



A G E N D A

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

APRIL 20, 2017

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE

REGULAR SESSION - 7:00 P.M. - COUNCIL CHAMBER

ROLL CALL: CHAIR KANZLER, VICE CHAIR BRIETIGAM
COMMISSIONERS LAZENBY, LEHMAN, NGUYEN, SALAZAR,
TRUONG

Members of the public desiring to speak on any item of public interest, including any item on the agenda except public hearings, must do so during Oral Communications at the beginning of the meeting. Each speaker shall fill out a card stating name and address, to be presented to the Recording Secretary, and shall be limited to five (5) minutes. Members of the public wishing to address public hearing items shall do so at the time of the public hearing.

Any person requiring auxiliary aids and services due to a disability should contact the City Clerk's office at (714) 741-5035 to arrange for special accommodations. (Government Code §5494.3.2).

All revised or additional documents and writings related to any items on the agenda, which are distributed to all or a majority of the Planning Commissioners within 72 hours of a meeting, shall be available for public inspection (1) at the Planning Services Division during normal business hours; and (2) at the City Community Meeting Center Council Chamber at the time of the meeting.

Agenda item descriptions are intended to give a brief, general description of the item to advise the public of the item's general nature. The Planning Commission may take legislative action it deems appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

- A. ORAL COMMUNICATIONS - PUBLIC
- B. APPROVAL OF MINUTES: April 6, 2017
- C. PUBLIC HEARING(S) (Authorization for the Chair to execute Resolution shall be included in the motion.)
 - C.1. AMENDMENT NO. A-017-2017

APPLICANT: CITY OF GARDEN GROVE
LOCATION: CITYWIDE

REQUEST: A request by the City of Garden Grove to amend portions of Title 9 (Zoning) of the Garden Grove Municipal code, including Chapters 9.04, 9.08 and 9.12 to update the definition, the land use matrix, and special operating conditions for accessory dwelling units to be consistent with state law. Also, an amendment to Chapter 9.52 and repealing Chapter 5.85 of the Garden Grove Municipal Code to maintain the ban on commercial cannabis activities consistent with state law. The project is exempt pursuant to Public Resources Code Section 21080.17 (CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code) and CEQA Guidelines Section 15061(b)(3) (It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

STAFF RECOMMENDATION: Recommend approval of Amendment No. A-017-2017 to City Council.

C.2. AMENDMENT NO. A-018-2017

APPLICANT: CITY OF GARDEN GROVE
LOCATION: CITYWIDE

REQUEST: A request by the City of Garden Grove for the adoption of zoning text amendments to Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Municipal Code to update the definitions, operating conditions, and development standards in the City's Land Use Code, pertaining to crematoriums, mortuaries, funeral homes, and cemeteries. Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property, or to a property boundary of any "R" (Residential) zoned property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a

conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses. The project is exempt pursuant to CEQA Guidelines Section 15061(b)(3) (It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

STAFF RECOMMENDATION: Recommend approval of Amendment No. A-018-2017 to City Council.

- D. MATTERS FROM COMMISSIONERS
- E. MATTERS FROM STAFF
- F. ADJOURNMENT

GARDEN GROVE PLANNING COMMISSION
Council Chamber, Community Meeting Center
11300 Stanford Avenue, Garden Grove, CA 92840

Meeting Minutes
Thursday, April 6, 2017

CALL TO ORDER: 7:00 p.m.

ROLL CALL:

Commissioner Brietigam
Commissioner Kanzler
Commissioner Lazenby
Commissioner Lehman
Commissioner Nguyen
Commissioner Salazar
Commissioner Truong

Absent: Kanzler

PLEDGE OF ALLEGIANCE: Led by Commissioner Lazenby

ORAL COMMUNICATIONS – PUBLIC – None.

March 16, 2017 MINUTES:

Action: Received and filed.

Motion: Lazenby Second: Lehman

Ayes: (6) Brietigam, Lazenby, Lehman, Nguyen, Salazar,
Truong

Noes: (0) None

Absent: (1) Kanzler

PUBLIC HEARING – GENERAL PLAN AMENDMENT NO. GPA-001-2017, PLANNED UNIT DEVELOPMENT NO. PUD-006-2017, TENTATIVE TRACT MAP NO. TT-17927-2017, SITE PLAN NO. SP-028-2017, DEVELOPMENT AGREEMENT NO. DA-006-2017, AND NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THE LEWIS STREET REORGANIZATION BETWEEN THE CITY OF GARDEN GROVE AND THE CITY OF ORANGE (RO 17-01) AND RESIDENTIAL PROJECT. FOR PROPERTY LOCATED AT 12901 LEWIS STREET.

Applicant: SHEA HOMES (JOHN DANVERS)

Date: April 6, 2017

Request: A request by Shea Homes to develop a gated residential subdivision with 70 single-family detached residential units and related street and open space improvements on a 9.01-acre site located in the Cities of Garden Grove and Orange at Lewis Street and Garden Grove Boulevard, at 12901 Lewis Street (APN Nos. 231-041-26, 231-041-27, 231-041-28, and 231-255-01). The Project proposes two floor plans, each of which would feature four bedrooms and a two-car garage accessed from the front of each unit. All units would feature private outdoor areas to the sides and rear of the units. The Project also includes the development of a private recreation area that would be located near the entrance of the residential community. The recreation area features the following amenities: a playground, an open turf area, two covered barbeque dining areas, and a shade structure with bench seating. The project site currently contains a church and a school consisting of nine buildings, two play yards, and a parking lot. The project includes a proposed sphere of influence change and annexation of 0.901 acres from the City of Orange to the City of Garden Grove.

As part of the Project, the Planning Commission will consider a recommendation for City Council approval of amendments to the City's General Plan Land Use map and Zoning map in conjunction with the proposed annexation and to modify the General Plan Land Use designation of the project site from Civic Institution to Low Density Residential and to adopt Residential Plan Unit Development zoning with R-1 (Single-Family Residential) base zoning for the entire site. The Planning Commission will also consider contingent approval of a Site Plan and Tentative Tract Map to subdivide the property into 70 single-family lots and to facilitate development of the proposed 70-unit small lot single-family residential subdivision, along with a recommendation for City Council approval of a Development Agreement with the applicant. The Planning Commission will also consider a recommendation that the City Council adopt a Mitigated Negative Declaration for the project.

Action: Public Hearing held. Speaker(s): John Danvers and a resident.

Action: Resolution Nos. 5877-17 (GPA/PUD/DA) and 5858-17 (SP/TT) were approved with amendments to Condition Nos. 5, 19, 21, and 65.

Motion: Salazar Second: Lazenby

Ayes: (6) Brietigam, Lazenby, Lehman, Nguyen, Salazar, Truong

Noes: (0) None

Absent: (1) Kanzler

ITEM FOR CONSIDERATION - REVIEW OF THE CODE OF ETHICS: Commissioners reviewed and acknowledged the Code of Ethics governing the Planning Commission.

Action: Received and filed.

Motion: Nguyen Second: Lazenby

Ayes: (6) Brietigam, Lazenby, Lehman, Nguyen, Salazar, Truong

Noes: (0) None

Absent: (1) Kanzler

MATTERS FROM COMMISSIONERS: Commissioner Lazenby mentioned that Anaheim Convention Center parking was overflowing onto the south side of Orangewood, Bluebell, and Cliffwood Avenues, preventing residents from parking in their own neighborhood. Staff responded that Dai Vu, one of the City's Traffic Engineers, would look into the matter.

Vice Chair Brietigam commented that public safety was the primary responsibility of the City with both Police and Fire staff understaffed for many years; that service needs were even greater as the old needs were never met; and that the campaign was to increase the numbers to 200 sworn police officers and five sworn fire fighters by the year 2020. He challenged the City Council to make that come to fruition.

MATTERS FROM STAFF: Staff gave a brief description of items for the April 20th Planning Commission meeting.

ADJOURNMENT: At 7:44 p.m. to the next Regular Meeting of the Garden Grove Planning Commission on Thursday, April 20, 2017, at 7:00 p.m. in the Council Chamber of the Community Meeting Center, 11300 Stanford Avenue, Garden Grove.

Motion: Lazenby Second: Lehman

Ayes: (6) Brietigam, Lazenby, Lehman, Nguyen, Salazar, Truong

Noes: (0) None

Absent: (1) Kanzler

Judith Moore
Recording Secretary

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.1.	SITE LOCATION: Citywide
HEARING DATE: April 20, 2017	GENERAL PLAN: N/A
CASE NO.: Amendment No. A-017-2017	ZONE: N/A
APPLICANT: City of Garden Grove	
OWNER: N/A	CEQA DETERMINATION: Exempt

REQUEST:

Recommend approval to the City Council of a City-initiated zoning text amendment to portions of Chapters 9.04, 9.08, 9.12, and 9.52 to conform the City's Land Use Code by incorporating recent changes to state law regarding accessory dwelling units and the private cannabis cultivation.

BACKGROUND:

Accessory Dwelling Units

Second units, now called accessory dwelling units (ADUs), have been identified by the State as providing an important affordable housing option that is essential to meeting the State's growing housing shortage crisis.

The State's second unit law was first enacted in 1982 and authorized local jurisdictions to adopt provisions for permitting second dwelling units, while maintaining local control. In 2002, the State Legislature adopted Assembly Bill (AB) 1866 to update the second unit law to require local jurisdictions to allow second units by-right on lots improved with an existing single-family home, subject to reasonable zoning and development standards. The City's current second unit regulations comply with AB 1866.

In 2016, the State Legislature adopted Senate Bill (SB) 1069 and Assembly Bill (AB) 2299, which amended the State's existing second unit law to further restrict local control over ADUs for the purpose of allowing property owners more flexibility to build ADUs through new construction or through the conversion of existing permitted structures. The new state law significantly restricts and preempts local jurisdictions' authority to regulate certain aspects of ADUs, including parking, but still allows jurisdictions to regulate other aspects of ADUs. The proposed code amendment will bring the City's regulations and development standards for ADUs in compliance with the new state law. Pursuant to the new state law, cities that do not adopt an updated ADU ordinance consistent with the new state law are prohibited from imposing any zoning regulations on ADUs.

Cannabis

On November 8, 2016, California voters approved Proposition 64 – the Control, Regulate, and Tax Adult Use of Marijuana Act legalizing recreational marijuana use for adults 21 or older. Although the measure legalized recreational use of marijuana, it permits the City to continue to prohibit marijuana business activities, except that the City may not prohibit adults 21 years or older from cultivating up to six living marijuana plants inside a private residence, or inside an accessory structure that is fully enclosed and secure located at that private residence. The proposed ordinance affirms continuation of the ban against marijuana business activities, but carves out the private cultivation exception so that the City's ban can conform to the new measure.

DISCUSSION:

The proposed amendment will allow the City of Garden Grove to be in compliance with the provisions of SB 1069 and AB 2299 that relate to accessory dwelling units (ADUs), and Proposition 64 that relates to cannabis activities. The exact proposed changes to the Municipal Code are shown in the draft City Council Ordinance (Exhibit "A") that is attached to the proposed Planning Commission Resolution No. 5882-17.

ACCESSORY DWELLING UNITS (ADUs)

The proposed amendment will update the definition, parking, unit size, minimum lot size, and other requirements that will facilitate the creation of accessory dwelling units (ADUs) in R-1 (Single-Family Residential) zoned properties improved with an existing single-family home pursuant to SB 1069 and AB 2299.

Accessory Dwelling Unit Definition:

Currently, Title 9 of the Municipal Code classifies accessory dwelling units as a "second unit." With the recent changes to state law, "second units" are now referred to as "accessory dwelling units" (ADUs). The proposed code amendment will amend the definition for second units to align with the state's definition, and all references in the Municipal Code to a "second unit" will be changed to "accessory dwelling unit."

In summary, an ADU is an attached or detached residential dwelling unit located on a parcel improved with an existing single-family residence that provides complete independent living facilities from the primary dwelling unit, including having separate living, sleeping, cooking, and sanitation facilities. The definition identifies that ADUs can be established through new construction, conversion of existing space located within an existing single-family residence, or conversion of an existing garage or accessory structure located on a lot improved with a single-family residence.

New Attached or Detached Accessory Dwelling Units (ADUs) Standards

New accessory dwelling units will continue to be allowed in the R-1 (Single-Family Residential) zone. ADUs can be designed as an attached unit to the primary residence

or as a detached unit. This section will discuss the minimum lot size, the minimum unit size, parking, and setback requirements that will apply to attached and detached ADUs.

Minimum Lot Size

The proposed code amendment will amend the minimum lot size required to construct a new accessory dwelling unit on an R-1 zone property. Title 9 of the Municipal Code currently requires a minimum lot size of 9,000 square feet to construct an ADU in the R-1 zone. Since the intent of the state law is to facilitate the development of ADUs to meet the state's current housing crisis, the City has determined that reducing the minimum lot size from 9,000 square feet to 7,200 square feet will accomplish this goal. The proposed minimum lot size of 7,200 square feet will continue to be sufficient in size to allow property owners to construct a new ADU that complies with the development standards of the R-1 zone, including setbacks, lot coverage, and parking, while meeting the intent of state law.

Minimum and Maximum Unit Sizes

The proposed code amendment will increase the maximum living area of new attached or detached ADUs from 700 square feet to 800 square feet. State law allows local jurisdictions to establish minimum and maximum unit sizes for attached or detached ADUs. State law specifies that attached ADUs cannot exceed 50% or 1,200 square feet of the existing dwelling unit, and detached accessory units cannot exceed 1,200 square feet; however, local jurisdictions are still permitted to establish reasonable minimum and maximum unit sizes for attached and detached ADUs, so long as such limits do not unreasonably restrict the ability of homeowners in the City to create ADUs. The California Department of Housing and Community Development (HCD) has determined that the typical ADU size can range from 800 square feet to 1,200 square feet and has indicated that an 800 square foot maximum unit size would be consistent with state law. Increasing the permissible maximum unit size of the ADU from 700 to 800 square feet will help ensure the consistency with state law, while continuing to ensure that the ADU functions as an accessory unit to the primary residence.

An 800 square foot ADU will continue to provide ample living area that, based on previous second unit designs approved by the City, can accommodate up to two (2) bedrooms, two (2) bathrooms, a kitchen, and a living room. The code will continue to maintain the minimum living area sizes for ADUs, which includes 500 square feet for studio units, 600 square feet for one (1) bedroom units, and 700 square feet for two (2) bedroom units.

In addition, state law requires jurisdictions to include provisions that will allow the construction of efficiency units. Efficiency units are smaller units, about 220 square feet in size, as determined by the California Building Code, that include a kitchen, sink, cooking appliance, refrigerator, and bathroom facility. The proposed code amendment will include provisions that will allow the construction of efficiency units on R-1 zone properties.

In addition, attached and detached ADUs will continue to be limited to one-story in height, and cannot be constructed as a two-story unit.

Required ADU Parking

The code amendment will eliminate the one-car enclosed garage parking requirement for ADUs to comply with the new limitations on parking requirements established by state law. Currently, the Municipal Code requires a one-car enclosed garage to be constructed in conjunction with a second unit. The one-car enclosed garage will no longer be required for ADUs. State law establishes the maximum parking requirements that can be applied to ADUs, which is one (1) space per bedroom or per unit, and the parking can be designed as tandem parking located along the existing driveway or within a setback area. In addition, the new state law prohibits local jurisdictions from requiring any additional parking spaces if the ADU is located within one-half mile from public transit; if the ADU is located within an architecturally and historically significant district; if the ADU is part of the existing primary residence or an existing accessory structure; if on-street parking permits are required, but not offered to the occupant of the ADU; or if a car-share vehicle station is located one block from the ADU.

The proposed code amendment will amend the parking requirements for ADUs to comply with state law. The Code will continue to require one (1) parking space for a studio or one (1) bedroom unit or two (2) parking spaces for two (2) bedroom units. Pursuant to the new state law, the ADU parking spaces can be designed as tandem parking spaces along the existing driveway for the residence; however, the existing driveway must continue to accommodate the required parking for both the primary residence and the ADU. Nevertheless, construction of a one-car enclosed garage will still remain an option that is available to property owners. The code amendment will also include language from the state law that identifies when no parking will be required for ADUs as stated above.

Finally, the state law also limits the type of replacement parking that may be required for the primary residence if an existing enclosed garage is demolished or converted to accommodate the ADU. State law now provides that when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, and the local agency requires those off-street parking spaces to be replaced, the replacement parking spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This means that the City cannot require the primary residence to replace an existing required garage that is demolished with a new enclosed garage in order to facilitate the construction of a new ADU. However, the existing on-site parking that remains on the property must be adequate to accommodate the required parking for both the primary residence and the ADU.

ADU Setbacks

The current code requires ADUs to comply with the setbacks that apply to new single-family homes. Most second units are able to comply with the front and side setback requirements (see Table 1 below), but often, complying with the rear setback can be a challenge since the rear setback is determined by the depth of the lot. Typically, rear setbacks for second units can range from 20'-0" to 25'-0," depending on the depth of the lot, which is often too restrictive for some property owners to comply with. In order to assist with development of ADUs per the goals of the state law, the setback requirements for attached and detached ADUs will be amended.

Attached ADUs will be required to comply with the rear setback that applies to one-story single-family additions. This will allow attached ADUs to be constructed up to 10'-0" to the rear property line provided the ADU complies with the required 1,000 square foot of open space in the rear yard setback area, and the 50% lot coverage requirement.

Detached ADUs will be allowed to be constructed 5'-0" to any rear and side property line, which is consistent with the setbacks that apply to detached accessory structures. However, lots with ADUs will still be required to comply with the 1,000 square foot open space requirement in the rear yard setback area, as well as the 50% lot coverage requirement.

Table 1 below provides a comparison between the current and proposed setback standards for attached and detached ADUs.

Table 1: Setback Comparison

	Current Code	Proposed Attached ADU	Proposed Detached ADU
Setbacks			
Front	20'-0"	20'-0"	20'-0"
Side (interior)	5'-0"	5'-0"	5'-0"
Street Side	10'-0"	10'-0"	10'-0"
Rear*	20% of the lot depth not to exceed 25'-0"	10'-0"	5'-0"

*Must maintain 1,000 square feet of open usable space in the required rear yard setback area.

Conversion of Existing Area within an Existing Single-Family Home or Conversion of an Existing Accessory Structure to an ADU

State law now allows a homeowner to convert existing space within an existing single-family home or permitted accessory structure to be converted into an ADU with minimal restrictions. ADU conversions will only be permitted in the R-1 zone; however, state law specifies that ADUs contained within an existing permitted structure cannot be subject to height, setback, lot size, lot coverage, unit size, architectural review, landscape, parking or other similar development standards.

Also, a building permit cannot be denied for ADU conversions on the basis that the lot or the structure being converted is legal nonconforming. Nevertheless, the conversion of an existing space into an ADU must comply with all applicable California building code requirements, including the plumbing code, electrical code, and energy code.

ADUs that are created through a conversion are not required to provide additional parking for the ADU. Only the required parking for the primary dwelling unit must be accommodated on the property. If a garage conversion is proposed, the property owner would not be required to construct a new enclosed garage to serve the primary residence; however, the property owner can replace the required parking spaces for the primary residence as covered spaces, uncovered spaces, tandem spaces, or through the use of mechanical automobile parking lift. Nevertheless, the total number of required parking spaces to serve the primary residence must remain on the property.

Other requirements for New Attached/Detached ADUs and ADUs Conversions

The code will continue to require the property owner to reside on the same property as the ADU. If the property owner ceases to reside on the property, the ADU will automatically become a non-habitable space, and the ADU cannot be used as a dwelling unit or rented or leased. The code amendment will introduce a new provision that prohibits ADUs from being rented as a short-term rental with occupancies of less than 30-days.

The code will continue to require ADUs to be served by the same water, sewer, gas, and electrical connections that serve the primary residence, and no separate utility meters will be allowed for the ADU.

The code will also continue to require that property owners record a land use restriction by which the property owner acknowledges and agrees to comply with the ADU development standards of Title 9 of the Municipal Code.

Other new requirements applicable to ADUs per state law include that ADUs are not required to have fire sprinklers if fire sprinklers are not required for the primary residences, and ADU applications must be approved ministerially within 120-days of submitting a complete application to the City.

Exhibit "A" is a summary of the current second unit code and the proposed code amendment for new attached/detached ADUs and ADU conversions. Exhibit "B" is a redline of the State ADU statutes showing the recent changes. Exhibit "C" is a copy of the Accessory Dwelling Unit Memorandum prepared by HCD that provides an overview of SB 1066 and AB 2266 and includes frequently asked questions about ADUs.

CANNABIS

In order to conform to the November 8, 2016 passage of Proposition 64, the draft ordinance will continue to prohibit marijuana business activities in the City, but will provide an exemption for adults 21 years or older cultivating up to six living marijuana plants inside a private residence, or inside an accessory structure that is fully enclosed and secure located at that private residence.

Furthermore, in 2011 the City had adopted a registration process for medical marijuana dispensaries to identify unauthorized medical marijuana dispensaries operating in the City and prohibit any new medical marijuana dispensaries while new regulatory and zoning provisions were developed and considered. Because the City ultimately adopted a complete ban against marijuana business activities, the proposed ordinance will repeal the registration provisions, Chapter 5.85 of the Municipal Code.

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Adopt the proposed Resolution recommending approval of Amendment No. A-017-2017 to the City Council.



LEE MARINO
Planning Services Manager



By: Maria Parra
Urban Planner

Exhibit "A"
Accessory Dwelling Unit Summary Chart

	Current Code	Proposed Code for New Attached/Detached ADUs	Proposed Code for ADU Conversion Within Existing Permitted Structure
1. Zoning	R-1 zone developed with an existing single-family home	R-1 zone developed with an existing single-family home	R-1 zone developed with an existing single-family home
2. Minimum Lot Size	9,000 sq. ft.	7,200 sq. ft.	Not subject to lot size requirement per state law
3. Unit Configuration	Attached or Detached	Attached or Detached	ADU must be entirely within an existing dwelling unit or accessory structure
4. Building Height	1-story (17 ft.)	1-story (17 ft.)	1-story for detached accessory structures only; second-story ADU conversions allowed within the primary residence
5. Number of ADU Permitted	1	1	1
6. Maximum Unit Size	700 sq. ft.	800 sq. ft.	Not subject to maximum unit size per state law. Minimum unit size must comply with the building code requirement
7. Minimum Unit Size per Bedroom			
<i>Efficiency Unit</i>	N/A	220 sq. ft. per building code	220 sq. ft. per building code
<i>Studio</i>	500 sq. ft.	500 sq. ft.	
<i>1-Bedroom</i>	600 sq. ft.	600 sq. ft.	
<i>2-Bedroom</i>	700 sq. ft.	700 sq. ft.	
8. Parking			Not subject to parking requirement per state law
<i>Studio/1-Bed</i>	1 enclosed	1 open space	
<i>2-Bed</i>	1 enclosed/1 open	2 open spaces	
9. Garage Size	250 sq. ft. max.	250 sq. ft. max., but not required per state law	
10. Porch Permitted	80 sq. ft. max.	80 sq. ft. max.	80 sq. ft. max.
11. Overall ADU including garage and porch	1,000 sq. ft.	1,100 sq. ft.	N/A
12. Total Lot Coverage with main home and ADU	50% max.	50% max.	N/A
13. Other Requirements/Restrictions			
Additional Parking Requirements	N/A	<ul style="list-style-type: none"> Parking can be tandem on the existing driveway or in setback area No parking is required if the ADU is located within .5 mile of public transit, within an architecturally and historically significant district, located where on-street parking 	<ul style="list-style-type: none"> No parking for the ADU is required for conversions

			permits are required, or located within one block of a care share vehicle	
Development Standards	<ul style="list-style-type: none"> ADU must comply with R-1 zone standards Detached ADU's must maintain a 6 ft. setback from primary unit ADU design, colors, materials, roof shapes required to be architecturally compatible with primary unit 	N/A		
Utility Connection	<ul style="list-style-type: none"> No separate utility meters allowed for the second unit 	<ul style="list-style-type: none"> No separate utility meters will be allowed for the ADU ADU cannot be considered a new residential use for purpose of utility connection fee or capacity charges, including water and sewer 	<ul style="list-style-type: none"> No separate utility meters will be allowed ADU cannot be considered a new residential use for purpose of utility connection fee or capacity charges, including water and sewer 	
Owner Occupancy Requirement	<ul style="list-style-type: none"> The property must be owner occupied and a deed restriction must be recorded The ADU cannot be sold separately from the primary residence 	<ul style="list-style-type: none"> The property must be owner occupied and a deed restriction must be recorded The ADU cannot be sold separately from the primary residence The ADU cannot be rented for less than 30-days 	<ul style="list-style-type: none"> The property must be owner occupied and deed restriction must be recorded The ADU cannot be sold separately from the primary residence The ADU cannot be rented for less than 30-days 	
New Fire Requirements		<ul style="list-style-type: none"> Cannot require fire sprinklers for the ADU if they are not required for primary residence 	<ul style="list-style-type: none"> Cannot require fire sprinklers for the ADU if they are not required for primary residence 	
Replacement of Parking for Garage Demolition or Conversion	<ul style="list-style-type: none"> The garage for the primary unit must be replaced with a garage 	<ul style="list-style-type: none"> The parking for the primary unit can be replaced in the same configuration as the ADU (covered spaces, uncovered spaces, tandem spaces, or with use of mechanical automobile parking lift). 	<ul style="list-style-type: none"> The parking for the primary unit can be replaced in the same configuration as the ADU (covered spaces, uncovered spaces, tandem spaces, or with use of mechanical automobile parking lift) 	
Building Requirement	<ul style="list-style-type: none"> ADU must comply with all applicable building code requirements 	<ul style="list-style-type: none"> ADU must comply with all applicable building code requirements 	<ul style="list-style-type: none"> ADU must comply with all applicable building code requirements Building permits cannot be denied on the basis that the lot or structure being converted is legal nonconforming 	
Approval Process	<ul style="list-style-type: none"> Ministerially 	<ul style="list-style-type: none"> Ministerially within 120 days 	<ul style="list-style-type: none"> Ministerially within 120 days 	<ul style="list-style-type: none"> Ministerially within 120 days

AMENDMENTS TO STATE ADU LAW
(GOVERNMENT CODE §§ 65852.150, AND 65852.2)

65852.150.

(a) The Legislature finds and declares ~~that~~ all of the following:

(1) Accessory dwelling ~~second~~ units are a valuable form of housing in California.

(2) Accessory dwelling ~~Second~~ 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 ~~second~~ 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 ~~any second-unit ordinance~~ an accessory dwelling unit ordinance adopted by a local ~~ageneies have~~ agency has the effect of providing for the creation of second accessory dwelling units and that provisions in ~~these ordinance~~ 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 second accessory dwelling units in zones in which they are authorized by local ordinance.

65852.2.

(a) (1) Any local agency may, by ordinance, provide for the creation of second accessory dwelling units in single-family and multifamily residential zones. The ordinance may shall do any all of the following:

(A) Designate areas within the jurisdiction of the local agency where second 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 second accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on second 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 secondaccessory dwelling units do not exceed the allowable density for the lot upon which the secondaccessory dwelling unit is located, and that secondaccessory 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. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units, 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 ~~second units~~an accessory dwelling unit.

~~(b) (1) When a local agency which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) 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) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:~~

(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.

~~(A) The unit is not intended for sale 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 second 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 second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second 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 which apply to detached dwellings, as appropriate.~~

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

(25) 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.

(36) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed ~~second units on lots~~ accessory dwelling unit on a lot zoned for residential use ~~which contain~~ that contains 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.

~~(47) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second units~~ an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

~~(58) A second~~ An accessory dwelling unit ~~which~~ that conforms to ~~the requirements of~~ 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 ~~which~~ that is consistent with the existing general plan and zoning designations for the lot. The ~~second units~~ accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(e) No local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.~~

~~(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.

~~(dc)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~seeond~~accessory dwelling units. No minimum or maximum size for a ~~seeond~~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 ~~whieh~~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) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. 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 specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.~~

(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 ~~seeond~~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 ~~second units~~ an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ~~ordinances~~ ordinance adopted pursuant to subdivision (a) ~~or (e)~~ 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) "~~Second~~ 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. ~~A second~~ 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 ~~second~~accessory dwelling units.

EXHIBIT "C"



Courtesy of Karen Chapple, UC Berkeley

California Department of Housing and
Community Development *Where Foundations Begin*

Accessory Dwelling Unit Memorandum

December 2016



Table of Contents

Understanding ADUs and Their Importance	1
Summary of Recent Changes to Accessory Dwelling Unit Laws	3
Frequently Asked Questions: Accessory Dwelling Units	7
Should an Ordinance Encourage the Development of ADUs?.....	7
Are Existing Ordinances Null and Void?.....	7
Are Local Governments Required to Adopt an Ordinance?	8
Can a Local Government Preclude ADUs?	8
Can a Local Government Apply Development Standards and Designate Areas?.....	8
Can a Local Government Adopt Less Restrictive Requirements?	9
Can Local Governments Establish Minimum and Maximum Unit Sizes?	9
Can ADUs Exceed General Plan and Zoning Densities?	10
How Are Fees Charged to ADUs?.....	11
What Utility Fee Requirements Apply to ADUs.....	11
What Utility Fee Requirements Apply to Non-City and County Service Districts?	11
Do Utility Fee Requirements Apply to ADUs within Existing Space?	11
Does “Public Transit” Include within One-half Mile of a Bus Stop and Train Station?	11
Can Parking Be Required Where a Car Share is Available?	12
Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?	12
Is Covered Parking Required?	12
Is Replacement Parking Required When the Parking Area for the Primary Structure is Used for an ADU?	12
Are Setbacks Required When an Existing Garage is Converted to an ADU?	12
Are ADUs Permitted in Existing Residence and Accessory Space?	13
Are Owner Occupants Required?	13
Are Fire Sprinklers Required for ADUs?.....	13
Is Manufactured Housing Permitted as an ADU?	14
Can an Efficiency Unit Be Smaller than 220 Square Feet?.....	14
Does ADU Law Apply to Charter Cities and Counties?	14
Do ADUs Count toward the Regional Housing Need Allocation.....	14
Must Ordinances Be Submitted to the Department of Housing and Community Development?	15

Frequently Asked Questions: Junior Accessory Dwelling Units	16
Is There a Difference between ADU and JADU?.....	16
Why Adopt a JADU Ordinance?.....	17
Can JADUs Count towards The RHNA?	17
Can the JADU Be Sold Independent of the Primary Dwelling?.....	17
Are JADUs Subject to Connection and Capacity Fees?	17
Are There Requirements for Fire Separation and Fire Sprinklers?	18
Resources	19
Attachment 1: Statutory Changes (Strikeout/Underline)	19
Attachment 2: Sample ADU Ordinance	26
Attachment 3: Sample JADU Ordinance	29
Attachment 4: State Standards Checklist	32
Attachment 5: Bibliography	33

Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- *Detached*: The unit is separated from the primary structure
- *Attached*: The unit is attached to the primary structure
- *Repurposed Existing Space*: Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units*: Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.

Summary of Recent Changes to ADU Laws



Courtesy of Karen Chapple, UC Berkeley

The California legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs.

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, the disabled,

and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the Department has prepared this guidance to assist local governments in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a brief summary of the changes for each bill.

SB 1069 (Wieckowski)

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of provisions that go into effect January 1, 2017.

Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Fees

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

Fire Requirements

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

AB 2299 (Bloom)

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.

- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

Impact on Existing Accessory Dwelling Unit Ordinances

AB 2299 provides that any existing ADU ordinance that does not meet the bill's requirements is null and void upon the date the bill becomes effective. In such cases, a jurisdiction must approve accessory dwelling units based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

AB 2406 (Thurmond)

AB 2406 (Chapter 755, Statutes of 2016) creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance. Adoption of a JADU ordinance is optional.

Required Components

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

Prohibited Components

This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.

Fire Safety Requirements

AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke alarms. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

JADUs and the RHNA

As part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a JADU toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit which is fairly flexible. Local government count units as part of reporting to DOF. JADUs meet these definitions and this bill would allow cities and counties to earn credit toward meeting their RHNA allocations by permitting residents to create less costly accessory units. See additional discussion under JADU frequently asked questions.

Frequently Asked Questions: Accessory Dwelling Units

Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 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.*

Are Existing Ordinances Null and Void?



Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply “state standards” (See Attachment 4 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to “state standards” and cannot include additional requirements such as those in an existing ordinance.

Are Local Governments Required to Adopt an Ordinance?

No, a local government is **not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 4). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does "Public Transit" Include within One-half Mile of a Bus Stop and Train Station?

Yes, "public transit" may include a bus stop, train station and paratransit if appropriate for the applicant. "Public transit" includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of "public transit" such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, "...including, but not limited to, covered spaces, uncovered spaces, or tandem spaces, or..." Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, "within the existing space" includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) “**Manufactured home,**” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD’s Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf> .

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to “local agencies” which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

Frequently Asked Questions: Junior Accessory Dwelling Units

Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

ADUs and JADUs

REQUIREMENTS	ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum
Kitchen	Yes	Yes
Bathroom	Yes	No, Common Sanitation is Allowed
Separate Entrance	Depends	Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions	No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy <i>May</i> Be Required	Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes	Yes
Prohibition on Sale of ADU	Yes	Yes

Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

Are JADUs Subject to Connection and Capacity Fees?

No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.

Resources



Courtesy of Karen Chapple, UC Berkeley

Attachment 1: Statutory Changes (Strikeout/Underline)

Government Code Section 65852.2

(a) (1) Any A local agency may, by ordinance, provide for the creation of ~~second~~-accessory dwelling units in single-family and multifamily residential zones. The ordinance may ~~shall~~ do ~~any~~ all of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~-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 ~~second~~-accessory dwelling units on traffic flow. flow and public safety.

(B) (i) Impose standards on ~~second~~-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 ~~second~~-accessory dwelling units do not exceed the allowable density for the lot upon which the ~~second~~-accessory dwelling unit is located, and that ~~second~~-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. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of ADUs.~~ 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 ADUs. an accessory dwelling unit.

~~(b) (4) (1) An~~ When existing ordinance governing the creation of an accessory dwelling unit by a local agency which has not adopted an ordinance governing ADUs in accordance with subdivision (a) or (c) 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 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 in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a ADU if the ADU complies with all of the following: that complies with this section.

~~(A) The unit is not intended for sale 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 ADU 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 ADU shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached ADU 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 which 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) (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.

~~(3) (6)~~ This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed ADUs on lots a proposed accessory dwelling unit on a lot zoned for residential use which contain that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision ~~(a), 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. owner-occupant or that the property be used for rentals of terms longer than 30 days.

~~(4) (7)~~ No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ADUs an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

~~(5) (8)~~ A ADU which conforms to the requirements of 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 which that is consistent with the existing general plan and zoning designations for the lot. The ADUs accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(c) (b)~~ No When a local agency shall adopt an ordinance which totally precludes ADUs within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing ADUs within single-family and multifamily zoned areas justify adopting the ordinance. 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.

~~(d) (c)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached second accessory dwelling units. No minimum or maximum size for a second 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 which 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)~~ Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the

use of the ADU and are consistent with existing neighborhood standards applicable to existing dwellings. 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 specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. 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 second-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 ADUs. an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance ordinance adopted pursuant to subdivision (a) or (c) 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," 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) "Second-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. A second-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 ~~second~~ accessory dwelling units.

Government Code Section 65852.22.

(a) Notwithstanding Section 65852.2, 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:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.

(2) 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.

(3) 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:

(A) 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.

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

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

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

(A) A sink with a maximum waste line diameter of 1.5 inches.

(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

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

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.

(c) An application for a permit pursuant to this section 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. A permit shall be issued within 120 days of submission of an application for a

permit pursuant to this section. 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 section.

(d) For the 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. This section 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.

(e) For the 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.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or 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.

(g) For purposes of this section, the following terms have the following meanings:

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

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

Attachment 2: Sample ADU Ordinance

Section XXX1XXX: Purpose

This Chapter provides for accessory dwelling units on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings contribute needed housing to the community's housing stock. Thus, accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single family lots.

Section XXX2XXX: Applicability

The provisions of this Chapter apply to all lots that are occupied with a single family dwelling unit and zoned residential. Accessory dwelling units do exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

Section XXX3XXX: Development Standards

Accessory Structures within Existing Space

An accessory dwelling unit within an existing space including the primary structure, attached or detached garage or other accessory structure shall be permitted ministerially with a building permit regardless of all other standards within the Chapter if complying with:

1. Building and safety codes
2. Independent exterior access from the existing residence
3. Sufficient side and rear setbacks for fire safety.

Accessory Structures (Attached and Detached)

General:

1. The unit is not intended for sale separate from the primary residence and may be rented.
2. The lot is zoned for residential and contains an existing, single-family dwelling.
3. The accessory dwelling unit is either attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
4. 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.
5. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.
6. Local building code requirements that apply to detached dwellings, as appropriate.
7. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
8. 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.
9. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

Parking:

1. 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, including on an existing driveway or in setback areas, excluding the non-driveway front yard setback.
2. Parking is not required in the following instances:
 - The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations.

- The accessory dwelling unit is located in the WWWW Downtown, XXX Area, YYY Corridor and ZZZ Opportunity Area.
 - The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - When there is a car share vehicle located within one block of the accessory dwelling unit.
3. Replacement Parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking shall not be required and may be located in any configuration on the same lot as the accessory dwelling unit.

Section XXX4XXX: Permit Requirements

ADUs shall be permitted ministerially, in compliance with this Chapter within 120 days of application. The Community Development Director shall issue a building permit or zoning certificate to establish an accessory dwelling unit in compliance with this Chapter if all applicable requirements are met in Section XXX3XXXXX, as appropriate. The Community Development Director may approve an accessory dwelling unit that is not in compliance with Section XXX3XXXXX as set forth in Section XXX5XXXXX. The XXXX Health Officer shall approve an application in conformance with XXXXXXX where a private sewage disposal system is being used.

Section XXX5XXX: Review Process for Accessory Structure Not Complying with Development Standards

An accessory dwelling unit that does not comply with standards in Section XXX3XX may be permitted with a zoning certificate or an administrative use permit at the discretion of the Community Development Director subject to findings in Section XXX6XX

Section XXX6XXX: Findings

- A. In order to deny an administrative use permit under Section XXX5XXXX, the Community Development Director shall find that the Accessory Dwelling Unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.
- B. In order to approve an administrative use permit under Section XXX5XXXX to waive required accessory dwelling unit parking, the Community Development Director shall find that additional or new on-site parking would be detrimental, and that granting the waiver will meet the purposes of this Chapter.

Section XXX7XXX: Definitions

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

(4) (1) "Existing Structure" for the purposes of defining an allowable space that can be converted to an ADU means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

Attachment 3: Sample JADU Ordinance

(Lilypad Homes at <http://lilypadhomes.org/>)

Draft Junior Accessory Dwelling Units (JADU) – Flexible Housing

Findings:

1. Causation: Critical need for housing for lower income families and individuals given the high cost of living and low supply of affordable homes for rent or purchase, and the difficulty, given the current social and economic environment, in building more affordable housing
2. Mitigation: Create a simple and inexpensive permitting track for the development of junior accessory dwelling units that allows spare bedrooms in homes to serve as a flexible form of infill housing
3. Endangerment: Provisions currently required under agency ordinances are so arbitrary, excessive, or burdensome as to restrict the ability of homeowners to legally develop these units therefore encouraging homeowners to bypass safety standards and procedures that make the creation of these units a benefit to the whole of the community
4. Co-Benefits: Homeowners (particularly retired seniors and young families, groups that tend to have the lowest incomes) – generating extra revenue, allowing people facing unexpected financial obstacles to remain in their homes, housing parents, children or caregivers; Homebuyers - providing rental income which aids in mortgage qualification under new government guidelines; Renters – creating more low-cost housing options in the community where they work, go to school or have family, also reducing commute time and expenses; Municipalities – helping to meet RHNA goals, increasing property and sales tax revenue, insuring safety standard code compliance, providing an abundant source of affordable housing with no additional infrastructure needed; Community - housing vital workers, decreasing traffic, creating economic growth both in the remodeling sector and new customers for local businesses; Planet - reducing carbon emissions, using resources more efficiently;
5. Benefits of Junior ADUs: offer a more affordable housing option to both homeowners and renters, creating economically healthy, diverse, multi-generational communities;

Therefore, the following ordinance is hereby enacted:

This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 and subject to different provisions under fire safety codes based on the fact that junior accessory dwelling units do not qualify as “complete independent living facilities” given that the interior connection from the junior accessory dwelling unit to the main living area remains, therefore not redefining the single-family home status of the dwelling unit.

- A) *Development Standards.* Junior accessory dwelling units shall comply with the following standards, including the standards in Table below:
- 1) *Number of Units Allowed.* Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Precise Development Plan. A junior accessory dwelling unit may only be located on a lot which already contains one legal single-family dwelling.
 - 2) *Owner Occupancy:* The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling, except when the home is held by an agency such as a land trust or housing organization in an effort to create affordable housing.
 - 3) *Sale Prohibited:* A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

- 4) *Deed Restriction:* A deed restriction shall be completed and recorded, in compliance with Section B below.
- 5) *Location of Junior Accessory Dwelling Unit:* A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include conversion of an existing bedroom.
- 6) *Separate Entry Required:* A separate exterior entry shall be provided to serve a junior accessory dwelling unit.
- 7) *Interior Entry Remains:* The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.
- 8) *Kitchen Requirements:* The junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:
 - a) A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,
 - b) A cooking facility with appliance which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas, and
 - c) A food preparation counter and storage cabinets that are reasonable to size of the unit.
- 9) *Parking:* No additional parking is required beyond that required when the existing primary dwelling was constructed.

Development Standards for Junior Accessory Dwelling Units

SITE OR DESIGN FEATURE	SITE AND DESIGN STANDARDS
Maximum unit size	500 square feet
Setbacks	As required for the primary dwelling unit
Parking	No additional parking required

- B) *Deed Restriction:* Prior to obtaining a building permit for a junior accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior accessory dwelling unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Department stating that:
 - 1) The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;
 - 2) The junior accessory dwelling unit is restricted to the maximum size allowed per the development standards;
 - 3) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or housing organization in an effort to create affordable housing;
 - 4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.
- C) *No Water Connection Fees:* No agency should require a water connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.

- D) *No Sewer Connection Fees*: No agency should require a sewer connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.
- E) *No Fire Sprinklers and Fire Attenuation*: No agency should require fire sprinkler or fire attenuation specifications for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.

Definitions of Specialized Terms and Phrases.

“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:

- (1) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

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

Attachment 4: State Standards Checklist (As of January 1, 2017)

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.	65852.2(a)(1)(D)(ii)
	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.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.	65852.2(a)(1)(D)(iv)
	Total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage.	65852.2(a)(1)(D)(vii)
	(Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)

* Other requirements may apply. See Government Code Section 65852.2

Attachment 5: Bibliography

Reports

[ACCESSORY DWELLING UNITS: CASE STUDY](#) (26 pp.)

By United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

[THE MACRO VIEW ON MICRO UNITS](#) (46 pp.)

By Bill Whitlow, et al. – Urban Land Institute (2014)
Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

[RESPONDING TO CHANGING HOUSEHOLDS: Regulatory Challenges for Micro-units and Accessory Dwelling Units](#) (76 pp.)

By Vicki Been, Benjamin Gross, and John Infranca (2014)
New York University: Furman Center for Real Estate & Urban Policy
Library Call # D55 3 I47 2014

This White Paper fills two gaps in the discussion regarding compact units. First, we provide a detailed analysis of the regulatory and other challenges to developing both ADUs and micro-units, focusing on five cities: New York; Washington, DC; Austin; Denver; and Seattle. That analysis will be helpful not only to the specific jurisdictions we study, but also can serve as a model for those who want to catalogue regulations that might get in the way of the development of compact units in their own jurisdictions. Second, as more local governments permit or encourage compact units, researchers will need to evaluate how well the units built serve the goals proponents claim they will.

[SCALING UP SECONDARY UNIT PRODUCTION IN THE EAST BAY: Impacts and Policy Implications](#) (25 pp.)

By Jake Webmann, Alison Nemirow, and Karen Chapple (2012)
UC Berkeley: Institute of Urban and Regional Development (IURD)
Library Call # H44 1.1 S33 2012

This paper begins by analyzing how many secondary units of one particular type, detached backyard cottages, might be built in the East Bay, focusing on the Flatlands portions of Berkeley, El Cerrito, and Oakland. We then investigate the potential impacts of scaling up the strategy with regard to housing affordability, smart growth, alternative transportation, the economy, and city budgets. A final section details policy recommendations, focusing on regulatory reforms and other actions cities can take to encourage secondary unit construction, such as promoting carsharing programs, educating residents, and providing access to finance.

[SECONDARY UNITS AND URBAN INFILL: A literature Review \(12 pp.\)](#)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

[YES, BUT WILL THEY LET US BUILD? The Feasibility of Secondary Units in the East Bay \(17 pp.\)](#)

By Alison Nemirow and Karen Chapple (2012)
UC Berkeley: IURD
Library Call # H44.5 1.1 Y47 2012

This paper begins with a discussion of how to determine the development potential for secondary units, and then provides an overview of how many secondary units can be built in the East Bay of San Francisco Bay Area under current regulations. The next two sections examine key regulatory barriers in detail for the five cities in the study (Albany, Berkeley, El Cerrito, Oakland, and Richmond), looking at lot size, setbacks, parking requirements, and procedural barriers. A sensitivity analysis then determines how many units could be built were the regulations to be relaxed.

[YES IN MY BACKYARD: Mobilizing the Market for Secondary Units \(20 pp.\)](#)

By Karen Chapple, J. Weigmann, A. Nemirow, and C. Dentel-Post (2011)
UC Berkeley: Center for Community Innovation.
Library Call # B92 1.1 Y47 2011

This study examines two puzzles that must be solved in order to scale up a secondary unit strategy: first, how can city regulations best enable their construction? And second, what is the market for secondary units? Because parking is such an important issue, we also examine the potential for secondary unit residents to rely on alternative transportation modes, particular car share programs. The study looks at five adjacent cities in the East Bay of the San Francisco Bay Area (Figure 1) -- Oakland, Berkeley, Albany, El Cerrito, and Richmond -- focusing on the areas within ½ mile of five Bay Area Rapid Transit (BART) stations.

Journal Articles and Working Papers:

[BACKYARD HOMES LA \(17 pp.\)](#)

By Dana Cuff, Tim Higgins, and Per-Johan Dahl, Eds. (2010)
Regents of the University of California, Los Angeles.
City Lab Project Book.

[DEVELOPING PRIVATE ACCESSORY DWELLINGS \(6 pp.\)](#)

By William P. Macht. Urbanland online. (June 26, 2015)
Library Location: Urbanland 74 (3/4) March/April 2015, pp. 154-161.

[GRANNY FLATS GAINING GROUND](#) (2 pp.)

By Brian Barth. Planning Magazine: pp. 16-17. (April 2016)
Library Location: Serials

["HIDDEN" DENSITY: THE POTENTIAL OF SMALL-SCALE INFILL DEVELOPMENT](#) (2 pp.)

By Karen Chapple (2011)
UC Berkeley: IURD Policy Brief.
Library Call # D44 1.2 H53 2011

California's implementation of SB 375, the Sustainable Communities and Climate Protection Act of 2008, is putting new pressure on communities to support infill development. As metropolitan planning organizations struggle to communicate the need for density, they should take note of strategies that make increasing density an attractive choice for neighborhoods and regions.

[HIDDEN DENSITY IN SINGLE-FAMILY NEIGHBORHOODS: Backyard cottages as an equitable smart growth strategy](#) (22 pp.)

By Jake Wegmann and Karen Chapple. Journal of Urbanism 7(3): pp. 307-329. (2014)

Abstract (not available in full text): Secondary units, or separate small dwellings embedded within single-family residential properties, constitute a frequently overlooked strategy for urban infill in high-cost metropolitan areas in the United States. This study, which is situated within California's San Francisco Bay Area, draws upon data collected from a homeowners' survey and a Rental Market Analysis to provide evidence that a scaled-up strategy emphasizing one type of secondary unit – the backyard cottage – could yield substantial infill growth with minimal public subsidy. In addition, it is found that this strategy compares favorably in terms of affordability with infill of the sort traditionally favored in the 'smart growth' literature, i.e. the construction of dense multifamily housing developments.

[RETHINKING PRIVATE ACCESSORY DWELLINGS](#) (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

[ADUS AND LOS ANGELES' BROKEN PLANNING SYSTEM](#) (4 pp.)

By CARLYLE W. Hall. The Planning Report. (April 26, 2016).
Land-use attorney Carlyle W. Hall comments on building permits for accessory dwelling units.

News:

[HOW ONE COLORADO CITY INSTANTLY CREATED AFFORDABLE HOUSING](#)

By Anthony Flint. The Atlantic-CityLab. (May 17, 2016).

In Durango, Colorado, zoning rules were changed to allow, for instance, non-family members as residents in already-existing accessory dwelling units.

[NEW HAMPSHIRE WINS PROTECTIONS FOR ACCESSORY DWELLING UNITS](#) (1 p.)

NLIHC (March 28, 2016)

Affordable housing advocates in New Hampshire celebrated a significant victory this month when Governor Maggie Hassan (D) signed Senate Bill 146, legislation that allows single-family homeowners to add an accessory

dwelling unit as a matter of right through a conditional use permit or by special exception as determined by their municipalities. The bill removes a significant regulatory barrier to increasing rental homes at no cost to taxpayers.

[NEW IN-LAW SUITE RULES BOOST AFFORDABLE HOUSING IN SAN FRANCISCO](#). (3 pp.)

By Rob Poole. Shareable. (June 10, 2014).

The San Francisco Board of Supervisors recently approved two significant pieces of legislation that support accessory dwelling units (ADUs), also known as “in-law” or secondary units, in the city...

[USING ACCESSORY DWELLING UNITS TO BOLSTER AFFORDABLE HOUSING](#) (3 pp.)

By Michael Ryan. Smart Growth America. (December 12, 2014).

RESOLUTION NO. 5882-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING APPROVAL OF AMENDMENT NO. A-017-2017, TO AMEND PORTIONS OF CHAPTERS 9.04, 9.08 AND 9.12 OF TITLE 9 OF THE CITY OF GARDEN GROVE MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNITS, AND AMENDING CHAPTER 9.52 AND REPEALING CHAPTER 5.85 PERTAINING TO COMMERCIAL CANNABIS ACTIVITIES.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on April 20, 2017 does hereby recommend approval of Amendment No. A-017-2017 to the City Council.

BE IT FURTHER RESOLVED in the matter of Amendment No. A-017-2017, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The case was initiated by the City of Garden Grove.
2. The City of Garden Grove is proposing to amend portions of Title 9 (Zoning) of the Garden Grove Municipal code, including Chapters 9.04, 9.08 and 9.12 to update the definition, the land use matrix, and special operating conditions for accessory dwelling units to be consistent with state law. Also, an amendment to Chapter 9.52 and repealing Chapter 5.85 of the Garden Grove Municipal Code to maintain the ban on commercial cannabis activities consistent with state law.
3. The Planning Commission recommends the City Council find that the proposed amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 (CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code) and CEQA Guidelines Section 15061(b)(3) (It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).
4. Pursuant to legal notice, a public hearing was held on April 20, 2017, and all interested persons were given an opportunity to be heard.
5. Report submitted by City staff was reviewed.
6. The Planning Commission gave due and careful consideration to the matter during its meeting of April 20, 2017; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

The proposed Code Amendment is a text amendment intended to conform the City's Municipal Code by incorporating recent changes to state law regarding accessory dwelling units ("ADUs") and the private cultivation of cannabis.

Accessory Dwelling Units

Effective January 1, 2017, Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 amended Government Code Sections 65852.150 and 65852.2 for the purpose of further facilitating the creation of ADUs to address the State's housing shortages crisis. These amended state laws establish new requirements and limitations that local jurisdictions must comply with in order retain authority to continue to regulate ADUs. The proposed text amendments to portions of Chapters 9.04, 9.08 and 9.12 would update the definition, the land use matrix, and special operating conditions for accessory dwelling units (previously referred to as "second units") to be consistent with the amended state law.

Cannabis

On November 8, 2016, California voters approved Proposition 64 – the Control, Regulate, and Tax Adult Use of Marijuana Act legalizing recreational marijuana use for adults 21 or older. Although the measure legalized recreational use of marijuana, it permits the City to continue to prohibit marijuana business activities, except that the City may not prohibit adults 21 years or older from cultivating up to six living marijuana plants inside a private residence, or inside an accessory structure that is fully enclosed and secure located at that private residence. The proposed text amendments to Chapter 9.52 would affirm continuation of the ban against marijuana business activities, but carve out the private cultivation exception so that the City's ban can conform to Proposition 64.

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.

Accessory Dwelling Units

The proposed code amendments to Chapters 9.04, 9.08 and 9.12 of the Land Use Code will bring the City's Land Use Code into conformance with recent changes to state law pertaining to accessory dwelling units (AUDs) enacted by Senate Bill 1069 and Assembly Bill 2299. The intent of the changes to the state law is to facilitate the creation of ADUs, which are considered as an essential affordable housing option to address the State's growing housing crisis. ADUs will continue to be allowed in the R-1 (Single-Family Residential) zone. The R-1 zone implements the Low Density Residential (LDR) land use

designation, which is intended to create, maintain, and enhance residential areas characterized by detached, single unit structures, and single-family residential neighborhoods. Goal LU-2/ Policy LU-2.2 of the General Plan Land Use element encourages a diverse mix of housing types in the City, and the goal of the General Plan Housing Element is to encourage the development of affordable housing to meet the City's regional housing needs as well as to provide housing that encourages people of all economic levels to live in Garden Grove. ADUs will provide for more housing opportunities in the City that will meet the City's regional housing needs.

Cannabis

The proposed code amendments to Chapter 9.52 of the Land Use Code will affirm continuation of the City's ban against marijuana business activities, but carve out the private cultivation exception so that the City's ban will conform to Proposition 64. Consistent with Proposition 64, the cultivation exception will be limited to the possession, planting, cultivation, harvesting, drying, or processing of up to 6 marijuana plants by persons 21 years of age or older inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure. The General Plan does not contain specific goals or policies pertaining to cannabis-related activities; however, continuing to prohibit cannabis dispensaries, delivery, and cultivation in the City, with the limited exception for private cultivation mandated by Proposition 64, is consistent with various policies in the City's Land Use Element, which encourages compatibility between uses and seeks to protect residential areas from the effects of potentially incompatible uses.

2. The Amendment will promote the public interest, health, safety and welfare.

Accessory Dwelling Units

The proposed Code Amendment will bring the City's Land Use Code into conformance with changes to state law relating to accessory dwelling units (ADUs) pursuant to SB 1069 and AB 2299. The proposed amendments to Chapters 9.04, 9.08 and 9.12 are intended to be consistent with current state law, and will facilitate the construction of ADUs, which are an essential affordable housing option to meet the state's growing housing crisis. Nevertheless, to minimize impacts of ADUs to existing single-family residential neighborhoods, the code will continue to impose reasonable development standards on attached and detached ADUs, will prohibit short-term rentals of ADUs (less than 30-days), and will continue to require the property owner to reside on the same property as the ADU, including recording a deed restriction acknowledging compliance with the City's ADU requirements.

Cannabis

The proposed Code Amendment will further conform the Code to Proposition 64, by continuing to prohibit marijuana business activities in the City, but exempting adults 21 years or older cultivating up to six living marijuana plants inside a private residence, or inside an accessory structure that is fully enclosed and secure located at that private residence. The Amendment will also repeal the registration process for medical marijuana dispensaries because it is no longer needed now that the City has adopted a complete ban against marijuana business activities.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT:

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Amendment No. A-017-2017 possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment).
2. The Planning Commission recommends that the City Council approve Amendment No. A-017-2017 and adopt the draft Ordinance attached hereto as Exhibit "A".

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-017-2017 AMENDING PORTIONS OF TITLE 9 (ZONING CODE) AND REPEALING CHAPTER 5.85 OF THE GARDEN GROVE MUNICIPAL CODE ADOPTING ACCESSORY DWELLING UNIT REGULATIONS AND MAINTAINING THE BAN ON CANNABIS ACTIVITIES CONSISTENT WITH RECENT CHANGES TO STATE LAW.

City Attorney Summary

This Ordinance amends the Garden Grove Zoning Code to revise second unit regulations in single-family residential lots and replace them with new accessory dwelling unit regulations consistent with the 2017 revisions to State's Planning and Zoning Law. It further revises the Municipal Code to continue to maintain the ban on cannabis activities consistent with recent changes to state law.

WHEREAS, in 2016 the State Legislature adopted Assembly Bill 2299 and Senate Bill 1069 to streamline current regulations for second units in residential districts, now termed "accessory dwelling units"; and

WHEREAS, the new State regulations preempt local regulation until the City adopts regulations consistent with the standards adopted in the new legislation; and

WHEREAS, on November 8, 2016, California voters approved Proposition 64 – the Control, Regulate, and Tax Adult Use of Marijuana Act (the "Adult Use of Marijuana Act") legalizing recreational marijuana use for adults 21 or older; and

WHEREAS, pursuant to the Adult Use of Marijuana Act, local governments may continue to prohibit cannabis business activities, but may not prohibit adults 21 years or older from cultivating up to six living marijuana plants inside a private residence, or inside an accessory structure located thereon, that is fully enclosed and secure; and

WHEREAS, on August 23, 2011, the City Council adopted Ordinance No. 2798-A, adding Chapter 5.85 "Registration Process for Medical Marijuana Dispensaries" to Title 5 of the Garden Grove Municipal Code. Chapter 5.85 provided for the identification of unauthorized medical marijuana dispensaries operating in the City and prohibited any new medical marijuana dispensaries while new regulatory and zoning provisions were developed and considered; and

WHEREAS, on January 26, 2016, the City Council adopted Ordinance No. 2863, adding Chapter 9.52 "Cannabis Activities" to Title 9 of the Garden Grove Municipal Code. Chapter 9.52 prohibits the establishment, maintenance, or operation of marijuana dispensaries and related commercial cannabis activities, including the

distribution, manufacture cultivation and delivery of cannabis and/or cannabis products in all zoning districts, planned unit development districts, and specific plan areas in the City; and

WHEREAS, the City wishes to continue to provide for the public health, safety and welfare of the community by establishing local controls over land use, including accessory dwelling units and a ban on commercial cannabis activities; and

WHEREAS, following a Public Hearing held on _____, 2017, the Planning Commission adopted Resolution No. _____-__ recommending approval of Amendment No. A-017-2017; and

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on _____, 2017, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The above recitals are true and correct.

SECTION 2: Subsection C of Section 9.04.060 of Chapter 9.04 of Title 9 of the Garden Grove Municipal Code is hereby amended to add a definition for "Accessory dwelling unit" and to delete the current definition for "Second unit" as follows (additions in ***bold/italic***, deletions in strike-through):

"Accessory dwelling unit" (also "ADU," "second unit," or "granny unit") means an attached or detached residential dwelling unit situated on the same parcel as an existing primary single-family dwelling, which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. An accessory dwelling unit also includes and "efficiency unit" as defined in California Health and Safety Code Section 17958.1 and a "manufactured home" as defined in California Health and Safety Code Section 18007. An accessory dwelling unit may be established through (i) construction of a new detached structure, (ii) construction of an addition to an existing single-family dwelling, (iii) conversion of existing space in an existing single-family dwelling, or (iv) conversion of an existing garage or other accessory structure on a lot containing an existing single-family dwelling, provided it is set back at a distance sufficient for fire safety.

~~"Second unit" means an attached or detached residential dwelling unit located on the same lot as a single family residence that provides independent~~

~~living facilities for one or more persons, including a kitchen or any other area used for the daily preparation of food.~~

SECTION 3: Table 1 of Section 9.08.020.030 of Chapter 9.08 of Title 9 of the Garden Grove Municipal Code is hereby amended to replace "Second Unit" with "Accessory dwelling unit" as follows (additions in **bold italic**, deletions in ~~strikethrough~~):

**Table 1
 CITY OF GARDEN GROVE LAND USE MATRIX**

ZONES USES	R-1
Residential	
Accessory Buildings and Structures	I*
<i>Accessory Dwelling Unit</i>	<i>P*</i>
Agricultural Growing and Produce Stand	P
...	...
Residential Care Facility for the Elderly (RCFE) – 6 Persons or Less	P
Second Unit	p*
Single-Family Dwelling	P
...	...

SECTION 4: Subsection L of Section 9.08.020.050 of Chapter 9.08 of Title 9 of the Garden Grove Municipal Code is hereby amended to read as follows (additions in **bold italic**, deletions in ~~strikethrough~~):

- L. ~~Second~~***Accessory Dwelling*** Units. Subject to the following conditions:
 1. ~~A second~~ ***An accessory*** dwelling unit that conforms to the requirements of this subsection shall be considered consistent with the allowable density for the lot and the single-family land use designation for such lot as provided in the applicable general plan and zone map for such lot. ***Accessory dwelling units shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.***
 2. The property shall be zoned for R-1 single-family residential uses.
 3. The lot on which the ~~second~~ ***accessory dwelling*** unit is proposed to be established shall contain one existing permanent single-family dwelling (the "primary unit") and no existing granny unit, guest house, servants quarters, accessory living quarters, or

similar facility, unless the proposal includes the demolition or modification of such facility so as to comply with the provisions of this subsection.

4. The primary unit complies with current parking requirements or, if the primary unit does not comply with the parking requirements, the primary unit will be made to comply with the parking requirements as part of the application for a proposed second **accessory dwelling** unit. **When a garage, carport, or covered parking structure containing required off-street parking spaces for the primary unit is demolished or eliminated in conjunction with the construction of an accessory dwelling unit, said parking spaces shall be replaced. These replacement parking 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, tandem spaces, or by the use of mechanical automobile parking lifts.**
5. **The lot and all structures thereon shall be legal or legal nonconforming, or will be made so prior to development of the accessory dwelling unit.** If the primary unit or any associated accessory structures have legally established deviations or variances from current zoning requirements, a second **an accessory dwelling** unit may be permitted, provided the second **accessory dwelling** unit complies in all respects with the requirements of this subsection.
6. Adequate infrastructure, including, but not limited to, sewer and water services and **streets sufficient for** traffic flow and circulation, shall be available within the residential neighborhood in which the ~~second~~ **an accessory dwelling** unit **not located within the space of an existing structure** is proposed to be located to serve such ~~second~~ **accessory dwelling** unit, **as determined by the Public Works Director.**
7. The second **accessory dwelling** unit may be either attached to or detached from, **or located within the existing space of,** the existing single-family residence and shall be located on the same lot as the existing single-family residence.
8. **Except as otherwise provided in this subsection or by state law,** ~~the~~ the following development and design standards shall apply to ~~second~~-**accessory dwelling** units:
 - a. The lot is a minimum of ~~9,000~~ **7,200** square feet in size.

- b. No more than one second **accessory dwelling** unit shall be allowed on a single lot.
- c. Each second **accessory dwelling** unit shall meet the following minimum sizes based on the number of sleeping rooms, **provided, however, that a smaller unit constituting an "efficiency unit" as defined California Health and Safety Code Section 17958.1 is permitted:**
 - i. Studio units: 500 square feet.
 - ii. One sleeping room: 600 square feet.
 - iii. Two sleeping rooms: 700 square feet.
- d. The second **accessory dwelling** unit shall not contain more than two sleeping units and shall not exceed ~~700~~ **800** square feet in area, except as expressly provided herein.
- e. The ~~second~~ **accessory dwelling** unit may include an attached covered patio and/or porch, which, if provided, shall be integrated into the design of the second **accessory dwelling** unit and shall not exceed 80 square feet.
- f. The second **accessory dwelling** unit may include an attached one-car garage, which, if provided, shall be integrated into the design of the second **accessory dwelling** unit and shall not exceed 250 square feet.
- g. In no event shall an ~~second~~ **accessory dwelling** unit including porch, patio, and garage, exceed ~~1,000~~ **1,100** square feet.
- h. The second **accessory dwelling** unit shall have a separate entrance and shall contain kitchen and bathroom facilities separate from those of the existing single-family residence. Laundry hookups to serve the second **accessory dwelling** unit are encouraged.
- i. **Unless otherwise required by applicable law or the utility provider or determined by the Public Works Director to be necessary, an accessory dwelling unit shall be served by the same water, sewer, and other**

utility connections serving the primary unit, and no No separate utility meters shall be permitted for the second **accessory dwelling** unit. **An accessory dwelling unit must receive the approval of the local health officer where a private sewage disposal system is being used.**

- j. **Except to the extent otherwise provided in this subsection,**—The second **the accessory dwelling** unit shall conform to all the development standards for the R-1 zone **set forth in Section 9.08.040**, including, but not limited to, standards for front, rear, and side yard setbacks, height, and lot coverage, **lot width, building placement, design and architectural compatibility, driveway width, screening of mechanical equipment and metering devices, landscaping, walls, fences, hedges, and parking spaces.**
- k. The second **accessory dwelling** unit shall be considered as part of the 50% lot coverage calculation that also includes all buildings and structures (primary and accessory); **and** uncovered and covered parking areas, and driveways, but excludes uncovered swimming pools and uncovered **permeable or semi-permeable** recreational **surface** areas.
- l. **Attached accessory dwelling units shall comply with the setback standards established for additions to single-family dwellings, and detached accessory dwelling units shall comply with the setback standards established for detached accessory structures. Notwithstanding the foregoing, no setback is required where an existing garage is converted to an accessory dwelling unit. A minimum five (5) foot yard rear and side yard setback is required for any accessory dwelling unit constructed above an existing garage (if otherwise permitted).** A detached second **accessory** dwelling unit shall have a minimum separation of six feet between the primary unit and the detached-second **accessory dwelling** unit.
- m. Second **Detached accessory dwelling** units shall be one story, constructed at ground level, and shall not be more than 17 feet in height measured from ground level to the highest point on the roof. **Attached accessory dwelling units developed as additions to primary dwelling**

units shall be subject to the height limits and related standards applicable to additions to existing single-family residences, including, but not limited to, all privacy provisions limiting window placement and design. Exterior stairs associated with an attached accessory dwelling unit shall only be permitted if they would otherwise be allowed for the primary unit, shall not be located on the front façade of the structure, and shall be oriented and designed in such a manner so as not to permit unobscured views into windows of adjacent residential dwelling units or to pools, spas, or similar recreational areas situated on adjacent properties.

- n. The design, color, material, and texture of the roof of the second **accessory dwelling** unit shall be substantially the same as the primary unit.
- o. The color, material, and texture of all building walls of the second **accessory dwelling** unit shall be similar to and compatible with the primary unit.
- p. The design of the second **accessory dwelling** unit shall be architecturally compatible with the primary unit and shall maintain the scale and appearance of the existing single-family unit.
- q. **Except as otherwise provided herein, one** ~~one~~ enclosed off-street **parking** space shall be provided for a single **an accessory dwelling** unit with one bedroom or no bedroom. ~~One enclosed space and one uncovered~~ **Two off-street parking** spaces shall be provided for a two-bedroom second **accessory dwelling** unit. ~~The one uncovered space may be designed as a tandem parking space in front of the new enclosed space for the second unit.~~ **Parking for the accessory dwelling unit is in addition to the required parking for the primary unit. Required off-street parking spaces for an accessory dwelling unit may be provided as tandem parking on an existing driveway or in setback areas approved by the Community and Economic Development Director ("Director"), unless the Director specifically finds that such parking arrangements are not feasible based upon specific site or regional topographical or fire or life safety conditions, or are not permitted anywhere in the city.**

Exception: No additional off-street parking spaces are required for a new accessory dwelling unit in any of the following circumstances:

- i. The accessory dwelling unit is located within one-half mile of public transit;**
 - ii. The accessory dwelling unit is located within an architecturally and historically significant district;**
 - iii. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure;**
 - iv. When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit; or**
 - v. When there is a car share vehicle located within one block of the accessory dwelling unit.**
- r. To the maximum extent feasible, the ~~second~~ **accessory dwelling** unit shall utilize the same vehicular access that serves the primary dwelling unit; however, the parking area for the second unit shall have approved access to a public right-of-way.
- s. **An accessory dwelling unit shall have a separate entrance than the primary unit. An uncovered pathway from the street to the entrance of an accessory dwelling unit (called as a "passageway") is not required.**
9. The owner of the property shall occupy one of the residential units. The residential unit that is not occupied by the owner may be rented or leased **for terms of 30 days or more**. In the event the owner of the lot shall cease to occupy a unit on the lot, the ~~second~~ **accessory dwelling** unit shall automatically become non-habitable space, shall not be used as a dwelling unit, and shall not be rented or leased for any purpose.
10. Sale or ownership of a ~~second~~ **an accessory dwelling** unit separate from the existing single-family unit is prohibited.

11. Prior to issuance of a building permit for a second ***an accessory dwelling*** unit, the property owner shall record with the County Recorder's office an agreement with the City setting forth the property owner's acknowledgement and agreement with the requirements of this subdivision, in a form satisfactory to the City Manager or the City Manager's designee and the City Attorney or the City Attorney's designee, ***which runs with the land and describes restrictions that allow for the continued use of the accessory dwelling unit as follows:***
 - a. ***The accessory dwelling unit shall not be sold or owned separately from the primary dwelling unit on the property, and the property shall not be subdivided in any manner that would authorize such separate sale or ownership.***
 - b. ***The accessory dwelling unit may not be rented for a term of less than thirty (30) days.***
 - c. ***The accessory dwelling unit is restricted to the size and attributes set forth in this subsection. If the accessory dwelling unit is an "efficiency unit" as defined California Health and Safety Code Section 17958.1, occupancy of the unit shall be restricted to no more than the number of persons corresponding to the size of the efficiency unit.***
 - d. ***The required number of parking spaces (if any) shall be provided for the accessory dwelling unit at all times.***
 - e. ***The accessory unit shall be considered legal only so long as either the primary dwelling unit, or the accessory dwelling unit, is occupied by an owner of record of the property as his or her principal residence. In the event an owner of the lot shall cease to occupy a unit on the lot, the accessory dwelling unit shall automatically become non-habitable space, shall not be used as a dwelling unit, and shall not be rented or leased for any purpose.***
 - f. ***The restrictions shall run with the land and be binding upon any successor in ownership of the property, and lack of compliance shall be good cause for legal action against the property owner for***

compliance with the requirements for an accessory dwelling unit.

12. **Applications for development of an accessory dwelling unit must be submitted to the Director on a form prepared by the city and must include all information and materials prescribed by such form. No application shall be accepted unless it is completed as prescribed and is accompanied by payment for all applicable fees. The Director shall ministerially review and approve or disapprove a complete application for an accessory dwelling unit within 120 days of submittal of a complete application. Review is limited to ensure that the accessory dwelling unit complies with the requirements of this subsection. An application for an accessory dwelling unit** Any owner that is unable to **does not** comply with the development standards and conditions of this subsection shall **be denied, unless the owner** first **applies** apply for and secure **secures** the approval of a variance pursuant to the provisions of this code ~~before a second unit may be approved.~~
13. **In addition to approval of an accessory dwelling unit application, the applicant shall be required to obtain any appropriate permits from the building division prior to the construction or conversion of the accessory dwelling unit. Except as otherwise provided in this subsection or by state law, all building, fire, and related code requirements applicable to habitable dwellings apply to accessory dwelling units. Pursuant to Government Code section 65852.2, an accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the primary unit.**
14. **Notwithstanding the provisions of paragraph 8 of this subsection, the city shall approve a building permit for an accessory dwelling unit to create within a single-family residentially zoned property one accessory dwelling unit per single-family lot if the accessory dwelling unit is contained within the building envelope of an existing legal primary unit, garage, or other accessory structure, has independent exterior access from the existing legal primary unit, complies with all building standards, and the Director determines that the side and rear setbacks are sufficient for fire safety.**

SECTION 5: Exemption (b.) of Subsection D of Section 9.08.040.030 of Chapter 9.08 of Title 9 of the Garden Grove Municipal Code is hereby amended to read as follows (additions in ***bold italic***, deletions in ~~strikethrough~~):

Exemptions:

- a. One-story detached accessory structures used as tool sheds, playhouses and similar uses shall be exempt from the architectural requirements contained in Section 9.08.040.030.A, provided any such structure does not exceed 120 square feet of projected roof area and is located to the rear and interior side of the main building.
- b. ~~Second~~ ***Accessory dwelling*** units, including porch and/or patio areas and enclosed parking areas dedicated to the ~~second~~ ***accessory dwelling*** unit that are within the maximum area for a ~~second~~ ***accessory dwelling*** unit, shall be exempt from the provisions of this subsection.

SECTION 6: Exemption (b.) of Subsection D of Section 9.12.040.030 of Chapter 9.08 of Title 9 of the Garden Grove Municipal Code is hereby amended to read as follows (additions in ***bold italic***, deletions in ~~strikethrough~~):

Exemptions:

- a. One-story detached accessory structures used as tool sheds, playhouses and similar uses shall be exempt from the architectural requirements contained in Section 9.12.040.030.A, provided any such structure does not exceed 120 square feet of projected roof area and is located to the rear and interior side of the main building.
- b. ~~Second~~ ***Accessory dwelling*** units, including porch and/or patio areas and enclosed parking areas dedicated to the ~~second~~ ***accessory dwelling*** unit that are within the maximum area for a ~~second~~ ***accessory dwelling*** unit, shall be exempt from the provisions of this subsection.

SECTION 7: Chapter 5.85 of Title 5 of the Garden Grove Municipal Code is hereby repealed.

SECTION 8: Section 9.52.020 of Chapter 9.52 of Title 9 of the Garden Grove Municipal Code is hereby amended to read as follows (additions in ***bold/italics***, deletions in ~~strike-through~~):

- A. Cannabis Dispensaries and Delivery Prohibited. ***Except as exempted in subsection (C) below***, cannabis dispensaries and cannabis delivery are prohibited in all zoning districts, planned unit development districts,

and specific plan areas in the City. It shall be unlawful for any person or entity to own, manage, conduct, or operate any cannabis dispensary or cannabis delivery service or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any cannabis dispensary or cannabis delivery service in the City of Garden Grove.

- B. Establishment or Maintenance of Cannabis Dispensaries Declared a Public Nuisance. ***Except as exempted in subsection (C) below***, the establishment, maintenance, or operation of a cannabis dispensary or cannabis delivery service as defined in this chapter within the City limits of the City of Garden Grove is declared to be a public nuisance and enforcement action may be taken and penalties assessed pursuant to Title 1, Chapter 1.04 of the Garden Grove Municipal Code, and/or any other law or ordinance that allows for the abatement of public nuisances.
- C. ***Exemptions. Pursuant and subject to Proposition 64 adopted by the State voters in November 2016, this section shall not prohibit (1) the possession, planting, cultivation, harvesting, drying, or processing of up to 6 marijuana plants by persons 21 years of age or older inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure; or (2) the possession of or giving away of the marijuana produced by such plants to persons 21 years of age or older.***

SECTION 9: Section 9.52.030 of Chapter 9.52 of Title 9 of the Garden Grove Municipal Code is hereby amended to read as follows (additions in ***bold/italics***, deletions in strike-through):

- A. Cannabis Cultivation Prohibited. ***Except as exempted in subsection (C) below***, the cultivation of cannabis and/or the establishment, maintenance or operation of any cannabis cultivation site is prohibited in all zoning districts, planned unit development districts, and specific plan areas in the City.
- B. Establishment or Maintenance of Cannabis Cultivation Site Declared a Public Nuisance. ***Except as exempted in subsection (C) below***, the establishment, maintenance, or operation of a cannabis cultivation site as defined in this chapter within the City limits of the City of Garden Grove is declared to be a public nuisance and enforcement action may be taken and penalties assessed pursuant to Title 1, Chapter 1.04 of the Garden Grove Municipal Code, and/or any other law or ordinance that allows for the abatement of public nuisances.
- C. ***Exemptions. Pursuant and subject to Proposition 64 adopted by the State voters in November 2016, this section shall not***

prohibit the possession, planting, cultivation, harvesting, drying, or processing of up to 6 marijuana plants by persons 21 years of age or older inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

SECTION 10: The City Council hereby finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15061(b)(3).

SECTION 11: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 12: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the ____th day of _____ 2017.

ATTEST:

MAYOR

CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, Teresa Pomeroy, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on _____, 2017, with a vote as follows:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

and was passed on _____, 2017, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

CITY CLERK

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.2.	SITE LOCATION: Citywide
HEARING DATE: April 20, 2017	GENERAL PLAN: N/A
CASE NO.: Amendment No. A-018-2017	ZONE: N/A
APPLICANT: City of Garden Grove	
OWNER: N/A	CEQA DETERMINATION: Exempt

REQUEST:

A request for Planning Commission recommendation to the City Council to approve Amendment No. A-018-2017, which includes City-initiated zoning text amendments to Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Municipal Code to update the definitions, operating conditions, and development standards in the City's Land Use Code, pertaining to crematoriums, mortuaries, funeral homes, and cemeteries. Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

BACKGROUND:

In early 2016, the City of Garden Grove received a request, Conditional Use Permit No. CUP-073-2016, to operate a new funeral home, within an existing approximately 19,460 square foot office building, which included a mortuary and crematory*. The subject property, located at 13272 Garden Grove Boulevard, is zoned C-2 (Community Commercial), and directly abuts, and is located within close proximity

* "Crematory" is another term for "Crematorium"

to single-family homes. Mortuaries and crematoriums are permitted uses in the C-2 zone, subject to the approval of a Conditional Use Permit.

On June 2, 2016, the Planning Commission conducted a public hearing and took testimony from the applicant and numerous interested members of the public. Staff provided a report and recommended the Commission adopt a Resolution adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approving Conditional Use Permit No. CUP-073-2016. The applicant, a representative of the manufacturer of the cremation equipment, and a real estate broker testified in favor of the application. The environmental consultant, who prepared the initial study, also testified and answered questions posed by the Commissioners. Approximately 36 members of the public testified in opposition to the application. Several members of the public testified that, due to its proximity to single-family residences and other sensitive uses, the proposed funeral home with a mortuary and crematory would be an inappropriate use at the proposed location. Several residents of the adjacent residential neighborhood testified that the nature of the use makes them and their children uncomfortable, that they are concerned about the potential long-term physical and mental health impacts from residing and/or working in such close proximity to a crematory, that the proximity of the proposed use would interfere with their use and enjoyment of their properties, and that, due to negative public perceptions about living in proximity to a mortuary and crematory, their property values would decrease if the proposed use was established at this location.

Six (6) Commissioners were present at the June 2, 2016 meeting, and a motion to adopt the proposed Resolution of Approval failed to garner the affirmative vote of a majority of the Commissioners present. The Commission ultimately voted to continue the public hearing to the June 16, 2016 Planning Commission meeting in an effort to have all seven (7) Planning Commissioners present to consider and vote on the item and directed Staff to prepare alternative draft Resolutions of Approval and Denial for its consideration.

Pursuant to the direction of the Planning Commission, Staff prepared an alternative draft Resolution of Denial based on facts presented by members of the public at the public hearing on June 2, 2016, for the Commission's consideration along with the original proposed Resolution of Approval. On June 16, 2016, the Planning Commission held a continued public hearing. Approximately 29 members of the public testified in opposition to the application, citing similar reasons mentioned at the prior Planning Commission meeting on June 2, 2016. Five (5) persons spoke in favor of the request. Ultimately, the Planning Commission voted unanimously to adopt Resolution of Denial No. 5863-16, denying the applicant's request to operate the new funeral home with mortuary and crematory. Subsequent to the 21-day appeal period, the applicant decided not to appeal the case to the City Council for its consideration.

Following the Planning Commission's denial of CUP-073-2016, in July of 2016, the City Council adopted Urgency Ordinance No. 2869 imposing a 45-day moratorium on the issuance of permits or land use entitlements for crematoriums and/or mortuaries. Shortly thereafter, in August of 2016, the City Council adopted Urgency Ordinance No. 2870 authorizing a ten (10) month and fifteen (15) day extension of Urgency

Ordinance No. 2869. The intent of the moratorium was to provide additional time for the City to thoroughly review and evaluate the issues giving rise to Urgency Ordinance No. 2869, to conduct a zoning study, and process a Zoning Code Amendment to determine the appropriate zoning, development standards, and other proper regulations applicable to mortuaries, crematoriums, funeral homes, and cemeteries to protect the health, safety, and welfare of the community.

A review of the Municipal Code ("Code") disclosed that the City has a lack of regulations for crematoriums, mortuaries, funeral homes, and cemeteries, which were not a problem when the City previously had larger and predominantly agricultural uses throughout the community. Today, the City is mostly built-out with very few vacant parcels of land, and has become a primarily residential community. The Code needs to be revised to address negative impacts associated with crematoriums, mortuaries, funeral homes, and cemeteries, especially with respect to sensitive uses such as residences, schools, and parks. Some of the negative impacts include fear, concerns about long-term physical and mental health effects, interference with use and enjoyment of residential properties, schools, and parks, and property devaluation arising from the negative public perception pertaining to living in proximity to crematoriums, mortuaries, funeral homes, and cemeteries.

DISCUSSION:

The following discussion presents proposed amendments to the Municipal Code to address negative impacts associated with crematoriums, mortuaries, funeral homes, and cemeteries. The proposed amendments will ensure the Municipal Code is updated, and includes appropriate development standards and regulations for crematoriums, mortuaries, funeral homes, and cemeteries. The new standards and regulations will reflect the current makeup and environment of the Garden Grove community, which has changed significantly since the City was incorporated in 1956.

Recently, the City has received inquiries about establishing mortuaries and/or crematoriums in the City. Current trends in the mortuary and crematory industry show that such businesses may come in the form of a standalone crematorium, a crematorium with incidental funeral home/mortuary, or a funeral home/mortuary with no crematorium.

Crematoriums:

Currently, the Municipal Code lists "Mortuaries/Crematoriums" as a combined use and defines them as "establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries." Furthermore, the Municipal Code also lists a separate definition for "Crematory," which is defined as "a facility where human remains are reduced to ashes in a furnace and are incidental to a church, cemetery, or mortuary." These terms and definitions imply that a crematorium always operates in conjunction with either a church, cemetery, or mortuary. However, current trends in the mortuary and crematory industry show that a crematorium *may* operate as a standalone business, without any on-site incidental services related to a funeral home (for viewing purposes), mortuary (for temporary storage of human dead), church, or

cemetery. As such, the title of "Mortuaries/Crematoriums" will be modified to "Crematoriums." Furthermore, the definition of "Mortuaries/Crematoriums" will be deleted and replaced by a new definition for "Crematoriums", which will read as follows: "means facilities where human or animal remains are reduced to ashes in a furnace and may include incidental uses such as a Funeral Home/Mortuary."

The proposed Amendment will identify the zones where new "Crematoriums" will be allowed with a Conditional Use Permit. Said zones will include C-3 (Heavy Commercial), M-1 (Light Industrial), and M-P (Industrial Park). Currently, the Municipal Code allows "Mortuaries/Crematoriums" in the C-2 (Community Commercial) zone. However, there are many existing C-2 zoned properties in the City that are within close proximity to sensitive uses such as residences, schools, and parks. This was evident in the prior denied case of Conditional Use Permit No. CUP-073-2016, where the subject site, for the proposed funeral home with on-site crematory and mortuary facilities, was zoned C-2 and directly abutted single-family homes. To prevent this type of future occurrence, "Crematoriums" will not be permitted in the C-2 zone. Conversely, many M-1 and M-P zoned properties in the City, where industrial businesses are allowed, are not within close proximity to residences, schools, and parks.

The proposed amendment to the Land Use Matrix is as follows (Deletions shown in strikethrough, additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
Mortuaries/Crematoriums	-	-	€	P <i>C*</i>	<i>C*</i>	<i>C*</i>	-

The proposed Amendment will further establish Special Operating Conditions and Development Standards applicable to "Crematoriums" which include requiring any new crematoriums to maintain a minimum distance of 500 feet to any property boundary of any "O-S" (Open Space) zoned property developed with a school or park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. The 500-foot minimum distance requirement will ensure that sensitive uses such as residences, schools, and parks are protected from any potential negative impacts associated with crematoriums. Other Special Operating Conditions and Development Standards applicable to "Crematoriums" will include the following:

- Crematoriums are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD (Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.
- Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes

verification of periodic inspection notices and approvals by the regulatory agencies.

- Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.

Crematoriums with Incidental Funeral Home/Mortuary:

The City has received inquiries to establish Crematoriums with an incidental Funeral Home/Mortuary on-site. This was evident in the prior denied case of Conditional Use Permit No. CUP-073-2016, where the applicant proposed to operate a funeral home with on-site crematory and mortuary facilities. To address this type of business activity and its impacts, a new use, "Crematoriums with Incidental Funeral Home/Mortuary", will be added to the "Table 1 City of Garden Grove Land Use Matrix" and the proposed Amendment will identify the zones where new "Crematoriums with Incidental Funeral Home/Mortuary" will be allowed with a Conditional Use Permit. Said zones will include C-3 (Heavy Commercial), M-1 (Light Industrial), and M-P (Industrial Park).

The new use will be added as follows (Additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
<i>Crematoriums with Incidental Funeral Home/Mortuary</i>	-	-	-	<i>C*</i>	<i>C*</i>	<i>C*</i>	-

A new definition for "Crematoriums with Incidental Funeral Home/Mortuary" will be added to the Municipal Code which will read as follows: "means establishments primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary is incidental to an on-site crematory facility and may include related and incidental business activities, which include a florist, gift shop, and casket sales. See "Crematorium" definition."

The proposed Amendment will establish Special Operating Conditions and Development Standards applicable to "Crematoriums with Incidental Funeral Home/Mortuary", which include requiring any new crematoriums with an incidental funeral home/mortuary to maintain a minimum distance of 500 feet to any property boundary of any "O-S" (Open Space) zoned property developed with a school or park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. The 500-foot minimum distance requirement will ensure that sensitive uses such as residences, schools, and parks are protected from any potential negative impacts associated with crematoriums with an incidental

funeral home/mortuary. Other Special Operating Conditions and Development Standards applicable to "Crematoriums" will include the following:

- Crematoriums with Incidental Funeral Home/Mortuary are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD (Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.
- Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be properly obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the regulatory agencies.
- Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.

Funeral Home/Mortuary with No Crematorium:

The City has received inquiries to establish a funeral home/mortuary with no on-site crematorium. To address this type of business activity and its impacts, a new use, "Funeral Home/Mortuary with No Crematorium", will be added to the "Table 1 City of Garden Grove Land Use Matrix" and the "Table 9.18-1 Use Regulation for the Mixed Use Zones" land use matrix as follows (Additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
<i>Funeral Home/Mortuary with No Crematorium</i>	-	-	<i>p*</i>	<i>p*</i>	-	-	-

Table 9.18-1 **Use Regulations for the Mixed Use Zones**

Other Services	GGM	CC-1	CC-2	CC-3	CC-OS	NMU	AR
	<i>U-1,-2,-3</i>						
<i>Funeral Home/Mortuary with No Crematorium</i>	-	-	-	-	-	-	<i>p*</i>

A new definition for "Funeral Home/Mortuary with No Crematorium" will be added to the Municipal Code which will read as follows: "means an establishment primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary may include related and incidental business activities, which include

a florist, gift shop, and casket sales. No crematorium services or activities are permitted on-site."

Most funeral home establishments in the Orange County area do not provide on-site cremation services. Funeral homes typically contract out cremation services and the cremations are performed at an off-site crematory facility usually found in industrial areas away from residences, schools, and parks.

The proposed Amendment will establish a Special Operating Condition and Development Standard applicable to a "Funeral Home/Mortuary with No Crematorium", which includes requiring any new funeral home/mortuary with no crematorium to maintain a minimum distance of 250 feet of a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. The 250-foot minimum distance requirement will ensure that sensitive uses such as residences, schools, and parks are not subjected to potential negative impacts such as fear, interference with use and enjoyment of residential properties, schools, and parks, and property devaluation arising from the negative public perception pertaining to living in proximity to a "Funeral Home/Mortuary with No Crematorium."

Cemeteries:

Currently, "Cemeteries" are only permitted in the O-S (Open Space) zone as a Conditional/Incidental (C/I) use. "Cemeteries" will no longer be permitted as an incidental use in the O-S zone, and only as a Conditional Use (requiring a Conditional Use Permit). The Conditional Use Permit process allows the City to review each application individually to evaluate any potential negative impacts and to apply the most appropriate conditions of approval tailored to the proposed project.

The Land Use Matrix will be revised as follows (Deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

Table 1 CITY OF GARDEN GROVE LAND USE MATRIX

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
Cemeteries <i>Cemetery</i>	-	-	-	-	-	-	<i>C/I</i>

Furthermore, the definition of "Cemetery" will be modified as follows (Deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***)

..."means a land used or intended to be used for the burial of human and/or pet remains and dedicated for cemetery purposes. Cemeteries ***may*** include business and administrative offices, chapels, flower shops, mausoleums ***and columbaria*** as an incidental uses, and necessary maintenance facilities. ***No crematorium or funeral home/mortuary services or activities are permitted on-site.***"

Finally, a new definition for "Columbarium" will be added to the Municipal Code which will read as follows: "means a sepulchral vault or other structure(s) with recesses in the interior walls to receive the ashes of the dead."

Parking:

The proposed Amendment will establish new parking standards for "Crematoriums", "Crematoriums with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

The Table in Section 9.16.040.150 (Parking Spaces Required) of Section 9.16.040 (Commercial/Office, Industrial Development Standards) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Municipal Code is to be amended as follows to include parking requirements for a "Crematorium", a "Crematorium with Incidental Funeral Home/Mortuary", and a "Funeral Home/Mortuary with No Crematorium" (Additions shown in ***bold-italics***):

USE	REQUIRED MINIMUM PARKING SPACES
B. Commercial Uses	
<i>14. Funeral Home/Mortuary with No Crematorium</i>	
<i>Fixed seats in viewing room(s):</i>	<i>1 space per each 3 fixed seats in area(s) designated for assembly purposes</i>
<i>No fixed seats in viewing room(s):</i>	<i>1 space for each 21 sq. ft. of area designated for assembly purposes</i>
	<i>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</i>
D. Industrial Uses	
3. Crematorium	
<i>a. Buildings less than 20,000 sq. ft. of gross floor area</i>	<i>2.25 spaces per 1,000 sq. ft. of gross floor area</i>
<i>b. Buildings 20,001 to 100,000 sq. ft. of gross floor area</i>	<i>2 spaces per 1,000 sq. ft. of gross floor area</i>
<i>c. Buildings over 100,000 sq. ft. of gross floor area</i>	<i>1 space per 1,000 sq. ft. of gross floor area</i>
<i>d. Incidental office</i>	
<i>i. Under 30% of gross floor area</i>	<i>No additional requirements</i>
<i>i. 30 to 50% of gross floor area of a building</i>	<i>1 space per 250 sq. ft. of gross floor area</i>
4. Crematorium with Incidental Funeral Home/Mortuary	
<i>Fixed seats in viewing room(s):</i>	<i>1 space per each 3 fixed seats in area(s) designated for assembly purposes</i>
<i>No fixed seats in viewing room(s):</i>	<i>1 space for each 21 sq. ft. of area designated for assembly purposes</i>
	<i>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</i>

The Table in Section 9.18.140.030 (Parking Spaces Required) of Section 9.18.140 (Parking) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Municipal Code is to be amended as follows to include parking requirements for a "Funeral Home/Mortuary with No Crematorium" (Additions shown in ***bold-italics***):

**Table 9.18-11
Required Parking Spaces**

Use	Required Minimum Parking Spaces
Commercial Uses	
Funeral Home/Mortuary with No Crematorium	
Fixed seats in viewing room(s):	1 space per each 3 fixed seats in area(s) designated for assembly purposes
No fixed seats in viewing room(s):	1 space for each 21 sq. ft. of area designated for assembly purposes
	All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Adopt the proposed Resolution recommending approval of Amendment No. A-018-2017 to the City Council.



LEE MARINO
Planning Services Manager



By: Chris Chung
Associate Planner

RESOLUTION NO. 5883-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL APPROVE AMENDMENT NO. A-018-2017, TO AMEND PORTIONS OF CHAPTERS 9.04 (DEFINITIONS), 9.16 (COMMERCIAL, OFFICE PROFESSIONAL, INDUSTRIAL, AND OPEN SPACE DEVELOPMENT STANDARDS), AND 9.18 (MIXED USE REGULATIONS AND DEVELOPMENT STANDARDS) OF TITLE 9 OF THE CITY OF GARDEN GROVE MUNICIPAL CODE TO UPDATE THE DEFINITIONS, OPERATING CONDITIONS, AND DEVELOPMENT STANDARDS IN THE CITY'S LAND USE CODE, PERTAINING TO CREMATORIUMS, MORTUARIES, FUNERAL HOMES, AND CEMETERIES.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on April 20, 2017, does hereby recommend that the City Council approve Amendment No. A-018-2017 and adopt the draft Ordinance attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED in the matter of Amendment No. A-018-2017, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The case was initiated by the City of Garden Grove.
2. The City of Garden Grove is proposing a zoning text amendment to portions of Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the City of Garden Grove Municipal Code to update the definitions, operating conditions, and development standards in the City's Land Use Code, pertaining to crematoriums, mortuaries, funeral homes, and cemeteries.
3. The Planning Commission recommends the City Council find that the proposed amendment is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
4. Pursuant to legal notice, a public hearing was held on April 20, 2017, and all interested persons were given an opportunity to be heard.
5. Report submitted by City staff was reviewed.
6. The Planning Commission gave due and careful consideration to the matter during its meeting of April 20, 2017; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

In early 2016, the City of Garden Grove received a request, Conditional Use Permit No. CUP-073-2016, to operate a new funeral home, within an existing approximately 19,460 square foot office building, which included a mortuary and crematory*. The subject property, located at 13272 Garden Grove Boulevard, is zoned C-2 (Community Commercial), and directly abuts and is located within close proximity to single-family homes. Mortuaries and crematoriums are permitted uses in the C-2 zone, subject to the approval of a Conditional Use Permit.

On June 2, 2016, the Planning Commission conducted a public hearing and took testimony from the applicant and numerous interested members of the public. Staff provided a report and recommended the Commission adopt a Resolution adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approving Conditional Use Permit No. CUP-073-2016. The applicant, a representative of the manufacturer of the cremation equipment, and a real estate broker testified in favor of the application. The environmental consultant who prepared the initial study also testified and answered questions posed by the Commissioners. Approximately 36 members of the public testified in opposition to the application. Several members of the public testified that, due to its proximity to single-family residences and other sensitive uses, the proposed funeral home with a mortuary and crematory would be an inappropriate use at the proposed location. Several residents of the adjacent residential neighborhood testified that the nature

* "Crematory" is another term for "Crematorium"

of the use makes them and their children uncomfortable, that they are concerned about the potential long-term physical and mental health impacts from residing and/or working in such close proximity to a crematory, that the proximity of the proposed use would interfere with their use and enjoyment of their properties, and that, due to negative public perceptions about living in proximity to a mortuary and crematory, their property values would decrease if the proposed use was established at this location.

Six (6) Commissioners were present at the June 2, 2016 meeting, and a motion to adopt the proposed Resolution of Approval failed to garner the affirmative vote of a majority of the Commissioners present. The Commission ultimately voted to continue the public hearing to the June 16, 2016 Planning Commission meeting in an effort to have all seven (7) Planning Commissioners present to consider and vote on the item and directed Staff to prepare alternative draft Resolutions of Approval and Denial for its consideration.

Pursuant to the direction of the Planning Commission, Staff prepared an alternative draft Resolution of Denial based on facts presented by members of the public at the public hearing on June 2, 2016, for the Commission's consideration along with the original proposed Resolution of Approval. On June 16, 2016, the Planning Commission held a continued public hearing. Approximately 29 members of the public testified in opposition to the application, citing similar reasons mentioned at the prior Planning Commission meeting on June 2, 2016. Five (5) persons spoke in favor of the request. Ultimately, the Planning Commission voted unanimously to adopt Resolution of Denial No. 5863-16, denying the applicant's request to operate the new funeral home with mortuary and crematory. Subsequent to the 21-day appeal period, the applicant decided not to appeal the case to the City Council for its consideration.

Following the Planning Commission's denial of CUP-073-2016, in July of 2016, the City Council adopted Urgency Ordinance No. 2869 imposing a 45-day moratorium on the issuance of permits or land use entitlements for crematoriums and/or mortuaries. Shortly thereafter, in August of 2016, the City Council adopted Urgency Ordinance No. 2870 authorizing a ten (10) month and fifteen (15) day extension of Urgency Ordinance No. 2869. The intent of the moratorium was to provide additional time for the City to thoroughly review and evaluate the issues giving rise to Urgency Ordinance No. 2869, to conduct a zoning study, and process a Zoning Code Amendment to determine the appropriate zoning, development standards, and other proper regulations applicable to mortuaries, crematoriums, funeral homes, and cemeteries to protect the health, safety, and welfare of the community.

A review of the Municipal Code ("Code") disclosed that the City has a lack of regulations for crematoriums, mortuaries, funeral homes, and cemeteries, which were not a problem when the City previously had larger and predominantly

agricultural uses throughout the community. Today, the City is mostly built-out with very few vacant parcels of land, and has become a primarily residential community. The City has determined that the Code needs to be revised to address negative impacts associated with crematoriums, mortuaries, funeral homes, and cemeteries, especially with respect to sensitive uses such as residences, schools, and parks. Some of the negative impacts include fear, concerns about long-term physical and mental health effects, interference with use and enjoyment of residential properties, schools, and parks, and property devaluation arising from the negative public perception pertaining to living in proximity to crematoriums, mortuaries, funeral homes, and cemeteries.

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.

Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

The General Plan has goals and policies that address neighborhood preservation and land use compatibility.

Goal LU-2.1 of the General Plan directs the City to protect residential areas from the effects of potentially incompatible uses and to maintain standards for buffer areas to ensure compatibility between the uses.

Goal LU-2.3 of the General Plan directs the City to prohibit uses that may adversely impact the safety of a residential neighborhood.

Goal LU-4.4 of the General Plan directs the City to avoid intrusion of non-residential uses that are incompatible with existing neighborhoods.

Goal LU-4.5 of the General Plan directs the City of Garden Grove to require that commercial and industrial developments adjoining residential uses be adequately buffered from residential areas.

Goal LU-4.8 of the General Plan directs the City to ensure that minimum allowable distances are maintained between land uses defined as sensitive to their presence, which may include residences, schools, and parks.

The proposed Amendment is internally consistent with the goals, policies, and elements of the General Plan, by ensuring compatibility with sensitive uses such as residences, schools, and parks by limiting facilities with crematoriums, funeral homes, and/or mortuaries to the proposed respective zones, requiring Conditional Use Permit approval when applicable, and imposing specified operational conditions and development standards, which include minimum distance requirements to sensitive uses.

2. The Amendment will promote the public interest, health, safety and welfare.

Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses. The zoning and development standards proposed in this Amendment, promote the public interest, health, safety, and welfare and will ensure that crematorium, mortuary, funeral home, and cemetery related uses do not cause a nuisance to sensitive uses such as residences, schools, and parks.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT:

In addition to the foregoing the Planning Commission incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Amendment No. A-018-2017 possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment).
2. The Planning Commission recommends that the City Council approve Amendment No. A-018-2017 and adopt the draft Ordinance attached hereto as Exhibit "A".

Exhibit "A"

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-018-2017, A ZONING TEXT AMENDMENT TO PORTIONS OF CHAPTERS 9.04, 9.16, AND 9.18 OF TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE PERTAINING TO CREMATORIALS, MORTUARIES, FUNERAL HOMES, AND CEMETERIES.

City Attorney Summary

This Ordinance approves text amendments to portions of Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code to update the definitions, operating conditions, and development standards in the City's Land Use Code, pertaining to crematoriums, mortuaries, funeral homes, and cemeteries.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, Amendment No. A-018-2017 was initiated by the City of Garden Grove and is a zoning text amendment to portions of Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code pertaining to crematoriums, mortuaries, funeral homes, and cemeteries;

WHEREAS, following a Public Hearing held on April 20, 2017, the Planning Commission adopted Resolution No. 5883-17 recommending approval of Amendment No. A-018-2017;

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on _____, 2017, and all interested persons were given an opportunity to be heard;

WHEREAS, the City Council gave due and careful consideration to the matter;
and

WHEREAS, the City Council hereby makes the following findings regarding Amendment No. A-018-2017:

A. Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned

property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

The General Plan has goals and policies that address neighborhood preservation and land use compatibility.

Goal LU-2.1 of the General Plan directs the City to protect residential areas from the effects of potentially incompatible uses and to maintain standards for buffer areas to ensure compatibility between the uses.

Goal LU-2.3 of the General Plan directs the City to prohibit uses that may adversely impact the safety of a residential neighborhood.

Goal LU-4.4 of the General Plan directs the City to avoid intrusion of non-residential uses that are incompatible with existing neighborhoods.

Goal LU-4.5 of the General Plan directs the City of Garden Grove to require that commercial and industrial developments adjoining residential uses be adequately buffered from residential areas.

Goal LU-4.8 of the General Plan directs the City to ensure that minimum allowable distances are maintained between land uses defined as sensitive to their presence, which may include residences, schools, and parks.

The proposed Amendment is internally consistent with the goals, policies, and elements of the General Plan, by ensuring compatibility with sensitive uses such as residences, schools, and parks by limiting facilities with crematoriums, funeral homes, and/or mortuaries to the proposed respective zones, requiring Conditional Use Permit approval when applicable, and imposing specified operational conditions and development standards, which include minimum distance requirements to sensitive uses.

B. Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500 foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned

property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses. The zoning and development standards, proposed in this Amendment, promote the public interest, health, safety, and welfare and will ensure that crematorium, mortuary, funeral home, and cemetery related uses do not cause a nuisance to sensitive uses such as residences, schools, and parks.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: The above recitals are true and correct.

SECTION 2: The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3: Amendment No. A-018-2017 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5883-17, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 4: Subdivision C of Section 9.04.060 (Definitions) of Chapter 9.04 (General Provision) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to: (i) remove "Mortuaries" from the title of "Mortuaries/Crematoriums" and modify its definition; (ii) modify the definition of "Crematory"*; (iii) add the definition of "Crematoriums with Incidental Funeral Home/Mortuary"; (iv) add the definition of "Funeral Home/Mortuary with No Crematorium"; (v) modify the title of "Cemeteries" to "Cemetery" and modify its definition; and (vi) add the definition of "Columbarium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

"Mortuaries/Crematoriums" means ***facilities where human or animal remains are reduced to ashes in a furnace and may include incidental uses such as a Funeral Home/Mortuary*** establishments ~~primarily engaged~~

* "Crematory" is another term for "Crematorium"

~~in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries.~~

~~"Crematory" see "Crematorium." means a facility where human remains are reduced to ashes in a furnace and are incidental to a church, cemetery, or mortuary.~~

"Crematoriums with Incidental Funeral Home/Mortuary" means establishments primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary is incidental to an on-site crematory facility and may include related and incidental business activities, which include a florist, gift shop, and casket sales. See "Crematorium" definition.

"Funeral Home/Mortuary with No Crematorium" means an establishment primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary may include related and incidental business activities, which include a florist, gift shop, and casket sales. No crematorium services or activities are permitted on-site.

"CemeteriesCemetery" means a land used or intended to be used for the burial of human and/or pet remains and dedicated for cemetery purposes. Cemeteries may include business and administrative offices, chapels, flower shops, mausoleums and columbaria as an incidental uses, and necessary maintenance facilities. No crematorium or funeral home/mortuary services or activities are permitted on-site.

"Columbarium" means a sepulchral vault or other structure(s) with recesses in the interior walls to receive the ashes of the dead.

SECTION 5: Table 1, "City of Garden Grove Land Use Matrix" in Section 9.16.020.030 (Uses Permitted) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to: (i) remove "Mortuaries" from the title of "Mortuaries/Crematoriums"; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 zone; (iii) change "Crematoriums" from an automatically permitted use in the C-3 zone, to a conditionally permitted use, subject to Special Operating Conditions and Development Standards, in the C-3 zone; (iv) add "Crematoriums" as a conditionally permitted use, subject to Special Operating Conditions and Development Standards, in the M-1 and M-P zones; (v) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use, subject to Special Operating Conditions and Development Standards, in the C-3, M-1, and M-P zones; add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use, subject to Special Operating Conditions and Development Standards, in the C-2 and C-3 zones; (vi) remove "Crematory/Mausoleum"; (vii)

modify the title of "Cemeteries" to "Cemetery"; and (viii) change "Cemetery" from a Conditional/Incidental (C/I) use to a conditionally permitted use (deletions shown in strikethrough, additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
Mortuaries/Crematoriums	-	-	€	p*C*	C*	C*	-

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
<i>Crematoriums with Incidental Funeral Home/Mortuary</i>	-	-	-	C*	C*	C*	-

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
<i>Funeral Home/Mortuary with No Crematorium</i>	-	-	p*	p*	-	-	-
COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
Cemeteries <i>Cemetery</i>	-	-	-	-	-	-	C/I

SECTION 6: Table 9.18-1, "Use Regulations for the Mixed Use Zones" in Section 9.18.020 (Uses Permitted) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use, subject to Special Operating Conditions and Development Standards, in the A-R zone (deletions shown in strikethrough, additions shown in ***bold-italics***):

Table 9.18-1 **Use Regulations for the Mixed Use Zones**

Other Services	GGM U-1,-2,-3	CC-1	CC-2	CC-3	CC-OS	NMU	AR
<i>Funeral Home/Mortuary with No Crematorium</i>	-	-	-	-	-	-	p*

SECTION 7: Subdivisions N, O, and AD of Section 9.16.020.050 (Special Operating Conditions and Development Standards) of Section 9.16.020 (Permitted Uses in Commercial, Office Professional, Industrial, and Open Space) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code are hereby amended as follows to: (i) establish Special Operating Conditions and Development Standards for "Crematoriums"; (ii) establish Special Operating Conditions and Development Standards for "Crematoriums with Incidental Funeral Home/Mortuary"; and (iii) establish Special Operating Conditions and Development Standards for a "Funeral Home/Mortuary with No Crematorium" (deletions shown in strikethrough, additions shown in ***bold-italics***):

N. Crematoriums. Subject to the following conditions:

- 1. Properties with crematoriums shall not be permitted to be located within 500 feet of a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. This provision applies to human and animal crematoriums.**
- 2. Crematoriums are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD (Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.**
- 3. Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the regulatory agencies.**
- 4. Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.**

O. Crematoriums with Incidental Funeral Home/Mortuary. Subject to the following conditions:

- 1. Properties with crematoriums shall not be permitted to be located within 500 feet of a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. This provision applies to human and animal crematoriums.**
- 2. Crematoriums with Incidental Funeral Home/Mortuary are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD**

(Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.

- 3. Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be properly obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the regulatory agencies.***
- 4. Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.***

AD. Funeral Home/Mortuary with No Crematorium. Subject to the following conditions:

- 1. Properties with Funeral Homes/Mortuaries with No Crematorium shall not be permitted to be located within 250 feet of a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use.***

SECTION 8: Subdivision 9.18.030.195 is hereby added to Section 9.18.030 (Specific Uses - Special Operating Conditions and Development Standards) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to establish Special Operating Conditions and Development Standards for a "Funeral Home/Mortuary with No Crematorium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

9.18.030.195. Funeral Home/Mortuary with No Crematorium. Such uses shall be subject to the following conditions:

- A. Properties with Funeral Homes/Mortuaries with No Crematorium shall not be permitted to be located within 250 feet of a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use.***

SECTION 9: The Table in Section 9.16.040.150 (Parking Spaces Required) of Section 9.16.040 (Commercial/Office, Industrial Development Standards) of Chapter

9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to establish parking requirements for a "Crematorium", a "Crematorium with Incidental Funeral Home/Mortuary", and a "Funeral Home/Mortuary with No Crematorium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

USE	REQUIRED MINIMUM PARKING SPACES
B. Commercial Uses	
14. Funeral Home/Mortuary with No Crematorium	
<i>Fixed seats in viewing room(s):</i>	<i>1 space per each 3 fixed seats in area(s) designated for assembly purposes</i>
<i>No fixed seats in viewing room(s):</i>	<i>1 space for each 21 sq. ft. of area designated for assembly purposes</i>
	<i>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</i>
D. Industrial Uses	
3. Crematorium	
<i>a. Buildings less than 20,000 sq. ft. of gross floor area</i>	<i>2.25 spaces per 1,000 sq. ft. of gross floor area</i>
<i>b. Buildings 20,001 to 100,000 sq. ft. of gross floor area</i>	<i>2 spaces per 1,000 sq. ft. of gross floor area</i>
<i>c. Buildings over 100,000 sq. ft. of gross floor area</i>	<i>1 space per 1,000 sq. ft. of gross floor area</i>
<i>d. Incidental office</i>	
<i>i. Under 30% of gross floor area</i>	<i>No additional requirements</i>
<i>i. 30 to 50% of gross floor area of a building</i>	<i>1 space per 250 sq. ft. of gross floor area</i>
4. Crematorium with Incidental Funeral Home/Mortuary	
<i>Fixed seats in viewing room(s):</i>	<i>1 space per each 3 fixed seats in area(s) designated for assembly purposes</i>
<i>No fixed seats in viewing room(s):</i>	<i>1 space for each 21 sq. ft. of area designated for assembly purposes</i>
	<i>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</i>

SECTION 10: Table 9.18-11 entitled "Required Parking Spaces" of Section 9.18.140.030 (Parking Spaces Required) of Section 9.18.140 (Parking) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to establish parking requirements for a "Funeral Home/Mortuary with No Crematorium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***)

**Table 9.18-11
Required Parking Spaces**

Use	Required Minimum Parking Spaces
Commercial Uses	
<i>Funeral Home/Mortuary with No Crematorium</i>	

<i>Fixed seats in viewing room(s):</i>	<i>1 space per each 3 fixed seats in area(s) designated for assembly purposes</i>
<i>No fixed seats in viewing room(s):</i>	<i>1 space for each 21 sq. ft. of area designated for assembly purposes</i>
	<i>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</i>

SECTION 11: Any land use constituting a "Crematoriums", "Crematoriums with Incidental Funeral Home/Mortuary", or "Funeral Home/Mortuary with No Crematorium" use, as defined in Section 4 of this Ordinance, that was legally established and operating with a valid business license, and all other required City permits or approvals prior to the effective date of this Ordinance, and that is made nonconforming by this Ordinance because no approved Conditional Use Permit for the use exists, the use is not located in a zoning district in which such a use is permitted pursuant to the provisions adopted or amended by this Ordinance, and/or the use does not comply with locational restrictions or development standards adopted or amended pursuant to this Ordinance, shall be considered a nonconforming use subject to the provisions of Chapter 9.36 (Nonconformities) of Title 9 of the Garden Grove Municipal Code.

SECTION 12: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 13: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.