City Council Meeting
04-12-21
**Item 7.B.**

# Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Mary Linden, Executive Assistant

Approved by: Reva Feldman, City Manager

Date prepared: March 31, 2021 Meeting date: April 12, 2021

Subject: SB 55 and SB 765 – SUPPORT and Request for State Audit of Metropolitan Water District of Southern California (Mayor Pro Tem Grisanti)

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RECOMMENDED ACTION: At the request of Mayor Pro Tem Grisanti, authorize the Mayor to: 1) Submit letters of support for Senate Bills (SB) 55 regarding development in very high fire hazard severity zones and SB 765 related to setback requirements for accessory dwelling units; and 2) Send a letter to the California State Assembly Joint Legislative Audit Committee to request a State Audit of the Metropolitan Water District of Southern California in order to have a comprehensive investigation into allegations and concerns regarding the workplace culture.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2020-2021. This project is part of normal staff operations.

DISCUSSION: Senator Henry Stern has introduced two bills for consideration in the 2021-2022 legislative session, SB 55, co-authored by Senator Ben Allen, and SB 765, co-authored by Assembly Member Laura Friedman.

SB 55

Following the historically destructive fire seasons of 2018-2020, the State recognized it must develop a growth strategy that recognizes the joint effects of economic, housing, and climate crises while addressing the key area of fire risk. Existing law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones (VHFHSZ) based on specified criteria. All of Malibu has been identified as being within a VHFHSZ, and a recent study found that approximately 2.7

million Californians live in VHFHSZ. Resiliency efforts, such as home hardening and defensible space requirements, are critical defenses but may not be enough to protect communities within a VHFHSZ.

SB 55 (Attachment 1) looks to address that shortfall by prohibiting new residential, commercial and industrial development within a VHFHSZ. Senator Stern's office has provided draft amendments to SB 55 (Attachment 2) that will be presented when the bill is considered. The amendments would do the following:

- Provide an exemption to the development prohibition if a local jurisdiction meets notated fire safety standards
- Clarifies the definition of a "new development" to explicitly allow for rebuilds and any 1:1 construction for existing dwelling units
- Allows any essential infrastructure maintenance
- Allows for construction of a new facility or infrastructure if it is intended for fire prevention or response

SB 765

SB 765 addresses the statewide standardized setback for accessory dwelling units (ADUs). The current standardized setback of four (4) feet for placement of an ADU does not take into consideration the wide variation in parcel sizes that can range anywhere from a small, 5,000-square foot parcel to a parcel of 20 acres or more in a rural zone. In each case, an ADU would be required to be situated against a fence line and significantly closer to a neighbor's home on an adjacent property than to the home on the property where it is located. SB 765 would change the statewide standardized setback to instead allow cities to maintain a setback that is appropriate to their lot size and terrain.

Both bills are currently being considered by the Senate Governance and Finance Committee and Senate Housing Committee. Mayor Pro Tem Grisanti is requesting the Council authorize the Mayor to submit letters of support for SB 55 and SB 765 through the California Legislature Position Letters Portal. For further reference, fact sheets (Attachments 4 and 5) and draft letters of support (Attachments 6 and 7) are also attached.

**Reports of Harassment in the Metropolitan Water District of Southern California**

A Los Angeles Times article published on February 12, 2021 reported on "a pattern of complaints alleging harassment and bullying of women" who worked for the Metropolitan Water District of Southern California. The article includes first-hand recollections of numerous instances of sexual harassment, bullying, discrimination, and retaliation of employees, many of whom worked in the District's apprentice program.

On March 9, 2021, Supervisor Janice Hahn presented an item to the Los Angeles County Board of Supervisors requesting Board authorization to send a letter under all five Supervisors' signatures to the California State Assembly Joint Legislative Audit Committee (Audit Committee) requesting a comprehensive investigation into these allegations (Attachment 8). Supervisor Hahn's motion carried unanimously.

Mayor Pro Tem Grisanti is requesting the Council authorize the Mayor to send a letter stating the City of Malibu joined with the County in requesting a comprehensive investigation and State Audit into these serious allegations and concerns regarding the workplace culture surrounding employees of the Metropolitan Water District of Southern California.

ATTACHMENTS:

1. SB 55
2. SB 55 Draft Amendments
3. SB 765
4. SB 55 fact sheet
5. SB 765 fact sheet
6. SB 55 draft letter of support
7. SB 765 draft letter of support
8. Los Angeles County Board of Supervisors Motion (March 9, 2021 Agenda Item No. 46-G)

# SENATE BILL No. 55

**Introduced by Senators Stern and Allen**

December 7, 2020

An act to add Section 51182.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 55, as introduced, Stern. Very high fire hazard severity zone: state responsibility area: development prohibition.

Existing law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones based on specified criteria. Existing law requires a local agency to designate, by ordinance, very high hazard severity zones in its jurisdiction within 120 days of receiving recommendations from the director. Existing law authorizes a local agency to include areas within its jurisdiction not identified as very high fire hazard severity zones by the director as very high fire hazard severity zones following a specified finding supported by substantial evidence.

Existing law requires the State Board of Forestry and Fire Protection to determine, based on specified criteria, whether an area of the state is one for which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. Existing law refers to these areas as "state responsibility areas."

This bill would, in furtherance of specified state housing production and wildfire mitigation goals, prohibit the creation or approval of a new development, as defined, in a very high fire hazard severity zone or a state responsibility area. By imposing new duties on local governments with respect to the approval of new developments in very high fire hazard severity zones and state responsibility areas, this bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 51182.5 is added to the Government Code, to read:

51182.5. (a) Notwithstanding any law, in furtherance of state housing production and wildfire mitigation goals under Assembly Bill 101 (Chapter 159 of the Statutes of 2019), Section 4290 of the Public Resources Code, and subdivision (g) of Section 65088, a new development shall not be created or approved in a very high fire hazard severity zone or a state responsibility area.

(b) For purposes of this section, "development" means either of the following:

(1) A project containing residential dwellings, including, but not limited to, mobilehomes, accessory dwelling units, and junior accessory dwelling units, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

(2) A project for commercial, retail, or industrial use.

SEC. 2. The Legislature finds and declares that the prohibition on the creation or approval of a new development within a zone of high fire danger as specified in this act is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act adding Section 51182.5 to the Government Code applies to all cities, including charter cities.

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.

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

SECTION 1. Section 51182.5 is added to the Government Code, to read:

51182.5. (a) Notwithstanding any law, in furtherance of state housing production and wildfire mitigation goals under Assembly Bill 101 (Chapter 159 of the Statutes of 2019), Section 4290 of the Public Resources Code, and subdivision (g) of Section 65088, a new development shall not be created or approved in a very high fire hazard severity zone or a state responsibility ~~area.~~ *area unless the county and, if applicable, the city is in substantial compliance with the "Fire Hazard Planning, General Plan Technical Advice Series" guidance document updated by the Office of Planning and Research pursuant to Section 65040.21.*

(b) For purposes of this ~~section, "development"~~ *section:*

*(1) "Development"* means either of the following:

~~(1)~~

*(A)* A project containing residential dwellings, including, but not limited to, mobilehomes, accessory dwelling units, and junior accessory dwelling units, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

~~(2)~~

*(B)* A project for commercial, retail, or industrial use.

*(2) "New development" does not include either of the following:*

*(A) The reconstruction, restoration, or rebuilding of a development that is involuntarily damaged or destroyed by fire or other catastrophic event.*

*(B) Construction on an existing residential dwelling.*

*(C) Construction required to maintain a facility or infrastructure associated with the delivery of essential public services, including, but not limited to, the provision of water service, electric service, and wastewater collection and treatment.*

*(D) Construction of a new facility or infrastructure intended for fire prevention or response.*

*(3) "Substantial compliance" means actual compliance with every essential and relevant aspect of the document described in subdivision (a).*

SEC. 2. The Legislature finds and declares that the prohibition on the creation or approval of a new development within a zone of high fire danger as specified in this act is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act adding Section 51182.5 to the Government Code applies to all cities, including charter cities.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB 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.

(PU 20190SB__047496AMD)

# SENATE BILL No. 765

**Introduced by Senator Stern**
(Principal coauthor: Assembly Member Friedman)

February 19, 2021

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

LEGISLATIVE COUNSEL'S DIGEST

SB 765, as introduced, Stern. Accessory dwelling units: setbacks.

The Planning and Zoning Law, among other things, provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law prohibits a local agency's accessory dwelling unit ordinance from imposing a setback requirement of more than 4 feet from the side and rear lot lines for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

This bill would remove the above-described prohibition on a local agency's accessory dwelling unit ordinance, and would instead provide that the rear and side yard setback requirements for accessory dwelling units may be set by the local agency. The bill would authorize an accessory dwelling unit applicant to submit a request to the local agency for an alternative rear and side yard setback requirement if the local agency's setback requirements make the building of the accessory dwelling unit infeasible. The bill would prohibit any rear and side yard setback requirements established pursuant to these provisions from being greater than those in effect as of January 1, 2020. The bill would specify that if the local agency did not have an accessory dwelling unit

ordinance as of January 1, 2020, the applicable rear and side yard setback requirement is 4 feet.

By requiring local agencies to review an applicant's request for an alternative rear and side yard setback requirement, the 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 65852.2 of the Government Code, as amended by Section 3.5 of Chapter 198 of the Statutes of 2020, is amended to read:

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

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

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

(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 accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

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

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

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

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

*(viii) (I) Rear and side yard setback requirements for accessory dwelling units shall be established by the local agency, except as otherwise provided in clause (vii) and this clause.*

*(II) An applicant for an accessory dwelling unit may submit a request to the local agency for an alternative rear and side yard*

*setback requirement based upon specific site topographical conditions if the local agency's setback requirements make the building of the accessory dwelling unit infeasible. The local agency may approve the request upon making a finding that the alternative setback is necessary to make the building of the accessory dwelling unit feasible and the alternative setback requirement adjusts the setback requirement only to the extent necessary to accommodate the accessory dwelling unit.*

*(III) In no event shall the local agency's rear and side yard setback requirements be greater than those in effect as of January 1, 2020.*

*(IV) If the local agency did not have an accessory dwelling unit ordinance as of January 1, 2020, the rear and side yard setback requirement shall be four feet.*

~~(viii)~~

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

~~(ix)~~

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

~~(x)~~

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

(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.

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

~~(xi)~~

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

~~(xii)~~

*(xiii)* Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

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

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, 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 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. If 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 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 delay or 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 that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require 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 an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the

permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height ~~with four-foot side and rear yard setbacks~~ to be constructed in compliance with all other local development standards.

(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 walking distance 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 proposed or existing primary residence or an accessory structure.

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

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

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

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

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

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

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

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

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

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

(ii) A height limitation of 16 feet.

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

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

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 ~~feet and four-foot rear yard and side setbacks.~~ *feet.*

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

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

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

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

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

(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) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service,

unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(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) (1) A local agency 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. After

adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

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

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

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

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

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

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

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

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

will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

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

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "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.

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

(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

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

(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(*l*) 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 of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in

subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

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

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

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. Section 65852.2 of the Government Code, as amended by Section 4.5 of Chapter 198 of the Statutes of 2020, is amended to read:

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

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

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

California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(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 accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

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

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

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

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

*(viii) (I) Rear and side yard setback requirements for accessory dwelling units shall be established by the local agency, except as otherwise provided in clause (vii) and this clause.*

*(II) An applicant for an accessory dwelling unit may submit a request to the local agency for an alternative rear and side yard setback requirement based upon specific site topographical conditions if the local agency's setback requirements make the building of the accessory dwelling unit infeasible. The local agency may approve the request upon making a finding that the alternative setback is necessary to make the building of the accessory dwelling unit feasible and the alternative setback requirement adjusts the setback requirement only to the extent necessary to accommodate the accessory dwelling unit.*

*(III) In no event shall the local agency's rear and side yard setback requirements be greater than those in effect as of January 1, 2020.*

*(IV) If the local agency did not have an accessory dwelling unit ordinance as of January 1, 2020, the rear and side yard setback requirement shall be four feet.*

~~(viii)~~

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

~~(ix)~~

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

~~(x)~~

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

(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.

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

~~(xi)~~

*(xii)* When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory

dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

~~(xii)~~

*(xiii)* Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

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

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, 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 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. If 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 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 delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), 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.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(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 an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without

discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height ~~with four-foot side and rear yard setbacks~~ to be constructed in compliance with all other local development standards.

(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 walking distance 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 proposed or existing primary residence or an accessory structure.

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

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

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

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

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

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

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

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit ~~that does not exceed four-foot side and rear yard setbacks~~ for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling

unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

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

(ii) A height limitation of 16 feet.

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

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

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 ~~feet and four-foot rear yard and side setbacks.~~ *feet.*

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

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

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

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

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited

to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(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) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of

its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(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) (1) A local agency 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. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

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

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

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

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

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

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth

in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

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

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

(A) An efficiency unit.

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

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "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.

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

(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

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

(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(*l*) 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 of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

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

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

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

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

(o) This section shall become operative on January 1, 2025.

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.

O

# SB 55 (STERN)
# FIRE-SAFE GROWTH

Updated: 3/10/2021

## THE PROBLEM

California is in the midst of intersecting economic, housing, and climate crises. As the state works to increase the supply of housing and reduce its climate risks while balancing the budget, California's growth strategy must recognize the intersection of development and climate in the key area of fire risk.

SB 55 will put California on the path toward fire-safe growth by prohibiting new residential, commercial and industrial development in very high fire hazard severity zones (VHFHSZ).

## BACKGROUND

Millions of Californians are living in serious fire danger. A McClatchy analysis conducted using CalFire's fire severity maps found that about 2.7 million Californians live in VHFHSZs. The climate emergency puts those in fire-prone areas at increased risk as fires will continue to become more frequent and more severe. Governor Newsom's Strike Force Report noted the impact that climate change is having on fires stating, "California faces a dramatic increase in the number and severity of wildfires."

Making homes more resistant to fires by hardening them in these dangerous areas is important – the McClatchy analysis also found houses built under more protective building codes suffered less damage. Resiliency efforts, from reducing fuel in yards to installing double-paned windows to closing eaves, can save lives and property. For the millions of families who live under the shadow of fire risk today, home hardening is urgent and necessary. However, in certain instances hardening is not enough.

Fire **resistance** does not mean fire **immunity** – and, as researchers have been reiterating for years, "*Where* you build your house, not what it's made of, is the biggest factor in determining whether it will burn." The 2018 and 2019 wildfire seasons took a toll not only on older homes but also on some of the newly constructed homes with up-to-date building standards and mitigation measures. In order to protect those homes, the state has spent nearly $10 billion.

As of December, the 2020 wildfire season was even more severe, with CalFire estimating 4,197,628 acres burned in the year compared to a previous 5-year average of 878,800 acres per year. Additionally, an estimated 10,500 structures were damaged or destroyed causing the tragic loss of 31 lives. To be sensible, California's growth strategy cannot ignore the most important factor in determining fire risk, which is where houses are built.

## THE SOLUTION

SB 55 sets California on a path of fire-safe growth by prohibiting further residential, commercial and industrial development in VHFHSZs.

SB 55 is not intended to operate in a vacuum. It will have the effect of encouraging transit-oriented, affordable, green and infill housing, efforts that will not only reduce exorbitant housing costs – they will also help California achieve its climate goals. This bill will ensure new housing development projects will not inadvertently put more Californians in harm's way.



**Contact: Megan Mekelburg at (916) 651-4027 or megan.mekelburg@sen.ca.gov**

ATTACHMENT 4

## SUPPORT

Center for Biological Diversity
California Native Plant Society
Sierra Club California
California Wildlife Foundation
Center California Environmental Justice Network
Defenders of Wildlife
California Chaparral Institute
Federation of Hillside and Canyon Associations, Inc.
California Institute for Biodiversity
Friends of Ballona Wetlands
SoCal 350 Climate Action
Friends of Griffith Park
Social Compassion in Legislation
Friends of Harbors, Beaches & Parks
350 Santa Barbara
Green Foothills
Action for Animals
Greenspace: The Cambria Land Trust
Brentwood Alliance of Canyons & Hillsides
Hills for Everyone
Biodiversity First!
International Fund for Animal Welfare
Citizens for Los Angeles Wildlife
The Urban Wildlands Group
Endangered Habitats League
Los Angeles Audubon Society
Escondido Neighbors United
Los Angeles Waterkeeper
Extinction Rebellion SF Bay
Santa Susana Mountain Park Association
National Wildlife Refuge
Laurel Canyon Land Trust
San Diego Audubon Society
Los Padres ForestWatch
California Native Plant Society, San Diego Chapter
Mountain Lion Foundation
San Pasqual Valley Preservation Alliance
Move LA
Santa Barbara Audubon Society
Ohlone Audubon Society
Santa Susana Mountain Park Association
Palos Verdes/South Bay Audubon
SC Wildlands
Poison Free Agoura
Santa Clara Valley Audubon Society
Poison Free Malibu
Theodore Payne Foundation for Wild Flowers & Native Plants
Preserve Wild Santee
Ventana Wilderness Alliance
Project Coyote
Western Watersheds Project
Raptors Are The Solution
Preserve Our Rural Communities



**Contact: Megan Mekelburg at (916) 651-4027 or megan.mekelburg@sen.ca.gov**

# SB 765 (STERN)
# ADU SETBACK

UPDATED: 3/3/21

## BACKGROUND

As California works to address the housing crisis, accessory dwelling units (ADUs) have been identified as one way to increase the production of affordable housing. In recent years, the state has incentivized and clarified law to increase the production of ADUs.

An ADU, often referred to as a granny flat or guest home, is a housing unit that may be built on a single-family or multifamily-zoned lot.

Part of the new law includes new rear and side setbacks that apply to every lot in the state, no matter the size. A setback is a development standard intended to serve as the minimum distance the unit must be setback from the end and/or side of the lot. In this case, a side and rear set-back refer to the side and rear of a property line.

## THE PROBLEM

Under existing law, ADUs only have to be 4ft feet away from the side and rear property lines. (Gov. Code, § 65852.2) no matter what size the parcel, meaning the setback are currently the same whether a small 3,000 square foot urban lot or a 20 acre lot in rural lots.

As a result, many ADUs can be placed significantly closer to a neighbor's home on an adjacent property than it is to the home on the property where it's located, butting up against a fence line and/or not optimally located in consideration of scale and proper planning.

Prior to this law being enacted in 2021, local governments established their own setbacks, depending on location, environs, often varying from community to community or street to street depending on what was appropriate.

For suburban and rural plots and other jurisdictions with larger lots of land and open space, setbacks were often 25 feet.

## THE SOLUTION

SB 765 gives local governments the option to return to any setback regulations they had established prior to the state law mandating the 4-foot setback that took effect in 2021. For local jurisdictions that did not have a setback regulation in place, they will be bound by the 4-foot setback rule in current state law.

By making this change, local jurisdictions will restore their authority to do proper planning to achieve an optimal, safe, and aesthetically balanced ADU location. Under SB 765, if a local jurisdiction's setback requirements make the building of an AUD infeasible, the applicant can submit a request for an alternate setback requirement.

## SUPPORT



**Contact: Megan Mekelburg at (916) 651-4027 or megan.mekelburg@sen.ca.gov**

ATTACHMENT 5

# City of Malibu

Mikke Pierson, Mayor

23825 Stuart Ranch Road · Malibu, California · 90265-4861

Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org


April 13, 2021 *Submitted via the CA Legislature Position Letter Portal*

The Honorable Senator Scott Wiener, Chair
Senate Housing Committee
State Capitol Building, Room 2209
Sacramento CA 95814

The Honorable Senator Mike McGuire, Chair
Senate Governance and Finance Committee
State Capitol Building, Room 5061
Sacramento CA 95814

RE: Senate Bill (SB) 55 – Development Prohibition in Very High Fire Hazard Severity Zone and State Responsibility Area (Stern/Allen) – SUPPORT

Dear Senators Wiener and McGuire:

At its Regular meeting on April 12, 2021, the Malibu City Council voted to support SB 55, which would restrict development in areas of California most threatened by the possibility of wildfires.

Following the historically destructive fire seasons of 2018-2020, the State recognized it must develop a growth strategy that recognizes the joint effects of economic, housing, and climate crises while addressing the key area of fire risk. Existing law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones (VHFHSZ) based on specified criteria. All of Malibu has been identified as being within a VHFHSZ, and a recent study found that approximately 2.7 million Californians live in a VHFHSZ. Resiliency efforts, such as home hardening and defensible space requirements, are critical defenses but may not be enough to protect communities within a VHFHSZ. SB 55 looks to address that shortfall by prohibiting new residential, commercial and industrial development in a VHFHSZ.

The City is also aware of proposed amendments to SB 55 that would:

- Provide a general exemption to the development prohibition of a local jurisdiction that meets stringent fire safety standards
- Clarify the definition of a "new development" to explicitly allow for rebuilds and any 1:1 construction for existing dwelling units
- Allow any essential infrastructure maintenance
- Allow for construction of a new facility or infrastructure if it is intended for fire prevention or response

The City of Malibu fully supports any amendment to SB 55 that would allow for property owners in Malibu and other communities devastated by recent wildfires to rebuild their homes and their lives.

For these reasons, the City of Malibu strongly supports SB 55 and respectfully requests that the Senate Housing Committee and Governance and Finance Committee vote in support of SB 55.

Sincerely,

Mikke Pierson
Mayor

Cc: Honorable Members of the Malibu City Council
Honorable Henry Stern, California State Senate, 27th District
Honorable Senator Ben Allen, California State Senate, 26th District
Honorable Richard Bloom, California State Assembly, 50th District
Honorable Members of the Senate Housing Committee
Honorable Members of the Senate Governance and Finance Committee

# City of Malibu

Mikke Pierson, Mayor

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Senate Housing Committee
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The Honorable Senator Mike McGuire, Chair
Senate Governance and Finance Committee
State Capitol Building, Room 5061
Sacramento CA 95814

RE: Senate Bill (SB) 765 – Accessory Dwelling Unit Setback (Stern) – SUPPORT

Dear Senators Wiener and McGuire:

At its Regular meeting on April 12, 2021, the Malibu City Council voted to support SB 765, which continues to provide for and protect the production of accessory dwelling units (ADUs), while allowing cities to maintain a setback for ADUs that is appropriate to their lot size and terrain.

First and foremost, SB 765 will neither undermine existing law nor hinder the construction of ADUs, which the City of Malibu supports as one of many very important solutions to the current housing crisis. Rather, SB 765 provides that rear and side yard setbacks for ADUs previously established by local agencies be maintained in appropriate circumstances, so that each community can take into account its own built environment, unique topography and landscape, and the differences of lot size among urban, suburban, and rural zones and terrain.

In fact, to ensure that the bill does not diminish opportunities for ADU construction, SB 765 has built-in safeguards to ensure that the goals of housing production are maintained. Nothing else will change regarding the ministerial approval of ADUs.

SB 765 is necessary because, without this fix, ADUs that may otherwise be considered, may not be built. The standardized setback of four (4) feet, however well-intended, has unintended consequences in that an ADU would have to be placed in a location that is not optimal in terms of scale and proper planning. The statewide standardization does not take into consideration the wide variation in parcel sizes that can range anywhere from a small, 5,000-square foot parcel to a parcel of 20 acres or more in a rural zone. In each case, an ADU would be required to be situated against a fence line and significantly closer to a neighbor's home on an adjacent property than to the home on the property where it is located.

SB 765 honors one of the great strengths of California – the diversity of communities – and respects a community's varying parcels and terrain. When one considers the variation of parcels in the state, it is unreasonable that every lot in California must have the same setback in order to facilitate the production of ADUs.

For these reasons, the City of Malibu strongly supports SB 765 and respectfully requests that the Senate Housing Committee and Governance and Finance Committee vote in support of SB 765. Approval of this legislation acknowledges consideration of the value in proper planning and site specifics, as well as the importance of balance in housing legislation.

Sincerely,

Mikke Pierson
Mayor

Cc: Honorable Members of the Malibu City Council
Honorable Henry Stern, California State Senate, 27th District
Honorable Assembly Member Laura Friedman, California State Assembly, 43rd District
Honorable Richard Bloom, California State Assembly, 50th District
Honorable Members of the Senate Housing Committee
Honorable Members of the Senate Governance and Finance Committee

AGN. NO.

MOTION BY SUPERVISOR JANICE HAHN March 9, 2021

**5-Signature Letter to Support AFSCME 1902 Workers**

An LA Times investigation last month revealed a workplace culture at the Metropolitan Water District (MWD) of Southern California plagued with rampant sexual harassment, bullying, discrimination, and retaliation, particularly for women and LGBTQIA+ people. These essential workers build and manage the water infrastructure the County relies on, often in remote locations away from their families.

The review initiated by the MWD Board is a good first step to investigate the claims of sexual harassment, but a full, comprehensive investigation into all alleged incidents of abuse at the MWD is necessary to not only achieve justice for those abused, but to change the culture and ensure incidents of misconduct are taken seriously.

All allegations of sexual harassment filed by female and LGBTQIA+ employees of the Metropolitan Water District of Southern California should be fully investigated, through a neutral, independent third-party investigative process, which should not be impeded by arbitrary timelines or restrictive funding.

| | MOTION |
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| MITCHELL | _____ |
| KUEHL | _____ |
| HAHN | _____ |
| BARGER | _____ |
| SOLIS | _____ |

In order to create the institutional change necessary to ensure the MWD's workplace is free from harassment, discrimination, bullying and retaliation, the State needs to conduct a comprehensive investigation into the alleged abuses, and the related human resources practices.

**I, THEREFORE MOVE** that the Board of Supervisors direct the Chief Executive Officer to send a five-signature letter to Assemblymember Rudy Salas Jr., Chair, and Senator John Laird, Vice Chair, of the California State Assembly Joint Legislative Audit Committee, with a copy to the Committee members to request a State Audit in order to have a comprehensive investigation into the allegations and concerns regarding the workplace culture surrounding the women and LGBTQIA+ employees who work in Metropolitan Water District of Southern California.

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JH: nh