



File: ADU Code Amendments CA18-01

DATE: February 1, 2018

TO: PLANNING COMMISSION

FROM: Bruce Ambo, Principal Planner (879-6801; bruce.ambo@chicoca.gov)

RE: Accessory Dwelling Units - Code Amendments for Consistency with State Housing Laws

SUMMARY

City of Chico (“City”) currently regulates “Second Dwelling Units” through Title 19 of the Chico Municipal Code (Land Use and Development Regulations) as, “A second permanent dwelling that is accessory to a primary dwelling on the same site. A secondary unit provides permanent facilities for living, sleeping, eating, cooking, and sanitation.” (Title 19.04.020). Title 19 also presently allows Second Dwelling Units in the R1, R2, and R3 zones.

The State of California has enacted several housing laws to address the critical housing shortage and affordability crisis. These housing laws require jurisdictions in California to amend their planning and zoning laws for consistency with State housing regulations as it pertains to Second Dwelling Units.

Specifically, Government Code Section 65852.2 regulates what are now termed “Accessory Dwelling Units” (in place of “second dwelling units”) and imposes a requirement that cities amend zoning codes to ensure consistency with the State Accessory Dwelling Unit (ADU) regulations. This requires the City to make changes to Title 19 in Section 19.76.130 (formerly Second Dwelling Units and retitled to Accessory Dwelling Units), and other related code sections in Title 19 for consistency with the ADU regulations. These required amendments include several areas of regulation, with specific emphasis on the following:

- Vehicle parking
- Conversion of an existing space to a new ADU
- Rental restrictions on ADU’s
- Utility fees
- Fire sprinkler requirements

The proposed ADU code amendments will also advance and implement several important City of Chico General Plan Housing Element Goals, Policies and Actions. A summary of the recommended ADU code amendments is provided in **Attachment A**.

Recommendation:

The Community Development Director recommends that the Planning Commission:

- 1) Consider the staff report and ADU amendments to Title 19 of the Chico Municipal Code, hold a public hearing, direct any questions to staff, and provide comments.
- 2) Adopt Resolution No. 01-18 recommending City Council approval of the ADU amendments to Title 19 of the Chico Municipal Code for consistency with State housing laws (see **Attachment B**).

Proposed Motion:

I move that the Planning Commission adopt Resolution No. 01-18 recommending City Council adoption of the ADU amendments to Title 19 of the Chico Municipal Code as set forth therein.

BACKGROUND

California Housing Availability and Affordability Crisis

The California Department of Housing and Community Development (HCD) reports that homeownership rates are at their lowest since the 1940's. Financial challenges for renters are troubling where HCD estimates that "More than 3 million households - the equivalent of the combined populations of San Diego, San Jose and San Francisco - pay at least 30% of their income on rent. And more than 1.6 million low-income households spend more than 50% of their income on rent." Chico is not immune to this trend. In the most recent Five-Year Review of the Chico General Plan, it was concluded that over half of the 19,280 renter households pay more than 35% of their income toward rent, and approximately one-third of renter households pay more than 50% of their income toward rent.

State Mandated ADU Code Amendments

The State of California routinely requires cities and counties to update their planning, zoning, and housing regulations for consistency with State laws. In 2017, the California legislature and Governor enacted 15 housing laws targeting housing projects, affordable housing, funding, General Plan Housing Element annual reporting requirements and ADU's. State law mandates local municipalities to allow the creation of ADUs. Accordingly, the proposed ADU code amendments discussed herein and that are subject if the proposed Resolution are mandatory state provisions, and not optional. In fact, Government Code Section 65852.2(a)(4) requires that that any noncomplying ordinances become retroactively "null and void" as follows:

"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.”

The State regulations also require jurisdictions to send a copy of the conforming ADU ordinance to HCD within 60 days of adoption. ADU's are a primary target as a potential source of affordable market rate housing because they are legally classified as accessory residential uses that are principally permitted wherever a single-family residence exists or is allowed by zoning regulations. ADU's are by design smaller and accessory to the main residence, which can become a source of income and/or additionally another separate residence to live in for the property owner of the main residence. The State ADU laws are intended to eliminate barriers and create incentives that provide for ADU's as a key source of convenient, affordable, and income producing housing that could ease some of the State's acute housing problems.

TITLE 19 ADU AMENDMENTS

The majority of the ADU amendments are in Section 19.76.130 (formerly Second Dwelling Units), which was retitled to Accessory Dwelling Units as required by State law. The major areas of regulations include:

- Vehicle parking
- Conversion of existing space to a new ADU
- Rental restrictions on ADU's
- Utility fees
- Fire sprinkler requirements

Exhibit I of Attachment B includes the recommended code changes shown in strikeout and underline. It reflects other code areas (or ripples) related to ADU's in Title 19 that also need to be amended for internal consistency and clarity.

Allowed Zones

Nothing in these amendments will expand the zones in which ADU's are allowed. ADU's will still only be allowed in the R1, R2, and R3 zones. Due to the lot configurations and density presently experienced in the SD-4 and SD-6 overlay zones, no change is proposed to the requirement for a use permit in the SD-4 overlay zone or the specified design standard in the SD-6 overlay. Additionally, the current restriction on ADU's on flag lots will be maintained due to the increased public safety concerns (e.g., first responder access, fire safety) associated with adding to the number of structures in a confined access environment associated with flag lots.

Vehicle Parking

The most significant incentive that the State ADU laws provide for is parking. Parking requirements are reduced to one parking space per ADU; however, statutorily there are instances where parking is not required for an ADU. For example, statutorily cities are prohibited from requiring parking for an ADU if the main residence is within a half mile of public transit, effectively within a half mile of every bus stop. Staff review of transit stops in Chico found that nearly the entire city is within a half mile radius of a transit stop. This

means that state law prevents a parking requirement for the vast majority of ADUs in Chico.

Conversion of Existing Space to an New ADU

A portion of an existing residence can be converted to an ADU if a separate exterior entrance to the ADU is provided. If a garage is attached to the residence, the garage can be converted to an ADU and the replacement parking (for the main residence) may be provided in a covered, uncovered or tandem arrangement on the same site. Similarly, a detached garage can also be converted to an ADU with the same replacement parking. Other configurations include adding a second floor ADU above the main residence or the garage.

Rental Restrictions on ADU's

Government code section 65852.2. was amended pursuant to AB 2299 in 2016 to allow cities to require tenancy terms of over 30 days for ADU's. (Gov. Code 65852.2(a)(6)). Such provision applies whether the ADU is a conversion or detached structure. The purpose of including this requirement is to ensure that residential neighborhoods remain residential in nature and do not evolve into transient occupancy uses. Similarly, tenancy of one unit (either the main unit or the ADU) must still be owner-occupied. Text is being proposed to address this change in state law regarding minimum tenancy durations to ensure that rental terms are for a period of at least 30 days.

Utility Fees

There are significant restrictions on the utility connection fees or capacity charges for an ADU. Government Code Sections 65852.2(f)(2) and 65852.2(f)(2)(A) respectively set forth the following fee restrictions:

“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.”

“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.” (This provision applies to ADU's created through conversion of existing space)

Public Works staff is preparing updates to the City's development impact fees that would reduce ADU impact fees consistent with the State's guidance.

Fire Sprinkler Requirements

ADU's are exempt from the requirement to provide fire sprinklers unless they are required for the main residence. This exemption will be most apt for conversions of existing residences.

Title 19 Amendments Related to ADU's

Amendments to Title 19 of the Municipal Code regulating ADUs, and relating to ADUs, are recommended to be consistent with State law, and internally consistent. For example, all

code references to Second Dwelling Units have been universally changed to Accessory Dwelling Units for consistency and clarity. The proposed changes include new definitions in conformance with the State regulations, and minor changes to resolve internal ADU inconsistencies. To simplify the Code, nearly all of the ADU regulations have been placed in one section (Section 19.76.130 Accessory Dwelling Units) for ease of reference and to avoid confusing cross referencing. A summary of the recommended changes is listed below with a brief explanation provided for each category:

Definitions (CMC 19.04)

- New definitions of Accessory Dwelling Unit, Living Area, Main Dwelling and Public Transit

Name Changes to Accessory Dwelling Units (CMC 19.12, 19.16, 19.18, 19.19, 19.37, 19.42, 19.42.030 Tables 4-2 and Allowed Residential Uses and Table 4-3b Residential Development Standards, 19.52, 19.76, 19.80, 19.86)

- Change from Second Dwelling Unit to Accessory Dwelling Unit
- Delete “second unit” from Section 19.70.040 Table 5-3 Parking Requirements

GENERAL PLAN CONSISTENCY

The proposed ADU code amendments are intended to advance and implement several important General Plan Housing Element Goals, Policies and Actions. These include the following:

Goal H.1: Increase equal housing opportunities.

The proposed amendments incentivize the creation of new ADU housing stock that directly increases all housing opportunities in the community.

Goal H.2: Provide housing that is affordable to low incomes.

ADU housing is by design smaller and more affordable to a wider economic spectrum of potential renters, including low income households.

Goal H.4. Encourage the creation of housing for persons with special needs.

ADU's are ideally suited for housing persons with special needs because they provide separate living environments that are on the site of the main residence which can be occupied by a caretaker or family member.

Goal H.5. Improve, rehabilitate and revitalize existing neighborhoods.

ADU's provide an additional source of income for the homeowner which increases the amount of income which can be directed towards a higher level of maintenance and/or property improvements.

Goal H.6. Encourage home ownership.

The additional ADU income provides the homeowner with more flexibility to either live in the ADU or the main residence, and additional financial ability for home ownership.

Policy H.3.4. Maintain an adequate supply of rental housing to meet the needs of all renters, including university students and employees.

Additional ADU housing stock expands the housing opportunities for lower and moderate-income households, including students and employees.

Policy H.4.3. Assist in the provision of housing for seniors.

ADU's are ideally suited for seniors as granny units because they are located on the same property as the main residence where other family members may reside and provide support.

Action 3.4.1. Promote the development of an adequate number of one and two-bedroom apartments to serve small households.

ADU's by design are ideally suited to smaller one and two-bedroom units because of their size limitations as accessory residential uses.

Action H.4.4.1. Encourage the development of a variety of housing options for the elderly. Promote programs that allow seniors to age in place.

Additional ADU housing stock expands the availability and price range of housing community-wide. Seniors who prefer to remain at their home may also decide to reside in the smaller ADU and rent out the larger main residence, which is an incentive to age in place at their property.

FINDINGS: TITLE 19 AMENDMENTS

Pursuant to Chico Municipal Code Section 19.060.050(B), amendments to Title 19 of the Municipal Code may be approved only if the following findings are made:

A. The proposed amendment is consistent with the General Plan.

The proposed ADU code amendments are consistent with numerous General Plan Housing Element Goals, Policies and Actions which are listed with accompanying findings in the preceding section on General Plan Consistency.

B. The proposed amendment is consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which it is proposed.

The proposed ADU code amendments are consistent with other provisions of the Municipal Code in that they provide for principally permitted accessory residential uses wherever single-family residences exist or are permitted.

ENVIROMENTAL REVIEW

The proposed ADU amendments to Title 19 of the Municipal Code are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 (adoption of an ordinance by a City to implement the provisions of Section 65852.2 of the Government Code).

PUBLIC CONTACT

A display ad for the February 1, 2018 Planning Commission meeting to consider the ADU code amendments was published in the January 22, 2018 *Chico Enterprise Record* and the January 25, 2018 *Chico News & Review*. In addition, staff has been in contact with representatives of neighborhood groups (Chico Area Neighborhood Association and Barber Neighborhood Association) to inform them of the pending ADU ordinance amendments. Staff also provided a brief update on the *2017 Housing Legislation and Its Impact* which included the required ADU ordinance amendments at the December 19, 2017 City Council meeting.

DISTRIBUTION

PC Distribution
City Council (via email)
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External (via email)

John Whitehead, Chico Avenue Neighborhood Association (CANA)
Janet Ellner, Barber Neighborhood Association

ATTACHMENTS

- A. Accessory Dwelling Units – Summary of State Mandated Municipal Code Changes
- B. Resolution No. 01-18, Proposed Amendments – Title 19 Chico Municipal Code (Land Use and Development Regulations)
- C. California Government Code Sec. 65852.2

Attachment A

Accessory Dwelling Units

Summary of State Mandated Municipal Code Changes

- Changes name from Secondary Dwelling Units to Accessory Dwelling Units (ADUs) with a new definition, and others defining “living area”, “main dwelling”, and “public transit.”
- Includes parking exceptions specifying that no parking is required for the ADU if it is within a half mile of a transit stop (which encompasses nearly the entire City).
- Provides for conversion of existing floor area to an ADU in the primary residence, including an attached or detached garage. Specifies replacement parking may be provided in any configuration (covered, uncovered or tandem), and requires separate ADU entries.
- Restricts rentals to a minimum of 30-days to ensure residential occupancy does not evolve into transient occupancy.
- Specifies that ADUs are not to be considered new residential uses for purposes of calculating utility connection fees or capacity charges for utilities, including water and sewer service.
- Limits utility connection fees or capacity charges for a new detached ADU to the proportionate burden of the proposed ADU based upon its size and number of plumbing fixtures.
- Exempts ADUs from providing fire sprinklers if they are not required for the primary residence.

Attachment B

RESOLUTION NO. 18-01

**RESOLUTION OF THE CITY OF CHICO PLANNING COMMISSION
RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE
ACCESSORY DWELLING UNIT REGULATIONS IN TITLE 19 OF THE CHICO
MUNICIPAL CODE FOR CONSISTENCY WITH STATE HOUSING LAWS
(CITY OF CHICO)**

WHEREAS, the State of California has a critical housing availability and affordability crisis that has prompted the legislature to enact several housing laws to address the provision of housing, affordable housing, and specifically Accessory Dwelling Units; and

WHEREAS, Title 19 of the Chico Municipal Code (Land Use and Development Regulations), as it relates to Accessory Dwelling Units (ADUs) is required to be amended to conform to Government Code Section 65852.2 (Accessory Dwelling Unit Regulations); and

WHEREAS, the ADU code amendments are also intended to advance and implement several important City of Chico General Plan Housing Element Goals, Policies, and Actions; and

WHEREAS, Section 19.76.130 (formerly Second Dwelling Units) and other related Chapters of Title 19 of the Chico Municipal Code have been retitled as Accessory Dwelling Units and amended for consistency with Government Code Section 65852.2; and

WHEREAS, the Planning Commission considered the various proposed amendments, staff report, and comments at a duly noticed public hearing held in the manner required by law; and

WHEREAS, the proposed amendments to Title 19 of the Municipal Code are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 (adoption of an ordinance by a city to implement provisions of Section 65852.2 of the Government Code).

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Chico as follows:

1. The Planning Commission determines:
 - A. The proposed amendments are consistent with State housing laws; and
 - B. The proposed amendments are consistent with the General Plan; and

C. The other related amendments to Title 19 of the City's Land Use and Development Regulations that are necessary to implement the ADU regulations are compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning districts for which the revisions are proposed.

2. The Planning Commission recommends that the City Council approve the amendments to the Chico Municipal Code as set forth in Exhibit I.

THE FOREGOING RESOLUTION WAS ADOPTED by the Planning Commission at its meeting held on February 1, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

DISQUALIFIED:

ATTEST:

APPROVED AS TO FORM:

Brendan Vieg, Planning Commission Secretary

Andrew Jared, Assistant City Attorney

*Pursuant to The Charter of the City of Chico, Section 906(E)

Exhibit I

19.76.130 ~~Second~~ Accessory dwelling units.

The following definitions, permit requirements, owner occupancy requirements and development standards shall apply to ~~second-accessory~~ dwelling units.

A. Definitions. In addition to the definitions set forth in Chapter 19.04, the following words and phrases shall have the following meanings respectively ascribed to them in this section.

1. “Accessory dwelling unit” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel 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 the Health and Safety Code.

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

2. “Living area” means the interior habitable area of a dwelling unit, including conditioned basements and attics but not including a garage or any accessory structure.

3. “Main dwelling” means the dwelling unit on the property that is not an accessory dwelling unit.

4. “Public transit” means a transit stop served by at least one publicly provided form of transportation.

AB. Permit requirements. In the event any conflict should arise between the provisions within this Chapter-Section and Title 19 of the Chico Municipal Code, the strictest application of the regulations shall apply.

1. ~~Second~~ Accessory dwelling unit permits. Where a single family dwelling unit is a permitted use, as set forth in Table 4-2, and a proposed ~~second-accessory~~ dwelling unit complies with all of the development standards of this section, an ~~second-accessory~~ dwelling unit shall be permitted ~~pursuant to a second dwelling unit permit issued~~ pursuant to Chapter 19.19.

2. Use permits. A use permit is required for an ~~an~~ second-accessory dwelling unit ~~in each of the following circumstances: the second dwelling unit is proposed to be located in the SD-4 overlay district; the second dwelling unit is between 850 and 1,200 square feet in size; or the second dwelling unit is located behind a primary dwelling unit, and the separation between the units is less than 30 feet.~~ The following findings, in addition to those otherwise required for a use permit by Chapter 19.24, must be made to approve a use permit for an ~~second~~ second-accessory dwelling unit:

a. The occupancy of the ~~second-accessory~~ dwelling unit will not result in excessive noise or traffic that would disturb the existing neighborhood.

b. The occupancy of the ~~second-accessory~~ dwelling unit will not have a significant adverse effect on public services or resources.

c. The design of the ~~second-accessory~~ dwelling unit is compatible with the design of the main dwelling unit and the surrounding neighborhood in terms of size, exterior treatment, height, landscaping, scale and site coverage.

Exhibit I

~~BC.~~ Owner Occupancy. All ~~second-accessory~~ dwelling unit permits and use permits allowing an ~~second-accessory~~ dwelling unit shall be subject to the condition that either the ~~second-accessory~~ dwelling unit or the main dwelling unit must be occupied by an owner of the property. Such permits shall be further conditioned to require that each owner of the property sign a covenant acknowledging the requirement that the property be owner-occupied and that the covenant be recorded with the county recorder’s office prior to the issuance of a certificate of occupancy for the ~~second accessory~~ dwelling unit. Rental occupancy of unit shall only be on the basis of a rental agreement with a term longer than 30 days.

~~C.D~~ Development Standards.

1. One ~~second-accessory~~ dwelling unit per parcel. No more than one ~~second-accessory~~ dwelling unit shall be allowed on any parcel.
2. Attached or detached. An ~~second-accessory~~ dwelling unit may be either attached to or detached from the main dwelling unit.

~~23.~~ Maximum size of ~~second-accessory~~ dwelling units. The maximum square footage ~~and number of bedrooms~~ for an ~~second-accessory~~ dwelling unit shall be as follows:

- a. 75 percent of the living area up to a maximum of 650 sq. ft. for lots up to 4,500 sq. ft.
- b. 75 percent of the living area up to a maximum of 850 sq. ft. for lots between 4,501 sq. ft. up to 6,000 sq. ft.
- c. 75 percent of the living area up to a maximum of 1,200 sq. ft. may be permitted on lots over 6,000 sq. ft.

Maximum Square Footage	Minimum Lot Size	Number of Bedrooms
75 percent of the living area of the primary dwelling unit up to a maximum of 650 sq. ft.	4,500	1
75 percent of the living area of the primary dwelling unit up to a maximum of 850 sq. ft.	6,000	2
(A maximum of 1,200 sq. ft. may be permitted with a use permit on lots with a minimum lot size of 6,000 sq. ft.)		

~~4. Building Hheight shall be limited as follows: site coverage and setbacks. Development of a second dwelling unit shall conform to all standards of the applicable zoning district for height, site coverage and setbacks, except as follows:~~

- a. New attached additions shall be the same as the main unit at a maximum of 35 feet. ~~When~~
~~a~~
~~detached second dwelling unit is located behind a main dwelling unit, the units shall be a minimum of 30 feet apart unless a lesser separation is permitted with a use permit. In no case shall the separation for a detached second dwelling unit be less than 10 feet.~~
- b. New detached accessory dwelling units shall be a maximum of 25 feet. ~~When a detached~~

Exhibit I

~~second dwelling unit is located to the side of a primary dwelling unit, the units shall be a minimum of 10 feet apart.~~

~~c. The rear yard setback for a detached second dwelling unit is a minimum of 5 feet, except where the second dwelling unit is adjacent to an alley and constitutes the second story on a garage which has less than a 5-foot setback, the rear yard setback for the second dwelling unit shall be the same as the existing setback for the garage.~~

5. Lot coverage shall be as follows: ~~Open space. A minimum of 100 square feet of usable open space shall be provided for the use of a second dwelling unit exclusive of parking areas.~~

a. 50 percent single story main housing unit.

b. 40 percent multi-story main housing unit.

c. 50 percent in R1-10, and R1-20.

6. Accessory dwelling unit setbacks shall be as follows:

a. No setback shall be required for an existing garage that is converted to an accessory dwelling unit.

b. A 5-foot rear and 3-foot side setback shall be required for an accessory dwelling unit constructed above a garage.

c. When a detached accessory dwelling unit is located to the side or rear of a main dwelling unit, the units shall be separated by a minimum of 8 feet.

d. When an accessory dwelling unit is adjacent to an alley and constitutes a second story on a garage which has less than a 5-foot setback, the rear yard setback for the accessory dwelling unit shall be the same as the existing setback for the garage.

7. Trash storage. The ~~second-accessory~~ dwelling unit shall be provided with an outdoor area for the storage of trash and recycling receptacles. That area shall have an all-weather surface and be screened from view by a fence, wall or permanent landscaping.

78. Security lighting. ~~Second~~Accessory dwelling units located adjacent to an alley shall have a minimum of one outdoor security light for illumination of the alleyway adjacent to the unit. Such lighting shall be shielded and directed downward and away from adjacent properties to ensure that it has a minimal impact on neighboring properties.

89. Walls or fences between units. When an ~~an~~ second-accessory dwelling unit is located behind a main dwelling unit, a continuous fence or wall shall not be installed between the main and ~~second~~ accessory dwelling units unless it includes a gate allowing pedestrian access from the ~~second~~ accessory dwelling unit to the street.

910. Vehicle access. Vehicle access to a second unit may be from a street or an alley.

a. Alley access. When an ~~an~~ second-accessory dwelling unit will be located on a site served by an alley, the ~~second-accessory~~ dwelling unit shall maintain its primary vehicular access from the alley. Such alley access shall be improved per city standards or alternatively, an in-lieu fee paid. ~~Second~~ Accessory dwelling units located on the street-access terminus of alleys shall be sited to ensure adequate site distance clearance.

Exhibit I

b. Vehicle access from street frontage. Driveway surfaces installed to provide vehicle access from a street to a second dwelling unit located on the rear of a parcel shall be constructed with permeable-surface, all-weather materials or shall otherwise be constructed to retain runoff on site. New driveways that extend beyond the rear of the main dwelling unit shall consist of two tire strips or be otherwise designed to be of permeable-surface, all-weather material.

110. Pedestrian access to ~~second~~ accessory unit.

a. ~~Second~~-Accessory dwelling units with primary vehicle access from an alley shall also be served with a permeable-surface, all-weather walkway connecting the ~~second~~-accessory dwelling unit with the street frontage. The driveway for the main dwelling unit may serve as a portion of this walkway.

b. Accessory units created within an existing single-family residence shall include an independent exterior access that is separate from the exterior entrance of the existing residence and complies with the minimum side and rear setbacks for fire safety.

124. Fire protection access. ~~Second-Accessory~~ dwelling units not located adjacent to an alley shall be located so that all sides of the structure are within 150 feet of unobstructed access from the street frontage in order to provide adequate fire protection. ~~If such unobstructed access is not provided, the second dwelling unit shall be equipped with an approved automatic sprinkler system if required by the fire marshal.~~ Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the main residence.

132. Parking. In addition to the parking required for the main dwelling unit, one parking space shall be required for each ~~bedroom of the~~ second dwelling unit. ~~When the second dwelling unit has vehicular access from an alley, the required second dwelling unit parking spaces shall be located adjacent to the alley and shall have a minimum 24-foot backup area.~~

a. Parking spaces for the accessory dwelling unit and the main residence may be provided in a tandem parking arrangement on an existing driveway.

b. Off street parking shall be permitted in setback areas as set forth in CMC 19.70.060, or through tandem parking, unless specific findings are made that parking in the setback areas or tandem parking is not feasible based upon specific site or fire and life safety conditions.

c. When a garage, carport or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, those off-street 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.

14. Parking exceptions. Parking shall not be required for the accessory dwelling unit in any of the following instances:

a. The accessory dwelling unit is located within one-half mile of public transit;

b. The accessory dwelling unit is located within an architecturally and historically significant historic district;

c. The accessory dwelling unit is part of the existing main residence or an existing accessory structure;

d. When on-street parking permits are required but not offered to the occupant of the accessory

Exhibit I

dwelling unit:

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

153. Architectural design. ~~Second-Accessory~~ dwelling units shall comply with the following design standards:

a. The ~~second-accessory~~ dwelling unit shall be architecturally compatible with the main dwelling unit or the immediate neighborhood. Compatibility includes coordination of exterior colors, materials, roofing, other architectural features and landscaping.

b. The ~~second-accessory~~ dwelling unit shall be compatible with the scale of adjoining residences and blend into the existing neighborhood.

c. All HVAC or other mechanical units shall be placed so they are not in public view or shall be screened from public view by a fence, wall or permanent landscaping.

d. Second story windows or doors shall be designed to lessen privacy impacts on adjacent properties. Acceptable techniques to meet this criteria include obscured glazing, window placement at least six feet above floor level and permanent landscaping of sufficient height.

(Ord. 2263; Ord. 2280; Ord. 2325, Ord. 2358 §20; Ord. 2364 §400; Ord. 2397 §15, Ord. 2439 §189, Ord. 2494 §55)

Chico, CA Code of Ordinances

Chapter 19.04 DEFINITIONS

Section:

19.04.020 Definitions of specialized terms and phrases.

19.04.020 Definitions of specialized terms and phrases.

S. Definitions, "S."

~~Second-Accessory~~ Dwelling Unit (land use): means an attached or detached residential dwelling which provides complete independent living facilities for one or more persons. It shall include ~~A second permanent dwelling that is accessory to a primary dwelling on the same site. A secondary unit provides permanent provisions facilities for living, sleeping, eating, cooking, and sanitation on the same parcel 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 the Health and Safety Code.

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

L. Definitions, "L."

Living area means the interior habitable area of a dwelling unit, including conditioned basements and attics but not including a garage or any accessory structure.

M. Definitions, “M.”

Main dwelling means the dwelling unit on the property that is not an accessory dwelling unit.

P. Definitions, “P.”

Public transit means a transit stop served by at least one publicly provided form of transportation.

Chapter 19.12 APPEALS

Section:

19.12.020 Appeal subjects and jurisdiction 19.12.040 Administrative review.

19.12.020 Appeal subjects and jurisdiction.

Determinations and actions that may be appealed, and the authority to act upon an appeal shall be as set forth in Table 2-1 and in this Chapter.

TABLE 2-1

REVIEW AUTHORITY

Type of Permit or Decision	Architectural Review and Historic Preservation Board	Director	Zoning Administrator	Planning Commission	City Council
Second-Accessory Dwelling Unit Permit		Decision (2)			

19.12.040 Administrative review.

The procedures set forth in this section shall apply to the appeal of decisions of the Director on the following types of permits: Determinations by the Director that an application is complete pursuant to Chapter 19.16, fraternity and sorority house permits, foothill development permits, home occupation permits, ~~second-accessory~~ dwelling unit permits, sign permits, mobile food vendor permits, and zoning clearances.

Chapter 19.16 APPLICATION FILING AND PROCESSING FEES

Section:

19.16.030 Application filing

19.16.030 Application filing.

D. Filing Date. The filing date of an application for a home occupation permit, ~~second accessory~~ dwelling unit permit, administrative permit for a temporary use, design review, use permit, planned development permit, or variance shall be the date on which the Department receives the last submission, map, plan, or other material required as a part of that application by Subsection A

Exhibit I

(Application Contents) above, in compliance with Section 19.16.050 (Initial application review), and the application is deemed complete by the Director.
(Ord. 2185; Ord. 2223; Ord. 2263)

Chapter 19.18 SITE DESIGN AND ARCHITECTURAL REVIEW

Section:

19.18.030 Review of minor projects.

19.18.030 Review of minor projects.

Minor projects do not require review and approval by the ARHPB and may be approved by the Director. Minor projects are those which because of their limited size and scope have minor aesthetic implications. Examples of such projects include, but are not limited to, the following:

- A. Alterations, repairs, and remodels that the Director determines to be of a minor nature, including signs;
- B. Additions to existing structures;
- C. Fences and walls;
- D. New construction on existing, partially developed parcels;
- E. Replacement-in-kind;
- F. Satellite dish antennas larger than 1 meter in diameter;
- G. Secondary-Accessory residential units; and
- H. Signs.

If the Director determines that an otherwise minor project may have greater aesthetic implications, the director may refer the project to the ARHPB or Commission.

(Ord. 2185; Ord. 2223; 2410 §13)

Chapter 19.19 ~~SECOND-ACCESSORY~~ DWELLING UNIT PERMITS

Section:

19.19.010 Applicability.

19.19.020 Application.

19.19.030 Action on ~~second-accessory~~ dwelling unit permits.

19.19.040 Owner occupancy requirements.

19.19.010 Applicability.

An second-accessory dwelling unit permit shall be required prior to the development or occupancy for residential purposes of an second-accessory dwelling unit on any parcel on which a second unit is a permitted use.

(Ord. 2263)

19.19.020 Application.

An application for an an ~~second~~-accessory dwelling unit permit shall be filed with the department on a form prescribed by the director and shall include all information necessary to allow the director to determine if the proposed second-accessory dwelling unit will comply with the development standards for second-accessory dwelling units set forth in section 19.76.130 or in Division VI of this title, as applicable. (Ord. 2263, Ord. 2358 §4, Ord. 2364 §387)

19.19.030 Action on second dwelling unit permits.

Upon review of a completed application for an an ~~second~~-accessory dwelling unit permit, the director shall issue a permit if the director determines that the proposed second-accessory dwelling unit complies with all of the development standards set forth in section 19.76.130 or in Division VI of this title. Second-Accessory dwelling unit permits shall be approved or denied in writing. All denials shall state the reasons for the denial. Reasons for denial shall be limited to a finding by the director that the proposed second-accessory dwelling unit is not permitted in the applicable zoning district with an an ~~second~~-accessory dwelling unit permit or that the second-accessory dwelling unit does not comply with one or more of the requirements of section 19.76.130 or in Division VI of this title, as applicable. (Ord. 2263, Ord. 2358 §5), Ord. 2364 §388)

19.19.040 Owner occupancy requirement.

All second-accessory dwelling unit permits shall be subject to the condition that either the second-accessory dwelling unit or the primary dwelling unit must be occupied by an owner of the property. Such permits shall be further conditioned to require that each owner of the property sign a covenant acknowledging the requirement that the property be owner-occupied and that the covenant be recorded with the county recorder's office prior to the issuance of a certificate of occupancy for the second-accessory dwelling unit. Rental occupancy of either the main dwelling unit and the accessory dwelling unit shall only be on a rental agreement with a term longer than 30 days. (Ord. 2358 §6))

Chapter 19.37 HISTORIC PRESERVATION

Section:

19.37.030 Definitions.

19.37.030 Definitions.

When used in this chapter, the following terms and phrases shall have the meanings set forth below.

A. Alteration. Alteration means any exterior change or modification of a structure, site, or resource on the city's Historic Resources Inventory or within a landmark overlay zoning district that requires the issuance of a building permit, demolition permit, grading permit, new construction, relocation of a structure onto, off of, or within, a designated property or site, or other changes to the property or site affecting the significant historical or architectural features of the resource. Alterations are divided into either minor or major alterations as follows:

1. Minor alteration. Minor alterations are those which, because of their limited size and scope, have been determined by the Director to involve only minor or negligible impacts to the historic integrity of a resource and may include the following:

- a. Additions to existing structures;
- b. Addition or modification of signs, fences, or walls;
- c. New construction on existing, partially developed parcels;

- d. Replacement-in-kind;
- e. New satellite dish antennas;
- f. Minor grading activities; and
- g. Addition or modification of ~~secondary~~accessory residential units.

Chapter 19.42 RESIDENTIAL ZONES

Section:

19.42.020 Residential zone land uses and permit requirements

19.42.030 Residential zone general development standards

19.42.020 Residential zone land uses and permit requirements.

TABLE 4-2 - ALLOWED USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS

LAND USE (1)	PERMIT REQUIREMENT FOR ZONE						Subject to Standards in Section/ Chapter:
	RS	R1	R2	R3	R4	R M U	
RESIDENTIAL USES							
Second-Accessory dwelling unit	P/U P (4)	P/U P (4)	P/U P (4)				

Notes:

(4) Use permit required for all ~~second-accessory~~ dwelling units in the SD-4 overlay zoning district, and special standards apply, per overlay district. ~~Second-Accessory~~ dwelling units outside of the SD-4 overlay zone are allowed with an accessory-second dwelling unit permit if all development standards in 19.76.130 are met.

(Ord. 2440 §23, Ord. 2461 §2, Ord. 2494, §20)

19.42.030 Residential zone general development standards.

TABLE 4-3B

RESIDENTIAL ZONE GENERAL DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District	
	R1	R2
Residential Density	2.1 minimum, 7 units maximum per acre for subdivisions; 1 single-family unit per lot, and 1 second-accessory unit in compliance with Section 19.76.130.	See Section 19.42.040-B (Minimum lot area and density).

Exhibit I

Height Limits	<p>35 ft. for primary housing units; 25 ft. for second dwelling units (2); 15 ft. for accessory structures; 25 ft. for accessory structures, with use permit approval; 15 ft. for detached garages; 25 ft. for garages with a second floor dwelling unit (2) 25 ft. for detached garages without a second floor dwelling unit, with use permit approval.</p>	<p>35 ft. for primary housing units; 25 ft. for second dwelling units (2); 15 ft. for accessory structures; 25 ft. for accessory structures, with use permit approval; 15 ft. for detached garages; 25 ft. for garages with a second floor dwelling unit (2); 25 ft. for detached garages without a second floor dwelling unit, with a minimum setback distance of 10 feet from all property lines.</p>
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Notes: (2) A ~~second~~ accessory dwelling unit permit or use permit is required for the ~~second~~ accessory dwelling unit. (See Table 4-2.)

(Ord. 2435 §43, Ord. 2494, §21)

Chapter 19.52 OVERLAY ZONES

Section:

19.52.070 Special design considerations (-SD) overlay zone

19.52.070 Special Design considerations (-SD) overlay zone.

4. SD-4 (West Avenue Neighborhood Area). A use permit is required for all ~~second~~ accessory dwelling units.

6. SD-6 (Chapman/Mulberry Neighborhood)

c. The following design standards shall apply to the development of single-family residences:

(2) Front entries for all single-family residences shall be oriented toward the street. This requirement shall not apply to ~~second~~ accessory dwelling units located on the rear of a parcel which have primary access from an alley.

Chapter 19.70 PARKING AND LOADING STANDARDS

Section:

19.70.040 Number of parking spaces required

19.70.040 Number of parking spaces required.

**TABLE 5-4
PARKING REQUIREMENTS**

<p style="text-align: center;"><u>Land Use Type:</u> Residential Uses</p>	<p style="text-align: center;">Vehicle Spaces Required</p>	<p style="text-align: center;">Bicycle Spaces Required (Minimum of 1 space)</p>
<p>Dormitories, fraternities, sororities, and rooming/boarding houses</p>	<p>1 space per 2 beds; minimum 4 spaces if located within a single family residence.</p>	<p>1 space per bedroom.</p>
<p>Dwelling units located on flag lots, streets, or alleys without on-street parking</p>	<p>1 additional space per dwelling unit shall be provided.</p>	<p>1 space per unit, except that none is required for singlefamily dwellings.</p>
<p>Dwelling units located on corner parcels with on-street parking on both frontages</p>	<p>Number of required spaces may be reduced by 1 space; no less than 1 space shall be provided.</p>	<p>1 space per unit, except that none is required for single family dwellings.</p>
<p>Large family day care homes</p>	<p>In addition to the required residential spaces, 1 space for each employee and one space for drop off and pickup.</p>	<p>None required.</p>
<p>Mobile homes (in mobile home parks)</p>	<p>2 spaces per mobile home.</p>	<p>Determined by use permit.</p>
<p>Multi-family housing</p>	<p>Studio unit - 0.75 spaces per unit.</p>	<p>1 space per unit.</p>
	<p>1 bedroom units - 1.25 spaces per unit.</p>	
	<p>2 bedroom units - 1.75 spaces per unit.</p>	
	<p>3 bedrooms or more - 2 spaces per unit.</p>	
	<p>Guest parking - 1 space per each 5 units.</p>	
<p>Mixed-use developments</p>	<p>Determined by entitlement.</p>	<p>Determined by entitlement.</p>
<p>Multi-family housing in a Corridor Opportunity Site overlay zone</p>	<p>Studio unit - 0.75 space per unit.</p>	<p>1 space per unit.</p>
	<p>1 bedroom units - 1 space per unit.</p>	
	<p>2 bedrooms or more - 1.5 spaces per unit.</p>	

Exhibit I

Residential second unit on a single-family parcel	1 additional space for each bedroom. The corner lot exception does not apply.	None required.
Senior housing projects	1 space per 2 dwelling units; half the spaces shall be covered.	5% of vehicle spaces.
Single-family housing	2 spaces per unit, as adjusted up or down by this table.	None required.
Single-room occupancies and specific one-bedroom apartment units	1 space per unit.	20% of vehicle spaces.
Studio apartments or single-room occupancies, designated for low or very low income households, restricted to these households for at least 30 years and located within 500 feet of an existing public transit route and/or commercial facilities supporting residential use	1 space per 2 dwelling units.	20% of vehicle spaces.

(Ord. 2494 §41)

Chapter 19.76 STANDARDS FOR SPECIFIC LAND USES

Section:

19.76.020 Accessory uses and structures

19.76.180 Infill Residential Flag Lots

19.76.020 Accessory uses and structures.

D. Residential Accessory Uses and Structures. When allowed, specific residential accessory uses and structures are subject to the provisions of this section. Residential accessory structures include any structure that is customarily related to a residence, including garages, greenhouses, storage sheds, studios, swimming pools, spas, workshops, and similar structures.

6. ~~Second-Accessory~~ Dwelling Units. Regulations for residential ~~second-accessory~~ units are located in Section 19.76.130 (~~Second-Accessory~~ dwelling units).

19.76.180 Infill Residential Flag Lots

C. Standards. Infill residential flag lots are allowed in the RS, R1 and R2 zoning districts through a parcel map or tentative subdivision map by the Planning Commission when they comply with the standards in this section, in addition to any other applicable City standards:

5. ~~Second-Accessory~~ Dwelling Units. ~~Second-Accessory~~ dwelling units shall be prohibited on infill residential flag lots.

Chapter 19.80 PURPOSE OF TND ZONING DISTRICT AND ESTABLISHMENT OF TND DESIGNATIONS AND ALLOWED USES

Sections:

19.80.070 Allowable land uses

19.80.070 Allowable land uses.

Table 6-1

Allowed Land Uses and Permit Requirements

LAND USE TYPE (1)	P Permitted Use				Use Permit Required— Use Not Allowed
	REQUIREMENT BY TND DESIGNATION				
	N E	N G	NC	COR E	
Second - <u>Accessory</u> dwelling unit	P	P	P	—	19.19

Chapter 19.86 BUILDING TYPES

Section:

19.86.090 Cottage

19.86.090 Cottage

A. A cottage is designed as a residence for one household. It may be built as a single dwelling, as an accessory-~~second~~ unit or in a bungalow court. A cottage may be used for other than residential purposes where allowed by the applicable TND designation. A cottage built as a single dwelling not located in a bungalow court shall be placed on a site as set forth in Table 6-8.

F. A cottage built as an second-accessory dwelling unit shall be located at least ~~108~~ feet behind the primary dwelling unit and shall have a dedicated usable open space of at least 100 square feet with a minimum dimension of 8 feet on one side.

CHAPTERED CHANGES IN ACCESSORY UNIT PROVISIONS

65852.2.

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

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

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

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

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

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

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

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

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

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- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
- (viii) Local building code requirements that apply to detached dwellings, as appropriate.
- (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

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

(III) This clause shall not apply to a unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).
- (2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
- (4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and

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shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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

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

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

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

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

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

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall

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not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
 - (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
 - (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (5) When there is a car share vehicle located within one block of the accessory dwelling unit.
- (e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- (2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
- (A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
- (B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

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

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

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

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

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

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

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

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

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

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

'TRACK CHANGES' VERSION: CHAPTERED CHANGES IN ACCESSORY UNIT PROVISIONS

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.

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(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.~~ *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 ~~second units.~~ *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 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 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 second unit if the second unit 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 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.~~

~~(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 second units 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 ~~second units~~ *an accessory dwelling unit* if these provisions are consistent with the limitations of this subdivision.

~~(5) (8) A second unit 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 ~~second units~~ *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 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.~~ *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.

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(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. 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~~ 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

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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 (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-~~ *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.