



# *City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

2 PORTUGUESE BEND ROAD  
ROLLING HILLS, CA 90274  
(310) 377-1521

## **AGENDA**

**Regular Planning Commission  
Meeting**

## **PLANNING COMMISSION**

**Tuesday, November 15, 2022**

## **CITY OF ROLLING HILLS**

**6:30 PM**

### **Executive Order N-29-20**

This meeting is held pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020. All Planning Commissioners will participate by teleconference. Public Participation: City Hall will be closed to the public until further notice.

A live audio of the Planning Commission meeting will be available on the City's website (<https://www.rolling-hills.org/PC%20Meeting%20Zoom%20Link.pdf>).

The meeting agenda is also available on the City's website (<https://www.rolling-hills.org/government/agenda/index.php>).

Join Zoom Meeting via [https://us02web.zoom.us/j/99343882035?](https://us02web.zoom.us/j/99343882035?pwd=MWZXaG9ISWdud3NpajYwY3dFbllFZz09)  
pwd=MWZXaG9ISWdud3NpajYwY3dFbllFZz09  
Meeting ID: 993 4388 2035 Passcode: 647943

Members of the public may submit comments in real time by emailing the City Clerk's office at [cityclerk@cityofrh.net](mailto:cityclerk@cityofrh.net). Your comments will become a part of the official meeting record. You must provide your full name but do not provide any other personal information (i.e., phone numbers, addresses, etc) that you do not want to be published.

### **1. CALL TO ORDER**

### **2. ROLL CALL**

### **3. PLEDGE OF ALLEGIANCE**

### **4. APPROVE ORDER OF THE AGENDA**

*This is the appropriate time for the Chair or Commissioners to approve the agenda as is or reorder.*

### **5. BLUE FOLDER ITEMS (SUPPLEMENTAL)**

*Blue folder items are additional back up material to administrative reports and/or public comments received after the printing and distribution of the agenda packet for receive and file.*

### **6. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

*This section is intended to provide members of the public with the opportunity to comment on any subject that does not appear on this agenda for action. Each speaker will be permitted to speak only once. Written requests, if any, will be considered first under this section.*

## 7. CONSENT CALENDAR

*Business items, except those formally noticed for public hearing, or those pulled for discussion are assigned to the Consent Calendar. The Chair or any Commissioner may request that any Consent Calendar item(s) be removed, discussed, and acted upon separately. Items removed from the Consent Calendar will be taken up under the "Excluded Consent Calendar" section below. Those items remaining on the Consent Calendar will be approved in one motion. The Chair will call on anyone wishing to address the Commission on any Consent Calendar item on the agenda, which has not been pulled by Commission for discussion.*

### 7.A. APPROVE AFFIDAVIT OF POSTING FOR THE PLANNING COMMISSION REGULAR MEETING OF NOVEMBER 15, 2022

**RECOMMENDATION: Approve as presented.**

[CL\\_AGN\\_221115\\_PC\\_AffidavitofPosting.pdf](#)

### 7.B. CONTINUATION OF REMOTE CITY COUNCIL AND COMMISSION MEETINGS DURING THE MONTH OF NOVEMBER, 2022 PURSUANT TO THE REQUIREMENTS OF AB 361.

**RECOMMENDATION: Approve as presented.**

### 7.C. APPROVE THE MINUTES FOR THE OCTOBER 18, 2022, PLANNING COMMISSION REGULAR MEETING

**RECOMMENDATION: Approve as presented.**

[CL\\_MIN\\_221018\\_PC\\_FT\\_F.pdf](#)

[CL\\_MIN\\_221018\\_PC\\_F.pdf](#)

## 8. EXCLUDED CONSENT CALENDAR ITEMS

## 9. PUBLIC HEARINGS ON ITEMS CONTINUED FROM PREVIOUS MEETING

## 10. NEW PUBLIC HEARINGS

### 10.A. RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTER 17.28 OF THE ROLLING HILLS MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

**RECOMMENDATION:**

1. Open the public hearing, receive public testimony, close the public hearing; and
2. Adopt Planning Commission Resolution No. 2022-20 (Attachment 1), which:
  - a. Recommends that the City Council adopt the ADU Ordinance; and
  - b. Makes the requisite CEQA findings set forth therein.

[Attachment 1 - CL\\_RES\\_221115\\_2022-20\\_PCResolution\\_ADU\\_Ordinance.pdf](#)

[Exhibit A - CL\\_ORD - 381\\_ADU Ordinance\\_D2.pdf](#)

[Attachment 2 - CL\\_AGN\\_PC\\_221115\\_REDLINE - ADU Code Amendments \(SR Attachment\)-c1.pdf](#)

## 11. OLD BUSINESS

## 12. NEW BUSINESS

12.A. [UPCOMING PLANNING COMMISSION MEETINGS AND CONSIDERATION TO GO BACK TO IN-PERSON MEETINGS](#)

**RECOMMENDATION: Discuss and provide direction.**

[Planning Commission 2023 Calendar.pdf](#)

[Brown Act Updates\\_ Continued Remote Meetings & Removal of Disruptive Attendees - Best Best & Krieger.pdf](#)

**13. SCHEDULE FIELD TRIPS**

**14. ITEMS FROM STAFF**

**15. ITEMS FROM THE PLANNING COMMISSION**

**16. ADJOURNMENT**

Next meeting: Tuesday, December 20, 2022 at 6:30 p.m. in the City Council Chamber, Rolling Hills City Hall, 2 Portuguese Bend Road, Rolling Hills, California, 90274.

**Notice:**

*In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting due to your disability, please contact the City Clerk at (310) 377-1521 at least 48 hours prior to the meeting to enable the City to make reasonable arrangements to ensure accessibility and accommodation for your review of this agenda and attendance at this meeting.*

*Documents pertaining to an agenda item received after the posting of the agenda are available for review in the City Clerk's office or at the meeting at which the item will be considered.*

*All of the above resolutions and zoning case items have been determined to be categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines unless otherwise stated.*



## *City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

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**Agenda Item No.: 7.A**

**Mtg. Date: 11/15/2022**

**TO:** HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

**FROM:** CHRISTIAN HORVATH, CITY CLERK / EXECUTIVE ASSISTANT TO CITY MANAGER

**THRU:** ELAINE JENG P.E., CITY MANAGER

**SUBJECT:** APPROVE AFFIDAVIT OF POSTING FOR THE PLANNING COMMISSION REGULAR MEETING OF NOVEMBER 15, 2022

**DATE:** November 15, 2022

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**BACKGROUND:**

None.

**DISCUSSION:**

None.

**FISCAL IMPACT:**

None.

**RECOMMENDATION:**

Approve as presented.

**ATTACHMENTS:**

[CL\\_AGN\\_221115\\_PC\\_AffidavitofPosting.pdf](#)



# Administrative Report

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7.A., File # 1539

Meeting Date: 11/15/2022

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STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) §§  
CITY OF ROLLING HILLS                )

## AFFIDAVIT OF POSTING

In compliance with the Brown Act, the following materials have been posted at the locations below.

Legislative Body                    Planning Commission

Posting Type                         Regular Meeting Agenda

Posting Location                   2 Portuguese Bend Road, Rolling Hills, CA 90274  
City Hall Window  
City Website: <https://www.rolling-hills.org/government/agenda/index.php>  
[https://www.rolling-hills.org/government/city\\_council/city\\_council\\_archive\\_agendas/index.php](https://www.rolling-hills.org/government/city_council/city_council_archive_agendas/index.php)

Meeting Date & Time               NOVEMBER 15, 2022                   6:30pm

As City Clerk of the City of Rolling Hills, I declare under penalty of perjury, the document noted above was posted at the date displayed below.

*Christian Horvath, City Clerk*

Date: November 10, 2022



## *City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

**Agenda Item No.: 7.B**  
**Mtg. Date: 11/15/2022**

**TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION**

**FROM: CHRISTIAN HORVATH, CITY CLERK / EXECUTIVE ASSISTANT TO CITY MANAGER**

**THRU: ELAINE JENG P.E., CITY MANAGER**

**SUBJECT: CONTINUATION OF REMOTE CITY COUNCIL AND COMMISSION MEETINGS DURING THE MONTH OF NOVEMBER, 2022 PURSUANT TO THE REQUIREMENTS OF AB 361.**

**DATE: November 15, 2022**

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### **BACKGROUND:**

With the Governor's approval of AB 361, public agencies have been granted the continuing ability to conduct virtual meetings during declared public health emergencies under specified circumstances until January 1, 2024. Based on the requirements of AB 361, in order for the City to hold virtual meetings, the Planning Commission needs to determine monthly that the following conditions exist:

- 1) There continues to be a health and safety risk due to COVID-19 as a proclaimed state of emergency with recommended measures to promote social distancing; and
- 2) Meeting in person during the proclaimed state of emergency would present imminent risks to the health and safety of attendees.

The other requirements associated with continued virtual meetings are outlined in the text of AB 361. The recommended action is for the Planning Commission to find that the following conditions exist and that they necessitate remote Committee meetings for the coming month:

- 1) There continues to be a health and safety risk due to COVID-19 as a proclaimed state of emergency with recommended measures to promote social distancing; and
- 2) Meeting in person during the proclaimed state of emergency would present imminent risks to the health and safety of attendees. These findings will need to be made by the City Council each month that the City opts to continue with remote meetings.

**DISCUSSION:**

None.

**FISCAL IMPACT:**

None.

**RECOMMENDATION:**

None.

**ATTACHMENTS:**



## *City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

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**Agenda Item No.: 7.C**

**Mtg. Date: 11/15/2022**

**TO:** HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

**FROM:** CHRISTIAN HORVATH, CITY CLERK / EXECUTIVE ASSISTANT TO CITY MANAGER

**THRU:** ELAINE JENG P.E., CITY MANAGER

**SUBJECT:** APPROVE THE MINUTES FOR THE OCTOBER 18, 2022, PLANNING COMMISSION REGULAR MEETING

**DATE:** November 15, 2022

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**BACKGROUND:**

None.

**DISCUSSION:**

None.

**FISCAL IMPACT:**

None.

**RECOMMENDATION:**

Approve as presented.

**ATTACHMENTS:**

[CL\\_MIN\\_221018\\_PC\\_FT\\_F.pdf](#)

[CL\\_MIN\\_221018\\_PC\\_F.pdf](#)





Minutes  
Rolling Hills Planning Commission  
Tuesday, October 18, 2022  
Field Trip Meeting 7:45 a.m.  
21 Chuckwagon Road

**1. CALL MEETING TO ORDER**

The Planning Commission of the City of Rolling Hills met at 21 Chuckwagon Road on the above date at 7:45 a.m. Chair Brad Chelf presiding.

**2. ROLL CALL**

Commissioners Present:	Cooley, Douglass, Vice Chair Kirkpatrick, Chair Chelf
Commissioners Absent:	Cardenas
Staff Present:	John Signo, Planning & Community Services Director Stephanie Grant, Assistant Planner
Public Present:	William Dilfer, Tannia Dilfer, James Aichele, Leah Mirsch, Martha Bernadette, Faustino Bernadette, Larry (5 Chesterfield), Cheryl Marcz, Mario Ramirez, Sam Maus

**3. COMMENTS FROM THE PUBLIC ON ITEMS NOT ON THE AGENDA – NONE**

**4. FIELD TRIP**

**4.A. APPROVE AFFIDAVIT OF POSTING FOR THE PLANNING COMMISSION FIELD TRIP MEETING OF OCTOBER 18, 2022**

Motion by Vice Chair Kirkpatrick, seconded by Commissioner Douglass to approve as is. Motion carried unanimously with the following voice vote:

AYES:	Cooley, Douglass, Kirkpatrick, Chair Chelf
NOES:	None
ABSENT:	Cardenas

Commissioner Cooley recused herself as a commissioner for Item 4.B due to proximity to the property but participated as a resident.

**4.B. ZONING CASE NO. 22-60: A REQUEST FOR THE APPROVAL OF A SITE PLAN REVIEW FOR THE CONSTRUCTION OF A NEW 800 SQUARE-FOOT SWIMMING POOL/SPA AND FOR NON-EXEMPT GRADING; AND A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 797-SQUARE-FOOT POOL HOUSE LOCATED AT 21 CHUCKWAGON ROAD (MAUS) (LOT 4-CF & LOT 7-CF)**

Presentation by Stephanie Grant, Assistant Planner.

Sam Maus introduced himself as the homeowner.

Public Comment: Cheryl Marcz, Martha Bernadette, Faustino Bernadette, James Aichele, Mario Ramirez

**5. ADJOURNMENT: 8:15 A.M.**

The meeting was adjourned at 8:15 a.m. to the regular meeting of the Planning Commission scheduled to be held on Tuesday, October 18, 2022 beginning at 6:30 p.m. via tele-conference.

Respectfully submitted,

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Christian Horvath, City Clerk

Approved,

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Brad Chelf, Chair



Minutes  
Rolling Hills Planning Commission  
Tuesday, October 18, 2022  
Regular Meeting 6:30 p.m.  
Via tele-conference

## **1. CALL MEETING TO ORDER**

The Planning Commission of the City of Rolling Hills met via teleconference on the above date at 6:30 p.m. Chair Brad Chelf presiding.

## **2. ROLL CALL**

Commissioners Present:	Cooley, Douglass, Vice Chair Kirkpatrick, Chair Chelf
Commissioners Absent:	Cardenas
Staff Present:	John Signo, Planning & Community Services Director Stephanie Grant, Assistant Planner Ryan Stager, Assistant City Attorney Kathleen McGowan, Stormwater Consultant

## **3. PLEDGE OF ALLEGIANCE**

John Signo, Planning & Community Services Director, led the Pledge.

## **4. APPROVE ORDER OF THE AGENDA**

Motion by Commissioner Douglass, seconded by Vice Chair Kirkpatrick, to approve as is. Motion carried unanimously with the following roll call vote:

AYES:	Cooley, Douglass, Kirkpatrick, Chair Chelf
NOES:	None
ABSENT:	Cardenas

## **5. BLUE FOLDER ITEMS (SUPPLEMENTAL)**

Motion by Chair Chelf, seconded by Commissioner Douglass, to approve. Motion carried unanimously with the following roll call vote:

AYES:	Cooley, Douglass, Kirkpatrick, Chair Chelf
NOES:	None
ABSENT:	Cardenas

## **6. PUBLIC COMMENTS ON NON-AGENDA ITEMS – NONE**

## **7. CONSENT CALENDAR**

### **7.A. APPROVE AFFIDAVIT OF POSTING FOR THE PLANNING COMMISSION REGULAR MEETING OF OCTOBER 18, 2022**

- 7.B. CONTINUATION OF REMOTE CITY COUNCIL AND COMMISSION MEETINGS DURING THE MONTH OF OCTOBER, 2022 PURSUANT TO THE REQUIREMENTS OF AB 361.**
- 7.C. APPROVE THE MINUTES FOR THE SEPTEMBER 20, 2022, PLANNING COMMISSION REGULAR MEETING**
- 7.D. RECEIVE AND FILE THE CITY COUNCIL'S DIRECTION TO STAFF ON PLANNING COMMISSION ITEMS**

Motion by Vice Chair Kirkpatrick, seconded by Commissioner Douglass, to approve all items on the Consent Calendar. Motion carried unanimously with the following roll call vote:

AYES: Cooley, Douglass, Kirkpatrick, Chair Chelf  
NOES: None  
ABSENT: Cardenas

- 8. EXCLUDED CONSENT CALENDAR ITEMS – NONE**
- 9. PUBLIC HEARINGS ON ITEMS CONTINUED FROM PREVIOUS MEETINGS – NONE**
- 10. NEW PUBLIC HEARINGS**
- 10.A. RECOMMEND TO THE CITY COUNCIL RE-ADOPTION OF THE SAFETY ELEMENT TO INCORPORATE THE CITY'S LOCAL HAZARD MITIGATION PLAN IN ACCORDANCE WITH ASSEMBLY BILL 2140**

Presentation by John Signo, Planning & Community Services Director.

Motion by Vice Chair Kirkpatrick, seconded by Commissioner Cooley, to adopt Resolution No. 2022-19 as written. Motion carried unanimously with the following roll call vote:

AYES: Cooley, Douglass, Kirkpatrick, Chair Chelf  
NOES: None  
ABSENT: Cardenas

- 10.B. ZONING CASE NO. 22-60: A REQUEST FOR THE APPROVAL OF A SITE PLAN REVIEW FOR THE CONSTRUCTION OF A NEW 800 SQUARE-FOOT SWIMMING POOL/SPA AND FOR NON-EXEMPT GRADING; AND A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 797-SQUAREFOOT POOL HOUSE LOCATED AT 21 CHUCKWAGON ROAD (MAUS) (LOT 4-CF & LOT 7-CF)**

Commissioner Cooley recused herself on this item due to proximity to the property.

Presentation by Stephanie Grant, Assistant Planner.

Motion by Vice Chair Kirkpatrick, seconded by Commissioner Douglass, to adopt Resolution No. 2022-17 with the following conditions: relocate portable toilets near Chesterfield Road to an area that does not impact neighbors' views; prohibit storage of sheds, bins, or temporary structures on the property near Chesterfield Road that will impact neighbors' views; prepare a landscape plan that screens the neighbors' views of the swimming pool and pool house; restore the existing pasture and corral to its natural state before the driveway was installed; and eliminate the dirt excavated from the property instead of using it as fill to raise the pad. Staff was instructed to amend the findings in the resolution to eliminate the non-exempt grading and add

conditions as directed so the item would not have to return to the Planning Commission. Motion carried unanimously with the following roll call vote:

AYES: Douglass, Kirkpatrick, Chair Chelf  
NOES: None  
ABSENT: Cooley, Cardenas

Commissioner Cooley rejoined the Commission.

**11. OLD BUSINESS – NONE**

**12. NEW BUSINESS**

**12.A. REVISION OF ROLLING HILLS MUNICIPAL CODE CHAPTER 8.32 REGARDING STORM WATER MANAGEMENT AND POLLUTION CONTROL**

Kathleen McGowan, Stormwater Consultant

Motion by Vice Chair Kirkpatrick, seconded by Commissioner Douglass, to adopt Resolution No. 2022-18 as written. Motion carried unanimously with the following roll call vote:

AYES: Cooley, Douglass, Kirkpatrick, Chair Chelf  
NOES: None  
ABSENT: Cardenas

**13. SCHEDULED FIELD TRIPS – NONE**

**14. ITEMS FROM STAFF**

Discussion by John Signo, Planning & Community Services Director on the following:

- A. Housing Element
- B. PVPLC Preserve Tour
- C. Report of Commission Action to Council
- D. Chair/Vice Chair
- E. Upcoming Meetings: November 15 and December 20
- F. Staffing

**15. ITEMS FROM THE PLANNING COMMISSION – NONE**

**16. ADJOURNMENT: 7:34 P.M.**

The meeting was adjourned at 7:34 p.m. to a regular meeting of the Planning Commission scheduled to be held on Tuesday, November 15, 2022 beginning at 6:30 p.m. via tele-conference.

Respectfully submitted,

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Christian Horvath, City Clerk

Approved,

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Brad Chelf, Chair



## *City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

**Agenda Item No.: 10.A**  
**Mtg. Date: 11/15/2022**

**TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION**

**FROM: JOHN SIGNO, DIRECTOR OF PLANNING & COMMUNITY SERVICES**

**THRU: ELAINE JENG P.E., CITY MANAGER**

**SUBJECT: RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTER 17.28 OF THE ROLLING HILLS MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA**

**DATE: November 15, 2022**

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### **BACKGROUND:**

In recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that impose limits on local authority to regulate accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”). These bills include Assembly Bills 68 and 881 and Senate Bill 13—which went into effect on January 1, 2020. The City Council previously adopted Ordinance Nos. 364U and 364, which updated the City’s ADU and JADU regulations (contained in Chapter 17.28 of the Rolling Hills Municipal Code) to comply with this legislation.

Following the bills noted above, in 2020 and 2021 the California Legislature approved, and the Governor signed into law, Assembly Bill 3182 (“AB 3182”) and Assembly Bill 345 (“AB 345”), respectively. Among other things, AB 3182 expanded the scenarios under which the City must allow certain ADUs and JADUs with only a building permit. AB 345 required cities to allow the separate sale or conveyance of certain ADUs that satisfy the conditions set forth in Government Code section 65852.26. Such conditions include, among other things, that the ADU or the primary dwelling was constructed by a qualified nonprofit and the ADU is sold to a qualified low-income buyer. In August 2022, the City Council adopted Ordinance No. 376, which further amended the City’s ADU and JADU regulations to comply with this legislation.

## DISCUSSION:

In September 2022, the California Legislature approved, and the Governor signed into law, a new bill (“SB 897”) that further amends state ADU law (i.e., Government Code sections 65852.2 and 65852.22).

Among other things, SB 897: <sup>1</sup>

- Requires the City to allow certain ADUs to be higher—up to 18 or 25 feet, depending the situation;
- Requires the City’s front setback requirement to yield for certain ADUs;
- Requires the City to justify a denial with a full set of detailed comments describing the deficiencies in the application and explaining how to remedy them;
- Removes the automatic repeal in 2025 (now the ADU statute is permanent);
- Prohibits the City from denying an application to create an ADU solely because corrections are needed to address nonconforming zoning conditions, building code violations, or unpermitted structures elsewhere on the lot that do not present a threat to public health and safety and are not affected by the construction of the ADU; and
- In instances where a JADU will share a bathroom with the primary dwelling, the City must require the JADU to have an interior entry to the primary dwelling’s “main living area,” independent of the exterior entrances of the JADU and primary dwelling.

As noted above, the City’s ADU and JADU regulations are codified in RHMC Chapter 17.28. Included in Attachment 1 is an ordinance (“ADU Ordinance”) that amends Chapter 17.28 to comply with SB 897. Included in Attachment 2 is a redline showing the ADU Ordinance’s revisions to the City’s existing ADU and JADU regulations.

The code amendments provided in the ADU Ordinance are mandated by recent changes in state law. Consequently, staffs’ recommendation is for the Planning Commission to consider and recommend that the City Council adopt the ADU Ordinance.

## ENVIRONMENTAL IMPACT

Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the ADU Ordinance is statutorily exempt from CEQA in that the proposed ordinance implements state’s ADU law.

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<sup>1</sup> Both AB 2221 and SB 897 were signed into law, but AB 2221 has no effect because it would have amended the same statute that SB 897 amended, and SB 897 was signed into law (chaptered) later. AB 2221 was therefore “chaptered out.” But section 2.5 of SB 897 expressly includes, among others, changes to the ADU law that would have been made by AB 2221. Ultimately, only SB 897 is effective and relevant.



**FISCAL IMPACT:**

The ordinance amendment brings the Municipal Code into compliance with State law which protects the City from legal challenges.

**RECOMMENDATION:**

1. Open the public hearing, receive public testimony, close the public hearing; and
2. Adopt Planning Commission Resolution No. 2022-20 (Attachment 1), which:
  - a. Recommends that the City Council adopt the ADU Ordinance; and
  - b. Makes the requisite CEQA findings set forth therein.

**ATTACHMENTS:**

[Attachment 1 - CL\\_RES\\_221115\\_2022-20\\_PCResolution\\_ADU\\_Ordinance.pdf](#)

[Exhibit A - CL\\_ORD - 381\\_ADU Ordinance\\_D2.pdf](#)

[Attachment 2 - CL\\_AGN\\_PC\\_221115\\_REDLINE - ADU Code Amendments \(SR Attachment\)-c1.pdf](#)

## RESOLUTION NO. 2022-20

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROLLING HILLS RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE AMENDING CHAPTER 17.28 OF THE ROLLING HILLS MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND FINDING THE ACTION TO BE EXEMPT FROM CEQA**

**WHEREAS**, the City of Rolling Hills, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

**WHEREAS**, the Planning and Zoning Law authorizes local agencies to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

**WHEREAS**, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“2019 ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

**WHEREAS**, in February 2020, the City Council adopted Ordinance Nos. 364U and 364, which updated the City’s ADU and JADU regulations (contained in Chapter 17.28 of the Rolling Hills Municipal Code) to comply with the 2019 ADU Laws; and

**WHEREAS**, in August 2022, the City Council adopted Ordinance No. 376, which further amended the City’s ADU and JADU regulations to comply with state law, including Assembly Bills 345 and 3182; and

**WHEREAS**, in September 2022, the Legislature approved, and the Governor signed into law, Senate Bill 897 (“SB 897”); and

**WHEREAS**, SB 897 imposed further restrictions on local authority to regulate ADUs and JADUs, including with respect to height limits, setbacks, application review and denial procedures, unpermitted structures, and JADU configurations; and

**WHEREAS**, this ordinance (“Ordinance”) amends the City’s ADU and JADU regulations to comply with SB 897; and

**WHEREAS**, on November 15, 2022, the Planning Commission conducted a duly noticed public hearing to consider the Ordinance, wherein it considered the staff report, supporting documents, public testimony, and all appropriate information submitted with the Ordinance.

**NOW, THEREFORE,** the Planning Commission of the City of Rolling Hills does hereby resolve, determine, find, and order as follows:

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

**Section 2. CEQA.** Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the Planning Commission finds that adoption of the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state’s ADU law.

**Section 3. General Plan.** This Ordinance is, as a matter of law, consistent with the City’s General Plan pursuant to Government Code Section 65852.2(a)(1)(C).

**Section 4. Recommendation.** Based on the foregoing recitals and findings, the Planning Commission hereby recommends that the City Council approve and adopt the proposed ordinance and code amendments that are attached as Exhibit “A” hereto and incorporated herein by reference.

**Section 5. Certification.** The Planning Commission Chair shall sign and the Secretary shall attest to the adoption of this Resolution.

**Section 6. Effective Date.** This Resolution takes effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED THIS 15<sup>th</sup> DAY OF NOVEMBER, 2022.

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BRAD CHELF, CHAIRPERSON

ATTEST:

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CHRISTIAN HORVATH, CITY CLERK

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 17.54.070 of the Rolling Hills Municipal Code and Civil Procedure Section 1094.6.

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) §§  
CITY OF ROLLING HILLS        )

I certify that the foregoing Resolution No. 2022-20 entitled:

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY  
OF ROLLING HILLS RECOMMENDING THAT THE CITY  
COUNCIL APPROVE AN ORDINANCE AMENDING CHAPTER  
17.28 OF THE ROLLING HILLS MUNICIPAL CODE REGARDING  
ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY  
DWELLING UNITS AND FINDING THE ACTION TO BE EXEMPT  
FROM CEQA**

was approved and adopted at a regular meeting of the Planning Commission on  
November 15, 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

and in compliance with the laws of California was posted at the following:

Administrative Offices.

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CHRISTIAN HORVATH, CITY CLERK

## ORDINANCE NO. 381

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS AMENDING CHAPTER 17.28 OF THE ROLLING HILLS MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

**WHEREAS**, the City of Rolling Hills, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, state law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

**WHEREAS**, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“2019 ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

**WHEREAS**, in February 2020, the City Council adopted Ordinance Nos. 364U and 364, which updated the City’s ADU and JADU regulations (contained in Chapter 17.28 of the Rolling Hills Municipal Code) to comply with the 2019 ADU Laws; and

**WHEREAS**, in August 2022, the City Council adopted Ordinance No. 376, which further amended the City’s ADU and JADU regulations to comply with state law, including Assembly Bills 345 and 3182; and

**WHEREAS**, in September 2022, the Legislature approved, and the Governor signed into law, Senate Bill 897 (“SB 897”); and

**WHEREAS**, SB 897 imposed further restrictions on local authority to regulate ADUs and JADUs, including with respect to height limits, setbacks, application review and denial procedures, unpermitted structures, and JADU configurations; and

**WHEREAS**, this ordinance (“Ordinance”) amends the City’s ADU and JADU regulations to comply with SB 897; and

**WHEREAS**, on November 15, 2022, the Planning Commission conducted a duly noticed public hearing to consider the Ordinance, wherein it considered the staff report, supporting documents, public testimony, and all appropriate information submitted with the Ordinance. Following the public hearing, the Planning Commission recommended that the Council adopt the Ordinance; and

**WHEREAS**, on [insert], 2022, the City Council conducted a duly noticed public hearing to Consider the Ordinance, wherein it considered the staff report and supporting

documents, Planning Commission's recommendation, public testimony, and all appropriate information submitted with the Ordinance; and

**WHEREAS**, all legal prerequisites to the adoption of the Ordinance have occurred.

**NOW, THEREFORE**, the City Council of the City of Rolling Hills does ordain as follows:

**SECTION 1. Incorporation of Recitals.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**SECTION 2. CEQA.** Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the Ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

**SECTION 3. General Plan.** This Ordinance is, as a matter of law, consistent with the City's General Plan pursuant to Government Code Section 65852.2(a)(1)(C).

**SECTION 4. Code Amendments.** Chapter 17.28 of the Rolling Hills Municipal Code is hereby amended and restated to read in its entirety as provided in Exhibit "A," attached hereto and incorporated herein by reference.

**SECTION 5. Submittal to HCD.** The City Clerk shall submit a copy of this Ordinance to the Department of Housing and Community Development within 60 days after adoption.

**SECTION 6. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

**SECTION 7. Effective Date.** This Ordinance takes effect 30 days following its adoption.

**SECTION 8. Certification.** The City Clerk is hereby directed to certify to the passage and adoption of this Ordinance; cause the same, or a summary thereof, to be published or posted in the manner required by law.

**PASSED, APPROVED and ADOPTED** this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
James Black, Mayor

**ATTEST:**

\_\_\_\_\_  
Christian Horvath, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Jenkins, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) §§  
CITY OF ROLLING HILLS )

I, Christian Horvath, City Clerk of the City of Rolling Hills, California, do hereby certify that the foregoing Ordinance No. 381 was adopted at a regular meeting of the City Council of the City of Rolling Hills held on the \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 20\_\_, by the following vote:

**AYES:**

NOES:

ABSENT:

ABSTAIN:

Christian Horvath  
City Clerk



**EXHIBIT A**  
**Amended ADU Regulations**  
(Follows this page)

## **Chapter 17.28 ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

### **17.28.010 Purpose.**

The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22.

### **17.28.020 Effect of conforming.**

An ADU or JADU that conforms to the standards in this section will not be:

- A. Deemed to be inconsistent with the City's General Plan and Zoning designation for the lot on which the ADU or JADU is located.
- B. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
- C. Considered in the application of any local ordinance, policy, or program to limit residential growth.
- D. Required to correct a nonconforming zoning condition, as defined in Section 17.28.030(G) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.

### **17.28.030 Definitions.**

As used in this section, terms are defined as follows:

- A. "Accessory dwelling unit" or "ADU" 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. An accessory dwelling unit also includes the following:
  - 1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
  - 2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
- B. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
- C. "Complete independent living facilities" means 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.
- D. "Efficiency kitchen" means a kitchen that includes all of the following:
  - 1. A cooking facility with appliances.

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- E. "Junior accessory dwelling unit" or "JADU" means a residential unit that satisfies all of the following:
1. It is no more than five hundred square feet in size.
  2. It is contained entirely within an existing or proposed single-family dwelling. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family dwelling.
  3. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family dwelling.
  4. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family dwelling in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
  5. It includes an efficiency kitchen, as defined in subsection (D) above.
- F. "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.
- G. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
- H. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- I. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- J. "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.
- K. "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.

#### **17.28.040 Approvals.**

The following approvals apply to ADUs and JADUs under this section:

- A. Building-permit Only. If an ADU or JADU complies with each of the general requirements in Section 17.28.050 below, it is allowed with only a building permit in the following scenarios:
1. Converted on Single-family Lot: One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

- (a) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to one hundred fifty additional square feet if the expansion is limited to accommodating ingress and egress; and
  - (b) Has exterior access that is independent of that for the single-family dwelling; and
  - (c) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
- 2. Limited Detached on Single-family Lot: One detached, new construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above), if the detached ADU satisfies each of the following limitations:
  - (a) The side- and rear-yard setbacks are at least four feet.
  - (b) The total floor area is eight hundred square feet or smaller.
  - (c) The peak height above grade does not exceed the applicable height limit provided in section 17.28.050(B).
- 3. Converted on Multifamily Lot: One or more ADUs within 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 converted ADU complies with state building standards for dwellings. Under this subsection (A)(3), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to twenty-five percent of the existing multifamily dwelling units.
- 4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies both of the following limitations:
  - (a) The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multifamily dwelling as a condition of approving the ADU.
  - (b) The peak height above grade does not exceed the applicable height limit provided in section 17.28.050(B).

**B. ADU Permit.**

- 1. Except as allowed under subsection (A) above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in Section 17.28.050 and Section 17.28.060.
- 2. The City may charge an application fee, adopted by resolution of the City Council, to reimburse it for costs incurred in processing ADU permits.

C. Process and Timing.

1. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
2. The City must approve or deny an application to create an ADU or JADU within sixty days from the date that the City receives a completed application. If the City has not approved or denied the completed application within sixty days, the application is deemed approved unless either:
  - (a) The applicant requests a delay, in which case the sixty-day time period is tolled for the period of the requested delay, or
  - (b) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
3. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the sixty day time period established by subsection (C.2) above.
4. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

**17.28.050 General ADU and JADU requirements.**

The following requirements apply to all ADUs and JADUs that are approved under Section 17.28.040(A) or (B):

A. Zoning.

1. An ADU or JADU subject only to a building permit under Section 17.28.040(A) may be created on a lot in a residential or mixed-use zone.
2. An ADU or JADU subject to an ADU permit under Section 17.28.040(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

B. Height.

1. Except as otherwise provided by subsections (B.2) and (B.3) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed sixteen feet in height.
2. A detached ADU may be up to eighteen feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is

located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of twenty feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

3. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed eighteen feet in height.
  4. An ADU that is attached to the primary dwelling may not exceed twenty five feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower.
  5. For purposes of this subsection (B), height is measured above existing legal grade to the peak of the structure.
- C. Fire Sprinklers.
1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
  2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- D. Rental Term. No ADU or JADU may be rented for a term that is shorter than thirty days. This prohibition applies regardless of when the ADU or JADU was created.
- E. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).
- F. Owner Occupancy.
1. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
  2. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025, are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
  3. As required by state law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

- G. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
1. Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
  2. The ADU or JADU is restricted to the approved size and to other attributes allowed by this chapter.
  3. The deed restriction runs with the land and may be enforced against future property owners.
  4. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
  5. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
- H. Building and Safety.
1. **Must comply with building code.** Subject to subsection (H)(2) below, all ADUs and JADUs must comply with all local building code requirements.
  2. **No change in occupancy.** Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (H)(2) prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

### **17.28.060 Specific ADU requirements.**

The following requirements apply only to ADUs that require an ADU permit under Section 17.28.040(B).

- A. Maximum Size.
  - 1. The maximum size of a detached or attached ADU subject to this Section 17.28.060 is eight hundred fifty square feet for a studio or one-bedroom unit and one thousand square feet for a unit with two or more bedrooms.
  - 2. An attached ADU that is created on a lot with an existing primary dwelling is further limited to fifty percent of the floor area of the existing primary dwelling, subject to subsection (A)(3) below.
  - 3. Application of other development standards in this Section 17.28.060, such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percentage-based size limit in subsection (A)(2) above, or of an FAR, lot coverage limit or open-space requirement may require the ADU to be smaller than eight hundred square feet.
- B. Floor Area Ratio (FAR). No ADU subject to this Section 17.28.060 may cause the total FAR of the lot to exceed forty-five percent, subject to Section 17.28.060(A)(3) above.
- C. Setbacks.
  - 1. Front Yard.
    - (a) Subject to subsection (C)(1)(b) below, no part of any ADU subject to this Section 17.28.060 may be located within thirty feet of the front property line.
    - (b) If the front yard setback is the only location on the lot where an ADU may be lawfully constructed, then the ADU may encroach into the required front yard setback as necessary to enable the construction of an eight hundred square foot unit.
  - 2. No part of any ADU subject to this Section 17.28.060 may be located within four feet of a side or rear property line.
- D. Lot Coverage. No ADU subject to this Section 17.28.060 may cause the total lot coverage of the lot to exceed fifty percent, subject to Section 17.28.060(A)(3) above.
- E. Minimum Open Space. No ADU subject to this Section 17.28.060 may cause the total percentage of open space of the lot to fall below fifty percent, subject to subsection Section 17.28.060(A)(3) above.
- F. Passageway. No passageway, as defined by Section 17.28.030(H) above, is required for an ADU.
- G. Parking.



1. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by Section 17.28.030(K) above.
2. Exceptions. No parking under Section 17.28.060(G.1) is required in the following situations:
  - (a) The ADU is located within one-half mile walking distance of public transit, as defined in subsection Section 17.28.030(J) above.
  - (b) The ADU is located within an architecturally and historically significant historic district.
  - (c) The ADU is part of the proposed or existing primary residence or an accessory structure under Section 17.28.040(A)(1) above.
  - (d) When on-street parking permits are required but not offered to the occupant of the ADU.
  - (e) When there is an established car share vehicle stop located within one block of the ADU.
  - (f) When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria in subsections (G.2(a) through (G.2(e) above.
3. No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

#### H. Architectural Requirements.

1. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design of those of the primary dwelling.
2. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
3. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
4. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
5. The interior horizontal dimensions of an ADU must be at least ten feet wide in every direction, with a minimum interior wall height of seven feet.
6. Fencing, landscaping or privacy glass may be used to provide screening and prevent a direct line of sight to contiguous residential property.
7. The architectural treatment of an ADU to be constructed on a lot that has an identified historical resource listed on the California Register of Historic

Resources must comply with all applicable ministerial requirements imposed by the Secretary of Interior.

I. Landscape Requirements.

1. Evergreen landscape screening must be planted and maintained between the ADU and adjacent parcels as follows:
  - (a) At least one, fifteen-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one, twenty-four-inch box size plant shall be provided for every ten linear feet of exterior wall.
  - (b) Plant specimens for screening must be at least eight feet tall when installed. As an alternative, a solid fence of at least eight feet in height may be installed.
2. All landscaping must be drought-tolerant.
3. All landscaping must be from the City's approved plant list.

J. Historical Protections. An ADU that is subject to this Section 17.28.060 and that is on or within six hundred feet of real property that is listed in the California Register of Historic Resources must be located so as to not be visible from any public right-of-way.

**17.28.070 Fees.**

The following requirements apply to all ADUs and JADUs that are approved under Section 17.28.040(A) or Section 17.28.040(B).

A. Impact Fees.

1. No impact fee is required for an ADU that is less than seven hundred fifty square feet in size. For purposes of this Section 17.28.070, "impact fee" means a "fee" under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
2. Any impact fee that is required for an ADU that is seven hundred fifty square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the ADU divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)

B. Utility Fees.

1. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
2. Except as described in subsection 17.28.070(B)(1), converted ADUs on a single-family lot that are created under Section 17.28.040(A)(1) above are

not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.

3. Except as described in Section 17.28.070(B)(1), all ADUs not covered by Section 17.28.070(B)(2) above require a new, separate utility connection directly between the ADU and the utility.
  - (a) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
  - (b) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

#### **17.28.080 Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.**

- A. **Generally.** The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
- B. **Unpermitted ADUs constructed before 2018.**
  1. **Permit to Legalize.** As required by state law, the City may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:
    - (a) The ADU violates applicable building standards; or
    - (b) The ADU does not comply with state ADU law (Government Code Section 65852.2) or this ADU ordinance (Chapter 17.28).
  2. **Exceptions.**
    - (a) Notwithstanding subsection (B.1) above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the City makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.
    - (b) Subsection (B.1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

#### **17.28.090 Nonconforming ADUs and discretionary approval.**

Any proposed ADU or JADU that does not conform to the objective standards set forth in Section 17.28.010 through Section 17.28.080 of this chapter may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.

## **Chapter 17.28 ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

### **17.28.010 Purpose.**

The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22.

### **17.28.020 Effect of conforming.**

An ADU or JADU that conforms to the standards in this section will not be:

- A. Deemed to be inconsistent with the City's General Plan and Zoning designation for the lot on which the ADU or JADU is located.
- B. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
- C. Considered in the application of any local ordinance, policy, or program to limit residential growth.
- D. Required to correct a nonconforming zoning condition, as defined in Section 17.28.030(G) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.

### **17.28.030 Definitions.**

As used in this section, terms are defined as follows:

- A. "Accessory dwelling unit" or "ADU" 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. An accessory dwelling unit also includes the following:
  - 1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
  - 2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
- B. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
- C. "Complete independent living facilities" means 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.
- D. "Efficiency kitchen" means a kitchen that includes all of the following:
  - 1. A cooking facility with appliances.

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- E. "Junior accessory dwelling unit" or "JADU" means a residential unit that satisfies all of the following:
1. ~~Is it is~~ no more than five hundred square feet in size~~;~~.
  2. ~~Is it is~~ contained entirely within an existing or proposed single-family dwelling~~;~~. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family dwelling.
  3. ~~Includes~~It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family dwelling~~;~~and.
  4. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family dwelling in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
  5. ~~4. Includes~~It includes an efficiency kitchen, as defined in subsection (D) above.
- F. "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.
- G. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
- H. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- I. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- J. "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.
- K. "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.

#### **17.28.040 Approvals.**

The following approvals apply to ADUs and JADUs under this section:

- A. Building-permit Only. If an ADU or JADU complies with each of the general requirements in Section 17.28.050 below, it is allowed with only a building permit in the following scenarios:

1. Converted on Single-family Lot: One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
  - (a) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to one hundred fifty additional square feet if the expansion is limited to accommodating ingress and egress; and
  - (b) Has exterior access that is independent of that for the single-family dwelling; and
  - (c) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
2. Limited Detached on Single-family Lot: One detached, new construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above), if the detached ADU satisfies each of the following limitations:
  - (a) The side- and rear-yard setbacks are at least four feet.
  - (b) The total floor area is eight hundred square feet or smaller.
  - (c) The peak height above grade ~~is sixteen feet or less~~does not exceed the applicable height limit provided in section 17.28.050(B).
3. Converted on Multifamily Lot: One or more ADUs within 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 converted ADU complies with state building standards for dwellings. Under this subsection (A)(3), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to twenty-five percent of the existing multifamily dwelling units.
4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies both of the following limitations:
  - (a) The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multifamily dwelling as a condition of approving the ADU.
  - (b) The peak height above grade ~~is sixteen feet or less~~does not exceed the applicable height limit provided in section 17.28.050(B).

B. ADU Permit.

1. Except as allowed under subsection (A) above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in Section 17.28.050 and Section 17.28.060.
2. The City may charge an application fee, adopted by resolution of the City Council, to reimburse it for costs incurred in processing ADU permits.

C. Process and Timing.

1. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
2. The City must ~~act on~~approve or deny an application to create an ADU or JADU within sixty days from the date that the City receives a completed application. If the City ~~does~~has not ~~act upon~~approved or denied the completed application within sixty days, the application is deemed approved unless either:
  - (a) The applicant requests a delay, in which case the sixty-day time period is tolled for the period of the requested delay, or
  - (b) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
3. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the sixty day time period established by subsection (C.2) above.
4. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

**17.28.050 General ADU and JADU requirements.**

The following requirements apply to all ADUs and JADUs that are approved under Section 17.28.040(A) or (B):

A. Zoning.

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(Supp. No. 27)

1. An ADU or JADU subject only to a building permit under Section 17.28.040(A) may be created on a lot in a residential or mixed-use zone.
2. An ADU or JADU subject to an ADU permit under Section 17.28.040(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

B. Height.

1. Except as otherwise provided by subsections (B.2) and (B.3) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed sixteen feet in height.
2. A detached ADU may be up to eighteen feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of twenty feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
3. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed eighteen feet in height.
4. An ADU that is attached to the primary dwelling may not exceed twenty five feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower.
5. For purposes of this subsection (B), height is measured above existing legal grade to the peak of the structure.

~~B.~~ C. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

~~C.~~ D. Rental Term. No ADU or JADU may be rented for a term that is shorter than thirty days. This prohibition applies regardless of when the ADU or JADU was created.

E. ~~D.~~ No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

F. ~~E.~~ Owner Occupancy.

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(Supp. No. 27)



~~1. All ADUs permitted before January 1, 2020, are subject to the owner-occupancy requirement that was in place when the ADU was created.~~

1. ~~2.~~ An ADU that is permitted after ~~that date~~ January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.

2. ~~3. All~~ Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025, are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.

3. ~~4. All~~ As required by state law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

G. ~~F.~~ Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

1. Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
2. The ADU or JADU is restricted to the approved size and to other attributes allowed by this ~~section~~ chapter.
3. The deed restriction runs with the land and may be enforced against future property owners.
4. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
5. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the

deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

H. ~~G.~~ Building and Safety. ~~AII~~

1. **Must comply with building code.** Subject to subsection (H)(2) below, all ADUs and JADUs must comply with all local building code requirements.
2. **No change in occupancy.** Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (H)(2) prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

**17.28.060 Specific ADU requirements.**

The following requirements apply only to ADUs that require an ADU permit under Section 17.28.040(B).

- A. Maximum Size.
1. The maximum size of a detached or attached ADU subject to this Section 17.28.060 is eight hundred fifty square feet for a studio or one-bedroom unit and one thousand square feet for a unit with two or more bedrooms.
  2. An attached ADU that is created on a lot with an existing primary dwelling is further limited to fifty percent of the floor area of the existing primary dwelling, subject to subsection (A)(3) below.
  3. Application of other development standards in this Section 17.28.060, such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percentage-based size limit in subsection (A)(2) above, or of an FAR, lot coverage limit or open-space requirement may require the ADU to be smaller than eight hundred square feet.
- B. Floor Area Ratio (FAR). No ADU subject to this Section 17.28.060 may cause the total FAR of the lot to exceed forty-five percent, subject to Section 17.28.060(A)(3) above.
- C. Setbacks.
1. Front Yard.

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(Supp. No. 27)

- (a) Subject to subsection (C)(1)(b) below, no part of any ADU subject to this Section 17.28.060 may be located within thirty feet of the front property line.
  - (b) If the front yard setback is the only location on the lot where an ADU may be lawfully constructed, then the ADU may encroach into the required front yard setback as necessary to enable the construction of an eight hundred square foot unit ~~that is no greater than sixteen feet in height.~~
- 2. No part of any ADU subject to this Section 17.28.060 may be located within four feet of a side or rear property line.
- D. Lot Coverage. No ADU subject to this Section 17.28.060 may cause the total lot coverage of the lot to exceed fifty percent, subject to Section 17.28.060(A)(3) above.
- E. Minimum Open Space. No ADU subject to this Section 17.28.060 may cause the total percentage of open space of the lot to fall below fifty percent, subject to subsection Section 17.28.060(A)(3) above.
- ~~F. Height. No ADU subject to this Section 17.28.060 may exceed sixteen feet in height above grade, measured to the peak of the structure.~~
- F. ~~G.~~ Passageway. No passageway, as defined by Section 17.28.030(H) above, is required for an ADU.
- G. ~~H.~~ Parking.
  - 1. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by Section 17.28.030(K) above.
  - 2. Exceptions. No parking under Section 17.28.060(~~H~~)(1G.1) is required in the following situations:
    - (a) The ADU is located within one-half mile walking distance of public transit, as defined in subsection Section 17.28.030(J) above.
    - (b) The ADU is located within an architecturally and historically significant historic district.
    - (c) The ADU is part of the proposed or existing primary residence or an accessory structure under Section 17.28.040(A)(1) above.
    - (d) When on-street parking permits are required but not offered to the occupant of the ADU.
    - (e) When there is an established car share vehicle stop located within one block of the ADU.

(f) When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria in subsections (G.2(a) through (G.2(e) above.

3. No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

#### H. ~~I.~~ Architectural Requirements.

1. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design of those of the primary dwelling.
2. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
3. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
4. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
5. The interior horizontal dimensions of an ADU must be at least ten feet wide in every direction, with a minimum interior wall height of seven feet.
6. Fencing, landscaping or privacy glass may be used to provide screening and prevent a direct line of sight to contiguous residential property.
7. The architectural treatment of an ADU to be constructed on a lot that has an identified historical resource listed on the California Register of Historic Resources must comply with all applicable ministerial requirements imposed by the Secretary of Interior.

#### I. ~~J.~~ Landscape Requirements.

1. Evergreen landscape screening must be planted and maintained between the ADU and adjacent parcels as follows:
  - (a) At least one, fifteen-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one, twenty-four-inch box size plant shall be provided for every ten linear feet of exterior wall.
  - (b) Plant specimens for screening must be at least eight feet tall when installed. As an alternative, a solid fence of at least eight feet in height may be installed.
2. All landscaping must be drought-tolerant.

3. All landscaping must be from the City's approved plant list.

~~K. J.~~ J. Historical Protections. An ADU that is subject to this Section 17.28.060 and that is on or within six hundred feet of real property that is listed in the California Register of Historic Resources ~~is subject to all the objective standards imposed by the Secretary of Interior.~~ must be located so as to not be visible from any public right-of-way.

### **17.28.070 Fees.**

The following requirements apply to all ADUs and JADUs that are approved under Section 17.28.040(A) or Section 17.28.040(B).

#### **A. Impact Fees.**

1. No impact fee is required for an ADU that is less than seven hundred fifty square feet in size. For purposes of this Section 17.28.070, "impact fee" means a "fee" under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
2. Any impact fee that is required for an ADU that is seven hundred fifty square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the ADU divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)

#### **B. Utility Fees.**

1. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
2. Except as described in subsection 17.28.070(B)(1), converted ADUs on a single-family lot that are created under Section 17.28.040(A)(1) above are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.
3. Except as described in Section 17.28.070(B)(1), all ADUs not covered by Section 17.28.070(B)(2) above require a new, separate utility connection directly between the ADU and the utility.
  - (a) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU based on either the floor area or the number of drainage-fixtured units (DFU)

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(Supp. No. 27)

values, as defined by the Uniform Plumbing Code, upon the water or sewer system.

- (b) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

#### **17.28.080 Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.**

A. **Generally.** The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

#### **B. Unpermitted ADUs constructed before 2018.**

1. **Permit to Legalize.** As required by state law, the City may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

- (a) The ADU violates applicable building standards; or
- (b) The ADU does not comply with state ADU law (Government Code Section 65852.2) or this ADU ordinance (Chapter 17.28).

#### **2. Exceptions.**

- (a) Notwithstanding subsection (B.1) above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the City makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.
- (b) Subsection (B.1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

#### **~~17.28.080~~17.28.090 Nonconforming ADUs and discretionary approval.**

Any proposed ADU or JADU that does not conform to the objective standards set forth in Section 17.28.010 through Section ~~17.28.070~~17.28.080 of this chapter may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.

<b>Summary report:</b> <b>Litera Compare for Word 11.3.0.46 Document comparison done on</b> <b>11/4/2022 12:52:17 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> v1 Exhibit _A_ - ADU Code Amendments (Nov. 2022).docx	
<b>Modified filename:</b> Exhibit _A_ - ADU Code Amendments (Nov. 2022).docx	
<b>Changes:</b>	
<u>Add</u>	134
<del>Delete</del>	84
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	218



## *City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

**Agenda Item No.: 12.A**  
**Mtg. Date: 11/15/2022**

**TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION**

**FROM: JOHN SIGNO, DIRECTOR OF PLANNING & COMMUNITY SERVICES**

**THRU: ELAINE JENG P.E., CITY MANAGER**

**SUBJECT: UPCOMING PLANNING COMMISSION MEETINGS AND CONSIDERATION TO GO BACK TO IN-PERSON MEETINGS**

**DATE: November 15, 2022**

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### **BACKGROUND:**

The Planning Commission meets at 6:30 p.m. on the third Tuesday of the month. The next regularly scheduled meeting is on **Tuesday, December 20, 2022**.

The schedule for **2023** is as follows:

1. January 17
2. February 21
3. March 21
4. April 18
5. May 16
6. June 20
7. July 18
8. August 15
9. September 19
10. October 17
11. November 21
12. December 19

### **Laws Regarding Remote Meetings**

On September 16, 2021, AB 361 was signed into law to streamline the requirements for teleconference/virtual meetings under the Brown Act during times of local emergency. Before AB 361, the Brown Act's teleconference rules required posting each teleconference location and making each location open to the public, which proved ineffective during a global pandemic. Public agencies and the general public have been doing virtual meetings for the past two years due to the pandemic, and many continue to support remote meetings beyond AB 361's sunset date of Jan. 1, 2024.



On September 13, 2022, AB 2449 was signed into law to provide agencies with the ability to hold remote meetings without having to give the public access to private locations, subject to certain restrictions. SB 1100 followed shortly afterwards to give public agencies the option to remove disruptive meeting attendees after issuing a warning. Both new laws will take effect at the beginning of 2023.

On October 17, 2022, Governor Newsom announced that the State of Emergency brought on by pandemic will end on February 28, 2023.

**DISCUSSION:**

Staff anticipates development projects that should be ready for the December meeting. However, since December 20, 2022, is during the holiday season, staff is concerned that commissioners may be out of town and unavailable. The Planning Commission should consider if it will have a quorum on December 20. If not, an alternate date would be Tuesday, December 6. The following Tuesday, December 13, is not an option because the City Council already moved their meeting to that date to accommodate the Holiday Open House occurring on Monday, December 12.

**Continuation of Remote Meetings**

The various laws that have passed recently and the Governor's announcement that the State of Emergency will end on February 28, 2023, have created various opinions on the continuation of remote meetings. The Planning Commission could continue with remote meetings until January 1, 2024, under AB 361 if appropriate findings are made. As laws change and court cases are decided, staff and the City Attorney's office will keep the Commission informed.

**FISCAL IMPACT:**

None.

**RECOMMENDATION:**

Discuss and provide direction.

**ATTACHMENTS:**

[Planning Commission 2023 Calendar.pdf](#)

[Brown Act Updates\\_ Continued Remote Meetings & Removal of Disruptive Attendees - Best Best & Krieger.pdf](#)



INCORPORATED JANUARY 24, 1957

# City of Rolling Hills

NO. 2 PORTUGUESE BEND ROAD  
ROLLING HILLS, CA 90274  
(310) 377-1521  
FAX (310) 377-7288

## 2023 PLANNING COMMISSION MEETING SCHEDULE

**PLANNING COMMISSION MEETS THE THIRD TUESDAY OF EACH MONTH  
AT 7:30 AM (FIELD TRIP) AND 6:30 PM (MEETING) UNLESS NOTED OTHERWISE**

MEETING DATE	FILING DEADLINE (FOR COMPLETE APPLICATION)
January 17	December 6, 2022
February 21	January 10, 2023
March 15	February 1
April 18	March 7
May 16	April 4
June 20	May 9
July 18	June 6
August 15	July 4
September 19	August 8
October 17	September 5
November 21	October 10
December 19	November 7
January 16, 2023	December 5

7 sets of **folded plans** must be delivered to City Hall **no later than Monday the week prior** to the Planning Commission date. Please verify what development plans are to be submitted prior to printing plan sets. Additional sets will be required before City Council meeting.

It is highly recommended that **prior to** filing an application the applicant meet with City Planner to discuss the submittal packet and have staff briefly look at the request, development plans, application forms, environmental issues and address any questions specific to the project.

**A COMPLETE APPLICATION**, INCLUDING OWNERS SIGNATURES, MAILING LABELS, PLANS, APPLICATION FEE, AND ALL PERTINENT INFORMATION **MUST BE SUBMITTED NO LATER THAN THE FILING DEADLINE**. FAILURE TO SUBMIT THE ABOVE MENTIONED AND/OR FOLDED PLAN SETS ON TIME MAY RESULT IN THE PROPOSAL BEING DELAYED.



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[Home \(/\)](#) > [Insights \(/news-events/insights\)](/news-events/insights) >

[Brown Act Updates: Continued Remote Meetings & Removal of Disruptive Attendees \(/news-events/insights/2022/legal-alerts/10/brown-act-updates-continued-remote-meetings\)](/news-events/insights/2022/legal-alerts/10/brown-act-updates-continued-remote-meetings)

LEGAL ALERTS | OCT 03, 2022

# Brown Act Updates: Continued Remote Meetings & Removal of Disruptive Attendees

Takeaways From New Laws AB 2449 and SB 1100

A new bill signed into law in September, AB 2449, provides agencies with long-term permissions to hold remote meetings without having to give the public access to private locations, subject to certain restrictions. A second bill signed into law last month, SB 1100, will provide public agencies the option to remove disruptive meeting attendees after issuing a warning. Both new laws will take effect at the beginning of 2023.

In response to the pandemic, the California Legislature previously passed AB 361 to streamline the requirements for teleconference/virtual meetings under the Brown Act during times of local emergency. Before AB 361, the Brown Act's teleconference rules required posting each teleconference location and making each location open to the public, which proved ineffective during a global pandemic. Over the past two years, public agencies and the general public have become more comfortable with meeting virtually, and many public bodies lobbied to get legislation passed that would extend the remote meeting protections past AB 361's sunset date of Jan. 1, 2024. AB 2449 aims to do just that. Crucially, AB 361 still remains effective until Jan. 1, 2024, and local agencies may continue to make or renew remote meeting findings under that law as appropriate.



## **AB 2449 – Limited Teleconferencing in Specified Scenarios**

AB 2449 reiterates the standard Brown Act teleconference rules, re-codifies the rules set out in AB 361 for times of declared emergency, and also provides for relaxed teleconferencing rules when a member of the legislative body needs to attend remotely for an emergency, or other reasons supported by “just cause.”

### *Newly Added Teleconference Rules Available Jan. 1, 2023*

Under the new teleconference rules, a legislative body may hold a “hybrid” (partial teleconference, partial in-person) meeting without having to comply with certain procedural requirements (post agendas at teleconference locations, identify teleconference locations in the agenda, make all teleconference locations open to the public) in the following limited circumstances:

One or more members of the legislative body (but less than a quorum) have “just cause” for not attending the meeting in person (childcare or family caregiving need, contagious illness, physical or mental disability need, or travel while on official public business); or

One or more members of the legislative body (but less than a quorum) experience an emergency circumstance (a physical or family medical emergency that prevents in-person attendance).

Members of legislative bodies who wish to use one of the above exceptions should be sure to contact the agency's legal counsel before attending a meeting remotely. There are restrictions on the number of times any one member may attend remotely in a year under one of these exceptions. Further, a quorum of the body must still be meeting in-person, and the body must meet the following relaxed remote access rules:

Provide either a two-way audio visual system or a two-way phone service in addition to live webcasting;

Identify a call-in or internet-based access option on the agenda, in addition to the in-person meeting location;

Ensure that if a disruption to the online meeting occurs, the body takes no further action on agenda items until public access is restored; and

Avoid requiring public comments to be submitted in advance, and provide a real-time option for the public to address the body at the meeting.

#### *AB 361 Rules In Effect Today & Re-Codified in AB 2449*

As a reminder, when a state of emergency is involved, a legislative body may hold teleconference meetings without meeting certain procedural requirements (post agendas at teleconference locations, identify teleconference locations in the agenda, make all teleconference locations open to the public) in the following circumstances:

The meeting is held during a proclaimed state of emergency and state/local officials have imposed or recommended measures to promote social distancing (including, for example Cal-OSHA or other regulatory guidance requiring employees to be trained in social distancing to reduce exposure);

The meeting is held during a proclaimed state of emergency for the purpose of determining whether meeting in person during the emergency would present imminent risks to the health or safety of attendees; and/or

The meeting is held during a proclaimed state of emergency and the body has already determined that meeting in person during the emergency would present imminent risks to the health or safety of attendees.

If the body is relying on the above findings to justify meeting by teleconference, it must:

Give the public notice of how to access the meeting and offer public comment;  
Ensure that if a disruption to the online meeting occurs, the body takes no further action on agenda items until public access is restored;  
Avoid requiring public comments to be submitted in advance, and provide a real-time option for the public to address the body at the meeting; and  
If the state of emergency remains active or social distancing measures continue to be imposed/recommended by state or local officials, continue to make findings supporting the teleconference meetings at least every 30 days.

#### *Original Brown Act Teleconferencing Rules Remain Available*

Local agencies may always rely on the teleconferencing rules that applied pre-COVID – all votes must be by rollcall, the meeting must be conducted so as to protect the rights of the public appearing before the body or wishing to comment, all members of the public must be able to access the meeting and provide public comment, teleconference locations must be identified in the agenda, copies of the agenda must be posted at all teleconference locations, and teleconference locations must be open to the public. Finally, at least a quorum of the members of the legislative body who are participating remotely must do so from locations within the agency's jurisdiction.

#### **SB 1100 – Removing Disruptive Meeting Attendees**

Under SB 1100, recently passed by the Legislature and signed by Gov. Newsom, legislative bodies now have an additional tool to address meeting disruptions. The Brown Act authorizes a legislative body to order the room cleared and continue in session if a group or groups willfully interrupts the orderly conduct of the meeting, provided certain requirements are met. SB 1100 amends the Brown Act to provide that the presiding member of a legislative body may have an individual removed for disrupting a meeting of the body. Before removing any person, the person must be warned that their behavior is disruptive, and that continued disruption may result in the person's removal (however, no prior warning is required if the person is engaging in use of force or threatening to use force against anyone). Behavior is otherwise "disruptive" if it disrupts or impedes the orderly conduct of the meeting.

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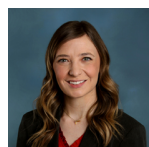
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