



CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@Newark.org

City Administration Building
7:30 p.m.
City Council Chambers

AGENDA

Thursday, January 12, 2017

CITY COUNCIL:

Alan L. Nagy, Mayor
Mike Bucci, Vice Mayor
Luis L. Freitas
Sucy Collazo
Michael K. Hannon

CITY STAFF:

John Becker
City Manager

Terrence Grindall
Assistant City Manager

Susie Woodstock
Administrative Services Director

Sandy Abe
Human Resources Director

Soren Fajeau
Public Works Director

Jim Leal
Police Chief

David Zehnder
Recreation and Community Services Director

David J. Benoun
City Attorney

Sheila Harrington
City Clerk

Welcome to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

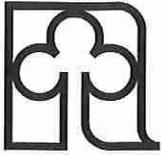
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|--|--------------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| E. PUBLIC HEARINGS | L. APPROPRIATIONS |
| F. CITY MANAGER REPORTS | M. CLOSED SESSION |
| G. CITY ATTORNEY REPORTS | N. ADJOURNMENT |
| H. ECONOMIC DEVELOPMENT CORPORATION | |

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the *Background/Discussion* of agenda items. Following this section is the word *Attachment*. Unless "none" follows *Attachment*, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at www.newark.org. Those items on the Agenda which are coming from the Planning Commission will also include a section entitled *Update*, which will state what the Planning Commission's action was on that particular item. *Action* indicates what staff's recommendation is and what action(s) the Council may take.

Addressing the City Council: You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during **Oral Communications**. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and you may, but you are not required to, state your name and address for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action may be either referred to staff or placed on a future Council agenda.

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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City Administration Building
7:30 p.m.
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AGENDA

Thursday, January 12, 2017

- A. ROLL CALL

 - B. MINUTES
 - B.1 Approval of Minutes of the regular and special City Council meetings of December 8 and 13, 2016. (MOTION)

 - C. PRESENTATIONS AND PROCLAMATIONS

 - D. WRITTEN COMMUNICATIONS

 - E. PUBLIC HEARINGS
 - E.1 Hearing to Consider Adoption of an Urgency Ordinance and Introduction of a Zoning Text Amendment Ordinance Amending Newark Municipal Code Chapters 17.08 (“Definitions”) and 17.16 (“R Residential Districts”) to Comply with Recent Amendments to State Law Regarding Accessory Dwelling Units – from Assistant City Manager Grindall.
(ADOPTION OF URGENCY ORDINANCE)(INTRODUCTION OF ORDINANCE)

 - F. CITY MANAGER REPORTS

(It is recommended that Item F.1 be acted on unless separate discussion and/or action is requested by a Council Member or a member of the audience.)
- CONSENT
- F.1 Acceptance of work with Bond Blacktop, Inc. for 2016 Street Slurry Seal Program, Project 1117 – from Associate Civil Engineer Tran. (RESOLUTION)

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

- J.1 Resolution of the City of Newark acting as the Successor Agency to the Newark Redevelopment Agency adopting and endorsing the Recognized Obligation Payment Schedule for the period of July 2017 to June 2018 (ROPS 17-18) and approving the Last and Final ROPS – from Administrative Services Director Woodstock. (RESOLUTION)**

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of January 12, 2017. (MOTION)

M. CLOSED SESSION

- M.1 Closed session pursuant to Government Code Section 54957 Public Employee Performance Evaluation Title: City Manager.**

N. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk’s Office located at 37101 Newark Boulevard, 5th Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

For those persons requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.



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City Administration Building
7:30 p.m.
City Council Chambers

Minutes

Thursday, December 8, 2016

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:41 p.m. Present were Council Members Hannon, Collazo, Bucci, and Vice Mayor Freitas.

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, November 10, 2016. **MOTION APPROVED**

Council Member Bucci moved, Council Member Collazo seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 5 AYES.

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Declaring the results of the General Municipal Election of November 8, 2016. **RESOLUTION NO. 10573 MOTION APPROVED ORDINANCE NO. 495**

City Clerk Harrington stated that as a result of the General Municipal Election held on November 8, 2016, Alan L. Nagy was re-elected as Mayor for a two year term. Luis Freitas and Sucky Collazo were each re-elected as a member of the City Council for a four year term. Measure GG was approved, enacting a one-half cent sales tax.

Council Member Bucci moved, Council Member Collazo seconded to by resolution, declare the results of the General Municipal Election of November 8, 2016 and by motion, authorize the Mayor to sign the initiative ordinance of the voters of the City of Newark to levy a local transactions and use (sales) tax to be administered by the State Board of Equalization. The motion passed, 5 AYES.

C.2 Presentation of election certificates and administration of Oath of Office.

City Clerk Harrington administered the oath of office to Mayor Nagy, Council Member Freitas, and Council Member Collazo.

C.3 Commending Police Commander Renny Lawson on his retirement.

Mayor Nagy presented the commendation to Police Commander Renny Lawson.

C.4 Commending Deputy Fire Marshall Holly Guier on her retirement.

Mayor Nagy presented the commendation to Deputy Fire Marshall Holly Guier.

Mayor Nagy called a recess at 8:04 p.m. The meeting reconvened at 8:06 p.m.

D. WRITTEN COMMUNICATIONS**E. PUBLIC HEARINGS****E.1 Hearing to consider a Conditional Use Permit (U-16-16) to allow DeVry University to operate in an existing building located at 8000 Jarvis Avenue (APN: 537-853-38). RESOLUTION 10574**

Assistant City Manager Grindall stated that DeVry University was moving from Fremont to Newark at 8000 Jarvis Avenue. There will be up to 50 students per session and approximately 23 employees. Interior improvements include: classrooms, computer labs, common/study areas, offices, and a reception area. The only change proposed to the building exterior is a wall sign and a sign on the existing monument sign that would be submitted for staff review.

In response to Council Member Hannon, Assistant City Manager Grindall stated that code enforcement could visit the area occasionally to monitor the parking. Council Member Hannon stated a yearly visit would be sufficient.

Council Member Hannon requested that Municipal Code references in future staff reports include the referenced code as an attachment or a description in the report itself.

Mayor Nagy opened the public hearing at 8:10 p.m.

Ray Hashimoto, representing DeVry University, said that he read the resolution and agreed to the conditions.

Mayor Nagy closed the public hearing at 8:12 p.m.

Council Member Bucci moved, Council Member Collazo seconded to, by resolution, approve a conditional use permit (U-16-16) to allow for a college (DeVry University) to operate in an existing building located at 8000 Jarvis Avenue (APN: 537-853-38). The motion passed, 5 AYES.

F. CITY MANAGER REPORTS

Council Member Bucci moved, Council Member Collazo seconded, to approve Consent Calendar Items F.1 through F.6, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 5 AYES.

CONSENT

- F.1 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8098 - Glass Bay (TH-HW Newark, LLC), a 217-unit residential subdivision at 8400 Enterprise Drive in the Dumbarton Transit-Oriented Development Specific Plan project area. RESOLUTION NO. 10575
CONTRACT NO. 16051**
- F.2 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8157 - Lighthouse (Lennar Homes of California, Inc.), an 88-unit residential subdivision at 37521 Willow Street in the Dumbarton Transit-Oriented Development Specific Plan project area. RESOLUTION 10576
CONTRACT NO. 16052**
- F.3 Approval of the 2017 Local Appointments List. MOTIONS (3) APPROVED**
- F.4 Acceptance of the Annual Report on Newark Development Impact Fees for Fiscal Year 2015-2016 in accordance with Government Code Section 66006(b). MOTION APPROVED**
- F.5 Approval of Agreements and Documents Associated with Authoring the State Board of Equalization to administer the Transactions and Use Tax.
RESOLUTION NO. 10577 Agreements
RESOLUTION NO. 10578 Records Examination
RESOLUTION NO. 10579 Budget Amendment**
- F.6 Authorization for the City to accept the U.S. Department of Homeland Security, California Governor's Office of Emergency Services (Cal OES) 2015 State Homeland Security Grant. RESOLUTION NO. 10580**

NONCONSENT**F.7 Approval of solid waste collection and recycling services maximum rates for 2017 with an increase of 1.6% over 2016 maximum rates.****RESOLUTION NO. 10581**

Administrative Services Director Woodstock stated that the City's agreements with Republic Services, Inc., for solid waste collection and recycling and with BLT Enterprises of Fremont for waste transfer services, include provisions for an annual adjustment set by formula based on relevant consumer price indices. The City sets the maximum limits for the rates and the final rates are set by Republic Services. She noted that the 1.02% increase in the staff report was incorrect and should have been reported as 1.6%; however, the remainder of the numbers and calculations were correct. Effective January 1, 2017 the rates will increase 1.6%.

In response to Council comments, Administrative Services Director agreed that future rate increases could be presented showing the current rate and the proposed rate, the bulky waste pick up service could be advertised more, offering smaller carts for seniors would be considered in future negotiations.

Council Member Hannon moved, Council Member Collazo seconded to by resolution, establish the maximum rates for solid waste collection and recycling services for Calendar Year 2017. The motion passed, 5 AYES.

F.8 Approval of Measure D Expenditure Plan and Amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2016-2017.**RESOLUTION NO. 10582**

Administrative Services Director Woodstock stated that the City has unspent revenue from Measure D which may only be used for municipal recycling programs. The Alameda County Waste Management Authority (StopWaste.org) requires an Expenditure Plan for the City.

She recommended an Expenditure Plan for a consultant to prepare a long-term diversion plan, assist with the development of the commercial organics collection program and audit the material stream reports from the franchise hauler. The Alameda County Waste Management Authority approved the proposed plan at their meeting today.

In response to Council comments, Administrative Services Director Woodstock stated that she would look into their ideas of a possible rebate program and a community garden and see if the funds could be used for those purposes.

Council Member Hannon moved, Council Member Bucci seconded to, by resolution, approve the Measure D Expenditure Plan and amend the 2016-2018 Biennial Budget for Fiscal Year 2016-2017. The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS**G.1 Claim of Rajnesh Kumar.****MOTION APPROVED**

City Attorney Benoun gave the staff report recommending denial of the claim.

Council Member Freitas moved, Council Member Collazo seconded to by motion, deny the claim and authorize staff to inform the claimant of such denial. The motion passed, 5 AYES.

H. ECONOMIC DEVELOPMENT CORPORATION**I. CITY COUNCIL MATTERS****I.1 Appointment of Mayor Pro Tempore and authorization for the Mayor Pro Tempore to sign and endorse checks, warrants, and other instruments.****MOTION APPROVED
RESOLUTION NO. 10583**

Mayor Nagy recommended the appointment of Council Member Bucci as Mayor Pro Tempore. He complimented Vice Mayor Freitas for his service

Council Member Collazo moved, Council Member Hannon seconded to, by motion, appoint Council Member Bucci as Mayor Pro Tempore; The motion passed 4 AYES, 1 ABSTENTION (Bucci).

Council Member Collazo moved, Council Member Hannon seconded, by resolution, to authorize the new Mayor Pro Tempore to sign and endorse checks, warrants, and other instruments. The motion passed, 5 AYES.

I.2 Appointments of City Council Members to agencies, boards, commissions, and committees. RESOLUTION NO. 10584

Mayor Nagy stated that the City Council Member appointments would remain the same for the upcoming year. The assignments for 2017 are as follows:

Alameda County Fire Advisory
Commission

Council Members Bucci and
Collazo – delegate and alternate

Alameda County Library Advisory
Commission

Council Members Collazo and Mayor
Nagy – delegate and alternate

Alameda-Contra Costa Transit District Policy Advisory Committee	Council Members Bucci and Hannon – delegates
Alameda County Transportation Commission	Council Members Freitas and Collazo – delegate and alternate
Alameda County Waste Management Authority Board/Stopwaste.org	Council Members Hannon and Freitas – delegate and alternate
Association of Bay Area Governments (ABAG)	Council Member Bucci and Mayor Nagy – delegate and alternate
Community Development Advisory Committee	Mayor Nagy and Council Member Freitas – delegates
Dumbarton Rail Policy Advisory Committee	Mayor Nagy and Council Member Bucci – delegate and alternate
Newark City Council – Board of Education Liaison Committee	Council Members Hannon and Collazo – delegates
Tri-City Elder Coalition	Mayor Nagy - delegate
Senior Citizen Standing Advisory Committee	Mayor Nagy delegate and chairperson
Southern Alameda County Geographic Information System Authority	Mayor Nagy - delegate Council Member Bucci - alternate
Tri-City Waste Facility Financing	Mayor Nagy and Council Member Hannon – Authority delegates

Council Member Collazo moved, Council Member Hannon seconded to, by resolution, approve the appointments to the various agencies, boards, commissions, and committees. The motion passed, 5 AYES.

Mayor Nagy announced that there would be a special City Council meeting on Tuesday, December 13, 2016 at 6:00 p.m.

Mayor Nagy announced that he would adjourn the City Council meeting in memory of Dave Tanner.

Luis Freitas stated that former Newark resident Richard Dollinger passed away and he extended his sympathies.

Council Member Collazo encouraged everyone to shop in Newark. She wished the community a Merry Christmas and Happy New Year.

Vice Mayor Bucci wished Happy Holidays to everyone. He stated that the tree lighting on Monday was a great event.

J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

K. ORAL COMMUNICATIONS

No one came forward to speak.

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of December 8, 2016. MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 109430 to 109655.

Council Member Freitas moved, Council Member Collazo seconded, to approve the Register of Audited Demands. The motion passed, 5 AYES.

M. CLOSED SESSION

M.1 Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated representatives: Human Resources Director Abe and Assistant City Manager Grindall, Employee Group: the Newark Police Association – from City Attorney Benoun and Human Resources Director Abe.

M.2 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(2), Anticipated Litigation: One case – from Human Resources Director Abe and City Attorney Benoun.

M.3 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Thimon v. City of Newark et al.; Alameda County Superior Court Case No. HG15756417– from City Attorney Benoun.

At 8:38 p.m. the City Council recessed to a closed session.

At 8:47 p.m. the City Council convened in closed session.

At 9:45 p.m. the City Council reconvened in open session with all Council Members present.

N. ADJOURNMENT

At 9:45 p.m. Council Member Collazo moved, Vice Mayor Bucci seconded, to adjourn the regular City Council meeting in memory of Dave Tanner. The motion passed, 5 AYES.



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SPECIAL MEETING

Minutes

Tuesday, December 13, 2016

City Administration Building
6:00 p.m.
City Council Chambers

A. ROLL CALL

Mayor Nagy called the meeting to order at 6:05 p.m. Present were Council Members, Collazo, Freitas, and Vice Mayor Bucci. Council Member Hannon was noted absent.

B. PUBLIC HEARING

- B.1 Public Hearing and tabulation of ballots for formation of Landscaping and Lighting District No. 19 for Tract 8085 (Bayshores) and, if no majority protest exists, approve the Engineer's Report, approve the formation of Landscaping and Lighting District No. 19, and authorize the levy and collection of assessments for fiscal year 2017-2018.**

RESOLUTION NO. 10585

Public Works Director Fajeau gave the staff report recommending approval. The Landscaping and Lighting District would apply to Tract 8085 located on Willow Street between Central Avenue and Seawind Way.

Mayor Nagy opened the public hearing at 6:10 p.m.

No one came forward to speak.

Mayor Nagy closed the public hearing at 6:11 p.m.

City Clerk Harrington tabulated the ballots and announced that the ballots approved the formation of Landscaping and Lighting District No. 19.

Council Member Collazo moved, Vice Mayor Bucci seconded to approve the Engineer's Report, approve the formation of Landscaping and Lighting District No. 19, and authorize the levy and collection of assessments for fiscal year 2017-2018. The motion passed, 4 AYES, 1 ABSENT.

C. ADJOURNMENT

Mayor Nagy adjourned the meeting at 6:13 p.m.

E.1 Hearing to Consider Adoption of an Urgency Ordinance and Introduction of a Zoning Text Amendment Ordinance Amending Newark Municipal Code Chapters 17.08 (“Definitions”) and 17.16 (“R Residential Districts”) to Comply with Recent Amendments to State Law Regarding Accessory Dwelling Units – from Assistant City Manager Grindall.

(ADOPTION OF URGENCY ORDINANCE)(INTRODUCTION OF ORDINANCE)

Summary – Staff is proposing to amend Title 17 (Planning and Zoning) of the Newark Municipal Code to respond to recent State legislation and to implement policies in the General Plan Housing Element. Senate Bill (SB) 1069, Assembly Bill (AB) 2299, and AB 2406 were all signed by Governor Brown in late September, requiring that cities and counties in California adopt conforming regulations for Accessory Dwelling Units (ADU). The new State regulations are intended to make it easier to create ADUs on single-family residential properties, thereby addressing the shortage of affordable rental units in California. On December 13th, the Planning Commission considered the proposed Zoning Text Amendment and voted unanimously to recommend approval to the City Council.

Background – Accessory Dwelling Units (ADUs), previously known as secondary units, and also known as in-law apartments, or granny flats, are an important housing resource in California. ADUs are typically created through the construction of a detached structure in the rear yard, the conversion of existing living space in a single-family home to a separate dwelling unit, or the addition of space to an existing home. Over the last two decades, the State has adopted a number of laws that encourage ADUs and limit the requirements that may be imposed by cities on such units. ADUs are generally regarded as an effective way to increase housing options without changing neighborhood character. They can effectively provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others.

Newark currently permits ADUs in all residential zoning districts, subject to rules relating to size, location, parking, height, lot size, and other physical features. These rules include limiting the maximum size of the units to 275 square feet and the required addition of a parking space to the property. Staff believes that these requirements have impeded the development of secondary units in Newark.

The new State laws requires that the Cities regulations be relaxed and that ADUs meeting the City’s regulations be ministerial approved—in other words, approved by staff without a public hearing and not subject to a discretionary action. The Housing Element of the Newark General Plan recognizes ADUs as a key part of the City’s rental housing supply.

On September 27 and 28, 2016, Governor Brown signed three pieces of legislation into law that require California cities and counties to substantially revise their ADU regulations. Copies of the legislation are attached to this staff report. The specific provisions of the legislation are described below:

- **SB 1069**, sponsored by State Senator Wieckowski (D-Fremont), was signed by the Governor on September 27, 2016. The bill requires that:
 - Municipal code references to “secondary dwelling unit” be replaced with the term “accessory dwelling unit” so as to have uniform Statewide definitions.
 - Local ordinances must state that ADU applications will be approved or disapproved within 120 days after a complete application is received.
 - ADUs up to 1,200 square feet or up to 50 percent of the living area in an existing dwelling may be permitted.
 - Cities cannot require more than one parking space per bedroom.
 - Cities must allow off-street parking requirements to be met through tandem parking or within required setback areas (as well as through covered parking or extended driveways).
 - Cities must waive parking requirements for ADUs that are entirely contained within existing structures, or that are within one-half mile of public transit, one block of a car-share vehicle, or in a historic district.
 - Fire sprinklers can only be required for the ADU if they would be required for an equivalent addition to the primary residence.
 - Additional streamlined requirements (relating to setbacks and other development standards) apply to ADUs that are contained entirely within existing structures.
 - Cities are given an opportunity to limit the use of ADUs as short-term rentals.
 - Local agencies may not collect water and sewer connection fees for ADUs that do not add habitable floor space, and must structure fees for other types of ADUs so they are proportional to the impacts on service demand.

- **AB 2299**, sponsored by Assemblyman Bloom (D-Santa Monica), was signed by the Governor on September 27, 2016. The bill features many of the same provisions as SB 1069, including prohibitions on requiring additional parking for ADUs in certain circumstances.

- **AB 2406**, sponsored by Assemblyman Thurmond (D-Richmond), was signed by the Governor on September 28, 2016. The bill creates a new class of ADUs called Junior Accessory Dwelling Units that are entirely contained within the footprint of existing homes. Junior ADUs must incorporate an existing bedroom, include an efficiency kitchen, have a door leading directly to the outside of the house, and be less than 500 square feet. The new law requires that Junior ADUs be permitted without an off-street parking space and without utility connection charges.

Discussion – In order to comply with recently adopted legislation, staff recommends replacing various provisions of the Newark Zoning Code (NMC Title 17). All cities and counties in California must make similar changes. These changes include replacing definitions and references to “second units” with “accessory dwelling units”, as well as providing new regulations

governing their design and use. Staff also recommends deleting Section 17.08.143 (“Efficiency Unit”) as it would now be redundant because of the new State regulations.

New Definitions of ADUs / Types of ADUs

The proposed new regulations are organized into four sections described as follows:

- Definition of terms, including “Standard Accessory Dwelling Unit” (SADU) and “Junior Accessory Dwelling Unit” (JADU)
- Regulations that apply to all Accessory Dwelling Units (ADU).
- Regulations that apply only to Standard Accessory Dwelling Units (SADU)
- Regulations that apply only to Junior Accessory Dwelling Units (JADU)

The proposed text amendment defines two types of ADUs in the City consistent with State law: Standard ADUs (SADUs) and Junior ADUs (JADUs). **SADUs** are units that result in a net increase in habitable floor area on a parcel. Examples would be new detached units in the rear yard, new units above a garage, conversion of unfinished attic or basement space into habitable space, or major home additions with second kitchens and new bathrooms. On the other hand, **JADUs** are created through the conversion of an existing bedroom within an existing single-family home. By State law, JADUs may be no larger than 500 square feet, are not separately metered (for utilities), and involve no net increase in habitable floor area on the property.

Regulations Applicable to All ADUs

The changes indicate that an application for an ADU must be approved in a ministerial fashion (e.g., without discretionary action or a hearing) within 120 days of submission of a complete application. It maintains existing requirements that requires a building permit for an ADU, and review for ADUs that involve exterior alterations.

The State regulations explicitly allow the City to collect fees for any permits associated with ADU creation (building permit, design review, etc.). However, as required by SB 1069, the City cannot adopt special service charges or fees that apply only to homes with ADUs but not to homes without them.

The proposed text amendment carries forward the existing requirement that only one ADU is permitted per property. ADUs continue to be subject to the same height, setback, and lot coverage requirements that apply to single-family homes in the same zoning district.

The proposed text amendment also adds new provisions, including the requirement that the owner reside on the property (either in the principal residence or in the ADU), as well as the requirement that a deed restriction be filed with Alameda County that limits the sale of the ADU separate from the principal residence. It is also required that the unit is architecturally compatible with the principal residence, and that any exterior stairs (to any upper floor unit) be in the rear or side yards,

and that ADUs be on a permanent foundation is carried forward.

New language has been added addressing fire sprinklers. Sprinklers may only be required where they would also be required for a principal residence under the Newark Fire Code. Typically, a new detached ADU would require sprinklers (just as a new residence would require sprinklers), but the conversion of interior space in an existing house to an ADU would not.

New language has also been added that would prohibit the rental of ADUs for terms shorter than 30 days. This is a reiteration of city wide regulations.

Regulations Applicable to Standard ADUs

Standard ADUs have the potential to be more impactful than Junior ADUs. They are typically larger and result in a net increase in habitable floor space on a property.

The proposed text amendment adds a requirement that ADUs must be separated from other habitable structures on the site by at least 10 feet. The regulations incorporate the following new requirements, which are specifically required by SB 1069:

- The City cannot require a continuous passageway (e.g., a path) from the street to the front door of the ADU.
- An existing garage may be converted to an ADU, even if it is in the required setback area, provided the applicant still meets all off-street parking requirements after the ADU is completed.

The most substantial changes required by SB 1069 relate to off-street parking. Currently, one off-street parking space is required per bedroom for an ADU. This continues to be the case under the proposed revisions, but, per State law, off-street parking cannot be required for units meeting any of the following criteria:

- The unit is within one-half mile of public transit
- The unit is within a designated historic district
- The unit is entirely within the principal residence and results in no net increase in habitable floor area on the property
- The unit is in an area where on-street permit parking is required, but such permits are not available to the tenant
- The unit is within one block of a car-share vehicle

The proposed text amendment defines “public transit” as transit service adequate to facilitate area residents’ reliance on transit for their primary mobility. The criteria used to determine adequacy would include ridership, routing, frequency, and reliability. Based on these criteria no area of Newark presently meets the definition of adequate transit. Staff recommends that the Council review this determination with each Housing Element update.

Where off-street parking is required, SB 1069 further limits the City's ability to specify how and where it must be sited. The proposed regulations allow ADU parking requirements to be met in conventional garages or carports, uncovered paved areas such as an extended driveway, tandem parking in an existing driveway, or parking on other locations on the property, including the front setback. The City can prohibit parking in required setbacks if it finds that such parking is not feasible due to life safety conditions.

The existing 275 square foot maximum size of a second unit is not consistent with the new State legislation. Thus the proposed ordinance limits the maximum size of a SADU to 600 square feet.

The recent State legislation also limits the ability of "local agencies" to collect water and sewer connection fees for new ADUs. However, it defines "local agencies" as cities and counties, and does not directly regulate independent water and sewer districts. In 2016, the Alameda County Water District (ACWD) connection fee for a new ADU was \$4,111, while the Union Sanitary District sewer connection fee was \$5,129.50. The high cost of connection fees is a major obstacle to ADU construction. Because the City itself does not regulate these fees, the draft regulations do not impact them.

The proposed text amendment notes that other fees for ADUs should be proportionate to the burden of the proposed ADU, and must not treat an ADU as if it were a new principal residence.

Regulations Applicable to Junior ADUs

As noted earlier, Junior ADUs are units that repurpose a bedroom in an existing residence into an independent living unit. They are less impactful than SADUs since they result in no increase in habitable space. Creating a JADU would typically require constructing a door from a bedroom to the exterior of the home, installing an efficiency kitchen, and installing a double door that separates this living space from the rest of the home. Consistent with AB 2406, JADUs may not exceed 500 square feet in floor area.

The proposed ordinance requires JADU's to have an efficiency kitchen with a counter no less than six feet long, a sink, and electrical service. JADUs may have their own bathrooms, or they may share bathroom space with the principal residence. Under AB 2406, the City cannot impose parking requirements on JADUs. However, such units would only be permitted in residences that already meet off-street parking requirements for single-family homes.

Urgency Ordinance – The State legislation was signed by the Governor on September 27th and 28th and requires cities to enact local regulations by January 1, 2017. If cities do not enact regulations within this narrow timeframe, then cities will be required to ministerially approve an ADU and apply basic standards contained in the Government Code. Staff recommends that the Council adopt an urgency ordinance so as to immediately enact the local regulations discussed above. Under the Government Code, cities may enact urgency ordinances by a four-fifths vote of

the City Council if there is an immediate need to protect public peace, health, or safety. Staff recommends adopting the attached urgency ordinance immediately because if the ordinance were instead to become effective thirty days after its second reading, then there could be ambiguity and confusion regarding the applicability of the City's accessory dwelling unit standards that could result in inconsistent and unfair results for City residents.

Environmental Review – Pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), “the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.a and 65852.2 of the Government Code” relating to “granny” housing and “second unit ordinances” are exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a “project” for CEQA purposes, and environmental review would not be required prior to approving individual applications.

Planning Commission Update – The Planning Commission considered this matter on December 12, 2016, and unanimously recommended adoption of a Zoning Text Amendment.

Attachments

- 1. Proposed Urgency Ordinance**
- 2. Proposed Zoning Text Amendment Ordinance**
- 3. Senate Bill 1069 (Wieckowski)**
- 4. Assembly Bill 2299 (Bloom)**
- 5. Assembly Bill 2406 (Thurmond)**

Action - It is recommended that the that the City Council open a public hearing, receive testimony from the public, and consider staff's recommendation to adopt an Urgency Ordinance and introduce a Zoning Text Amendment Ordinance amending Newark Municipal Code Chapters 17.08 (“Definitions”) and 17.16 (“R Residential Districts”) to comply with recent amendments to State law regarding Accessory Dwelling Units.

ATTACHMENT 1

Proposed Urgency Ordinance

URGENCY ORDINANCE NO.

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK AMENDING NEWARK MUNICIPAL CODE CHAPTERS 17.08 (“DEFINITIONS”) AND 17.16 (“RESIDENTIAL DISTRICTS”) TO COMPLY WITH RECENT AMENDMENTS TO STATE LAW REGARDING ACCESSORY DWELLING UNITS

The City Council of the City of Newark does hereby ordain as follows:

SECTION 1: Purpose, Findings, and Urgency Findings. The City Council does hereby find as follows:

- (a) Effective January 1, 2017, Assembly Bill 2299 (“AB 2299”) and Senate Bill 1069 (“SB 1069”) amended Government Code Section 65852.2 to limit the types of standards cities may impose on second units (now termed “accessory dwelling units”).
- (b) As amended, Government Code Section 6582.2 requires that the City’s Accessory Dwelling Units ordinance incorporate State-mandated standards for certain types of accessory dwelling units.
- (c) In addition, Government Code Section 65852.2 allows the City to establish certain objective standards related to parking, height, setback, lot coverage, landscaping, and certain architectural requirements, which must be applied ministerially except where a property owner is seeking an exception to such standards.
- (d) In the absence of a State-compliant ordinance on January 1, 2017, the City’s existing second unit standards would be considered null and void pursuant to Government Code Section 65852.2(a)(4) and the City would be required to approve any accessory dwelling unit meeting minimal state criteria.
- (e) Therefore, the City finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption. If this Ordinance does not become effective immediately, but instead becomes effective thirty days after its second reading, ambiguity and confusion regarding the applicability of the City’s second unit/accessory dwelling unit standards could result, with inconsistent and unfair results for City residents. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare and its urgency is hereby declared.

SECTION 2: Section 17.08.415 (currently titled “Second unit”) of Chapter 17.08 (“Definitions”) is hereby amended as follows. Text in ~~strikeout~~ denotes deletions while text in underline denotes insertions.

17.08.415 — Second unit.

~~"Second unit" means an attached or detached residential dwelling unit on a lot zoned for residential use, which provides complete independent living accommodations and facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking and sanitation, on the same parcel as a legally established single family dwelling. The second unit may be an efficiency unit or a manufactured home.~~

17.08.415 Accessory dwelling unit.

An Accessory Dwelling Unit (or "ADU" singular or "ADUs" plural) shall mean an attached or detached residential dwelling that is subordinate to a principal residence on the same lot, and that provides complete independent living facilities for one or more persons. ADUs include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the principal residence. There are two categories of ADUs, distinguished by the size and location of the ADU and the extent to which the ADU results in a net increase in habitable floor space on the property. These categories are defined as follows:

(1) Standard ADUs (or "SADU" singular or "SADUs" plural) may be attached to the principal residence or may be a detached structure and include ADUs that meet any of the following criteria when constructed:

(A) A net increase in habitable floor space on a property; or

(B) A floor area exceeding 500 square feet; or

(C) Created within the footprint of an existing primary residence without incorporating an existing bedroom.

(2) Junior ADUs (or "JADU" singular or "JADUs" plural) include ADUs that meet all of the following criteria when constructed:

(A) No net increase in habitable floor space on a property; and

(B) A floor area of 500 square feet or less; and

(C) Contained entirely within the existing walls of an existing principal residence, and

(D) Created at least in part through the conversion of an existing bedroom.

SECTION 3: Section 17.16.030(K) ("Permitted Uses") of Chapter 17.16 ("R RESIDENTIAL DISTRICTS") is hereby amended as follows. Text in ~~strikeout~~ denotes deletions while text in underline denotes insertions.

~~K. Second units subject to the following conditions:~~

- ~~1. Construction of a second unit shall require a second unit permit, to be issued by planning staff. To apply for this permit, a site plan showing the entire parcel and all existing buildings on the parcel, together with floor plans and elevations of the proposed second unit, shall be submitted to the planning division, along with written verification from sanitary, water, power, and telephone districts and companies verifying that the utilities in the area are adequate to serve the second unit. Planning staff shall approve or deny the application for the permit based on the adequacy of utilities and compliance with the conditions listed in this section;~~
- ~~2. Second units shall meet all current zoning requirements applicable to a main structure;~~
- ~~3. Second units shall meet applicable construction codes requirements;~~
- ~~4. One uncovered parking space shall be provided for a second unit. This space may be provided in a required interior side yard providing all other off street parking requirements are met;~~
- ~~5. Second units may be rented and shall not be sold as separate units or lots;~~
- ~~6. Second units shall only be permitted on lots already containing only a single-family detached unit;~~
- ~~7. No more than one second unit shall be allowed on a single lot;~~
- ~~8. A second unit shall not be allowed on lot with an existing guest house;~~
- ~~9. A second unit shall be no more than two hundred seventy five square feet in floor area, excepting that where the first (existing) unit is larger than two thousand seven hundred fifty square feet in floor area, then the second unit may have a maximum floor area equal to ten percent of the floor area of the first (existing) unit or three hundred sixty square feet, whichever is less. Not more than ten percent of the floor area of the first (existing) unit shall be included as or converted into part of the second unit. For calculating these percentages, the floor area of a first (existing) unit is defined as not including carports, garages, or detached structures;~~
- ~~10. The second unit shall have not more than one bedroom and shall have no dens, studios, or the like;~~
- ~~11. Outside stairways to second story second units attached to, within, or partly within the first (existing) unit shall not be at the front of the house;~~
- ~~12. Detached second units shall be located behind the first (existing) unit;~~

~~13. No second unit shall be permitted on any lot, which has less than the minimum site area required for its zoning district;~~

~~14. The second unit shall incorporate architectural features, building materials and colors which are similar to and compatible with the first (existing) unit and the character of the neighborhood, and shall maintain the scale and appearance of a single-family dwelling;~~

Accessory Dwelling Units subject to the following conditions:

(a) Regulations Applicable to All Accessory Dwelling Units (“ADUs”):

(1) Permitting Procedure. Any application for an ADU that meets the applicable location and development standards contained in Section 17.16.030 shall be subject to ministerial review and approval without discretionary review or public hearing. All permits shall be issued within 120 days of submission of a complete application for ADUs conforming to the provisions of this section.

(2) Building Permit Required. No ADU shall be established or maintained until there has been a building permit approved by the city. The application for the permit shall include:

(A) Site plan indicating the location of the principal residence, the location and type of the proposed ADU, and parking (for those ADUs where parking is required);

(B) Floor plans of the principal residence and proposed ADU;

(C) Elevations of all sides of the principal residence and ADU;

(3) Applicability of Fees.

(A) This ordinance shall not be construed to prohibit the City from adopting an ordinance or regulation relating to services or utility connection fees that applies to a single-family residence that contains an ADU so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether they include an ADU.

(B) Nothing in this section shall be construed so as to impact the connection or fees charged by other government entities.

(4) Locational Criteria

(A) In no case shall the total number of dwelling units exceed two (including the principal residence) on any lot wherein a principal single-family residence has been authorized.

(B) ADUs are not required to meet the density requirements of the General Plan or zoning ordinance and do not count toward the permissible number of units per acre (or required lot area per dwelling). However, ADUs shall otherwise be consistent with the General Plan text and diagrams as provided in California Government Code §65852.2.

(C) An ADU shall be located only within the area of the lot allowed for the principal residence as established by its zoning district, except as provided in Section 17.16.030.

(F) An ADU may be attached to the principal residence either created through conversion of existing floor area or addition of new floor area to the principal residence or may also be detached.

(G) An ADU shall not be counted in any ordinance, policy, or program to limit growth, such as, but limited to, the number of residential units permitted in a year.

(5) Occupancy Criteria.

(A) An ADU may be occupied as a separate single-family dwelling only if the legal owner of the lot occupies one of the dwellings located on the lot; otherwise, the ADU and the principal residence shall be occupied as if they were one single-family dwelling.

(B) The rental of ADUs for terms shorter than 30 days shall be prohibited.

(C) Nothing in this section shall be construed so as to limit the ADU or principal residence on the lot from remaining vacant.

(6) Size.

(A) An ADU must be a minimum of 150 square feet and may not exceed the lower of 600 square feet or 50 percent of the existing living area of the principal residence on the property.

(B) An ADU may not include more than one bedroom.

(7) Design.

(A) An ADU shall incorporate architectural features, building materials and colors that are compatible with the principal residence and the adjacent neighborhood.

(B) Outside stairways to the ADU shall not be in the front of the principal residence.

(C) If the ADU is visible from the public right of way it would be subject to the Single Family Design Review Process.

(8) Building Safety.

(A) A smoke alarm and carbon monoxide detector shall be installed in all ADUs.

(B) No fire sprinklers shall be required for the ADU, unless the associated improvements are required under the Newark Municipal Code, or are associated with a new detached ADU on a property where sprinklers would otherwise be required for a new single-family home.

(C) Permanent Foundation. A permanent foundation shall be required for all detached ADUs.

(D) This section shall not be construed so as to prohibit the city from adopting an ordinance or regulation relating to fire or life protection requirements for ADUs so long as the ordinance or regulation applies uniformly to all single-family homes within the zoning district regardless of whether the single-family residence has an ADU or not.

(9) Deed Restriction. A deed restriction, which shall run with the land, shall be filed and recorded with the County of Alameda for each ADU prior to the issuance of a building permit and shall include the following:

(A) A prohibition on the sale of the ADU separate from the sale of the principal residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) Occupancy restrictions and requirements, as specified in Section 17.16.030.

(C) A restriction on the size and attributes of the ADU that conforms with Section 17.16.030.

(b) Regulations Applicable to Standard Accessory Dwelling Units (“SADUs”)

(1) Location. A SADU may only be permitted where only one principal residence exists on the lot. SADUs are not permitted in duplexes, triplexes, or other buildings with more than one principal residence.

(2) Building Height. A SADU may not exceed the building height limitation applicable to the principal residence on the lot.

(3) Connection to Street. No passageway shall be required in conjunction with the construction of a SADU, unless such a connection is mandated by the Americans with Disabilities Act, or other State or Federal safety code or standard. A passageway is a pathway that is unobstructed and clear to the sky and that extends from the street to the door of the SADU.

(5) Separation. Except as noted in Section (6) below, detached SADUs must be separated from other habitable structures on site by at least ten (10) feet. The separation may be reduced to eight (8) feet if one structure is equipped with fire sprinklers or six (6) feet if both structures maintain fire sprinklers. Roof eave projections into this separation may be limited by applicable building code(s).

(6) Garage Conversions. An existing garage may only be converted to a SADU if the property will meet all applicable parking standards upon completion of the SADU. Setback requirements shall not apply to an existing garage that is converted to an ADU, provided that any walls within setback areas comply with applicable building and fire codes. In the event an ADU is constructed above an existing or newly constructed garage, a setback requirement of five feet from the side and rear property lines shall be required.

(7) Parking. One parking space per bedroom shall be required for a SADU, except as noted below:

(A) Required parking may be provided through any of the following methods:

(i) conventional garages or carports;

(ii) uncovered paved areas such as an extended driveway;

(iii) tandem parking in an existing driveway; or

(iv) parking on other locations on the property, unless specific findings are made that parking in setback areas is not feasible based upon life safety conditions. Mechanical lifts may be permitted where consistent with design review criteria.

(B) No off-street parking shall be required for a SADU in any of the following instances:

(i) The SADU is located within one-half mile of public transit. The term "public transit" shall mean transit service adequate to facilitate area residents' reliance on transit for primary mobility. Factors used to determine adequacy include, but are not limited to, ridership, routing, frequency, and reliability. The City Council finds and declares that no area in Newark currently meets this definition of adequate public transit; however the City Council shall review this determination each time the Housing Element is updated;

(ii) The SADU is located within a designated architecturally and historically significant historic district or on a property that includes a register resource or potential register resource;

(iii) The SADU is located entirely within the existing principal residence or an existing habitable accessory structure and results in no net addition of habitable floor area on the property;

(iv) The SADU is located in an area where on-street parking permits are required, but are not offered to the occupants of the SADU;

(v) The SADU is located within one block of a designated parking area for one or more car-share vehicles available to the general public by subscription.

(C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a SADU, and replacement parking is required, the replacement parking spaces may be provided as in Section 17.16.030(K)(b)(7)(A) above.

(D) Although permitted by right in residential districts under this Chapter, in situations in which there is ninety percent (90%) overnight street parking occupancy within a one

hundred fifty foot (150) foot radius of the subject property, the Council may, after review and consideration by the Planning Commission, issue a Conditional Use Permit pursuant to Chapter 17.72 to a property owner to construct a SADU. The City Council may, in its discretion, impose reasonable conditions, including, but not limited to, requiring existing covered parking be used for vehicle parking.

(8) Fees. SADUs resulting in a net increase in habitable floor area on a property may be subject to City impact fees that are proportionate to the burden of the proposed ADU on City services. However, under no circumstance may the SADU be considered equivalent to a new principal dwelling unit for the purpose of fee calculation.

(c) Junior Accessory Dwelling Units (JADUs)

The purpose of the Junior Accessory Dwelling Unit (JADU) regulations is to implement specific policies of the Housing Element of the Newark General Plan and specific provisions of State law authorizing the creation of JADUs. The intent of the JADU regulations is to expand the affordable rental housing stock through the repurposing of underutilized floor area in existing single-family homes.

(1) Applicability. Performance standards for JADUs shall apply in all single-family (R-1) residential zoning districts, on lots within those portions of planned districts allowing single-family dwellings, and on qualifying R-2, R-3, R-G and O-S lots developed with only one principal single-family dwelling.

(2) Development Standards.

(A) Number Per Lot. Only one JADU is permitted on a single-family residential lot. A JADU is not permitted if another ADU already exists on the property.

(B) Location. The JADU shall be constructed entirely within the existing walls of an existing single-family home and must incorporate an existing bedroom.

(C) Size. The JADU shall not exceed 500 square feet in size.

(D) Unit Access. The JADU shall include an exterior entrance that is separate from the main entrance to the single-family home. The exterior entry shall not be located on the front of the principal residence. If the exterior entry is on the second floor, the stairway shall not be located in the front of the principal residence. Interior access between the JADU and the principal residence is required, and can be a door equipped with a double lock. A second interior doorway may be provided for sound attenuation.

(E) Sanitation. A JADU may include a bathroom or may share bathroom facilities within the principal residence.

(F) Kitchen. The JADU shall include an efficiency kitchen, which shall include all of the following:

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

(ii) A cooking facility with appliances that do not require electrical service greater than 120 volts and that do not use propane gas.

(iii) A food preparation counter no less than six feet in length and storage cabinets that are of reasonable size in relation to the size of the JADU. The food preparation area may not be located in a closet.

(3) Parking. No additional off-street parking shall be required beyond that required for the principal residence. The principal residence shall meet the current off-street parking standard in effect at the time the JADU is approved.

(4) Building and Fire Code Requirements. For the purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate dwelling unit. No fire wall separation or noise attenuation measures are required between the principal residence and the JADU.

SECTION 4: Section 17.08.143 (“Efficiency Unit”) of Chapter 17.08 (“Definitions”) is hereby deleted in its entirety. The strikeout is as follows:

17.08.143 — Efficiency unit.

~~“Efficiency unit” means a second unit with a minimum size of two hundred seventy-five square feet containing only one habitable room.~~

SECTION 5: CONFORMANCE WITH GENERAL PLAN

Pursuant to Section 17.80.070 of Title 17 (Zoning) of the City of Newark Municipal Code, the City Council does hereby find that the zoning change embodied in this ordinance is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Municipal Code; is consistent with the policies, goals and objectives of the General Plan; and promotes the public health, safety, morals, comfort, convenience, and general welfare of the residents of the City of Newark.

SECTION 6: SEVERABILITY

If any section, subsection, sentence, clause, or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Newark hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 7: CEQA

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs City staff to cause that a Notice of Exemption be filed with the Alameda County Clerk in accordance with CEQA guidelines.

SECTION 8: EFFECTIVE DATE

This ordinance, pursuant to Government Code section 36937, is hereby declared to be necessary as an urgency measure for the preservation of the public peace, health, safety and property in the City, and as such shall take effect immediately and be in full force and effect after its adoption by a four-fifths vote of the City Council for the reasons identified in Section 1 above.

SECTION 9: EXPIRATION DATE

This ordinance shall automatically expire upon adoption of the corollary ordinance contemporaneously introduced herewith.

ATTACHMENT 2

Proposed Ordinance

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK AMENDING NEWARK MUNICIPAL CODE
CHAPTERS 17.08 (“DEFINITIONS”) AND 17.16 (“R
RESIDENTIAL DISTRICTS”) TO COMPLY WITH RECENT
AMENDMENTS TO STATE LAW REGARDING ACCESSORY
DWELLING UNITS

The City Council of the City of Newark does hereby ordain as follows:

SECTION 1: Purpose, and Findings. The City Council does hereby find as follows:

- (a) Effective January 1, 2017, Assembly Bill 2299 (“AB 2299”) and Senate Bill 1069 (“SB 1069”) amended Government Code Section 65852.2 to limit the types of standards cities may impose on second units (now termed “accessory dwelling units”).
- (b) As amended, Government Code Section 6582.2 requires that the City’s Accessory Dwelling Units ordinance incorporate State-mandated standards for certain types of accessory dwelling units.
- (c) In addition, Government Code Section 65852.2 allows the City to establish certain objective standards related to parking, height, setback, lot coverage, landscaping, and certain architectural requirements, which must be applied ministerially except where a property owner is seeking an exception to such standards.

SECTION 2: Section 17.08.415 (currently titled “Second unit”) of Chapter 17.08 (“Definitions”) is hereby amended as follows. Text in ~~strikeout~~ denotes deletions while text in underline denotes insertions.

17.08.415 — Second unit.

~~“Second unit” means an attached or detached residential dwelling unit on a lot zoned for residential use, which provides complete independent living accommodations and facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking and sanitation, on the same parcel as a legally established single-family dwelling. The second unit may be an efficiency unit or a manufactured home.~~

17.08.415 Accessory dwelling unit.

An Accessory Dwelling Unit (or “ADU” singular or “ADUs” plural) shall mean an attached or detached residential dwelling that is subordinate to a principal residence on the same lot, and

that provides complete independent living facilities for one or more persons. ADUs include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the principal residence. There are two categories of ADUs, distinguished by the size and location of the ADU and the extent to which the ADU results in a net increase in habitable floor space on the property. These categories are defined as follows:

(1) Standard ADUs (or “SADU” singular or “SADUs” plural) may be attached to the principal residence or may be a detached structure and include ADUs that meet any of the following criteria when constructed:

(A) A net increase in habitable floor space on a property; or

(B) A floor area exceeding 500 square feet; or

(C) Created within the footprint of an existing primary residence without incorporating an existing bedroom.

(2) Junior ADUs (or “JADU” singular or “JADUs” plural) include ADUs that meet all of the following criteria when constructed:

(A) No net increase in habitable floor space on a property; and

(B) A floor area of 500 square feet or less; and

(C) Contained entirely within the existing walls of an existing principal residence, and

(D) Created at least in part through the conversion of an existing bedroom.

SECTION 3: Section 17.16.030(K) (“Permitted Uses”) of Chapter 17.16 (“R RESIDENTIAL DISTRICTS”) is hereby amended as follows. Text in ~~strikeout~~ denotes deletions while text in underline denotes insertions.

~~K. Second units subject to the following conditions:~~

~~1. Construction of a second unit shall require a second unit permit, to be issued by planning staff. To apply for this permit, a site plan showing the entire parcel and all existing buildings on the parcel, together with floor plans and elevations of the proposed second unit, shall be submitted to the planning division, along with written verification from sanitary, water, power, and telephone districts and companies verifying that the utilities in the area are adequate to serve the second unit. Planning staff shall approve or deny the application for the permit based on the adequacy of utilities and compliance with the conditions listed in this section;~~

~~2. Second units shall meet all current zoning requirements applicable to a main structure;~~

- 3.— ~~Second units shall meet applicable construction codes requirements;~~
- 4.— ~~One uncovered parking space shall be provided for a second unit. This space may be provided in a required interior side yard providing all other off-street parking requirements are met;~~
- 5.— ~~Second units may be rented and shall not be sold as separate units or lots;~~
- 6.— ~~Second units shall only be permitted on lots already containing only a single-family detached unit;~~
- 7.— ~~No more than one second unit shall be allowed on a single lot;~~
- 8.— ~~A second unit shall not be allowed on lot with an existing guest house;~~
- 9.— ~~A second unit shall be no more than two hundred seventy-five square feet in floor area, excepting that where the first (existing) unit is larger than two thousand seven hundred fifty square feet in floor area, then the second unit may have a maximum floor area equal to ten percent of the floor area of the first (existing) unit or three hundred sixty square feet, whichever is less. Not more than ten percent of the floor area of the first (existing) unit shall be included as or converted into part of the second unit. For calculating these percentages, the floor area of a first (existing) unit is defined as not including carports, garages, or detached structures;~~
- 10.— ~~The second unit shall have not more than one bedroom and shall have no dens, studios, or the like;~~
- 11.— ~~Outside stairways to second-story second units attached to, within, or partly within the first (existing) unit shall not be at the front of the house;~~
- 12.— ~~Detached second units shall be located behind the first (existing) unit;~~
- 13.— ~~No second unit shall be permitted on any lot, which has less than the minimum site area required for its zoning district;~~
- 14.— ~~The second unit shall incorporate architectural features, building materials and colors which are similar to and compatible with the first (existing) unit and the character of the neighborhood, and shall maintain the scale and appearance of a single-family dwelling;~~

Accessory Dwelling Units subject to the following conditions:

(a) Regulations Applicable to All Accessory Dwelling Units (“ADUs”):

(1) Permitting Procedure. Any application for an ADU that meets the applicable location and development standards contained in Section 17.16.030 shall be subject to ministerial review and approval without discretionary review or public hearing. All permits shall be issued within 120 days of submission of a complete application for ADUs conforming to the provisions of this section.

(2) Building Permit Required. No ADU shall be established or maintained until there has been a building permit approved by the city. The application for the permit shall include:

(A) Site plan indicating the location of the principal residence, the location and type of the proposed ADU, and parking (for those ADUs where parking is required);

(B) Floor plans of the principal residence and proposed ADU;

(C) Elevations of all sides of the principal residence and ADU;

(3) Applicability of Fees.

(A) This ordinance shall not be construed to prohibit the City from adopting an ordinance or regulation relating to services or utility connection fees that applies to a single-family residence that contains an ADU so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether they include an ADU.

(B) Nothing in this section shall be construed so as to impact the connection or fees charged by other government entities.

(4) Locational Criteria

(A) In no case shall the total number of dwelling units exceed two (including the principal residence) on any lot wherein a principal single-family residence has been authorized.

(B) ADUs are not required to meet the density requirements of the General Plan or zoning ordinance and do not count toward the permissible number of units per acre (or required lot area per dwelling). However, ADUs shall otherwise be consistent with the General Plan text and diagrams as provided in California Government Code §65852.2.

(C) An ADU shall be located only within the area of the lot allowed for the principal residence as established by its zoning district, except as provided in Section 17.16.030.

(F) An ADU may be attached to the principal residence either created through conversion of existing floor area or addition of new floor area to the principal residence or may also be detached.

(G) An ADU shall not be counted in any ordinance, policy, or program to limit growth, such as, but limited to, the number of residential units permitted in a year.

(5) Occupancy Criteria.

(A) An ADU may be occupied as a separate single-family dwelling only if the legal owner of the lot occupies one of the dwellings located on the lot; otherwise, the ADU and the principal residence shall be occupied as if they were one single-family dwelling.

(B) The rental of ADUs for terms shorter than 30 days shall be prohibited.

(C) Nothing in this section shall be construed so as to limit the ADU or principal residence on the lot from remaining vacant.

(6) Size.

(A) An ADU must be a minimum of 150 square feet and may not exceed the lower of 600 square feet or 50 percent of the existing living area of the principal residence on the property.

(B) An ADU may not include more than one bedroom.

(7) Design.

(A) An ADU shall incorporate architectural features, building materials and colors that are compatible with the principal residence and the adjacent neighborhood.

(B) Outside stairways to the ADU shall not be in the front of the principal residence.

(C) If the ADU is visible from the public right of way it would be subject to the Single Family Design Review Process.

(8) Building Safety.

(A) A smoke alarm and carbon monoxide detector shall be installed in all ADUs.

(B) No fire sprinklers shall be required for the ADU, unless the associated improvements are required under the Newark Municipal Code, or are associated with a new detached ADU on a property where sprinklers would otherwise be required for a new single-family home.

(C) Permanent Foundation. A permanent foundation shall be required for all detached ADUs.

(D) This section shall not be construed so as to prohibit the city from adopting an ordinance or regulation relating to fire or life protection requirements for ADUs so long as the ordinance or regulation applies uniformly to all single-family homes within the zoning district regardless of whether the single-family residence has an ADU or not.

(9) Deed Restriction. A deed restriction, which shall run with the land, shall be filed and recorded with the County of Alameda for each ADU prior to the issuance of a building permit and shall include the following:

(A) A prohibition on the sale of the ADU separate from the sale of the principal residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) Occupancy restrictions and requirements, as specified in Section 17.16.030.

(C) A restriction on the size and attributes of the ADU that conforms with Section 17.16.030.

(b) Regulations Applicable to Standard Accessory Dwelling Units (“SADUs”)

(1) Location. A SADU may only be permitted where only one principal residence exists on the lot. SADUs are not permitted in duplexes, triplexes, or other buildings with more than one principal residence.

(2) Building Height. A SADU may not exceed the building height limitation applicable to the principal residence on the lot.

(3) Connection to Street. No passageway shall be required in conjunction with the construction of a SADU, unless such a connection is mandated by the Americans with Disabilities Act, or other State or Federal safety code or standard. A passageway is a pathway that is unobstructed and clear to the sky and that extends from the street to the door of the SADU.

(5) Separation. Except as noted in Section (6) below, detached SADUs must be separated from other habitable structures on site by at least ten (10) feet. The separation may be reduced to eight (8) feet if one structure is equipped with fire sprinklers or six (6) feet if both structures maintain fire sprinklers. Roof eave projections into this separation may be limited by applicable building code(s).

(6) Garage Conversions. An existing garage may only be converted to a SADU if the property will meet all applicable parking standards upon completion of the SADU. Setback requirements shall not apply to an existing garage that is converted to an ADU, provided that any walls within setback areas comply with applicable building and fire codes. In the event an ADU is constructed above an existing or newly constructed garage, a setback requirement of five feet from the side and rear property lines shall be required.

(7) Parking. One parking space per bedroom shall be required for a SADU, except as noted below:

(A) Required parking may be provided through any of the following methods:

- (i) conventional garages or carports;
- (ii) uncovered paved areas such as an extended driveway;
- (iii) tandem parking in an existing driveway; or
- (iv) parking on other locations on the property, unless specific findings are made that parking in setback areas is not feasible based upon life safety conditions. Mechanical lifts may be permitted where consistent with design review criteria.

(B) No off-street parking shall be required for a SADU in any of the following instances:

(i) The SADU is located within one-half mile of public transit. The term “public transit” shall mean transit service adequate to facilitate area residents’ reliance on transit for primary mobility. Factors used to determine adequacy include, but are not limited to, ridership, routing, frequency, and reliability. The City Council finds and declares that no area in Newark currently meets this definition of adequate public transit; however the City Council shall review this determination each time the Housing Element is updated;

(ii) The SADU is located within a designated architecturally and historically significant historic district or on a property that includes a register resource or potential register resource;

(iii) The SADU is located entirely within the existing principal residence or an existing habitable accessory structure and results in no net addition of habitable floor area on the property;

(iv) The SADU is located in an area where on-street parking permits are required, but are not offered to the occupants of the SADU;

(v) The SADU is located within one block of a designated parking area for one or more car-share vehicles available to the general public by subscription.

(C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a SADU, and replacement parking is required, the replacement parking spaces may be provided as in Section 17.16.030(K)(b)(7)(A) above.

(D) Although permitted by right in residential districts under this Chapter, in situations in which there is ninety percent (90%) overnight street parking occupancy within a one hundred fifty foot (150) foot radius of the subject property, the Council may, after review and consideration by the Planning Commission, issue a Conditional Use Permit pursuant to Chapter 17.72 to a property owner to construct a SADU. The City Council may, in its discretion, impose reasonable conditions, including, but not limited to, requiring existing covered parking be used for vehicle parking.

(8) Fees. SADUs resulting in a net increase in habitable floor area on a property may be subject to City impact fees that are proportionate to the burden of the proposed ADU on City services. However, under no circumstance may the SADU be considered equivalent to a new principal dwelling unit for the purpose of fee calculation.

(c) Junior Accessory Dwelling Units (JADUs)

The purpose of the Junior Accessory Dwelling Unit (JADU) regulations is to implement specific policies of the Housing Element of the Newark General Plan and specific provisions of State law authorizing the creation of JADUs. The intent of the JADU regulations is to expand the affordable rental housing stock through the repurposing of underutilized floor area in existing single-family homes.

(1) Applicability. Performance standards for JADUs shall apply in all single-family (R-1) residential zoning districts, on lots within those portions of planned districts allowing single-family dwellings, and on qualifying R-2, R-3, R-G and O-S lots developed with only one principal single-family dwelling.

(2) Development Standards.

(A) Number Per Lot. Only one JADU is permitted on a single-family residential lot. A JADU is not permitted if another ADU already exists on the property.

(B) Location. The JADU shall be constructed entirely within the existing walls of an existing single-family home and must incorporate an existing bedroom.

(C) Size. The JADU shall not exceed 500 square feet in size.

(D) Unit Access. The JADU shall include an exterior entrance that is separate from the main entrance to the single-family home. The exterior entry shall not be located on the front of the principal residence. If the exterior entry is on the second floor, the stairway shall not be located in the front of the principal residence. Interior access between the JADU and the principal residence is required, and can be a door equipped with a double lock. A second interior doorway may be provided for sound attenuation.

(E) Sanitation. A JADU may include a bathroom or may share bathroom facilities within the principal residence.

(F) Kitchen. The JADU shall include an efficiency kitchen, which shall include all of the following:

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

(ii) A cooking facility with appliances that do not require electrical service greater than 120 volts and that do not use propane gas.

(iii) A food preparation counter no less than six feet in length and storage cabinets that are of reasonable size in relation to the size of the JADU. The food preparation area may not be located in a closet.

(3) Parking. No additional off-street parking shall be required beyond that required for the principal residence. The principal residence shall meet the current off-street parking standard in effect at the time the JADU is approved.

(4) Building and Fire Code Requirements. For the purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate dwelling unit. No fire

wall separation or noise attenuation measures are required between the principal residence and the JADU.

SECTION 4: Section 17.08.143 (“Efficiency Unit”) of Chapter 17.08 (“Definitions”) is hereby deleted in its entirety. The strikeout is as follows:

17.08.143 — Efficiency unit.

~~“Efficiency unit” means a second unit with a minimum size of two hundred seventy-five square feet containing only one habitable room.~~

SECTION 5: CONFORMANCE WITH GENERAL PLAN

Pursuant to Section 17.80.070 of Title 17 (Zoning) of the City of Newark Municipal Code, the City Council does hereby find that the zoning change embodied in this ordinance is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Municipal Code; is consistent with the policies, goals and objectives of the General Plan; and promotes the public health, safety, morals, comfort, convenience, and general welfare of the residents of the City of Newark.

SECTION 6: SEVERABILITY

If any section, subsection, sentence, clause, or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Newark hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 7: CEQA

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs City staff to cause that a Notice of Exemption be filed with the Alameda County Clerk in accordance with CEQA guidelines.

SECTION 8: EFFECTIVE DATE

This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The What's Happening Tri City Voice, a newspaper of general circulation published and printed in the City of Fremont, County of Alameda and circulated in the City of Newark.

ATTACHMENT 3

Senate Bill 1069
(Wieckowski)

Senate Bill No. 1069

CHAPTER 720

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

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, Wieckowski. Land use: zoning.

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

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

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

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

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by AB 2299 that would become operative only

if AB 2299 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

The people of the State of California do enact as follows:

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

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

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) Accessory dwelling units (Sections 65852.150 and 65852.2).

(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

(l) Limiting moratoriums on multifamily housing (Section 65858).

(m) Prohibiting discrimination against affordable housing (Section 65008).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

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

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

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

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

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

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

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

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

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

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

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

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

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

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted

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

(i) The unit is made available for rent at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, “committed assistance” means that the city or county enters into a legally enforceable agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. “Committed assistance” does not include tenant-based rental assistance.

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

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

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city

or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

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

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

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

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

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

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

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

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction

within five years of the date the application for the attached housing development was deemed complete:

- (i) A general plan.
 - (ii) A revision or update to the general plan that includes at least the land use and circulation elements.
 - (iii) An applicable community plan.
 - (iv) An applicable specific plan.
- (D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.
- (E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.
- (F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.
- (b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.
- (c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.
- (d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.
- (e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).
- (f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

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

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

SEC. 4. Section 65852.150 of the Government Code is amended to read: 65852.150. (a) The Legislature finds and declares all of the following:

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

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

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

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

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state’s economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

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

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

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

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

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

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

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

maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days of submittal of a complete building permit application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions. This subdivision shall not apply to a unit that is described in subdivision (e).

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

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

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

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

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

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

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

(g) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

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

(A) For an accessory dwelling unit described in subdivision (f), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (f), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

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

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

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

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

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

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one

or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

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

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

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

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

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency

has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

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

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTACHMENT 4

Assembly Bill 2299
(Bloom)



Assembly Bill No. 2299

CHAPTER 735

An act to amend Section 65852.2 of the Government Code, relating to land use.

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2299, Bloom. Land use: housing: 2nd units.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. Existing law authorizes the ordinance to designate areas within the jurisdiction of the local agency where 2nd units may be permitted, to impose specified standards on 2nd units, and to provide that 2nd units do not exceed allowable density and are a residential use, as specified.

This bill would replace the term "second unit" with "accessory dwelling unit." The bill would, instead, require the ordinance to include the elements described above and would also require the ordinance to require accessory dwelling units to comply with specified conditions. This bill would require ministerial, nondiscretionary approval of an accessory dwelling unit under an existing ordinance. The bill would also specify that a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

Existing law requires that parking requirements for 2nd units not exceed one parking space per unit or per bedroom. Under existing law, additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the 2nd unit and are consistent with existing neighborhood standards applicable to residential dwellings.

This bill would delete the above-described authorization for additional parking requirements.

By increasing the duties of local officials with respect to land use regulations, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by SB 1069 that would become operative only if SB 1069 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

The people of the State of California do enact as follows:

SECTION 1. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

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

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

(C) Notwithstanding subparagraph (B), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(D) 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.

(E) 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.

(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.

(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.

(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.

(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 accessory dwelling units.

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

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

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed accessory dwelling units on lots zoned for residential use that contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision, 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.

(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 accessory dwelling units 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 units 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 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 a 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.

(d) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(e) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of accessory dwelling units, provided those requirements comply with subdivision (a).

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

(g) 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.

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

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

SEC. 1.5. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

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

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 1069. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 1069, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

ATTACHMENT 5

Assembly Bill 2406
(Thurmond)

Assembly Bill No. 2406

CHAPTER 755

An act to add Section 65852.22 to the Government Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2016. Filed with Secretary of State September 28, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2406, Thurmond. Housing: junior accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential areas, as prescribed.

This bill would, in addition, authorize a local agency to provide by ordinance for the creation of junior accessory dwelling units, as defined, in single-family residential zones. The bill would require the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements. The bill would prohibit an ordinance from requiring, as a condition of granting a permit for a junior accessory dwelling unit, additional parking requirements.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.22 is added to the Government Code, immediately following Section 65852.2, to read:

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.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow local jurisdictions the ability to promulgate ordinances that create secure income for homeowners and secure housing for renters, at the earliest possible time, it is necessary for this act to take effect immediately.

F.1 Acceptance of work with Bond Blacktop, Inc. for 2016 Street Slurry Seal Program, Project 1117 – from Associate Civil Engineer Tran. (RESOLUTION)

Background/Discussion – On July 14, 2016, the City of Newark awarded a contract to Bond Blacktop, Inc. for 2016 Street Slurry Seal Program, Project 1117. This project provided an application of sand, aggregate, and asphalt emulsion mixture and pavement re-striping on various City streets.

This project was completed on time and within the original budget using Alameda County Measure B Sales Tax funds, Vehicle Registration Fee funds, and the Traffic Congestion Relief Fund.

Attachment

Action - It is recommended that the City Council, by resolution, accept the work with Bond Blacktop, Inc. for 2016 Street Slurry Seal Program, Project 1117.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK ACCEPTING THE WORK WITH BOND
BLACKTOP, INC. FOR 2016 STREET SLURRY SEAL
PROGRAM, PROJECT 1117

WHEREAS, the City of Newark has entered into a contract with Bond Blacktop, Inc., for 2016 Street Slurry Seal Program, Project 1117, in the City of Newark, in accordance with plans and specifications for the contract; and

WHEREAS, said work has been completed in conformance with the plans and specifications of the contract hereinabove referred to and the conditions thereof;

NOW, THEREFORE, BE IT RESOLVED that said work is hereby accepted and the City Council does hereby authorize the release of bonds guaranteeing completion of the work, the filing of a Notice of Completion, and payment to the contractor pursuant to the contract.

J.1 Resolution of the City of Newark acting as the Successor Agency to the Newark Redevelopment Agency adopting and endorsing the Recognized Obligation Payment Schedule for the period of July 2017 to June 2018 (ROPS 17-18) and approving the Last and Final ROPS – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – Assembly Bill (AB) 1x26 and the subsequent amendment, AB 1484, require agencies to adopt a Recognized Obligation Payment Schedule (ROPS) for the Successor Agency to close out the obligations of the former Newark Redevelopment Agency. Health and Safety Code (HSC) also allows the Successor Agency to file for a Last and Final ROPS which lists all the requested payments to fully complete the payment schedule.

The Successor Agency and the Oversight Board have previously approved several ROPSs for periods between January 2012 and June 2017.

The only obligation remaining from the dissolution of the Newark Redevelopment Agency is the loan from the City to the Newark Redevelopment Agency. The State Department of Finance issued a Finding of Completion to the Successor Agency and the Oversight Board approved the repayment of the loan.

The outstanding debt on the loan is \$215,696. Per HSC section 34191.4 (b) (2), the Agency can request \$62,894 in Fiscal Year 2017-2018 for repayment of the loan. The Last and Final ROPS allows the Agency to list the estimated requested amounts for future years until the obligation is fully paid. The estimated amount used for each future year is the calculated amount for ROPS 17-18. The obligation will be completed in ROPS 20-21A (July –December 2020). The Oversight Board will not have to approve an annual resolution, but will need to meet one final time to approve the dissolution of the Successor Agency. Annual ROPS must be submitted until the Last and Final ROPS is approved which may take up to one hundred (100) days.

Upon approval by the Successor Agency, ROPS 17-18 and the Last and Final ROPS will be presented to the Oversight Board for consideration.

Attachment

Action - It is recommended that the City Council acting as the Successor Agency to the Newark Redevelopment Agency, by resolution, adopt and endorse the Recognized Obligation Payment Schedule for the period of July 2017 to June 2018 (ROPS 17-18) and approve the Last and Final Recognized Obligation Payment Schedule.

RESOLUTION NO. SA

RESOLUTION OF THE SUCCESSOR AGENCY TO THE
NEWARK REDEVELOPMENT AGENCY ADOPTING AND
ENDORING THE RECOGNIZED OBLIGATION PAYMENT
SCHEDULE FOR THE PERIOD OF JULY 2017 TO JUNE 2018
(ROPS 17-18) AND APPROVING THE LAST AND FINAL
RECOGNIZED OBLIGATION PAYMENT SCHEDULE

WHEREAS, on January 12, 2012, the City of Newark by Resolution No. 9910, duly adopted by the City Council, affirmatively and expressly elected to become the Successor Agency to the Newark Redevelopment Agency; and

WHEREAS, the Successor Agency is tasked with the responsibility of winding down the Redevelopment Agency's affairs and continuation to meet the former Redevelopment Agency's obligations; and,

WHEREAS, the Successor Agency has prepared and approved a Recognized Obligation Payment Schedule that details all financial obligations of the Successor Agency in winding down the activities of the former Newark Redevelopment Agency, for the period of July 1, 2017 to June 30, 2018 and a Last and Final Recognized Obligation Payment Schedule; and

NOW, THEREFORE, BE IT RESOLVED, by the Successor Agency to the Newark Redevelopment Agency, as follows:

SECTION 1. The above recitals are true and correct and are adopted as the findings of the Successor Agency.

SECTION 2. The Recognized Obligation Payment Schedule (ROPS 17-18), a copy of which is attached hereto, marked Exhibit "A", and incorporated herein by reference as if set forth at length, is hereby adopted.

SECTION 3. The Last and Final Recognized Obligation Payment Schedule, a copy of which is attached hereto, marked Exhibit "B", and incorporated herein by reference as if set forth at length, is hereby approved.

Recognized Obligation Payment Schedule (ROPS 17-18) - Summary

Filed for the July 1, 2017 through June 30, 2018 Period

Successor Agency:

Newark

County:

Alameda

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)		17-18A Total (July - December)	17-18B Total (January - June)	ROPS 17-18 Total
A	Enforceable Obligations Funded as Follows (B+C+D):	\$ -	\$ -	\$ -
B	Bond Proceeds	-	-	-
C	Reserve Balance	-	-	-
D	Other Funds	-	-	-
E	Redevelopment Property Tax Trust Fund (RPTTF) (F+G):	\$ 31,447	\$ 31,447	\$ 62,894
F	RPTTF	31,447	31,447	62,894
G	Administrative RPTTF	-	-	-
H	Current Period Enforceable Obligations (A+E):	\$ 31,447	\$ 31,447	\$ 62,894

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

_____	_____
Name	Title
/s/ _____	_____
Signature	Date

Newark Recognized Obligation Payment Schedule (ROPS 17-18) - Notes July 1, 2017 through June 30, 2018

Item #	Notes/Comments

Last and Final Recognized Obligation Payment Schedule (ROPS) - Summary
Filed for the July 1, 2017 through December 31, 2020 Period

Successor Agency:	Newark
County:	Alameda
Initial ROPS Period	ROPS 17-18A
Final ROPS Period	ROPS 20-21A

Requested Funding for Enforceable Obligations	Total Outstanding Obligation
A Enforceable Obligations Funded as Follows (B+C):	\$ -
B Bond Proceeds	-
C Other Funds	-
D Redevelopment Property Tax Trust Fund (RPTTF) (E+F):	\$ 215,696
E RPTTF	215,696
F Administrative RPTTF	-
G Total Outstanding Enforceable Obligations (A+D):	\$ 215,696

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named agency.

Name	Title
/s/ _____	
Signature	Date

Exhibit B

Newark Last and Final Recognized Obligation Payment Schedule (ROPS) - ROPS Detail
July 1, 2017 through December 31, 2020

A Period July - December					
ROPS Period	Fund Sources				Six-Month Total
	Bond Proceeds	Other Funds	RPTTF	Admin RPTTF	
	\$ -	\$ -	\$ 121,355	\$ -	\$ 121,355
ROPS 17-18A	-	-	31,447	-	\$ 31,447
ROPS 18-19A	-	-	31,447	-	\$ 31,447
ROPS 19-20A	-	-	31,447	-	\$ 31,447
ROPS 20-21A	-	-	27,014	-	\$ 27,014
ROPS 21-22A	-	-	-	-	\$ -
ROPS 22-23A	-	-	-	-	\$ -
ROPS 23-24A	-	-	-	-	\$ -
ROPS 24-25A	-	-	-	-	\$ -
ROPS 25-26A	-	-	-	-	\$ -
ROPS 26-27A	-	-	-	-	\$ -
ROPS 27-28A	-	-	-	-	\$ -
ROPS 28-29A	-	-	-	-	\$ -
ROPS 29-30A	-	-	-	-	\$ -
ROPS 30-31A	-	-	-	-	\$ -
ROPS 31-32A	-	-	-	-	\$ -
ROPS 32-33A	-	-	-	-	\$ -
ROPS 33-34A	-	-	-	-	\$ -
ROPS 34-35A	-	-	-	-	\$ -
ROPS 35-36A	-	-	-	-	\$ -
ROPS 36-37A	-	-	-	-	\$ -
ROPS 37-38A	-	-	-	-	\$ -
ROPS 38-39A	-	-	-	-	\$ -
ROPS 39-40A	-	-	-	-	\$ -
ROPS 40-41A	-	-	-	-	\$ -
ROPS 41-42A	-	-	-	-	\$ -
ROPS 42-43A	-	-	-	-	\$ -
ROPS 43-44A	-	-	-	-	\$ -
ROPS 44-45A	-	-	-	-	\$ -
ROPS 45-46A	-	-	-	-	\$ -
ROPS 46-47A	-	-	-	-	\$ -

B Period January - June						
ROPS Period	Fund Sources				Six-Month Total	Twelve-Month Total
	Bond Proceeds	Other Funds	RPTTF	Admin RPTTF		
	\$ -	\$ -	\$ 94,341	\$ -	\$ 94,341	\$ 215,696
ROPS 17-18B	-	-	31,447	-	\$ 31,447	\$ 62,894
ROPS 18-19B	-	-	31,447	-	\$ 31,447	\$ 62,894
ROPS 19-20B	-	-	31,447	-	\$ 31,447	\$ 62,894
ROPS 20-21B	-	-	-	-	\$ -	\$ 27,014
ROPS 21-22B	-	-	-	-	\$ -	\$ -
ROPS 22-23B	-	-	-	-	\$ -	\$ -
ROPS 23-24B	-	-	-	-	\$ -	\$ -
ROPS 24-25B	-	-	-	-	\$ -	\$ -
ROPS 25-26B	-	-	-	-	\$ -	\$ -
ROPS 26-27B	-	-	-	-	\$ -	\$ -
ROPS 27-28B	-	-	-	-	\$ -	\$ -
ROPS 28-29B	-	-	-	-	\$ -	\$ -
ROPS 29-30B	-	-	-	-	\$ -	\$ -
ROPS 30-31B	-	-	-	-	\$ -	\$ -
ROPS 31-32B	-	-	-	-	\$ -	\$ -
ROPS 32-33B	-	-	-	-	\$ -	\$ -
ROPS 33-34B	-	-	-	-	\$ -	\$ -
ROPS 34-35B	-	-	-	-	\$ -	\$ -
ROPS 35-36B	-	-	-	-	\$ -	\$ -
ROPS 36-37B	-	-	-	-	\$ -	\$ -
ROPS 37-38B	-	-	-	-	\$ -	\$ -
ROPS 38-39B	-	-	-	-	\$ -	\$ -
ROPS 39-40B	-	-	-	-	\$ -	\$ -
ROPS 40-41B	-	-	-	-	\$ -	\$ -
ROPS 41-42B	-	-	-	-	\$ -	\$ -
ROPS 42-43B	-	-	-	-	\$ -	\$ -
ROPS 43-44B	-	-	-	-	\$ -	\$ -
ROPS 44-45B	-	-	-	-	\$ -	\$ -
ROPS 45-46B	-	-	-	-	\$ -	\$ -
ROPS 46-47B	-	-	-	-	\$ -	\$ -



City of Newark

MEMO

DATE: January 3, 2017
TO: City Council
FROM: Sheila Harrington, City Clerk *S.H.*
SUBJECT: Approval of Audited Demands for the City Council Meeting of January 12, 2017.

REGISTER OF AUDITED DEMANDS

Bank of America General Checking Account

<u>Check Date</u>		<u>Check Numbers</u>	
December 01, 2016	Page 1-2	109656 to 109720	Inclusive
December 09, 2016	Page 1-2	109721 to 109819	Inclusive
December 15, 2016	Page 1-2	109820 to 109878	Inclusive



City of Newark

MEMO

DATE: January 3, 2017

TO: Sheila Harrington, City Clerk

FROM: Susie Woodstock, Administrative Services Director *S. Woodstock*

SUBJECT: Approval of Audited Demands for the City Council Meeting of January 12, 2017.

The attached list of Audited Demands is accurate and there are sufficient funds for payment.

Final Disbursement List. Check Date 12/01/16, Due Date 12/12/16, Discount Date 12/12/16. Computer Checks.

Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109656	10658	4LEAF INC	12/01/16	17,156.94	BLDG INSPECTION SERVICES
109657	10736	ABACUS PRODUCTS INC	12/01/16	329.30	CITY LETTERHEAD/ENVELOPES
109658	10027	AD SERVICES	12/01/16	95.00	COURIER SRVCS
109659	1396	ALAMEDA COUNTY FIRE DEPARTMENT ATTN: ACC	12/01/16	783,770.75	FIRE SERVICES
109660	3703	ALAMEDA COUNTY HOUSING AND COMMUNITY DEV	12/01/16	750.00	MCC ADMIN FEE 2016
109661	218	ALAMEDA COUNTY LIBRARY ATTN: DARSHAN CHA	12/01/16	8,334.00	CITY/COUNTY AGREEMENT ADDT'L LIBRARY SER
109662	287	ALAMEDA COUNTY SHERIFF'S OFFICE GREGORY	12/01/16	1,601.25	CRIME LAB FEES
109663	284	INFORMATION TECHNOLOGY DEPARTMENT ATTN:	12/01/16	2,624.76	AWS ACCESS FEES
109664	9144	MICHAEL ALLUM	12/01/16	917.01	RESERVE COORDINATOR
109665	1078	AMERICAN STAGE TOURS ATTN CHARTER SALES	12/01/16	2,223.00	HOLIDAY SWEETS & GOODIES TRIP - 11/18/16
109666	11445	ASPEN ENVIRONMENTAL GROUP	12/01/16	1,715.50	PROFESSIONAL SERVICES
109667	348	AT&T	12/01/16	134.04	MONTHLY TELECOM NOV16
109668	1085	AT&T	12/01/16	39.50	ATT LONG DISTANCE NOV16
109669	11002	JENNIFER BLOOM	12/01/16	959.56	EXPENSE REIMBURSEMENT
109670	6533	CA POLICE CHIEFS ASSOC	12/01/16	40.00	IACP NETWORKING FEES
109671	1816	CA SURVEYING & DRAFTING SUPPLY	12/01/16	755.56	TECH MAINT
109672	33	CENTRAL TOWING & TRANSPORT LLC	12/01/16	181.25	TOWING SERVICES
109673	214	CENTRAL VETERINARY HOSPITAL	12/01/16	1,199.15	VET SVCS
109674	458	CHEVRON AND TEXACO BUSINESS CARD SERVICE	12/01/16	570.82	FUEL CHARGES
109675	461	CHINESE JOURNAL LLC	12/01/16	2,101.92	LEGAL AD
109676	10060	COMCAST	12/01/16	114.01	CABLE TV
109677	160	CPOA CALIFORNIA PEACE OFFICERS' ASSOCIAT	12/01/16	1,500.00	CPOA MEMB
109678	160	CPOA CALIFORNIA PEACE OFFICERS' ASSOCIAT	12/01/16	90.00	PATROL POST TRAINING
109679	10650	PATRICIA FRETTE	12/01/16	30.00	OVERPAYMENT REIMBURSEMENT
109680	10649	MIGUEL A. CORRAL MARTHA CORRAL	12/01/16	1,000.00	PERFORMANCE BOND RTN EP# ENCP2015-0058
109681	10793	THUY FONTELEIRA	12/01/16	300.00	RENTAL DEPOSIT REFUND
109682	10793	CYLEB BURTON	12/01/16	157.50	RENTAL DEPOSIT REFUND
109683	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	12/01/16	40.00	LEGAL ADS
109684	10794	DUKE DE LEON	12/01/16	210.00	VIDEO RECORDING SERVICES
109685	11404	ALHAMBRA	12/01/16	483.11	WATER SERVICE
109686	10478	EUGENE'S HOME APPLIANCE SERVICE	12/01/16	291.20	APPLIANCE REPAIR
109687	10642	FASTENAL COMPANY	12/01/16	41.62	HARDWARE & FASTENERS
109688	522	FEDEX	12/01/16	29.75	FEDEX CHARGES FOR CIP PROJECT 1066, ENTE
109689	1733	FIRST BAPTIST CHURCH	12/01/16	80.00	PAYROLL DEDUCTION - DONATION NOV'16
109690	550	FREMONT RUBBER STAMP CO INC	12/01/16	77.78	STAMPERS/DESK SIGNS
109691	11418	FRIENDS OF CHILDREN WITH SPECIAL NEEDS	12/01/16	100.00	SENIOR CENTER ENTERTAINMENT
109692	4845	HINDERLITTER DELLAMAS & ASSOCIATES	12/01/16	21,023.07	SALES TAX CONSULTING/AUDIT SERVICES
109693	11438	FRANK HERBERT	12/01/16	116.84	EXPENSE REIMBURSEMENT
109694	11123	I PIZZA	12/01/16	707.00	PIZZAS FOR CAFE AND PARTIES
109695	11170	KEYSER MARSTON ASSOC, INC	12/01/16	6,307.50	CONTRACT SERVICES
109696	293	LANGUAGE LINE SERVICES INC	12/01/16	230.53	INTERPRETATION SVCS
109697	80	LYNN PEAVEY COMPANY	12/01/16	489.36	EVIDENCE SUPPLIES
109698	11439	MACBRIDE OFFICE FURNITURE	12/01/16	2,137.79	PROJECT 1151 - PD ANNEX WORK STATION UPG
109699	11435	MAXIM SERVICES LTD	12/01/16	4,000.00	POWER WASH CONCRETE
109700	9029	MEYERS NAVE RIBACK SILVER & WILSON	12/01/16	8,197.50	LITIGATION & CONSULTING SRVC
109701	11357	MISSION UNIFORM SERVICE	12/01/16	1,967.54	UNIFORMS, TOWELS & MATS
109702	11455	NATIONAL DATA & SURVEYING SERVICES, INC.	12/01/16	810.00	TRAFFIC STUDY SERVICES
109703	3655	ROBERT NORVELL	12/01/16	685.58	EXPENSE REIMBURSEMENT
109704	349	PACIFIC GAS & ELECTRIC	12/01/16	19,991.45	PG&E COSTS FOR STREETLIGHTS AND TRAFFIC
109705	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	12/01/16	354.00	PEST CONTROL
109706	11412	PROSHRED SFBA	12/01/16	105.00	SHREDDING SVCS - 11/16

Final Disbursement List. Check Date 12/01/16, Due Date 12/12/16, Discount Date 12/12/16. Computer Checks.

Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109707	10864	JEFF REVAY	12/01/16	1,051.55	EXPENSE REIMBURSEMENT
109708	11187	OSKAR REYES	12/01/16	8,927.10	ADPP - 09/16-11/16
109709	11373	RRM DESIGN GROUP	12/01/16	5,593.32	NEWARK ZONING CODE UPDATE
109710	10116	SAFETY COMPLIANCE MANAGEMENT	12/01/16	495.00	SAFETY TRAINING
109711	5164	SAN MATEO REGIONAL NETWORK INC SMRN.COM	12/01/16	170.00	WEB HOSTING, EMAIL FILTERING, & NETWORK
109712	10317	AARON SLATER	12/01/16	523.24	EXPENSE REIMBURSEMENT
109713	4418	SMITH & SONS ELECTRICAL CONTRACTORS INC	12/01/16	9,670.04	PROJECT 1071 - CITYWIDE BUILDING UPGRADE
109714	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	12/01/16	440.00	PAYROLL DEDUCTION - GARNISHMENT
109715	676	SUMMIT UNIFORMS CORP	12/01/16	838.21	VEST EQUIP REPL; APPROVAL #2017-13
109716	129	TJKM	12/01/16	1,575.00	CIP PROJECT 1066:TRAFFIC ENGINEERING CON
109717	4639	TREASURER OF ALAMEDA COUNTY PUBLIC WORKS	12/01/16	69,173.00	ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM C
109718	5623	VERIZON WIRELESS	12/01/16	418.11	SERVICE FOR IPADS
109719	11437	JOYCE WANG	12/01/16	297.50	EXPENSE REIMBURSEMENT
109720	143	WILCO SUPPLY P O BOX 3047	12/01/16	59.65	LOCKS & SUPPLIES
Total				996,399.16	

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Final Disbursement List. Check Date 12/09/16, Due Date 01/03/17, Discount Date 01/03/17. Computer Checks.

Bank 1001 US BANK

MECR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109721	10736	ABACUS PRODUCTS INC	12/09/16	1,289.63	CITY LETTERHEAD/ENVELOPES
109722	149	ABAG PLAN CORPORATION	12/09/16	15,521.51	DEDUCTIBLE COSTS FOR PY 16/17 (PROPERTY/
109723	11094	ACME AUTO LEASING, LLC	12/09/16	1,909.44	ARMORED RESCUE VEH LEASE 12/16
109724	332	ADAMSON POLICE PRODUCTS	12/09/16	38.26	POLICE SUPPLIES
109725	10449	AFLAC ATTN: REMITTANCE PROCESSING SERVIC	12/09/16	1,557.58	PAYROLL - SHORT TERM DISABILITY PREMIUM
109726	1774	AIRGAS USA, LLC	12/09/16	55.43	WELDING SUPPLIES
109727	803	ACCOPSA JANE MANZO/ALAMEDA COUNTY SHERIF	12/09/16	900.00	ALCO CHIEFS ASSOC SEMINAR
109728	5821	ALL CITY MANAGEMENT SERVICES, INC	12/09/16	3,591.00	CROSSING GUARD SVCS 10/23-11/05/16
109729	12	ALLIED AUTO STORES INC	12/09/16	13.29	AUTO SUPPLIES
109730	411	AIG BENEFIT SOLUTIONS	12/09/16	690.00	ANNUAL PO FOR EMPLOYEE LIFE INSURANCE
109731	9928	KATRINA ARMSTRONG	12/09/16	96.20	EXPENSE REIMBURSEMENT
109732	11227	GUSTAVO ARROYO	12/09/16	334.75	EXPENSE REIMBURSEMENT
109733	11433	AUTOWISE	12/09/16	993.13	AUTO PARTS/SERVICE/REPAIR
109734	134	BATTERY SYSTEMS INC ATTN: ACCOUNTS RECHI	12/09/16	385.10	BATTERIES
109735	9680	BAY CENTRAL PRINTING	12/09/16	127.32	BUSINESS CARD IMPRINTING
109736	3947	BOND BLACKTOP INC	12/09/16	62,012.39	CIP PROJECT #1117 (2016 STREET SLURRY SE
109737	11457	SARAH BOWAB	12/09/16	18.96	EXPENSE REIMBURSEMENT
109738	3665	BRUCE'S TIRE	12/09/16	1,188.42	TIRE PURCHASE/REPAIR
109739	9888	BUREAU VERITAS NORTH AMERICA INC	12/09/16	13,955.86	BLDG PLAN REVIEW SERVICES
109740	1513	BURTON'S FIRE INC	12/09/16	31.68	FIRE ENGINE SERVICE/REPAIR
109741	882	CLEAR, INC. PALO ALTO POLICE DEPT. ATTN	12/09/16	50.00	CLEAR MEMB
109742	10261	CARBONIC SERVICE	12/09/16	152.91	CO2 PURCHASES
109743	1380	CHRISP COMPANY	12/09/16	7,196.25	CIP PROJECT #1159 THERMOPLASTIC STREET S
109744	11413	CINDY K. HULL & ASSOCIATES FORENSIC CONS	12/09/16	1,850.00	LATENT PRINTS
109745	6304	CLASSIC GRAPHICS T & J LEWIS INC	12/09/16	2,538.24	AUTO BODY REPAIRS/DECALS
109746	10970	COCA COLA REFRESHMENTS UNION CITY SALES	12/09/16	604.68	CAFE PURCHASES
109747	10060	COMCAST	12/09/16	89.95	CABLE AT THE SERVICE CENTER
109748	7633	CONTRA COSTA COUNTY SHERIFF'S OFFICE LAW	12/09/16	235.00	PATROL POST TRAINING
109749	1109	CAPITAL ONE COMMERCIAL	12/09/16	1,112.40	SUPPLIES
109750	242	CROP PRODUCTION SERVICES	12/09/16	2,803.20	PESTICIDES/CHEMICALS
109751	11032	CUBE SOLUTIONS	12/09/16	454.87	CIP #1108 CITYWIDE WORKSTATION - OFFICE
109752	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	12/09/16	226.25	LEGAL ADS
109753	41	DALE HARDWARE	12/09/16	344.45	MISC. MAINTENANCE PARTS/SUPPLIES
109754	63	THE GOODYEAR TIRE & RUBBER CO	12/09/16	728.87	TIRE PURCHASE
109755	7631	DELTA DENTAL	12/09/16	7,029.29	PAYROLL - DENTAL PREMIUM DEC'16
109756	7641	DELTA DENTAL INSURANCE COMPANY ATTN: ACC	12/09/16	462.87	PAYROLL - DENTAL PREMIUM DEC'16
109757	3130	DOWNTOWN FORD SALES	12/09/16	47,698.98	PROJECT 1149 NEW VEHICLES FOR BUILDING &
109758	10772	MARVIN RAMIREZ EL REPORTERO	12/09/16	399.96	LEGAL ADVERTISING
109759	10478	EUGENE'S HOME APPLIANCE SERVICE	12/09/16	85.00	APPLIANCE REPAIR
109760	7663	FIDELITY SECURITY LIFE INSURANCE/EYEMED	12/09/16	676.95	VISION PREMIUM
109761	10642	FASTENAL COMPANY	12/09/16	76.38	HARDWARE & FASTENERS
109762	522	FEDEX	12/09/16	8.43	PACKAGE DELIVERY
109763	5106	CITY OF FREMONT REVENUE DIVISION	12/09/16	9,062.30	SHELTER OPERATING EXPS
109764	550	FREMONT RUBBER STAMP CO INC	12/09/16	49.98	STAMPERS/DESK SIGNS
109765	313	FREMONT URGENT CARE CENTER	12/09/16	54.00	PRE-EMPLOYMENT/DOT PHYSICALS
109766	11157	JASON GERMANO	12/09/16	200.00	RESERVE UNIF ALLOWANCE
109767	8762	GHA TECHNOLOGIES INC	12/09/16	3,999.50	PDF SOFTWARE CITYWIDE (QTY 50)
109768	10999	GURUS EDUCATIONAL SERVICES RITA KHURANA	12/09/16	507.50	RECREATION CONTRACT
109769	167	HARRIS COMPUTER SYSTEMS	12/09/16	3,232.28	SELECT FINANCIALS ERP MAINTENANCE
109770	7563	HILLYARD / SAN FRANCISCO	12/09/16	109.33	CLEANING PRODUCTS
109771	1591	PHILIP H HOLLAND	12/09/16	200.00	RESERVE UNIF ALLOWANCE

Final Disbursement List. Check Date 12/09/16, Due Date 01/03/17, Discount Date 01/03/17. Computer Checks.

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MI Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109772	1457	HOME DEPOT CREDIT SERVICES DEPT 32-25409	12/09/16	1,128.58	MISC. MAINTENANCE PARTS/SUPPLIES
109773	7593	BRUCE HOWCROFT	12/09/16	200.00	RESERVE UNIF ALLOWANCE
109774	11123	I PIZZA	12/09/16	566.10	PIZZAS
109775	9614	ICLEI - LOCAL GOVERNMENT FOR SUSTAINABIL	12/09/16	600.00	MEMBERSHIP FOR CY2017
109776	3866	JAM SERVICES INC	12/09/16	2,080.50	CIP PROJECT 975:TRAFFIC SIGNAL PARTS
109777	6009	JT2 INTEGRATED RESOURCES CORPORATE ACCOU	12/09/16	3,573.03	WORKER'S COMP ADMINISTRATION COST
109778	10486	SHAKATI KHALSA	12/09/16	216.00	RECREATION CONTRACT
109779	9904	CYNTHIA M KIRBY	12/09/16	3,600.00	POLYGRAPH TEST FEES
109780	7964	KNORR SYSTEMS INC	12/09/16	468.00	SWIMMING POOL PARTS & REPAIRS
109781	11446	LAMINATION KING LLC	12/09/16	3,376.25	LAMINATOR
109782	80	LYNN PEAVEY COMPANY	12/09/16	402.22	EVIDENCE SUPPLIES
109783	10298	MANAGED HEALTH NETWORK BANK OF AMERICA	12/09/16	384.40	EMPLOYEE ASSISTANCE PROGRAM
109784	10306	MB CONTRACT FURNITURE INC	12/09/16	988.57	CHAIRS FOR THE SENIOR CENTER
109785	7618	METLIFE SBC	12/09/16	1,830.40	PAYROLL - LONG TERM DISABILITY PREMIUM
109786	6	KAREN MORALDA	12/09/16	30.24	EXPENSE REIMBURSEMENT
109787	1409	LAWRENCE E MURPHY PHD CONSULTING PSYCHOL	12/09/16	2,100.00	PSYCHOLOGICAL EVALUATIONS
109788	324	NEWARK CHAMBER OF COMMERCE	12/09/16	1,610.00	MEMBERSHIP RENEWAL
109789	10963	BERNIE NILLO	12/09/16	543.33	NATIONAL CHILD PASSENGER SAFETY CERT
109790	10961	BRETT OEVERNDIEK	12/09/16	52.67	EXPENSE REIMBURSEMENT
109791	9333	OSHKOSH CAPITAL	12/09/16	60,457.00	LEASE PAYMENT - 12/20/15-12/19/16
109792	5190	PACIFIC COAST SEED INC	12/09/16	4,982.25	PROJECT 1138 / PARK RENOVATION
109793	349	PACIFIC GAS & ELECTRIC	12/09/16	59.58	STREETLIGHTS AND TRAFFIC SIGNALS
109794	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	12/09/16	175.00	PEST CONTROL
109795	11346	PHAN'S SMOG STATION	12/09/16	40.00	VEHICLE SMOG CHECK
109796	329	PHOENIX GROUP INFORMATION SYSTEMS	12/09/16	399.10	PARKING CITATION PROGRAM
109797	10683	PITNEY BOWES GLOBAL FINANCIAL SRVCS	12/09/16	1,687.76	MAILING MACHINE LEASE AGREEMENT / POSTAG
109798	4346	QUALITY SIGN & BANNER	12/09/16	6.57	SIGNS & BANNERS
109799	4176	MICHAEL QUEBEC	12/09/16	843.00	RECREATION CONTRACT
109800	11234	RAY MORGAN COMPANY	12/09/16	2,916.18	COPIER LEASE AGREEMENT
109801	11369	REBECCA HIBBS	12/09/16	38.02	EXPENSE REIMBURSEMENT
109802	7885	RENNE SLOAN HOLTZMAN SAKAI PUBLIC LAW GR	12/09/16	7,451.65	LITIGATION & CONSULTING SRVC
109803	11403	ROYSTON HANAMOTO ALLEY & ABEY DBA RHAA	12/09/16	8,563.75	NEWARK PARKS MASTER PLAN - 10/16
109804	654	SFPUC-WATER DEPARTMENT CUSTOMER SERVICE	12/09/16	3,035.70	RENT / WATER
109805	112	WILLE ELECTRICAL SUPPLY CO INC	12/09/16	2,095.28	ELECTRICAL SUPPLIES
109806	11098	SILVER & WRIGHT LLP	12/09/16	4,438.65	LITIGATION & CONSULTING SRVCS
109807	377	SIMON & COMPANY INC	12/09/16	1,747.70	LEGISLATIVE SERVICES
109808	40	STAPLES ADVANTAGE DEPT LA	12/09/16	2,446.04	OFFICE SUPPLIES
109809	676	SUMMIT UNIFORMS CORP	12/09/16	495.95	POLICE TRAINEE UNIFORMS
109810	9476	YSERCO INC	12/09/16	932.50	AUTOMATIC HVAC CONTROLS - SILLIMAN
109811	1765	TEMPERATURE TECHNOLOGY INC	12/09/16	355.00	HVAC SERVICE
109812	7517	U S FOODS INC SAN FRANCISCO	12/09/16	602.12	CAFE PURCHASES
109813	363	UNITED STATES POSTMASTER	12/09/16	2,520.00	DELIVERY OF CITY NEWSLETTER
109814	8751	PROVIDENT LIFE & ACCIDENT INSURANCE COMP	12/09/16	261.24	PAYROLL PREMIUMS - E0246926
109815	10968	UTILITY TELEPHONE	12/09/16	15,792.32	MONTHLY TELECOM NOV16
109816	5623	VERIZON WIRELESS	12/09/16	5,723.74	IPHONE SVC
109817	11437	JOYCE WANG	12/09/16	264.45	EXPENSE REIMBURSEMENT
109818	339	WASHINGTON HOSPITAL GENERAL ACCOUNTING	12/09/16	525.00	LAB TESTS
109819	5050	WEST COAST ARBORISTS INC	12/09/16	1,880.00	PROJECTS 1009C / 1096 STREET TREE MAINTEN
Total				351,435.61	

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Final Disbursement List. Check Date 12/15/16, Due Date 01/17/17, Discount Date 01/17/17. Computer Checks.

Bank 1001 US BANK

Check#	MICR Vendor Number	Payee	Check Date	Check Amount	Description
109820	10736	ABACUS PRODUCTS INC	12/15/16	713.47	CITY LETTERHEAD/ENVELOPES
109821	10223	LEXISNEXIS RISK SOLUTIONS ACCT# 1415640	12/15/16	428.40	BACKGROUND CHECKS
109822	332	ADAMSON POLICE PRODUCTS PROFESSIONAL POL	12/15/16	6,430.58	POLICE SUPPLIES
109823	3853	COUNTY OF ALAMEDA INTERNAL AUDIT UNIT RI	12/15/16	2,361.00	CITATION PROCESSING FEES - NOV'16
109824	3835	TREASURER OF ALAMEDA COUNTY PUBLIC WORKS	12/15/16	1,732.14	CIP PROJECT 1116, 2016 ASPHALT CONCRETE
109825	344	ALAMEDA COUNTY WATER DISTRICT	12/15/16	1,738.19	WATER USAGE
109826	11270	ARBORWELL	12/15/16	3,300.00	DECORATIVE LIGHTING
109827	147	AT&T MOBILITY	12/15/16	1,983.46	CELL SVC FOR MDT'S 10/14-11/13/16
109828	10990	BADAWI & ASSOCIATES	12/15/16	26,303.85	AUDITING SERVICES FY15/16
109829	1131	BAY ISLAND OFFICIALS ASSOCIATION ATTN FR	12/15/16	826.00	SPORTS OFFICIATING
109830	5122	JEREMY BECK	12/15/16	946.98	EXPENSE REIMBURSEMENT
109831	7275	PETER BEIREIS	12/15/16	149.67	EXPENSE REIMBURSEMENT
109832	9396	BMI GENERAL LICENSING	12/15/16	336.00	LICENSING FEE
109833	3947	BOND BLACKTOP INC	12/15/16	23,314.23	CIP PROJECT #1117 (2016 STREET SLURRY SE
109834	9150	CAL-WEST LIGHTING & SIGNAL MAINTENANCE I	12/15/16	8,859.48	STREETLIGHT AND TRAFFIC SIGNAL MAINTENAN
109835	214	CENTRAL VETERINARY HOSPITAL	12/15/16	282.25	VET SVCS
109836	373	CITY CLERKS ASSOCIATION OF CALIFORNIA CC	12/15/16	130.00	2017 RENEWAL
109837	10793	SOUTHERN ALAMEDA COUNTY RADIO CONTROLLER	12/15/16	300.00	RENTAL DEPOSIT REFUND
109838	10793	CHI PHAM	12/15/16	300.00	RENTAL DEPOSIT REFUND
109839	5012	DLT SOLUTIONS, LLC	12/15/16	1,067.66	AUTODESK AUTOCAD RENEWAL FOR 2017
109840	10904	EAST BAY REFRIGERATION	12/15/16	356.85	REFRIGERATOR MAINT
109841	11431	EXTENDED STAY AMERICA	12/15/16	4,881.18	PATROL POST TRAINING
109842	153	FOLGERGRAPHICS, INC	12/15/16	8,324.74	PRINTING OF REC & CS ACT. GUIDES
109843	1120	FORENSIC ANALYTICAL SCIENCES, INC	12/15/16	93.00	LAB TESTS
109844	7351	KARL FREDSTROM	12/15/16	100.24	EXPENSE REIMBURSEMENT
109845	5106	CITY OF FREMONT REVENUE DIVISION	12/15/16	1,250.00	NEWARK CASE MGMT
109846	11112	FREMONT DEL GRANDE INC	12/15/16	101,588.81	DEALERSHIP INCENTIVES 07/01-09/30/16
109847	10983	G BORTOLOTTO & CO INC	12/15/16	50,935.83	CIP #1116 AC OVERLAY
109848	4321	GOLDEN STATE WARRIORS	12/15/16	3,668.00	JR. WARRIORS UNIFORMS
109849	11241	GRYPHON TRAINING GROUP	12/15/16	320.00	PATROL NONPOST TRAINING
109850	11123	I PIZZA	12/15/16	428.50	PIZZAS FOR CAFE AND PARTIES
109851	11443	HIROSHI ICHIMURA	12/15/16	1,335.00	RECREATION CONTRACT
109852	11460	JASON IMAI	12/15/16	95.00	EXPENSE REIMBURSEMENT
109853	3866	JAM SERVICES INC	12/15/16	5,494.25	STREETLIGHT PARTS
109854	73	THE ED JONES CO INC	12/15/16	1,339.95	BADGES & INSIGNIA
109855	6690	KELLY MOORE PAINTS	12/15/16	222.27	SPECIALTY PAINT
109856	3644	RELX INC. DBA LEXISNEXIS	12/15/16	176.00	ONLINE LEGAL RESOURCE SUBSCRIPTION
109857	7189	LINCOLN EQUIPMENT INC	12/15/16	7,100.64	CHEMICAL AND POOL EQUIPMENT
109858	11246	LOOMIS ARMORED	12/15/16	261.08	ARMORED CAR SERVICE
109859	6596	CHOMNAN LOTH	12/15/16	406.65	EXPENSE REIMBURSEMENT
109860	9029	MEYERS NAVE RIBACK SILVER & WILSON	12/15/16	7,906.00	LITIGATION & CONSULTING SRVC
109861	11378	MNS ENGINEERS INC	12/15/16	61,077.50	ENGINEERING CONSULTANT SERVICES
109862	5046	MOTOROLA SOLUTIONS, INC	12/15/16	10,688.33	PORTABLE RADIO BATTERIES
109863	611	KKR AUTOMOTIVE DBA NAPA AUTO PARTS	12/15/16	1,876.01	AUTO PARTS
109864	11325	OFFICE RELIEF, INC.	12/15/16	131.07	ERGONOMIC MOUSE
109865	349	PACIFIC GAS & ELECTRIC	12/15/16	53.77	STREETLIGHTS AND TRAFFIC SIGNALS
109866	9842	REDWOOD VETERINARY CLINIC	12/15/16	354.88	CANINE PROGRAM
109867	11373	RRM DESIGN GROUP	12/15/16	7,704.18	NEWARK ZONING CODE UPDATE
109868	1204	S & J SALES JERRY LANDES	12/15/16	6,486.75	UPS BATTERIES REPLACEMENT; APPROVAL #201
109869	10137	LISA CORTI	12/15/16	32,011.49	ADPP - 06/16-12/16
109870	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	12/15/16	440.00	PAYROLL DEDUCTION - GARNISHMENT

Final Disbursement List. Check Date 12/15/16, Due Date 01/17/17, Discount Date 01/17/17. Computer Checks.

Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109871	11142	SUN RIDGE SYSTEMS INC	12/15/16	54,757.00	CAD MAINT AGREEMENT
109872	3796	SWRCB FEES SWRCB ACCOUNTING OFFICE	12/15/16	14,966.00	ANNUAL STORMWATER PERMIT FEES (FY16-17)
109873	5463	MARY TEIXEIRA	12/15/16	9.18	EXPENSE REIMBURSEMENT
109874	6797	US BANK CORPORATE PAYMENT	12/15/16	12,495.56	US BANK CC PAYMENT 11/22/16
109875	10998	GARY M SHELDON VBS SERVICES	12/15/16	250.00	BLOOD WITHDRAWAL SVC
109876	5623	VERIZON WIRELESS	12/15/16	93.62	GPS TRACKERS
109877	140	VISTA UNIVERSAL INC	12/15/16	799.95	PARK HIGH LIGHT REPAIRS
109878	10822	WEE HOOP INC C/O DINAH SHAH	12/15/16	402.00	RECREATION CONTRACT
		Total		482,384.64	

**M.1 Closed session pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: City Manager.**

Background/Discussion – City Manager Becker has requested that the City Council convene in closed session pursuant to Government Code Section 54957 for a performance evaluation.