' - 70'	2 [3]	2 [3]	2 [3]	2 [3]	-	-	-	-
3. Duplex	50' - 75'	2 [3]	2 [3]	2 [3]	2 [3]	-	-	2	2

**F - Requirements for Individual Building Types**

**2. Carriage House, Rear Yard Single Dwelling, and Rear Yard Duplex.**

A Carriage House is residence above a garage, also known as a ‘granny flat,’ which provides complete independent living facilities for one or more persons and which is located or established on the same lot on which a Single Dwelling is located. Carriage Houses may contain permanent provisions for living, sleeping, eating, cooking, and sanitation.

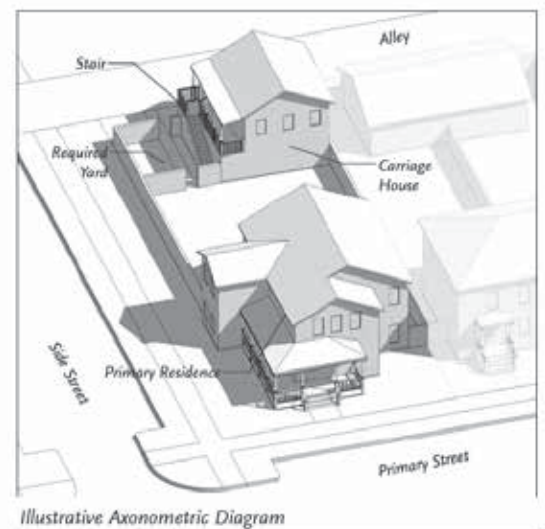
A Rear Yard Single Dwelling is a detached Single Dwelling located in the rear yard of a Single Dwelling. A Rear Yard Duplex is a detached two-unit dwelling located in the rear yard of a Single Dwelling.

**a. Lot Standards**

- i. Width:
  - (1) Minimum: 45 feet
  - (2) Maximum: 75 feet

**b. Building Size and Massing Standards**

- i. Maximum height: 2 stories
- ii. Maximum length along alley: 35 feet



**Policy Reference**

2003 General Plan, Uptown / Town Centre Specific Plan, AB 1600 Justification Study

**Fiscal Impact**

Depending upon the number of secondary units developed, there will be some negative shortfall for all development impact fee categories.

**Recommendation**

Option 2: The City Council approve draft Resolution A adopting the following policies for secondary units:

- a. Elimination of capacity charges for a shared water connection,
- b. Elimination of capacity charges for sewer service,
- c. Use the studio / one-bedroom apartment Development Impact Fee schedule,
- d. Include the Uptown / Town Centre Specific Plan “Carriage House,” “Rear Yard Single Dwelling,” “Rear Yard Duplex,” and “Duplex” form types in the secondary unit fee policy.

**Attachments**

1. Draft Resolution A
2. City Council Resolution No. 16-039: Studio / One Bedroom Development Impact Fees
3. Bill Text – AB 2299

# Attachment 1

## Draft Resolution A

### RESOLUTION 16-xxx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES  
ELIMINATING CAPACITY CHARGES FOR A SHARED WATER CONNECTION,  
ELIMINATING CAPACITY CHARGES FOR SEWER SERVICE,  
AND APPROVING THE STUDIO / ONE-BEDROOM APARTMENT DEVELOPMENT IMPACT  
FEE SCHEDULE, FOR SECOND RESIDENTIAL UNITS, UPTOWN / TOWN CENTRE  
SPECIFIC PLAN “CARRIAGE HOUSE,” “REAR YARD SINGLE DWELLING,” “REAR YARD  
DUPLEX,” AND “DUPLEX” FORM TYPES.

WHEREAS, secondary residential units (“secondary units”) are allowed in all residential zones; and

WHEREAS, secondary units are limited to a maximum of 1,200 square feet or less depending upon the size of the primary residence; and

WHEREAS, SB 1069 and AB 2299 (collectively “AB 2299”) precludes agencies from assessing capacity charges for sewer and water facilities on secondary units contained within existing single-family residences or accessory structures; and

WHEREAS, AB 2299 provides that new secondary units may be subject to capacity and connection charges based upon either the size of the secondary unit or the number of its plumbing fixtures; and

WHEREAS, the General Plan and the Uptown/Town Centre Specific Plan advocates development of a range of infill housing opportunities including mixed-use development and compact development to promote less reliance upon automobile use; and

WHEREAS, the Uptown/Town Centre Specific Plan is a form-based Code where units similar to secondary units are described as “carriage houses” or “rear yard single dwellings” and are permitted in certain zones; and

WHEREAS, the Paso Robles Economic Strategy encourages a wide range of compact residential uses to encourage, walking, biking transit access and less auto use, and

WHEREAS, on April 19, 2016, the Council approved Resolution No. 16-039, which reduced Development Impact Fees for qualified studio and one-bedroom apartment units; and

WHEREAS, at the October 26, 2016 meeting of the Housing Constraints and Opportunities Committee meeting, the Committee recommended the Council review and align development impact fees for secondary units with AB 2299 and Resolution No. 16-039, impact fees for small apartment units.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council hereby finds and determines that based on the information presented to it regarding the goals of the Uptown/Town Centre Specific Plan to encourage a wider range of housing opportunities and mixed-use projects, the Paso Robles Economic Strategy and AB 2299, there is a sufficient basis to justify setting development impact fees for secondary units consistent with those for small apartment units, based on their comparable size. This policy is also intended to encourage the development of affordable housing units.

Therefore, the City Council hereby determine that secondary units consistent with the size of studio and one-bedroom unit apartment units defined in City Council Resolution No. 16-039, shall pay the same development impact fees as studio and one-bedroom units as set forth in that resolution. This policy shall apply to the following dwelling types in the areas indicated:

- |                                       |                                     |
|---------------------------------------|-------------------------------------|
| • Secondary Residential Units         | all single-family residential zones |
| • Carriage House form type            | Uptown / Town Centre Specific Plan  |
| • Rear Yard Single Dwelling form type | Uptown / Town Centre Specific Plan  |
| • Rear Yard Duplex form type          | Uptown / Town Centre Specific Plan  |
| • Duplex form type                    | Uptown / Town Centre Specific Plan” |

Section 3. In addition, AB 2299 does not require capacity charges for sewer and water connections be assessed for new secondary units. Therefore, the City Council hereby determines that it is appropriate to waive capacity charges for any secondary unit that shares a water connection with the primary residence and to waive capacity charges for sewer connections for secondary units for the following dwelling types in the areas indicated:

- |  |                                     |
|--|-------------------------------------|
| • Second Residential Units                           | all single-family residential zones |
| • Carriage House form type                           | Uptown / Town Centre Specific Plan  |
| • rear yard single dwelling form type                | Uptown / Town Centre Specific Plan  |
| • <u>Unit 2 only</u> of a Rear Yard Duplex form type | Uptown / Town Centre Specific Plan  |
| • <u>Unit 2 only</u> of any Duplex form type         | Uptown / Town Centre Specific Plan  |

Section 4. If any action, subsection, sentence, clause or phrase of this resolution, the Justification Study, or other attachment hereto, shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this resolution or other fees levied by this resolution that can be given effect without the invalid provisions or application of fees.

Section 5. This resolution shall take effect immediately upon its adoption by the City Council.



APPROVED this 17<sup>th</sup> day of January, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Steven W. Martin, Mayor

ATTEST:

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Kristen L. Buxkemper, Deputy City Clerk



## RESOLUTION NO. 16-039

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES REDUCING DEVELOPMENT IMPACT FEES FOR QUALIFIED STUDIO AND ONE-BEDROOM APARTMENT UNITS

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WHEREAS, in 2015 the City Council created a Housing Constraints and Opportunities Advisory Committee to review the issues constraining the production of housing within the City of Paso Robles including the issue of Development Impact Fees for studio apartment units, and

WHEREAS, the Housing Constraints and Opportunities Committee reviewed the issue of Development Impact Fees for studio apartment units at their March 17, 2016, and

WHEREAS, the General Plan and Uptown-Town Centre Specific Plan advocates development of a range infill housing opportunities including mixed-use development and compact development to promote less reliance upon automobile use; and

WHEREAS, the Paso Robles Economic Strategy encourages a wide range of compact residential uses to encourage walking, biking, transit access and less auto use, and

WHEREAS, the existing Development Impact Fees, adopted by Resolution No. 14-035 on April 1, 2014, was based on a Justification Study prepared by David Taussig & Associates; and

WHEREAS, the Justification Study was based upon an occupancy rate of 2.66 persons per single-family and multi-family residential unit;

WHEREAS, data from the City of Los Angeles and the United States Department of Agriculture show that small apartment units have occupancy rates of one to 1.5 persons per unit (Exhibit D), which is less than the 2.66 persons per unit estimated for multi-family residential development in Paso Robles; and

WHEREAS, such reduced occupancy rates can mean that the development of such units will have a lesser impact on community facilities than typical multi-family residential development; and

WHEREAS, the Housing Constraints and Opportunities Committee recommended at their March 17, 2016 meeting that development impact fees for studio apartment units and one-bedroom apartment units be calculated based on a projected occupancy of one person per studio unit and one and one-half persons per one-bedroom unit; and

WHEREAS, the City Council desires to adjust Development Impact Fees based on the following:

- Studio apartment will have an average of 1.0 person per units because they are limited to a maximum of 450 square feet, and
- One-bedroom apartment units will have an average of 1.5 person per units because they are limited to 600 square feet based, and

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Incorporation of Recitals. All of the Recitals above are true and correct and are incorporated herein by reference.

SECTION 2. Findings and Determinations. The City Council hereby finds and determines that based on the information presented to it regarding the goals of the Uptown-Town Centre Specific Plan to encourage a wider range of housing opportunities and mixed-use projects, the Paso Robles Economic Strategy and the information presented by David Taussig regarding the lower occupancy rates for small studio and one-bedroom units than those for typical multi-family residential units, there is a sufficient basis to justify a reduction of development impact fees for such small units based upon their lesser impact upon the community. Therefore, the City Council hereby approves and adopts the reduction of impact fees for studio apartments of up to 450 square feet in size and one-bedroom apartments of up to 600 square feet in size. The fees shall be as set forth in Exhibit A, B, C, and D, attached hereto and incorporated herein by reference.

SECTION 3. General Plan Review. The City Council recognizes that a reduction in impact fees for qualified small units, as set forth in this Resolution, will reduce revenues for infrastructure improvements to be financed by such fees. Therefore, staff is directed to evaluate whether any adjustments to the number of authorized multi-family units in the Land Use Element of the City's General Plan, or other revisions should be made that will off-set the projected loss of revenue due to the reduction in fees for qualified small units.

SECTION 4. Severability. If any action, subsection, sentence, clause or phrase of this resolution, the Justification Study, or other attachments hereto, shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this resolution or other fees levied by this resolution that can be given effect without the invalid provisions or application of fees.

SECTION 8. Effective Date. This resolution shall take effect immediately upon its adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 19<sup>th</sup> day of April, 2016 by the following vote:

AYES: Hamon, Gregory, Reed, Strong, Martin

NOES:

ABSENT:

ABSTAIN:

  
\_\_\_\_\_  
Steven W. Martin, Mayor

ATTEST:

  
\_\_\_\_\_  
Kristen L. Buxkemper, Deputy City Clerk

Exhibits:

- A - Amended Development Impact Fee Schedule
- B - One Bedroom Unit Detail
- C - Studio Unit Detail
- D - Housing Occupancy Assumptions

**Exhibit "A"**  
**Development Impact Fees Summary - - Resolution 16-xxx**  
**Amended 4/19/16**

Construction Type	Transportation	Police	Fire	General Governmental	Park and Recreation	Library	Total
Single Family	\$ 12,183	\$ 77	\$ 1,054	\$ 3,053	\$ 2,985	\$ 985	\$ 20,337
Multiple Family	\$ 8,396	\$ 91	\$ 1,054	\$ 3,053	\$ 2,985	\$ 985	\$ 16,564
One Bedroom units <sup>1</sup>	\$ 4,735	\$ 55	\$ 594	\$ 1,721	\$ 1,683	\$ 555	\$ 9,343
Studio units <sup>2</sup>	\$ 3,156	\$ 34	\$ 396	\$ 1,148	\$ 1,122	\$ 370	\$ 6,226
Commercial Lodging Motel/Hotel	\$ 2,699	\$ 92	\$ 435	\$ 91	No Fee	No Fee	\$ 3,317
RV Parks & Campgrounds	\$ 2,251	\$ 92	\$ 435	\$ 91	No Fee	No Fee	\$ 2,869
Commercial per sq. ft.	\$ 11.01	\$ 0.12	\$ 0.39	\$ 1.11	NA	NA	\$ 12.63
Industrial per sq. ft.	\$ 3.09	\$ 0.03	\$ 0.21	\$ 0.61	NA	NA	\$ 3.94
<b>GRACE PERIOD *</b>							
Single Family - West Side of Salinas River	\$ 5,141	\$ 77	\$ 1,054	\$ 3,053	\$ 2,985	\$ 985	\$ 13,295
Multiple Family - West Side of Salinas River	\$ 4,113	\$ 91	\$ 1,054	\$ 3,053	\$ 2,985	\$ 985	\$ 12,281
Commercial per sq. ft. - East Side of Salinas River	\$ 8.68	\$ 0.05	\$ 0.58	\$ 0.44	NA	NA	\$ 9.75
Commercial per sq. ft. - West Side of Salinas River	\$ 7.24	\$ 0.05	\$ 0.58	\$ 0.44	NA	NA	\$ 8.31

Single Family Residential: Includes single family detached homes, town homes, condominium units, mobile homes, and pre-fabricated homes.

Multi-Family Residential: Includes buildings comprised of two or more attached dwelling units under common ownership, including apartments.

<sup>1</sup> One Bedroom Units are limited to a maximum of 600 square feet and are comprised of one room, one kitchen, a bathroom and no other rooms with more than three walls (see Exhibit B).

<sup>2</sup> Studio Units are limited to a maximum of 450 square feet and are comprised of one room including a kitchen, bathroom, and no other room (see Exhibit C).

The following uses are allowed in commercial zones under Conditional Use Permit:

Buildings constructed for these uses shall be considered Industrial for the purposes of Development Impact Fees.

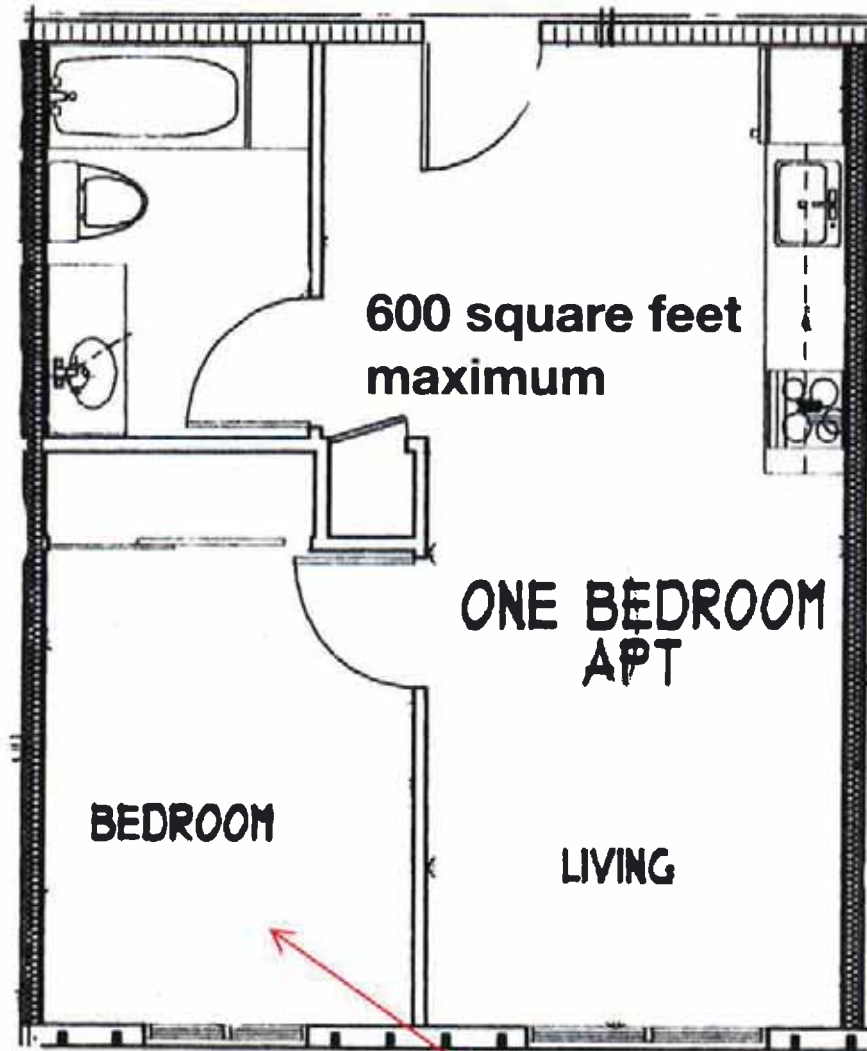
Recycling, Wholesale and Storage, Mini-Storage, Warehousing Manufacturing and Processing, including:

Apparel, Chemical Products, Electrical Equipment, Food and Kindred Products, Furniture and Fixtures, Glass Products, Cabinet Shops, Prefabricated Walls and Trusses, Machinery, Metal Fabrication, Mobile Home Manufacturing, Paper Products, Plastics, Fiberglass, Rubber, Jewelry, Stone, Structural Clay and Pottery, Testing Laboratories.

*\* All residential building permit applications on properties west of the Salinas River that are, or were received by the City Building Division on or before September 1, 2014, and based upon the submissions made by that date have been deemed by the City to be accepted for review to determine their compliance with City requirements, shall be processed on a first-come, first-served basis, in accordance with the City's standard policies and practices shall be subject to the transportation development impact fees that applied pursuant to Resolution No. 06-188, prior to adoption of this resolution.*

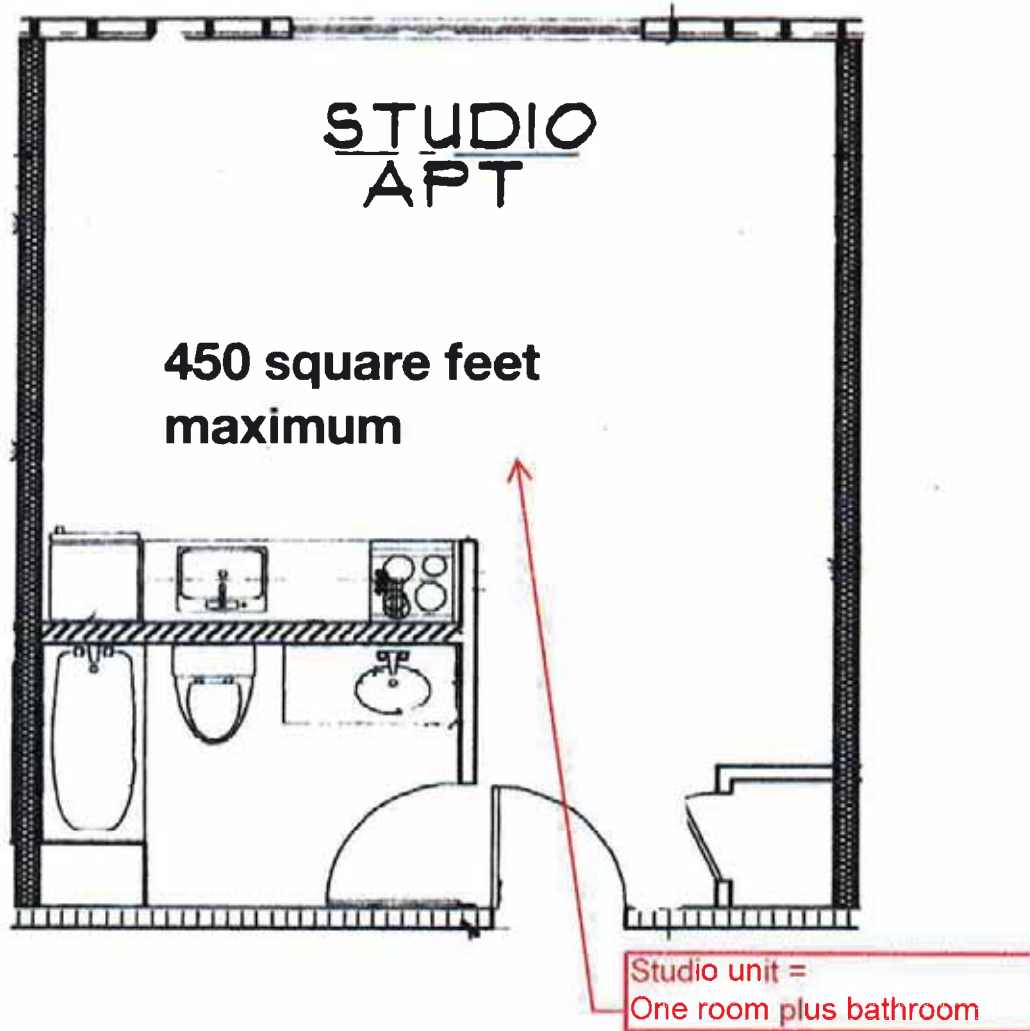
*\* All commercial building permit applications that are, or were received by the City Building Division on or before September 1, 2014, and based upon the submissions made by that date have been deemed by the City to be accepted for review to determine their compliance with City requirements, shall be processed on a first-come, first-served basis, in accordance with the City's standard policies and practices shall be subject to the development impact fees that applied pursuant to Resolution No. 06-188, prior to adoption of this resolution.*

Exhibit B – One Bedroom Unit Detail



One bedroom unit =  
One room with four (4)  
walls allowed in addition  
to bathroom and kitchen.

Exhibit C – Studio Unit Detail



## Exhibit D – Housing Occupancy Assumptions

### HOUSEHOLD SIZE BY NUMBER OF BEDROOMS

#### Los Angeles Housing Authority

Bedrooms	Number of Family Members
1	1-2
2	3-4
3	5-6
4	7-8
5	9-10
6	11-12

#### USDA Rural Development

Bedrooms	Household Size (Minimum)	Household Size (Maximum)
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10





SB-1069 Land use: zoning. (2015-2016)

**Senate Bill No. 1069**

**CHAPTER 720**

An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

[ Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1069, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would additionally find and declare that, among other things, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock, and these units are an essential component of housing supply in California.

The Planning and Zoning Law authorizes the ordinance for the creation of 2nd units in single-family and multifamily residential zones to include specified provisions regarding areas where accessory dwelling units may be located, standards, including the imposition of parking standards, and lot density. Existing law, when a local agency has not adopted an ordinance governing 2nd units as so described, requires the local agency to approve or disapprove the application ministerially, as provided.

This bill would instead require the ordinance for the creation of accessory dwelling units to include the provisions described above. The bill would prohibit the imposition of parking standards under specified circumstances. The bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. The bill would also require the ministerial approval of an application for a building permit to create one accessory dwelling unit within the existing space of a single-family residence or accessory structure, as specified. The bill would prohibit a local agency from requiring an applicant for this permit to install a new or separate utility connection directly between the unit and the utility or imposing a related connection fee or capacity charge. The bill would authorize a local agency to impose this requirement for other accessory dwelling units.

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by AB 2299 that would become operative only if AB 2299 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

By increasing the duties of local officials, this bill would impose a state-mandated local program.



mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 65582.1 of the Government Code is amended to read:

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

- (a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).
- (b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).
- (c) Restrictions on disapproval of housing developments (Section 65589.5).
- (d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).
- (e) Least cost zoning law (Section 65913.1).
- (f) Density bonus law (Section 65915).
- (g) Accessory dwelling units (Sections 65852.150 and 65852.2).
- (h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).
- (i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).
- (j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).
- (k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).
- (l) Limiting moratoriums on multifamily housing (Section 65858).
- (m) Prohibiting discrimination against affordable housing (Section 65008).
- (n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).
- (o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

**SEC. 2.** Section 65583.1 of the Government Code is amended to read:

**65583.1.** (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for accessory dwelling units based on the number of accessory dwelling units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or

any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and

restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

- (i) The unit is made available for rent at a cost affordable to low- or very low income households.
  - (ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:
    - (I) Low-income households, if the unit will be made affordable to low-income households.
    - (II) Very low income households, if the unit will be made affordable to very low income households.
  - (iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.
  - (iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.
  - (v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.
  - (vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.
- (C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:
- (i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.
  - (ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.
  - (iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.
  - (iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.
  - (v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.
- (3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.
- (4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance

necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

**SEC. 3.** Section 65589.4 of the Government Code is amended to read:

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

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

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

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

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

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

- (i) A general plan.
- (ii) A revision or update to the general plan that includes at least the land use and circulation elements.
- (iii) An applicable community plan.
- (iv) An applicable specific plan.

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

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

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

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

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

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

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

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

(h) For purposes of this section, "attached housing development" means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include an accessory dwelling unit, as defined by paragraph (4) of subdivision (j) of Section 65852.2, or the conversion of an existing structure to condominiums.

**SEC. 4.** Section 65852.150 of the Government Code is amended to read:

**65852.150.** (a) The Legislature finds and declares all of the following:

- (1) Accessory dwelling units are a valuable form of housing in California.
- (2) 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.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) 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.

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

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

(b) 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.

**SEC. 5.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. 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 criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, 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 Historic Places.

(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.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered 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, within 120 days of submittal of a complete building permit application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

(b) (1) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall ministerially approve the creation of an accessory dwelling unit if the accessory dwelling unit complies with all of the following:

(A) The unit is not intended for sale separate from the primary residence and may be rented.



(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The accessory dwelling unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

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

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements that apply to detached dwellings, as appropriate.

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

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed accessory dwelling units on lots zoned for residential use that contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

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

(5) An accessory dwelling unit that conforms to this subdivision 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 units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not otherwise permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway. Off-street 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 fire and life safety conditions. This subdivision shall not apply to a unit that is described in subdivision (e).

(e) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

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

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

(f) Notwithstanding subdivisions (a) to (e), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(g) (1) 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).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (f), a local agency 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.

(B) For an accessory dwelling unit that is not described in subdivision (f), a local agency 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 size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(h) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of accessory dwelling units.

(i) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(j) As used in this section, the following terms mean:

(1) "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.

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

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

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

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

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

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (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.

**SEC. 5.5.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. 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 criteria, that may include, but are not limited to, the

adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, 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 Historic Places.

(ii) Notwithstanding clause (i), 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:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

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

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

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

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

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) 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, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered 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, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides

for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph 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 subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) 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 subdivision.

(8) An accessory dwelling unit that conforms to this subdivision 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.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

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

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

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear

setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) 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).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency 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.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency 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 size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "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.

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

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

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

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

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

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

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (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.

**SEC. 6.** Section 66412.2 of the Government Code is amended to read:

**66412.2.** This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or accessory dwelling units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

**SEC. 7.** Section 5.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 2299. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 2299, in which case Section 5 of this bill shall not become operative.

**SEC. 8.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.