Ordinance No. 5489

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code to Amend Requirements Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations

- A. Assembly Bills ("ABs") 68, 587, 671, and 881 and Senate Bill ("SB") 13 pertain to accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs") and were approved by the California Legislature on September 13, 2019 and signed by the Governor on October 9, 2019;
- B. These bills, codified primarily in California Government Code sections 65952.2 and 65952.22 will become effective January 1, 2020, and provide that local ordinances that do not comply with state law are null and void;
- C. The City Council, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserving the quality of life for its residents;
- D. Palo Alto Municipal Code Section 2.04.270 authorizes the adoption of an urgency ordinance to protect the public peace, health or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by four-fifths of Council Members present;
- E. This urgency ordinance would update the City's ADU regulations to unambiguously comply with new state requirements contained in ABs 68, 587, 671, and 881 and SB 13;
- F. An urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in development inconsistent with local values expressed in the City's ADU regulations.

SECTION 2. Section 18.04.030 of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code ("PAMC") is amended to add the following definition:

(94.7) "Maximum house size" means, for the primary residential unit within a single-family residential zone, the maximum allowable amount of total gross floor area, regardless of lot size.

<u>SECTION 3</u>. Section 18.42.040 (Accessory and Junior Accessory Dwelling Units) of **Chapter 18.42** (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code ("PAMC") is amended to read as follows:

18.42.040 Accessory and Junior Accessory Dwelling Units

The following regulations apply to the establishment of accessory dwelling units and junior accessory dwelling units.

(a) Accessory Dwelling Units

(1) Purpose

The intent of this section is to provide regulations to accommodate accessory dwelling units, in order to provide for variety to the city's housing stock and additional affordable housing opportunities. Accessory Dwelling Units shall be separate, self-contained living units, with separate entrances from the main residence, whether attached or detached. The standards below are provided to minimize the impacts of accessory dwelling units on nearby residents and throughout the city, and to assure that the size and location of such dwellings is compatible with the existing or proposed residence on the site and with other structures in the area.

(2) Applicable Zoning Districts

The establishment of an accessory dwelling unit is permitted in zoning districts when single-family or multifamily residential is a permitted land use.

(3) Setbacks and Daylight Plane

- A. Except as otherwise provided in this section, accessory dwelling units shall comply with the underlying zoning district's setbacks, including daylight plane requirements, except to the extent daylight plane requirements would preclude an accessory dwelling unit from reaching a height of 16 feet.
- B. Notwithstanding subsection (a)(3)(A), no setback shall be required for an existing structure that is converted to or reconstructed in-place as an accessory dwelling unit, except as provided in subsection (a)(5) below.
- C. In districts permitting second story accessory dwelling units, a setback of at least_four feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.

(4) Lot Coverage/Floor Area Ratio/Maximum House Size

A. An accessory dwelling unit shall be included in the lot coverage and floor area ratio requirements applicable to the parcel. In the R-E, R-1, R-2 and RMD districts, and in the OS and PC districts when single-family residential is a permitted land use: (i) any covered parking provided for the accessory dwelling unit shall be included in the total floor area for the site, but shall not be included when determining maximum size of the accessory dwelling unit; and (ii) an attached accessory dwelling unit shall count towards the maximum house size for the primary residence on the parcel.

B. Exceptions:

i. Lot Coverage. When the establishment of an accessory dwelling unit on a parcel with a proposed or existing single family residence would result in the

parcel exceeding the lot coverage requirement, up to 800 square feet of the accessory dwelling unit shall not be included in the calculation of lot coverage applicable to the property.

- ii. Basements. In the R-1 district and all R-1 subdistricts, basement space used as an accessory dwelling unit, or portion thereof, shall not be included in the calculation of floor area for the entire site, providing the measurement from first finished floor to grade around the perimeter of the building is no more than three (3) feet.
- iii. Additional Floor Area. When the development of an accessory dwelling unit on a parcel with a proposed or existing single family residence would result in the parcel exceeding the maximum floor area ratio, additional floor area above the maximum amount otherwise permitted by the underlying zoning district shall be allowed. The additional floor area allowed shall be the minimum amount required for establishment of an 800 square foot accessory dwelling unit, or 220 square feet, whichever is greater. This additional floor area shall be permitted only to accommodate the development of the accessory dwelling unit and shall not be applied to the primary residence.
- iv. Maximum House Size. When the establishment of an attached accessory dwelling unit on a parcel with a proposed or existing single family residence would result in the parcel exceeding the maximum house size, up to 800 square feet of the accessory dwelling unit shall not be included in the calculation of maximum house size applicable to the property.
- (5) Ministerial Approval of Certain Accessory Dwelling Units

Notwithstanding the provisions of subsections (a)(3), (a)(4), (a)(7), and (a)(8), the following applications for an accessory dwelling unit or junior accessory dwelling unit within a residential or mixed-use zone shall be ministerially approved:

- A. ADU within Single-Family Residence or Accessory Structure. For a lot with a proposed or existing single-family dwelling, one accessory dwelling unit or junior accessory dwelling unit that is contained within the space of a single-family residence or an accessory structure, has independent exterior access from the residence, and provides side and rear setbacks sufficient for fire safety shall be permitted, subject to the following:
 - i. A unit proposed in an existing accessory structure under this subsection (a)(5)(A) may include an expansion of not more than 150 square feet beyond the physical dimensions of the existing accessory structure solely for the purposes of accommodating ingress and egress.
 - ii. Conversion of an existing accessory structure to an accessory dwelling unit may require rebuilding or substantial renovation to comply with the California Code of Regulations Title 24, as adopted by the City of Palo Alto. In

such instances, and where the existing accessory structure does not comply with applicable accessory dwelling unit development standards in the zoning district, the structure may be renovated or rebuilt, provided that:

- (I) If the existing structure does not comply with the applicable development standards for accessory dwelling units in the zoning district, the renovated or rebuilt structure shall not increase the degree of non-compliance, such as increased height or size, or further intrusion into required setbacks;
- (II) The renovated or rebuilt structure shall comply with subsection (a)(6), below, pertaining to privacy requirements.
- (III) Nothing in this subsection (a)(5)(A)(ii) shall restrict or prevent a renovated or rebuilt structure from being designed to achieve or improve compliance with the development standards applicable to an accessory dwelling unit in the zoning district.
- iii. No new or separate utility connection shall be required between the accessory dwelling unit and utility service, such as water, sewer, and power.
- iv. The accessory dwelling unit shall comply with the provisions of subsections (a)(6), (a)(9), and (a)(10).
- v. New floor area may be added to a space converted in accordance with this subsection (a)(5)(A) and, other than the 150 square feet authorized by subsection (a)(5)(A)(i), shall comply with the all regulations set forth in subsection (a), including but not limited to setbacks, maximum accessory dwelling unit size, and height.
- B. Single-Family Detached ADU. For a lot with a proposed or existing single-family dwelling, one detached, new construction, accessory dwelling unit that does not exceed 800 square feet, nor 16 feet in height, and that provides at least fourfoot side and rear yard setbacks shall be permitted. This detached accessory dwelling unit may be established in addition to a junior accessory dwelling unit established pursuant to subsection (a)(5)(A).
- C. Multi-Family Attached ADU. For a lot with an existing multifamily dwelling structure, an accessory dwelling unit shall be permitted_within the portions of the 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. The number of dwelling units permitted shall be at least one and up to 25 percent of the existing multifamily dwelling units on the lot.
- D. Multi-Family Detached ADU. For a lot that has an existing multifamily dwelling, not more than two detached accessory dwelling units that do not exceed 16 feet in height and that provide at least four-foot side and rear yard setbacks shall be permitted.

E. The establishment of accessory dwelling units and junior accessory dwelling units pursuant to this subsection (a)(5) shall not be conditioned on the correction of non-conforming zoning conditions; provided, however, that nothing in this section shall limit the authority of the Chief Building Official to require correction of building standards relating to health and safety.

(6) Privacy

Second story doors and decks shall not face a neighboring dwelling unit and second story windows shall be placed above eye-level or utilize obscured glazing. Where feasible, screening features, including landscaping, shall be installed between an two-story ADU and a neighboring dwelling.

- (7) Additional Development Standards for Attached Accessory Dwelling Units
 - A. Attached accessory dwelling units are those attached to the primary dwelling. All attached accessory dwelling units, other than those units established pursuant to subsection (a)(5), shall be subject to the additional development requirements specified below.
 - B. Unit Size: The maximum size of an attached accessory dwelling unit living area, inclusive of a habitable basement, shall not exceed 850 square feet, or 1,000 square feet for a unit with more than one bedroom, and shall not exceed 50% of the proposed or existing living area of the primary dwelling unit. The minimum unit size shall be 150 square feet.
 - C. Maximum height (including property in a special flood hazard zone): One story and 17 feet, or 16 feet if located in an Eichler Tract identified in the adopted Palo Alto Eichler Neighborhood Design Guidelines. However, in the RE District attached accessory dwelling units may be two stories and 30 feet. In the OS District, attached accessory dwelling units may be two stories and 25 feet.
 - D. Separate Entry Required for Attached Units: A separate exterior entry shall be provided to serve an accessory dwelling unit.
 - E. Except on corner lots, the accessory dwelling unit shall not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit unless the second entranceway is located in the rear half of the lot. Exterior staircases to second floor units shall be located toward the interior side or rear yard of the property.
 - F. If covered parking for an accessory dwelling unit is provided in the RE zone, the maximum size of the covered parking area for the accessory dwelling unit is 200 square feet.
- (8) Additional Development Standards for Detached Accessory Dwelling Units
 - A. Detached accessory dwelling units are those detached from the primary dwelling. All detached accessory dwelling units, other than those units

- established pursuant to subsection (a)(5), shall be subject to the additional development standards specified below.
- B. The maximum size of the detached accessory dwelling unit living area, inclusive of a habitable basement, shall be 900 square feet, or 1,000 square feet for a unit with more than one bedroom and the minimum unit size shall be 150 square feet.
- C. Maximum height (including property in a special flood hazard zone): one story and 17 feet, or one story and 16 feet, if located in an Eichler Tract identified in the adopted Palo Alto Eichler Neighborhood Design Guidelines.
- D. Setbacks and Daylight Plane: Notwithstanding subsection (a)(3)(A), a detached accessory dwelling unit may be located in a rear yard, but must maintain a minimum setback of four feet (4') from the side and rear property lines. No basement shall encroach into a required rear yard setback. No portion of a building may encroach into a daylight plane beginning at a height of eight feet (8') at the property line and increasing at a slope of one foot (1') for every one foot (1') of distance from the property line, except that the beginning height shall be increased to the extent necessary to allow an accessory dwelling unit to reach a height of sixteen feet (16').
 - i. No projections, such as but not limited to windows, doors, mechanical equipment, venting or exhaust systems, shall be permitted to encroach into the required setbacks and daylight plane, with the exception of a roof eave up to two feet.
- E. If covered parking is provided for an accessory dwelling unit in the RE District, the maximum size of covered parking area for the detached accessory dwelling unit is 200 square feet.
- (9) Additional Requirements for All Accessory Dwelling Units
 - A. Sale of Units: The accessory dwelling unit shall not be sold separately from the primary residence.
 - B. Short term rentals. The accessory dwelling unit shall not be rented for periods of less than 30 consecutive days.
 - C. Number of Units Allowed: Except as provided in subsection (a)(5), only one accessory dwelling unit or junior accessory dwelling unit may be located on any lot where an accessory dwelling unit is permitted.
 - D. Existing Development: A single-family dwelling shall exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
 - E. Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a deed restriction in a form approved by the city that: includes a prohibition on the sale of the accessory dwelling unit separate from the sale of the single-family residence; does not permit short-term rentals;

and restricts the size and attributes of the accessory dwelling unit to those that conform with this Section 18.42.040.

- F. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- G. Street Address Required: Street addresses shall be assigned to all accessory dwellings to assist in emergency response.
- H. Street Access: When parking is provided, the accessory dwelling unit shall have street access from a driveway in common with the main residence in order to prevent new curb cuts, excessive paving, and elimination of street trees, unless separate driveway access will result in fewer environmental impacts such as paving, grading or tree removal.
- I. For properties listed in the Palo Alto Historic Inventory, the California Register of Historical Resources, the National Register of Historic Places, or considered a historic resource after completion of a historic resource evaluation, compliance with the appropriate Secretary of Interior's Standards for the Treatment of Historic Properties shall be required.
- J. No protected tree shall be removed for the purpose of establishing an accessory dwelling unit unless the tree is dead, dangerous or constitutes a nuisance under Section 8.04.050. Any protected tree removed pursuant to this subsection shall be replaced in accordance with the standards in the Tree Technical Manual.
- K. Except as modified by this Section 18.42.040, the accessory dwelling unit shall conform to all requirements of the underlying zoning district, any applicable combining district, and all other applicable provisions of this Title 18.

(10) Parking

- A. No additional parking shall be required for accessory dwelling units.
- B. Replacement parking is not required when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit.
- C. Optional parking for accessory dwelling units may be provided by means of uncovered or tandem spaces on existing driveways within the required front and street side yards; covered parking and mechanical automobile parking lifts may be located in required side and rear yard setbacks in compliance with Section 18.40.050. All new parking spaces and structures shall comply with development standards of the underlying zoning and the applicable parking design standards in Chapter 18.54, except as provided below:
 - The Director shall have the authority to modify required replacement parking spaces by up to one foot in width and length upon finding that the reduction is necessary to accommodate

- parking in a location otherwise allowed under this code and is not detrimental to public health, safety or the general welfare.
- ii Existing front and street side yard driveways may be enlarged to the minimum extent necessary to comply with the replacement parking requirement above. Existing curb cuts shall not be altered except when necessary to promote public health, safety or the general welfare.

(b) Junior Accessory Dwelling Units

(1) Purposes:

This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, will be constructed within the walls of an existing or proposed single family structure and requires owner occupancy in the single family residence where the unit is located.

- (2) Development Standards. Junior accessory dwelling units shall comply with the following standards:
 - A. Number of Units Allowed: Except as provided in subsection (a)(5), either one accessory dwelling unit or one junior accessory dwelling unit, may be located on any lot that permits a single-family dwelling. A junior accessory dwelling unit shall only be located on a lot which already contains one legal single-family dwelling or where a new single-family dwelling is proposed.
 - B. Size: A junior accessory dwelling unit shall not exceed 500 square feet in size.
 - C. Lot Coverage/Floor Area Ratio:
 - i. A junior accessory dwelling unit shall be included in the calculation of lot coverage and floor area ratio applicable to the property.
 - ii. A primary residence with a junior accessory dwelling unit shall be permitted to develop an additional 50 square feet of floor area above the maximum amount of floor area otherwise permitted by the underlying zoning district.
 - D. Owner Occupancy: The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a primary residence either the primary dwelling or the junior accessory dwelling. Owner-occupancy is not required if the owner is a governmental agency, land trust, or housing organization.
 - E. Sale Prohibited: A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

- F. Short term rentals: The junior accessory dwelling unit shall not be rented for periods of less than 30 consecutive days.
- G. Location of Junior Accessory Dwelling Unit: A junior accessory dwelling unit shall be created within the existing walls of an existing or proposed primary dwelling.
- H. Separate Entry Required: A separate exterior entry shall be provided to serve a junior accessory dwelling unit. A junior accessory dwelling may include an interior entry to the main living area and a second interior doorway for sound attenuation.
- I. Kitchen Requirements: The junior accessory dwelling unit shall include an efficiency kitchen, requiring the following components:
 - i. A cooking facility with appliances, and
 - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- J. Parking. No additional parking is required.
- K. Fire Protection; Utility Service. For the purposes of any fire or life protection ordinance or regulation or for the purposes of providing service for water, sewer, or power, a junior accessory dwelling unit shall not be considered a separate or new unit.
- L. Deed Restriction. Prior to the issuance of a building permit for a junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the city that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, requires owner-occupancy consistent with subsection (b)(2)(D) above, does not permit short-term rentals, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.

SECTION 4. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is deemed not to conform with the a mandatory provision of Government Code Section 65852.2 or 65852.22, such section, subsection ,sentence, clause, or phrase shall be deemed stricken from the Ordinance and the corresponding provision of Government Code Section 65852.2 or 65852.22, if any, shall apply.

SECTION 7. The Council finds that the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305 because it constitutes minor adjustments to the City's zoning ordinance to implement State law requirements related to accessory dwelling units as established in Government Code Sections 65852.2 and 65852.22, and these changes are also likely to result in few additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment.

SECTION 8. This ordinance shall be effective upon its adoption by four-fifths of the City Council.

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INTRODUCED:	January 13, 2020	
PASSED:	January 13, 2020	
AYES:	CORMACK, DUBOIS, FILSETH,	FINE, KNISS, KOU, TANAKA
NOES:		
ABSENT:		
NOT PARTICIPAT	TING:	
ATTEST: Docusigned by: Beth Minor 27523117DA004D7 City Clerk		DocuSigned by: Lanan Fine 2007276A0001E446 Mayor
APPROVED AS TO	O FORM:	APPROVED:
Albert Yang		DocuSigned by: Ed Swkada
Assistant City At	torney	City Manager
		DocuSigned by: 293CF322E1294F6
		Director of Planning & Community
		Environment



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Signer Events Beth Minor Beth.Minor@CityofPaloAlto.org City Clerk City of Palo Alto Security Level: Email, Account Authentication (None)

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