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# CITY OF POMONA

## PLANNING COMMISSION REPORT

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**DATE:** August 14, 2019

**TO:** Chairperson and Members of the Planning Commission

**FROM:** Development Services Department, Planning Division

**SUBJECT:** **A CODE AMENDMENT TO THE CITY OF POMONA ZONING ORDINANCE FOR THE PURPOSE OF REGULATING ACCESSORY DWELLING UNITS IN ACCORDANCE WITH STATE LAW**

A city-initiated request to amend the City of Pomona Zoning Ordinance (PZO) for the purpose of regulating Accessory Dwelling Units (ADUs) in accordance with State law. The request will include the following changes to the PZO: adding Section .5809-26 Accessory Dwelling Units, amending Sections .5809-13 Historic Preservation and Section .560 Variances, deleting "Second-Unit Housing" from Section .062 Definitions, and deleting Section .503-H(C)(4) Off-street Parking, Single-Family Residential Standards.

### **STAFF RECOMMENDATION**

1. Staff recommends that the Planning Commission consider the amendments to the draft ordinance recommended by the Historic Preservation Commission;
2. That the Planning Commission, after considering the recommended amendments to the draft ordinance by the Historic Preservation Commission, adopt the attached draft Resolution recommending the City Council approve Code Amendment No. 12324-2019 (Attachment 1), as presented with the recommended amendments; or
3. That the Planning Commission, after considering the recommended amendments to the draft ordinance by the Historic Preservation Commission, adopt the attached draft Resolution recommending the City Council approve Code Amendment (CODE 12324-2019), without the recommended amendments.

## **PROJECT DESCRIPTION & BACKGROUND**

### **State Law Regulating Accessory Dwelling Units**

The State legislature first adopted regulations for second units in 1982 and subsequent amendments were adopted in 1986, 1990 and 1994. Under these earlier regulations, municipalities could require a discretionary permit for second units. In 2003, the State legislature approved State Assembly Bill (AB) 1866, which prohibited municipalities from requiring a discretionary permit for second units. In response to AB 1866, the City adopted an ordinance in 2003 to regulate second units in accordance with State law, including allowing ministerial approval of second units.

In September 2016, California State Senate Bill (SB) 1069, AB 2299 and AB 2406 were signed into law. The combined bills took effect on January 1, 2017, and modified California Government Code Sections 65852.1 and 65852.2 (Attachment 2) and added Section 65852.22, which governs how local agencies regulate Accessory Dwelling Units (ADUs) formerly and commonly known as second units, granny flats, secondary units, or in-law units. On January 1, 2018, two additional clean-up bills took effect, SB 229 and AB 494 that among other things further clarified language regulating ADUs.

The new State law is intended to address the shortage of affordable housing in California by easing restrictions on ADUs and includes several mandatory elements. The mandatory elements require that new ADUs be allowed in zones permitting single and multi-residential uses on properties with existing or proposed single residential units and eases development standards such as parking and unit size. If the minimum requirements of State law are satisfied by a local ordinance, the ordinance may impose development standards that include, but are not limited to parking, height, and setbacks as well as standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. It should be noted that the intent of the Legislature is to facilitate local ordinances that “are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units (Government Code Section 65852.150).”

The new State law also clarified that second units would be referred to from this point forward as ADUs, which effectively nullified and voided the City’s existing Second Unit Ordinance. Local agencies have the option to adopt local regulations to implement the new legislation. Alternatively, local agencies can default to State law for regulation of ADUs. However, as discussed below, local agencies are given a certain amount of discretion if local regulations are adopted. The City’s current ADU ordinance is not in compliance with State law and is therefore deemed “null and void” as of January 1, 2017. As such, the City is currently relying on State law to regulate new ADUs within the City of Pomona.

The following list identifies pertinent mandatory elements of the new State law:

1. The ADU may not be sold separately from the main dwelling unit.
2. The lot must be zoned for single or multi-residential use and contain one existing single residential unit.
3. The ADU must be on the same lot as the main dwelling unit.

4. The maximum size of an attached ADU is 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
5. The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
6. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
7. Parking requirements for accessory dwelling units shall not exceed one parking space per unit.
8. Off street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking.
9. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
10. Applications for new ADUs must be approved ministerially (e.g. through building permit process) within 120 days of receipt.
11. The new ADU shall not be considered residential growth or be counted toward density limitations.
12. A local agency may not require a new or separate utility connection directly between the accessory dwelling unit and the utility if the ADU is within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.
13. Notwithstanding any other section, no additional parking for an ADU may be required when:
  - a. The property is located within one half mile of public transit;
  - b. The property is located within an architecturally and historically significant historic district;
  - c. The property is entirely within the existing space of the existing primary residence or an existing accessory structure;
  - d. On street parking permits are required but not offered to the occupant of the accessory dwelling unit; or,
  - e. There is a car share vehicle located within one block of the accessory dwelling unit.

The following list identifies elements where local agencies are permitted flexibility in regulating ADUs to suit local needs:

1. Designate areas where accessory dwelling units may be permitted. The designation of areas may be based on criteria including, but not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
2. Impose standards related to number of parking spaces, height, setbacks, lot coverage, landscaping, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places, except as described above.

3. A local agency may reduce or eliminate parking requirements for any accessory dwelling unit.
4. A local agency may require that the property be owner-occupant and/or that the property be used for rentals of terms longer than 30 days.

In addition to ADUs, AB 2406 creates a new class of ADUs called Junior Accessory Dwelling Units (JADUs) that are entirely contained within the footprint of existing homes, implementation of JADUs is optional. JADUs must incorporate an existing bedroom, include an efficiency kitchen, have a door leading directly to the outside of the house, and be less than 500 square feet. This new law also requires jurisdictions if utilizing the JADU housing type to permit JADUs without an off-street parking space and without utility connection charges. At this time, staff does not recommend implementing AB 2406 as part of the City's new ADU Ordinance because implementation of SB 1069 and AB 2299 will already allow for efficiency units as small as 220 square feet, thereby incorporating many of the provisions of AB 2406.

### **Status of Accessory Dwelling Units in Pomona**

Below is a current summary of permit activity for requests to construct new ADUs since the new State law became effective on January 1, 2017:

#### City-Wide

- Total number of applications: 155
- Total number of permits issued: 60

#### Historic Districts

- Total number of applications: 14
  - Hacienda Park: 3 applications
  - Wilton Heights: 5 applications
  - Lincoln Park: 6 applications
- Total number of permits issued: 5
  - Hacienda Park: 2 permit issued
  - Wilton Heights: 1 permit issued
  - Lincoln Park: 2 permit issued

Prior to the new State law regulating ADUs, the City issued 22 second-unit permits from January 2006 through December 2016, averaging approximately two (2) permits per year. Since the new State law became effective, the City has experienced a significant increase in ADU applications, with approximately 60 applications submitted per year.

### **Planning Commission and Historic Preservation Commission Meetings**

During the course of developing the draft ADU Ordinance, staff obtained input from the public as well as the Planning and Historic Preservation Commissions at the following public meetings:

- December 16, 2018 – Historic Preservation Commission – Discussion Item
- February 13, 2019 – Planning Commission – Discussion Item
- April 17, 2019 – Joint Study Session of the Planning Commission and Historic Preservation Commission
- June 26, 2019 – Planning Commission – Discussion Item
- July 3, 2019 – Historic Preservation Commission – Discussion Item (\*discussed in more detail below)

Public comments from these meetings generally included the following topics/questions:

- How will ADUs affect properties in historic districts?
- Can there be an architectural review for ADUs in historic districts?
- Owner occupancy requirements for ADUs.
- Consider the potential parking impacts of ADUs in historic districts.
- Consider limiting the size of ADUs to ensure they are affordable.

Planning Commission and Historic Preservation Commission comments from these meetings generally included the following topics/questions:

- Can the number of bedrooms be limited?
- What impact fees are applicable?
- What impacts on density within multi-residential zones?
- Are there significant public safety concerns related to traffic and parking resulting from new ADUs?
- Can the number of ADUs on a lot be limited?
- What are the utility connection and fee requirements?
- Affordability requirements for ADUs.
- Deed restrictions.
- Should Junior ADUs be considered?
- Protections for properties in historic districts.
- Owner occupancy requirements.

After discussion, the Planning and Historic Preservation Commissions directed staff to the address the following:

- Limit the number of ADUs to one per lot.
- Consider limiting the number of bedrooms to no more than two per ADU.
- Consider limiting the maximum size of ADUs as well as a proportional standard based on the size of the primary dwelling unit.
- Limit the lot coverage requirement to 35% maximum.
- Develop a minimum lot size standard.
- Limit building height of ADUs to 35 feet and two stories, but no taller than the height of the existing primary dwelling unit.

- Limit rental periods to a minimum of 30 days.

## **ANALYSIS**

The draft ADU Ordinance was prepared based on staff research on the matter as well as input from the public, Planning Commission, and Historic Preservation Commission. The draft Ordinance complies with State law, while including local regulations to ensure that ADUs are, among other things, compatible with surrounding development and appropriately relate to the primary dwelling in terms of size, location on the lot, and appearance, to the extent possible under the constraints of State law. As such, staff is recommending that the City's existing second-unit ordinance be repealed and that a new ordinance regulating ADUs be adopted in accordance with State law.

### **Allowed Zones**

State law allows one ADU on lots containing an existing or proposed single-residential unit, in zones that allow single or multi-residential uses. Consistent with State law, the draft ADU Ordinance would allow ADUs in zones as well as specific plan areas that allow single-residential uses. An ADU will not be permitted on a residential lot that contains two or more residential units. The draft Ordinance would allow unpermitted ADUs to be converted to legal units if they meet the required development standards of the ordinance.

### **Designated Areas**

In addition to the zoning criteria, State law allows local agencies to designate areas where ADUs would be allowed based on, but not limited to, the adequacy of water and sewer services, impacts on traffic flow and public safety. Staff coordinated with both the Public Works and Water Resources Department to identify any potential areas that may be restricted from allowing ADUs based on these criteria and none were identified. As such, the draft Ordinance does not limit the development of ADUs in this respect.

### **Review Process**

As mandated by State law, the draft ADU Ordinance establishes a ministerial approval process to allow the development of ADUs. Under the draft Ordinance, approval of a "Ministerial Accessory Dwelling Unit Permit" would be required to allow the construction of new ADUs that are in compliance with the established ministerial development standards of the Ordinance. The developments standards established under the ministerial review process are in full compliance with State law and would not unreasonably restrict the ability of homeowners to create accessory dwelling units.

To further facilitate the development of ADUs, the draft Ordinance also includes three discretionary processes that are considered to be above and beyond the development standards established by the State mandates and offer a path forward for proposed ADUs that would otherwise not meet the minimum requirements of the recommended ministerial review process:

- *Minor Deviation Variance*: proposed ADUs that do not meet the requirements for Lot Coverage, Minimum Distance between Buildings, and/or Yards, may apply for a Minor Deviation Variance in accordance with PZO Section .560.
- *Conditional Use Permit*: Proposed ADUs that are proposed outside of a historic district and/or identified on the local, California, or National register of historic places, and are not eligible to apply for a Minor Deviation Variance, may apply for a Conditional Use Permit in accordance with PZO Section .580.
- *Major Certificate of Appropriateness*: Proposed ADUs that are proposed to be located in a historic district and/or identified on the local, California, or National register of historic places and do not meet the ministerial review development standards may apply for a Major Certificate of Appropriateness in accordance with PZO Section .5809-13.

### Configuration of Accessory Dwelling Units

Under the new State law, ADUs can be either attached to the main dwelling unit (including garage conversions), detached and on the same lot as the main dwelling unit or located within the living area of the existing dwelling unit, as shown below.



### Number of Rooms

State law provides flexibility to local agencies in regulating the numbers of rooms for ADUs. Based on feedback from the Planning and Historic Preservation Commissions, there was a concern that parking issues may arise if there was no limit on the number of rooms for ADUs. The draft ADU ordinance limits the number of rooms based on unit size. For ADUs less than 800 square feet in area, the maximum number of permitted rooms is four (4). For ADUs 800 square feet in area or greater, the maximum number of rooms is six (6). A room is defined in PZO Section .062 as “an unsubdivided portion of the interior of a dwelling unit, excluding bathrooms, kitchens, closet,

hallways and service porches.” Based on this definition a room may include a bedroom, den, office, living room, dining room, etc.

### **Unit Size**

State law establishes a minimum size for ADUs that is the equivalent of an efficiency unit or 220 square feet. State law also establishes a maximum size for attached ADUs as 50% of the primary dwelling unit or 1,200 square feet, whichever is less, and a maximum of 1,200 square feet for detached ADUs. Based on concerns over potential impacts to parking and overcrowding, the Commission directed staff to consider lot size and size of the primary dwelling unit in developing standards for unit size. In response, the draft Ordinance includes a sliding scale for the unit size standard that is proportional to lot size as follows: 800 square feet maximum for lots less than 7,200 square feet and 1,200 square feet maximum for lots 7,200 square feet or greater. This standard maintains the requirement to limit the size of attached ADU's to 50% of the primary dwelling unit, regardless of lot size. The establishment of these restrictions on lot size reinforces the subordinate nature of ADUs to the primary dwelling unit. These standards also help maintain the existing character of residential neighborhoods, pattern of development, and intensity of use on a site.

### **Building Height**

State law provides flexibility to local agencies in regulating the maximum allowable building height. The draft ADU ordinance limits the building height to two stories and 35 feet, but in no case shall an ADU be taller than the primary dwelling unit. This standard is consistent with that of existing residential zones but also reinforces the subordinate nature of ADUs to the primary dwelling unit while maintaining the existing character of residential neighborhoods, pattern of development, and intensity of use on a site.

### **Yards**

State law provides flexibility to local agencies in regulating yards (a.k.a. setback) standards. The draft ADU ordinance establishes the following yard standards:

- Front Yard – 25 feet minimum
- Side Yard – 5 feet minimum
- Side Yard for Corner and Reversed Corner Lots – 10 feet minimum
- Rear Yard – 5 feet minimum for detached ADUs
- Rear Yard – 25 feet minimum for attached ADUs

These standards are consistent with that of existing residential zones and also help to maintain the existing character of residential neighborhoods, pattern of development, and intensity of use on a site.



## **Parking**

While State law provides flexibility to local agencies in regulating parking standards, it also establishes mandatory exemptions. For instance, properties located within one half mile of public transit are exempt from providing parking. Approximately 95% of properties that are eligible to construct ADUs in Pomona are within one half mile of public transit and therefore exempt from providing parking. Given these circumstances, the draft ADU Ordinance does not require the provision of parking for ADUs. State law also allows municipalities to require replacement parking on a 1:1 ratio for the existing residence in cases where a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted, in whole or in part, to an ADU. The replacement spaces may be located in any configuration on the same lot as the ADU, including but not limited to, as covered spaces (e.g. carport), open spaces, tandem parking, or by the use of a mechanical automobile parking lift.

## **Owner Occupancy and Rental Terms**

State law provides flexibility to local agencies to require owner-occupancy of properties that develop an ADU. Not requiring owner-occupancy could create a market for investors to acquire residential properties and develop ADUs to maximize rental income. As a result, the City could experience a surge in both absentee property owners and the cost of rent for ADUs. The draft ADU Ordinance requires that either the primary dwelling unit or the ADU must be owner-occupied at all times. The draft Ordinance also includes language that allows the Development Services Director or their designee to grant an exception for a period not to exceed eighteen months at the owner's request. Only one such exemption would be granted within a five year time period. This exemption would allow for scenarios where an owner may not be able to occupy the property such as a service members being called to duty. Finally, the draft ADU Ordinance requires that the ADU be rented for a period of no fewer than 30 days.

## **Additional Historic Preservation Commission Recommendations**

In addition to the public meetings previously mentioned, the Historic Preservation Commission held its regularly scheduled meeting on July 3, 2019 where staff presented the draft ADU Ordinance one more time as a discussion item. The Commission recommended that the Planning Commission consider the following additional amendments to the draft ADU Ordinance:

- Incorporate architectural standards as part of the ministerial review of Interior ADUs in historic districts to ensure any exterior modifications that occur as a result of an Interior ADU do not adversely impact the historical significance of properties in historic districts. Any proposed Interior ADU that does not meet the ministerial architectural standards (or any other ministerial development standards) may apply for a Major Certificate of Appropriateness.
- Modify the owner-occupancy exception period from 18 months to 24 months.

The draft ADU Ordinance incorporates the recommended amendments by the Historic Preservation Commission. However, should the Planning Commission wish to not include these recommended amendments in the draft Ordinance, staff would revise the Ordinance to exclude them for consideration by the City Council.

## **ENVIRONMENTAL REVIEW**

State CEQA Guidelines Section 15282(h) establishes a statutory exemption for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. As such, the proposed Code amendment is consistent with this exemption and no additional environmental review or documentation is required under the California Environmental Quality Act (CEQA).

## **NOTICING**

Public noticing was completed in accordance with State law. A public hearing notice was published on Friday, August 2, 2019 in the Inland Valley Daily Bulletin (Attachment 3).

## **CONCLUSION**

The draft ADU Ordinance would bring the City's Zoning Code into compliance with State law pertaining to ADUs and would provide a clear path for adding additional housing units to the City's housing stock. The draft Ordinance was crafted over several months after hearing comments from the public and relevant Commissions. The draft Ordinance will minimize impacts to surrounding and existing residential neighborhoods while ensuring compliance with State law. As such, staff recommends approval of this Code Amendment.

Respectfully Submitted:

Gustavo N. Gonzalez, AICP  
Planning Manager

Prepared By:

Vinny Tam, AICP  
Senior Planner

## **ATTACHMENTS**

1. Draft Planning Commission Resolution & Exhibit A - Draft Ordinance
2. California Government Code Section 65852.2
3. Proof of Publication of Public Hearing Notice

## **RESOLUTION NO. 19-039**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF A CODE AMENDMENT (CODE 12324-2019) ADDING SECTION .5809-26 TO THE CITY OF POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS, AMENDING SECTION 5809-13 AND SECTION .560 OF THE POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS, DELETING “SECOND UNIT HOUSING” FROM SECTION .062 OF THE CITY OF POMONA ZONING ORDINANCE, AND DELETING SECTION .503-H(C)(4) FROM THE CITY OF POMONA ZONING ORDINANCE.**

**WHEREAS**, to address California’s shortage of housing supply, the California Legislature approved, and the Governor signed into law, Assembly Bill 2299 (Bloom, Chapter 735, Stats. 2016), Senate Bill 1069 (Wieckowski, Chapter 720, Stats. 2016) and Assembly Bill 2406 (Thurmond, Chapter 755, Stats. 2016).

**WHEREAS**, Assembly Bill 2299 and Senate Bill 1069 are double jointing bills, which among other things, amend California Government Code Section 65852.2. These statutes impose new limitations on local authority to regulate second units, which are now referred to as “accessory dwelling units”.

**WHEREAS**, Assembly Bill 2299 became effective on January 1, 2017 and will render all non-compliant local ordinances null and void on that date unless and until an agency adopts an ordinance that complies with Government Code Section 65852.2.

**WHEREAS**, Assembly Bill 494 and Senate Bill 229 are double jointing bills, which among other things, further clarifies language contained within California Government Code Section 65852.2.

**WHEREAS**, Assembly Bill 494 became effective on January 1, 2018.

**WHEREAS**, the City desires to create a local regulatory scheme for the construction of accessory dwelling units that fully complies with Assembly Bill 2299 and Assembly Bill 494;

**WHEREAS**, the City desires to preserve the city of Pomona's cultural, historical, and architectural heritage and resources as living parts of community life that benefit and enrich the lives of its present and future residents;

**WHEREAS**, the City of Pomona has duly initiated Code Amendment (CODE 12324-2019);

**WHEREAS**, the Planning Commission of the City of Pomona, after giving notices thereof as required by law, held a public hearings on August 14, 2019 concerning Code Amendment (CODE 12324-2019);

**WHEREAS**, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

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

**SECTION 1.** The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

**SECTION 2.** The Planning Commission, exercising independent judgment, finds and determines that this ordinance is statutorily exempt from the provisions of CEQA per State CEQA Guidelines Section 15282(h) which establishes a statutory exemption for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and

**SECTION 3.** Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds that the proposed Code Amendment is in the public interest and in the interest of the furtherance of the public health, safety, and welfare and is, as a matter of law, consistent with the Pomona General Plan pursuant to Government Code Section 65852.2(a)(1)(c).

**SECTION 4.** The Planning Commission of the City of Pomona hereby recommends the City Council approve Code Amendment (CODE 12324-2019) for the purpose of regulating Accessory Dwelling Units in accordance with State law and adopt the ordinance attached hereto as Exhibit A.

**SECTION 5.** The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

**APPROVED AND ADOPTED THIS 14TH DAY OF AUGUST, 2019**

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DR. KYLE BROWN  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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GUSTAVO N. GONZALEZ, AICP  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

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MARCO A. MARTINEZ  
DEPUTY CITY ATTORNEY

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) ss  
CITY OF POMONA                        )

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.

**“EXHIBIT A”**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA APPROVING CODE AMENDMENT (CODE 12324-2019) ADDING SECTION .5809-26 TO THE CITY OF POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS, AMENDING SECTION 5809-13 AND SECTION .560 OF THE POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS, DELETING “SECOND UNIT HOUSING” FROM SECTION .062 OF THE CITY OF POMONA ZONING ORDINANCE, AND DELETING SECTION .503-H(C)(4) FROM THE CITY OF POMONA ZONING ORDINANCE.**

**WHEREAS**, to address California’s shortage of housing supply, the California Legislature approved, and the Governor signed into law, Assembly Bill 2299 (Bloom, Chapter 735, Stats. 2016), Senate Bill 1069 (Wieckowski, Chapter 720, Stats. 2016) and Assembly Bill 2406 (Thurmond, Chapter 755, Stats. 2016).

**WHEREAS**, Assembly Bill 2299 and Senate Bill 1069 are double jointing bills, which among other things, amend California Government Code Section 65852.2. These statutes impose new limitations on local authority to regulate second units, which are now referred to as “accessory dwelling units”.

**WHEREAS**, Assembly Bill 2299 became effective on January 1, 2017 and will render all non-compliant local ordinances null and void on that date unless and until an agency adopts an ordinance that complies with Government Code Section 65852.2.

**WHEREAS**, Assembly Bill 494 and Senate Bill 229 are double jointing bills, which among other things, further clarifies language contained within California Government Code Section 65852.2.

**WHEREAS**, Assembly Bill 494 became effective on January 1, 2018.

**WHEREAS**, the City desires to create a local regulatory scheme for the construction of accessory dwelling units that fully complies with Assembly Bill 2299 and Assembly Bill 494;

**WHEREAS**, the City desires to preserve the city of Pomona's cultural, historical, and architectural heritage and resources as living parts of community life that benefit and enrich the lives of its present and future residents;

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## **“EXHIBIT A”**

**WHEREAS**, the City of Pomona has duly initiated Code Amendment (CODE 12324-2019);

**WHEREAS**, the Planning Commission of the City of Pomona, after giving notices thereof as required by law, held a public hearings on \_\_\_\_\_ concerning Code Amendment (CODE 12324-2019) and carefully considered all pertinent testimony and the staff report offered in the case as present;

**WHEREAS**, on \_\_\_\_\_, the Planning Commission of the City of Pomona recommend to the City Council the approval of Code Amendment (Code 12324-2019) with a 0-0-0-0 vote;

**WHEREAS**, the City Council of the City of Pomona, at its regularly scheduled public meeting on \_\_\_\_\_ approved the introduction and first reading of an Ordinance for Code Amendment (CODE 12324-2019);

**WHEREAS**, the City Council of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on \_\_\_\_\_, concerning the requested Code Amendment (CODE 12324-2019); and

**WHEREAS**, the City Council has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Pomona as follows:

**SECTION 1.** The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

**SECTION 2.** The City Council finds and determines that this ordinance is statutorily exempt from the provisions of CEQA per State CEQA Guidelines Section 15282(h) which establishes a statutory exemption for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and

**SECTION 3.** Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the City Council hereby finds that the proposed Code Amendment is in the public interest and in the interest of the furtherance of the public health,

Ordinance No.

Date

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## “EXHIBIT A”

safety, and welfare and is, as a matter of law, consistent with the Pomona General Plan pursuant to Government Code Section 65852.2(a)(1)(c).

**SECTION 4.** The City Council of the City of Pomona hereby approves Code Amendment (CODE 12324-2019) adding Section .5809-26 ACCESSORY DWELLING UNITS of the City of Pomona Zoning Ordinance with the underlined language as follows:

### **Section .5809-26 – ACCESSORY DWELLING UNITS.**

- A. Purpose and Intent. The purpose of this section is to regulate the establishment of Accessory Dwelling Units in accordance with Government Code Section 65852.2; to provide affordable housing to meet the needs of the citizens of Pomona; to ensure that the development of Accessory Dwelling Units is compatible with existing development; to preserve the city of Pomona's cultural, historical, and architectural heritage; and to implement and promote the goals and policies of the Pomona General Plan.
- B. Definitions. For the purpose of this section, the following terms shall have the following meanings:
1. Accessory Dwelling Unit. An Accessory Dwelling Unit means a residential dwelling unit that is detached from, attached to, or located within the Living Area of an existing or proposed Primary Dwelling Unit, and that provides independent living facilities for one (1) or more persons. An Accessory Dwelling Unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1, and a manufactured home, as defined in section 18007. “Independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation.
  2. Accessory Dwelling Unit, Attached. An Attached Accessory Dwelling Unit means an Accessory Dwelling Unit that is newly constructed and attached to the Primary Dwelling Unit. An Attached Accessory Dwelling Unit may be located, in part, within the existing floor area of the Primary Dwelling Unit.
  3. Accessory Dwelling Unit, Detached. A Detached Accessory Dwelling Unit means an Accessory Dwelling Unit that is newly constructed and not attached to the Primary Dwelling Unit. A Detached Accessory Dwelling Unit may be attached to an Accessory Structure (e.g. garage).
  4. Accessory Dwelling Unit, Interior. An Interior Accessory Dwelling Unit means an Accessory Dwelling Unit that is located entirely within the



## “EXHIBIT A”

existing space of a legally established Primary Dwelling Unit or Accessory Structure.

5. Accessory Structure. Accessory Structure means a legally established structure that is accessory to and incidental to that of the Primary Dwelling Unit and that is located on the same lot.
6. Cooking Facility. A Cooking Facility means an area containing a refrigeration appliance, a kitchen sink and cooking appliance, each having a clear working space of not less than 30 inches. “Cooking appliance” includes any appliance capable of cooking food, including a range, stove, oven, microwave, or hot plate, but not including a toaster or electric kettle.
7. Historic Properties. Historic Properties mean those structures and properties listed on the National Register of Historic Places, California Register of Historic Places, Pomona Register of Historic Properties, or any property in a designated historic district.
8. Living Area. 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 as defined in Section 65852.2 of the Government Code.
9. Owner. Owner means the property owner on the latest equalized property tax assessment roll. If the Owner is not a natural person or group of natural persons (e.g. the Owner is a trust or corporation), then the Owner(s) shall designate a natural person for the purpose of satisfying the owner occupancy requirements set forth in Subsection (F)(23). The Owner(s) designated natural person(s) shall reside on site, shall have authority to bind the owner in all matters related to the site, and shall not pay rent or other compensation, nor provide services to the owner.
10. Owner-occupied. Owner-occupied means that an Owner currently resides on the property in either the Primary Dwelling Unit or the Accessory Dwelling Unit.
11. Passageway. Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the Accessory Dwelling Unit as defined in Section 65852.2 of the Government Code.

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12. Primary Dwelling Unit. Primary Dwelling Unit means any legally established, single-unit dwelling, existing or proposed, located on the same lot as an Accessory Dwelling Unit.
13. Tandem Parking. 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 as defined in Section 65852.2 of the Government Code.

### **C. Applicability.**

1. New Accessory Dwelling Units. Compliance with the requirements of this section applies to any construction, establishment, alteration, enlargement, or modification of an Accessory Dwelling.
2. Legal Nonconforming Accessory Dwelling Units. All Accessory Dwelling Units which were legal at the time of their creation but which do not conform to this section are deemed nonconforming and shall be subject to the provisions of Section .550. - Nonconforming buildings and uses.
3. Existing Illegal Accessory Dwelling Units. The provisions of this section shall in no way validate any existing illegal Accessory Dwelling Unit. An application may be made pursuant to this section to convert an illegal Accessory Dwelling Unit to a legal conforming Accessory Dwelling Unit, and shall be subject to the same standards and requirements as for a newly proposed Accessory Dwelling Unit.

### **D. Ministerial ADU Permit Procedure.**

1. The Development Services Director or designee shall review and approve a permit for an Accessory Dwelling Unit that complies with the requirements of this section.
2. An Accessory Dwelling Unit that is in compliance with the standards of this section shall only require ministerial approval.
3. The Development Services Director or designee may consider a request to deviate from the following development standards for Accessory Dwelling Units subject to the requirements of Section .560-J Minor Deviation Variances: Lot coverage, Minimum distance between buildings, and Yards. A proposed Accessory Dwelling Unit that does not comply with every standard in this section and that does not qualify for a Minor

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Deviation Variation may be approved if it qualifies for a Conditional Use Permit under Section .580.

4. The Development Services Director or designee will approve or disapprove a permit for an Accessory Dwelling Unit within one hundred twenty (120) days after receiving the complete application.
  5. Except as otherwise provided in this section, the construction of an Accessory Dwelling Unit is subject to any applicable fees adopted under the requirements of California Government Code, Title 7, Division 1, Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- E. Zoning. An Accessory Dwelling Unit is permitted in any zoning district, overlay district, or specific plan that allows single-unit residential use, including but not limited to the following districts:
1. “R-1-6,000” Single Family Residential District;
  2. “R-1-7,200” Single Family Residential District;
  3. “R-1-7,500” Single Family Residential District;
  4. “R-1-10,000” Single Family Residential District;
  5. “R-1-20,000” Single Family Residential District;
  6. “R-1-E” Single Family, Residential Overlay;
  7. “PD” Planned Development Overlay District
  8. “R-2” Low Density Multiple-family Zone;
  9. “R-3” Medium Density Multiple-family Zone;
  10. “R-4” High Density Multiple-family Residential Zone;
  11. “R-MHD” Residential-Manufactured Housing Development Zone
  12. “PRD” Planned Residential Development District;
  13. “A-P” Administrative and Professional Office District.
  14. “S” Supplemental Use Overlay District

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### **15. Small Lot Residential Zone**

#### **F. Development Standards.**

##### **1. Primary Dwelling Unit requirement.**

- a. There shall be a Primary Dwelling Unit located on the same lot as an Accessory Dwelling Unit.
- b. Where a Primary Dwelling Unit does not exist on a lot but is proposed, an Accessory Dwelling Unit may be constructed concurrently with the construction of the Primary Dwelling Unit.
- c. An Accessory Dwelling Unit is not permitted on residential lots already containing two or more dwelling units.

##### **2. Number of units allowed. Only one Accessory Dwelling Unit may be allowed on the same lot as a Primary Dwelling Unit.**

##### **3. Number of Rooms.**

- a. For Accessory Dwelling Units less than 800 square feet in area.
  - i. The total number of Rooms, as defined in Section .062, permitted in an Accessory Dwelling Unit may not exceed four (4).
- b. For Accessory Dwelling Units 800 square feet in area or greater.
  - i. The total number of Rooms, as defined in Section .062, permitted in an Accessory Dwelling Unit may not exceed six (6).

##### **4. Unit size.**

- a. For lots less than 7,200 square feet in area.
  - i. The total floor area of an Attached Accessory Dwelling Unit may not exceed fifty (50%) percent of the total Living Area of the Primary Dwelling Unit or eight hundred (800) square feet, whichever is less.
  - ii. The total floor area of a Detached Accessory Dwelling Unit may not exceed eight hundred (800) square feet.

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- iii. In no case shall the total floor area of an Accessory Dwelling Unit be smaller than 220 square feet in accordance with California Building Code section 1208.4.
- b. For lots 7,200 square feet in area or greater.
  - i. The total floor area of an Attached Accessory Dwelling Unit may not exceed fifty (50%) percent of the total Living Area of the Primary Dwelling Unit. In no case may an Attached Accessory Dwelling Unit exceed one thousand two hundred (1,200) square feet in total floor area.
  - ii. The total floor area of a Detached Accessory Dwelling Unit may not exceed one thousand two hundred (1,200) square feet in total floor area.
  - iii. In no case shall the total floor area of an Accessory Dwelling Unit be smaller than 220 square feet in accordance with California Building Code section 1208.4.
- 5. Coverage. The maximum coverage of the lot by all structures shall be thirty-five (35) percent. Any patio with roof, open slats or other covering shall constitute lot coverage but not square footage.
- 6. Building height. No Accessory Dwelling Unit shall have a height greater than two (2) stories or thirty-five (35) feet. However, in no case shall an Accessory Dwelling Unit be taller than the Primary Dwelling Unit.
- 7. Minimum distance between buildings.
  - a. The distance between an Accessory Dwelling Unit and the Primary Dwelling Unit shall be at least ten (10) feet.
  - b. The distance between an Accessory Dwelling Unit and an Accessory Structure shall be at least six (6) feet.
- 8. Location restriction. Detached Accessory Dwelling Units shall not be located between the proposed or existing Primary Dwelling Unit and the street adjoining the front yard, except where the Primary Dwelling Unit is on a through lot.
- 9. Yards.

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- a. Front Yard. Accessory Dwelling Units shall have a minimum front yard of twenty-five (25) feet.
  - b. Side Yard. Accessory Dwelling Units shall have a minimum side yard of five (5) feet.
  - c. Side Yard for Corner and Reversed Corner Lots. When an Accessory Dwelling Unit is located on a corner lot or a reversed corner lot, a minimum side yard of ten (10) feet shall be provided when the side yard abuts a street.
  - d. Rear Yard. Detached Accessory Dwelling Units shall have a minimum rear yard of five (5) feet. Attached Accessory Dwelling Units shall have a minimum rear yard of twenty-five (25) feet.
  - e. Non-conforming structures. A legally established Primary Dwelling Unit or Accessory Structure that is non-conforming as to yards, may be converted to, converted, in whole or in part, to an Accessory Dwelling Unit and maintain its legal-nonconforming status.
10. Roof eaves. Roof eaves of an Accessory Dwelling Unit may project into the required side yard for a distance not to exceed one (1) foot, and the eaves shall not be closer than two (2) feet from the side property line.
11. Landscaping. A minimum of twenty (20%) percent of the entire parcel shall be landscaped with plant materials, including some combination of trees, shrubs, groundcover, and turf. In addition, Accessory Dwelling Units shall comply with all applicable landscaping requirements of Section .503-J.
12. Parking.
- a. No parking is required for any Accessory Dwelling Unit. However, in the case where a garage, carport, or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit or converted, in whole or in part, to an Accessory Dwelling Unit those parking spaces must be replaced at a 1:1 ratio.
  - b. The Owner may locate the replacement spaces located in any configuration on the same lot as the Accessory Dwelling Unit.

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including but not limited to, as covered spaces (e.g. carport), open spaces, Tandem Parking, or by the use of a mechanical automobile parking lift.

- c. Parking spaces shall be located on an approved surface only.
- d. Open parking spaces shall have a minimum dimension of nine and one-half (9<sup>1/2</sup>) feet by eighteen (18) feet.
- e. Covered parking spaces (carports and garages) shall have a minimum dimension of ten (10) feet by twenty (20) feet.

13. Architecture. To ensure that the architectural style of the Accessory Dwelling Unit is consistent with the architecture of the primary dwelling unit the following elements of the Accessory Dwelling Unit must be the same in appearance as those of the primary dwelling:

- a. Architectural style (e.g. Craftsman, Victorian, Modern, etc.).
- b. Architectural detailing (e.g. exposed rafters, knee braces, decorative tile, etc.).
- c. Construction materials, finishes and colors.
- d. Door trim and style,
- e. Window trim and style (i.e., grid pattern, frame thickness, opening direction, etc.), and
- f. Roof pitch, roof type and roof material. However, the roof pitch must be a minimum of a three (3) inch rise for every horizontal twelve (12) inch run.

14. Manufactured or prefabricated structures. Nothing in this section prohibits the installation of manufactured or prefabricated structures that comply with Subsection (F)(13) above.

15. Exterior access. All Accessory Dwelling Units must provide independent access to the exterior of the unit.

16. Passageways. No Passageway is required in conjunction with the construction of an Accessory Dwelling Unit.

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17. Utility connections. Accessory Dwelling Units are not required to install a new or separate utility connection directly between the Accessory Dwelling Unit and the utility.
18. Building codes. Local building code requirements apply to Accessory Dwelling Units.
19. Certificate of Occupancy.
  - a. In no case shall an Accessory Dwelling Unit be issued a certificate of occupancy prior to the issuance of a certificate of occupancy for the Primary Dwelling Unit.
  - b. A certificate of occupancy may be issued concurrently for both the Primary Dwelling Unit and the Accessory Dwelling Unit.
20. Private sewage disposal. Prior approval by the local health officer is required for a private sewage disposal system if one is to be used for the Accessory Dwelling Unit.
21. Rent and Sale.
  - a. An Accessory Dwelling Unit may be rented separately from the Primary Dwelling Unit.
  - b. An Accessory Dwelling Unit may not be sold or otherwise conveyed separately from the Primary Dwelling Unit.
22. Rental period. An Accessory Dwelling Unit may not be rented for a period of fewer than thirty (30) days.
23. Owner occupancy. Either the Primary Dwelling Unit or the Accessory Dwelling Unit must be Owner-occupied at all times. If the property ceases to be Owner-occupied, the Accessory Dwelling Unit may not be used as a dwelling.
  - a. Exception. The Development Services Director or designee may grant an exception for a period not to exceed eighteen (18) months at the Owner's request. Only one such exemption shall be granted within a five (5) year time period.
  - b. If the Owner(s) of the subject property does not return to reside at the property, or if the subject property's ownership does not



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change prior to the end of the exception term, the Accessory Dwelling Unit permit shall be revoked in accordance with Subsection (G).

24. Deed restrictions. Prior to the issuance of a certificate of occupancy for an Accessory Dwelling Unit, a deed restriction or similar instrument that runs with the land, shall be recorded against the property and shall include the following:

- a. An acknowledgment that the Accessory Dwelling Unit requires the current Owner to reside in either the Primary Dwelling Unit or in the Accessory Dwelling Unit at all times.
- b. A declaration prohibiting the sale of the Accessory Dwelling Unit separate from the sale of the Primary Dwelling Unit.
- c. A declaration that the Accessory Dwelling Unit shall not be rented for a period of fewer than thirty (30) days.
- d. A declaration restricting the size and attributes of the Accessory Dwelling Unit to that which conforms to this section.
- e. A declaration that all of the above deed restrictions may be enforced against future purchasers.
- f. The deed restrictions may be removed if the owner eliminates the Accessory Dwelling Unit (as evidenced by removal of the kitchen facilities).
- g. The deed restrictions shall be enforced by the Development Services Director or designee for the benefit of the City of Pomona. Failure of the Owner to comply with the deed restrictions may result in legal action against the Owner and the City shall be authorized obtain any remedy available to it at law or equity, including but not limited to obtaining an injunction enjoining use of the Accessory Dwelling Unit in violation of the recorded restrictions or abatement of the illegal unit.

25. Interior Accessory Dwelling Units. Interior Accessory Dwelling Units shall be allowed in all zones permitting single-unit residential use if the following criteria are met:

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- a. Only one (1) Accessory Dwelling Unit will exist on the lot.
- b. Independent access to the exterior of the Accessory Dwelling Unit is provided.
- c. The minimum side and rear yard requirements are sufficient for fire safety.
- d. The Accessory Dwelling Unit does not exceed the maximum permitted unit size.
- e. If the Interior Accessory Dwelling Unit meets the above criteria:
  - i. The installation of fire sprinklers shall not be required if they are not required for the Primary Dwelling Unit.
  - ii. The installation of a new or separate utility connection directly between the Accessory Dwelling Unit and the utility or the imposition of a related connection fee or capacity charge shall not be required.
  - iii. A deed restriction or similar instrument shall be recorded against the property in accordance with Subsection (F)(24).

### 26. Historic Properties.

- a. Interior Accessory Dwelling Units.
  - i. Shall be permitted on Historic Properties in accordance with the ministerial standards set forth in subsections (F)(25) above and (F)(26)(a)(ii) below.
  - ii. To ensure that the architectural style of the Accessory Dwelling Unit is consistent with the historically significant architecture of the existing structure the following elements of the Accessory Dwelling Unit must be the same in appearance as those of the existing structure:
    - 1. Architectural style (e.g. Craftsman, Victorian, Modern, etc.).
    - 2. Architectural detailing (e.g. exposed rafters, knee braces, decorative tile, etc.).

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3. Construction materials, finishes, and colors,
4. Door trim and style, and
5. Window trim and style (i.e., grid pattern, frame thickness, opening direction, etc.).

- b. For the purposes of applying ministerial standards in accordance with Government Code Section 65852.2, no Attached Accessory Dwelling Unit, Detached Accessory Dwelling Unit, or external modifications to existing structures except for those in subsection (F)(26)(a)(ii) above are permitted on Historic Properties.

### **G. Revocation of Permit.**

1. Revocation by Director. The Development Services Director or designee shall have the authority to revoke a permit for an Accessory Dwelling Unit if one or more of the requirements of this section are no longer met.
2. Request for Hearing. Within twenty (20) days of the deposit of the notice of the decision to revoke the Accessory Dwelling Unit permit in the United States mail, the Owner may request a hearing before the Planning Commission. If the City receives a timely request for a hearing in accordance with this section, the decision to revoke shall be stayed until the hearing is concluded and the Planning Commission has made its determination. If the City does not receive a request for a hearing within twenty (20) days, the revocation of the permit for an accessory dwelling unit shall be final.
3. Appeal of Planning Commission Decision. The appeal shall be considered by the Planning Commission as a consent item. The decision of the Planning Commission shall be final unless a notice of appeal is filed pursuant to Section .580(F)(1).
4. If a permit for an Accessory Dwelling Unit is revoked, the Owner shall, within sixty (60) days, remove the kitchen facilities from the Accessory Dwelling Unit.

### **H. Effect of Conforming Accessory Dwelling Unit. A legally established Accessory Dwelling Unit that conforms to this section shall:**

1. Not be considered in the application of any ordinance, policy, or program to limit residential growth; and

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2. Not be considered a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
3. Not exceed the allowable density for the lot upon which it is located and is deemed to be an accessory residential use that is consistent with the existing general plan land use and zoning district designations for the lot.

**SECTION 5.** The City Council of the City of Pomona hereby approves Code Amendment (CODE 12324-2019) amending the City of Pomona Zoning Ordinance Section .5809-13(F)(3)(b) per the underlined language as follows:

Section .5809-13 – Historic preservation

b. Major projects shall include changes which significantly alter the following: height, proportions, the relationship of the building mass and space, roof shape, scale or distinctive facades of the structure. Examples of major projects shall include, but not be limited to room additions, adding dormers, expanding a garage, adding a porch, removing distinctive shutters or part or all of a structure. This category also includes demolition and/or replacement of primary use buildings or structures, and construction/installation of new buildings, structures, Attached and Detached Accessory Dwelling Units as well as Interior Accessory Dwelling Units that do not comply with the ministerial standards of Section 5809-26 but are in compliance with subsection L, new public sidewalks, new public streetscape improvements, new street lamps, new public buildings and structures, and development of new public spaces within an historic district. Additional examples shall be established at a later time by the commission. Applications for major projects shall include the following submittal:

**SECTION 6.** The City Council of the City of Pomona hereby approves Code Amendment (CODE 12324-2019) adding Section .5809-13(L) to The City of Pomona Zoning Ordinance per the underlined language as follows:

- L. Accessory Dwelling Units on Historic Properties. The purpose of this subsection is to regulate the establishment of Accessory Dwelling Units that do not comply with the ministerial standards in Government Code Section 65852.2 as implemented by Section .5809-26; as well as to provide affordable housing to meet the needs of the citizens of Pomona; to ensure that the development of Accessory Dwelling Units is compatible with existing development; to preserve the city of Pomona's cultural, historical, and architectural heritage; and to implement and promote the goals and policies of the Pomona General Plan.

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1. Definitions. For the purpose of this section, the definitions set forth in Section .5809-26(B) apply.
2. Applicability.
  - a. New Accessory Dwelling Units. Compliance with the requirements of this section applies to any construction, establishment, alteration, enlargement, or modification of an Accessory Dwelling that does not comply with the ministerial standards set forth in Section .5809-26.
  - b. Legal Nonconforming Accessory Dwelling Units. All Accessory Dwelling Units that were legal at the time of their creation but that do not conform to the ministerial standards set forth in Section .5809-26 and that have not been approved through the process set forth in this Section .5089-13(L) are deemed nonconforming and shall be subject to the provisions of Section .550. - Nonconforming buildings and uses.
  - c. Existing Illegal Accessory Dwelling Units. The provisions of this section shall in no way validate any existing illegal Accessory Dwelling Unit. An application may be made pursuant to this section to convert an illegal Accessory Dwelling Unit to a legal conforming Accessory Dwelling Unit, and shall be subject to the same standards and requirements as for a newly proposed Accessory Dwelling Unit.
3. Zoning. An Accessory Dwelling Unit is permitted with a Major Certificate of Appropriateness under this Section .5809-13 in any zoning district, overlay district, or specific plan that allows single-unit residential use, including but not limited to the following districts:
  - a. “R-1-6,000” Single Family Residential District;
  - b. “R-1-7,200” Single Family Residential District;
  - c. “R-1-7,500” Single Family Residential District;
  - d. “R-1-10,000” Single Family Residential District;
  - e. “R-1-20,000” Single Family Residential District;

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- f. “R-1-E” Single Family, Residential Overlay;
  - g. “PD” Planned Development Overlay District
  - h. “R-2” Low Density Multiple-family Zone;
  - i. “R-3” Medium Density Multiple-family Zone;
  - j. “R-4” High Density Multiple-family Residential Zone;
  - k. “R-MHD” Residential-Manufactured Housing Development Zone
  - l. “PRD” Planned Residential Development District;
  - m. “A-P” Administrative and Professional Office District.
  - n. “S” Supplemental Use Overlay District
  - o. Small Lot Residential Zone
4. Development Standards. The following development standards limit the scope of a Major Certificate of Appropriateness for an Accessory Dwelling Unit that does not comply with the ministerial standards set forth in Section .5809-26:
- a. Primary Dwelling Unit requirement.
    - i. There shall be a Primary Dwelling Unit located on the same lot as an Accessory Dwelling Unit.
    - ii. Where a Primary Dwelling Unit does not exist on a lot but is proposed, an Accessory Dwelling Unit may be constructed concurrently with the construction of the Primary Dwelling Unit.
    - iii. An Accessory Dwelling Unit is not permitted on residential lots already containing two or more dwelling units.
  - b. Number of units allowed. Only one Accessory Dwelling Unit may be allowed on the same lot as a Primary Dwelling Unit.
  - c. Number of Rooms.

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- i. For Accessory Dwelling Units less than 800 square feet in area.
    - 1. The total number of Rooms, as defined in Section .062, permitted in an Accessory Dwelling Unit may not exceed four (4).
  - ii. For Accessory Dwelling Units 800 square feet in area or greater.
    - 1. The total number of Rooms, as defined in Section .062, permitted in an Accessory Dwelling Unit may not exceed six (6).
- d. Unit size.
- i. For lots less than 7,200 square feet in area.
    - 1. The total floor area of an Attached Accessory Dwelling Unit may not exceed fifty (50%) percent of the total Living Area of the Primary Dwelling Unit or eight hundred (800) square feet, whichever is less.
    - 2. The total floor area of a Detached Accessory Dwelling Unit may not exceed eight hundred (800) square feet.
    - 3. In no case shall the total floor area of an Accessory Dwelling Unit be smaller than 220 square feet in accordance with California Building Code section 1208.4.
  - ii. For lots 7,200 square feet in area or greater.
    - 1. The total floor area of an Attached Accessory Dwelling Unit may not exceed fifty (50%) percent of the total Living Area of the Primary Dwelling Unit. In no case may an Attached Accessory Dwelling Unit exceed one thousand two hundred (1,200) square feet in total floor area.

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2. The total floor area of a Detached Accessory Dwelling Unit may not exceed one thousand two hundred (1,200) square feet in total floor area.
  3. In no case shall the total floor area of an Accessory Dwelling Unit be smaller than 220 square feet in accordance with California Building Code section 1208.4.
- e. Coverage. The maximum coverage of the lot by all structures shall be thirty-five (35) percent. Any patio with roof, open slats or other covering shall constitute lot coverage but not square footage.
  - f. Building height. No Accessory Dwelling Unit shall have a height greater than two (2) stories or thirty-five (35) feet. However, in no case shall an Accessory Dwelling Unit be taller than the Primary Dwelling Unit.
  - g. Minimum distance between buildings.
    - i. The distance between an Accessory Dwelling Unit and the Primary Dwelling Unit shall be at least ten (10) feet.
    - ii. The distance between an Accessory Dwelling Unit and an Accessory Structure shall be at least six (6) feet.
  - h. Location restriction. Detached Accessory Dwelling Units shall not be located between the proposed or existing Primary Dwelling Unit and the street adjoining the front yard, except where the Primary Dwelling Unit is on a through lot.
  - i. Yards.
    - i. Front Yard. Accessory Dwelling Units shall have a minimum front yard of twenty-five (25) feet.
    - ii. Side Yard. Accessory Dwelling Units shall have a minimum side yard of five (5) feet.
    - iii. Side Yard for Corner and Reversed Corner Lots. When an Accessory Dwelling Unit is located on a corner lot or a reversed corner lot, a minimum side yard of ten (10) feet shall be provided when the side yard abuts a street.



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- iv. Rear Yard. Detached Accessory Dwelling Units shall have a minimum rear yard of five (5) feet. Attached Accessory Dwelling Units shall have a minimum rear yard of twenty-five (25) feet.
- v. Non-conforming structures. A legally established Primary Dwelling Unit or Accessory Structure that is non-conforming as to yards, may be converted to, converted, in whole or in part, to an Accessory Dwelling Unit and maintain its legal-nonconforming status.
- j. Roof eaves. Roof eaves of an Accessory Dwelling Unit may project into the required side yard for a distance not to exceed one (1) foot, and the eaves shall not be closer than two (2) feet from the side property line.
- k. Landscaping. A minimum of twenty (20%) percent of the entire parcel shall be landscaped with plant materials, including some combination of trees, shrubs, groundcover, and turf. In addition, Accessory Dwelling Units shall comply with all applicable landscaping requirements of Section .503-J.
- l. Parking.
  - i. No parking is required for any Accessory Dwelling Unit. However, in the case where a garage, carport, or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit or converted, in whole or in part, to an Accessory Dwelling Unit those parking spaces must be replaced at a 1:1 ratio.
  - ii. The Owner may locate the replacement spaces located in any configuration on the same lot as the Accessory Dwelling Unit, including but not limited to, as covered spaces (e.g. carport), open spaces, Tandem Parking, or by the use of a mechanical automobile parking lift.
  - iii. Parking spaces shall be located on an approved surface only.

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- iv. Open parking spaces shall have a minimum dimension of nine and one-half (9<sup>1/2</sup>) feet by eighteen (18) feet.
- v. Covered parking spaces (carports and garages) shall have a minimum dimension of ten (10) feet by twenty (20) feet.
- m. Exterior access. All Accessory Dwelling Units must provide independent access to the exterior of the unit.
- n. Passageways. No Passageway is required in conjunction with the construction of an Accessory Dwelling Unit.
- o. Utility connections. Accessory Dwelling Units are not required to install a new or separate utility connection directly between the Accessory Dwelling Unit and the utility.
- p. Building codes. Local building code requirements apply to Accessory Dwelling Units.
- q. Certificate of Occupancy.
  - i. In no case shall an Accessory Dwelling Unit be issued a certificate of occupancy prior to the issuance of a certificate of occupancy for the Primary Dwelling Unit.
  - ii. A certificate of occupancy may be issued concurrently for both the Primary Dwelling Unit and the Accessory Dwelling Unit.
- r. Private sewage disposal. Prior approval by the local health officer is required for a private sewage disposal system if one is to be used for the Accessory Dwelling Unit.
- s. Rent and Sale.
  - i. An Accessory Dwelling Unit may be rented separately from the Primary Dwelling Unit.
  - ii. An Accessory Dwelling Unit may not be sold or otherwise conveyed separately from the Primary Dwelling Unit.
- t. Rental period. An Accessory Dwelling Unit may not be rented for a period of fewer than thirty (30) days.

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- u. Owner occupancy. Either the Primary Dwelling Unit or the Accessory Dwelling Unit must be Owner-occupied at all times. If the property ceases to be Owner-occupied, the Accessory Dwelling Unit may not be used as a dwelling.
  - i. Exception. The Development Services Director or designee may grant an exception for a period not to exceed twenty-four (24) months at the Owner’s request. Only one such exemption shall be granted within a five (5) year time period.
  - ii. If the Owner(s) of the subject property does not return to reside at the property, or if the subject property’s ownership does not change prior to the end of the exception term, the Accessory Dwelling Unit permit shall be revoked in accordance with Subsection (G).
- v. Deed restrictions. Prior to the issuance of a certificate of occupancy for an Accessory Dwelling Unit, a deed restriction or similar instrument that runs with the land, shall be recorded against the property and shall include the following:
  - i. An acknowledgment that the Accessory Dwelling Unit requires the current Owner to reside in either the Primary Dwelling Unit or in the Accessory Dwelling Unit at all times.
  - ii. A declaration prohibiting the sale of the Accessory Dwelling Unit separate from the sale of the Primary Dwelling Unit.
  - iii. A declaration that the Accessory Dwelling Unit shall not be rented for a period of fewer than thirty (30) days.
  - iv. A declaration restricting the size and attributes of the Accessory Dwelling Unit to that which conforms to this section.
  - v. A declaration that all of the above deed restrictions may be enforced against future purchasers.

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- vi. The deed restrictions may be removed if the owner eliminates the Accessory Dwelling Unit (as evidenced by removal of the kitchen facilities).
- vii. The deed restrictions shall be enforced by the Development Services Director or designee for the benefit of the City of Pomona. Failure of the Owner to comply with the deed restrictions may result in legal action against the Owner and the City shall be authorized obtain any remedy available to it at law or equity, including but not limited to obtaining an injunction enjoining use of the Accessory Dwelling Unit in violation of the recorded restrictions or abatement of the illegal unit.
- w. Interior Accessory Dwelling Units.
  - i. Only one (1) Accessory Dwelling Unit will exist on the lot.
  - ii. Independent access to the exterior of the Accessory Dwelling Unit is provided.
  - iii. The minimum side and rear yard requirements are sufficient for fire safety.
  - iv. If the Interior Accessory Dwelling Unit meets the above criteria:
    - 1. The installation of fire sprinklers shall not be required if they are not required for the Primary Dwelling Unit.
    - 2. The installation of a new or separate utility connection directly between the Accessory Dwelling Unit and the utility or the imposition of a related connection fee or capacity charge shall not be required.
    - 3. A deed restriction or similar instrument shall be recorded against the property in accordance with Subsection (4)(v).

## **“EXHIBIT A”**

5. Effect of Conforming Accessory Dwelling Unit. A legally established Accessory Dwelling Unit that conforms to this section shall:
- a. Not be considered in the application of any ordinance, policy, or program to limit residential growth; and
  - b. Not be considered a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
  - c. Not exceed the allowable density for the lot upon which it is located and is deemed to be an accessory residential use that is consistent with the existing general plan land use and zoning district designations for the lot.

**SECTION 7.** The City Council of the City of Pomona hereby approves Code Amendment (CODE 12324-2019) adding Section .560(J)(1)(m) of the City of Pomona Zoning Ordinance per the underlined language as follows:

Section .560 – Variances

m. For Minor Deviation Variances related to Accessory Dwelling Units:

- 1) Lot coverage. An increase of not more than ten (10) percent in the maximum allowable lot coverage.
- 2) Minimum distance between buildings. A decrease of not more than four (4) feet in the minimum distance between an Accessory Dwelling Unit and an Accessory Structure.
- 3) Side yard. A decrease of not more than two (2) feet in the minimum side yard requirement.
- 4) Rear yard. A decrease of not more than two (2) feet in the minimum rear yard requirement.

**SECTION 8.** The City Council of the City of Pomona hereby approves Code Amendment (CODE 12324-2019) deleting Section .062 – Second-Unit Housing of the City of Pomona Zoning Ordinance per the ~~stricken~~ language as follows:

Section 0.62 – Specific Definitions

Ordinance No.

Date

Page **24** of **28**

## **“EXHIBIT A”**

~~Second Unit Housing. "Second unit housing" means a separate living quarters containing a maximum of one kitchen and one bedroom. Such a unit may be attached or detached on a single lot containing a legal single family residence as the primary use. Second unit housing shall be subject to restrictions and limitations as follows:~~

- ~~A. Second units are allowed in all residential zones on single lots developed with a legal single family use, except PD overlay zones.~~
- ~~B. Not more than one second unit shall be created on any lot.~~
- ~~C. A second unit must comply with all R-1 10,000 standards of development except as modified in this section.~~
- ~~D. The minimum area for a lot on which a second unit may be permitted shall be 20% greater than the required lot area in each residential zone.~~
- ~~E. The second unit shall be located within the rear half of the lot and not cover more than 30% of the rear half of the lot.~~
- ~~F. The gross floor area of a second unit shall be at least 400 square feet but not exceed 750 square feet.~~
- ~~G. The floor area of an attached second unit shall not exceed 30% of the living area in the existing single family residence.~~
- ~~H. The second unit shall be one-story with a maximum height of 16 feet to top of roof and, for attached units, located on the first or ground floor level of an existing structure. The second unit shall be designed so as to eliminate the need to climb stairs.~~
- ~~I. One additional on-site parking space shall be provided in addition to the required two-car garage.~~
- ~~J. The exterior design and materials of the second unit shall have the same appearance as those of the existing dwelling in regards to the roof, building walls, doors, windows, horizontal/vertical expression, and architectural detail.~~
- ~~K. All new utility hook-ups shall be underground.~~
- ~~L. No home occupation permits shall be allowed for the second unit.~~
- ~~M. Second units shall not be sold independently of the primary dwelling unit on the lot and shall not be installed with a separate meter but shall share all gas, electric, and water bills.~~
- ~~N. A covenant, approved by the city attorney, shall be recorded with the county recorder's office; copies of said recorded covenant shall be filed with the Community Development Department. Said covenant shall indicate all pertinent restrictions and limitations on a second unit as included in this section, shall run with the land, and shall be binding upon any future owner, heirs, or assigns.~~
- ~~O. The owner/occupant of an existing single family dwelling located in a residential zone may apply for a second unit permit by submitting required materials to the Planning Division. The Planning Manager is authorized to approve or deny requests for second unit permits. If the proposed project meets all standards included herein, the request shall be approved and a permit issued. If all standards are not met, the request shall be denied.~~

Ordinance No.

Date

Page **25** of **28**

## **“EXHIBIT A”**

~~After the denial of a permit, the applicant may seek review by way of an administrative hearing in accordance with the following procedure:~~

- ~~1. A written appeal petition and a nonrefundable appeal fee in an amount set by resolution of the City Council must be filed with the City Manager within ten (10) calendar days after the decision of the Planning Division, provided, however, that if the ten (10) days expires on a date that City Hall is not open for business, then the appeal period shall be extended to the next City business day. Failure to file a timely petition, together with the nonrefundable appeal fee, deprive the hearing officer of jurisdiction to hear the appeal. The appeal petition must indicate in what way the appellant contends the Planning Division's decision was incorrect or must provide extenuating circumstances that the appellant contends would justify reversal or modification of the Planning Manager's decision.~~
- ~~2. The City Manager shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within thirty (30) days of receipt of the petition, unless the applicant consents in writing to an extension. At least ten (10) calendar days prior to such hearing, written notice thereof shall be mailed to the applicant by first class U.S. mail with a proof of service attached.~~
- ~~3. All parties involved shall have the right to: (1) offer testimonial, documentary, and tangible evidence bearing on the issues; (2) be represented by counsel; and (3) confront and cross examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or witness, provided the applicant consents in writing.~~
- ~~4. The hearing officer shall make a final determination supported by written findings, within five (5) City business days after the hearing pursuant to this section. No later than three (3) City business days of the hearing officer's decision, notice of the decision and a copy thereof shall be mailed by first-class mail, postage prepaid, to the appellant.~~

~~The decision of the hearing officer shall be final and the applicant may seek judicial review of the hearing officer's decision in accordance with California Code of Civil Procedure Section 1094.5 et seq. or as otherwise permitted by law. The applicant shall be notified of the decision.~~

**SECTION 9.** The City Council of the City of Pomona hereby approves Code Amendment (CODE 12324-2019) deleting Section .503-H(C)(4) of the City of Pomona Zoning Ordinance per the stricken language as follows:

Section .503-H. OFF-STREET PARKING

Ordinance No.

Date

Page 26 of 28

**“EXHIBIT A”**

**C. Single-Family Residential Standards.**

~~4. Second dwelling units shall provide one open or covered parking space per the development standards contained in this section. (Ord. No. 3804, § 2.)~~

**SECTION 10.** If any section, subsection, sentence clause or phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Pomona hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence clause or phrase or word not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

**SECTION 11.** The City Clerk shall attest and certify to the passage and adoption of this Ordinance, and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30) days after its final adoption.

**PASSED, APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_, 2019**

**ATTEST:**

**CITY OF POMONA:**

\_\_\_\_\_  
Rosalia A. Butler, City Clerk

\_\_\_\_\_  
Tim Sandoval, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Christi Hogan, Interim City Attorney

STATE OF CALIFORNIA )

Ordinance No.

Date

Page **27** of **28**



**“EXHIBIT A”**

COUNTY OF LOS ANGELES )  
CITY OF POMONA )

I, ROSALIA A. BUTLER, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pomona held on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

\_\_\_\_\_  
Rosalia A. Butler, City Clerk

**State of California**

**GOVERNMENT CODE**

**Section 65852.2**

---

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

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

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

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

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

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

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

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

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

(iv) The total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

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

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

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback

of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.

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

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

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

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

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

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance.

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

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

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

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

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and

sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

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

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

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

(6) "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.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(Amended by Stats. 2017, Ch. 602, Sec. 1.5. (AB 494) Effective January 1, 2018.)

## NOTICE OF PUBLIC HEARING

**Project Title:** Accessory Dwelling Unit Ordinance (CODE 12324-2019)

**Project Applicant:** City of Pomona

**Project Location:** City-wide

**Project Description:** An ordinance adding Section .5809-26 to the City of Pomona Zoning Ordinance (PZO) as well as amending section 5809-13 and Section .560 of the PZO for the purpose of regulating accessory dwelling units in accordance with State law, deleting "second unit housing" from Section .062 of the PZO, and deleting Section .503-H(C)(4) from the PZO.

**Lead Agency:** City of Pomona, Development Services Department, Planning Division

**Public Hearing Date & Location/Time:** The public hearing is scheduled for **Wednesday, August 14, 2019 at 7:00 p.m.** in the City of Pomona City Council Chambers located at 505 S. Garey Avenue in the City of Pomona.

### Environmental Review

State CEQA Guidelines Section 15282(h) establishes a statutory exemption for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. As such, pursuant to Section 15282(h) of the CEQA Guidelines, no additional environmental review or documentation is required under CEQA. This environmental review will be considered by the Planning Commission at the public hearing for this project scheduled for August 14, 2019.

### Public Hearing Notice

Any interested individual may appear in person or by agent at the Planning Commission hearing and be heard on any matter relevant to such proceedings. The staff report on this matter will be available in the Planning Division on or about August 8, 2019. For questions, please call Vinny Tam, Senior Planner, Planning Division at (909) 620-2284.

**PLEASE NOTE:** If you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Pomona, Planning Division at, or prior to, the public hearing.

**Para Información en Español, llame (909) 620-2191.**

Date: June 29, 2019

  
Anita D. Gutierrez, AICP  
Development Services Director

Publication Date: August 1, 2019

Rosalia Butler  
City Clerk, City of Pomona

# Inland Valley Daily Bulletin

(formerly the Progress Bulletin)  
9616 Archibald Avenue Suite 100  
Rancho Cucamonga, CA 91730  
909-987-6397  
legals@inlandnewspapers.com

(Space below for use of County Clerk Only)

5030269

Legal No. **0011298701**

POMONA CITY OF LEGAL  
ATTN: CITY CLERK  
PO BOX 660  
POMONA, CA 91769

**FILE NO. ADU Ordinance**  
**PROOF OF PUBLICATION**  
**(2015.5 C.C.P.)**

**STATE OF CALIFORNIA**  
**County of Los Angeles**

I am a citizen of the United States, I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of INLAND VALLEY DAILY BULLETIN, a newspaper of general circulation printed and published daily for the City of Pomona, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, on the date of June 15, 1945, Decree No. Pomo C-606. The notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

**08/02/2019**

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at Rancho Cucamonga, San Bernardino Co., California, on this 2nd day of August, 2019.



Signature



## NOTICE OF PUBLIC HEARING

**Project Title:** Accessory Dwelling Unit Ordinance (CODE 12324-2019)  
**Project Applicant:** City of Pomona  
**Project Location:** City-wide  
**Project Description:** An ordinance adding Section .5809-26 to the City of Pomona Zoning Ordinance (PZO) as well as amending section 5809-13 and Section .560 of the PZO for the purpose of regulating accessory dwelling units in accordance with State law, deleting "second unit housing" from Section .062 of the PZO, and deleting Section .503-H(C)(4) from the PZO.  
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**Para Información en Español, llame (909) 620-2191.**

Date: June 29, 2019

\_\_\_\_\_  
Anita D. Gutierrez, ATCP  
Development Services Director

Publication Date: August 1, 2019

Rosalia Butler  
City Clerk, City of Pomona

**Published: August 2, 2019 Inland Valley Daily Bulletin-LA Ad#11298701**