



CITY OF
BIG BEAR LAKE *California*

URGENCY ORDINANCE NO. 2022-510

**URGENCY ORDINANCE AMENDING SECTION 17.25.210 OF THE
DEVELOPMENT CODE RELATING TO ACCESSORY DWELLING UNITS
(ADUs) AND JUNIOR ACCESSORY DWELLING UNITS (JADUs);
FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

WHEREAS, the City of Big Bear Lake, California (the “City”) is a municipal corporation and charter City, duly organized under the constitution and laws of the State of California; and

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

WHEREAS, in recent years, the California Legislature approved, and the Governor signed into law a number of bills amending Government Code Sections 65852.2 and 65852.22 imposing limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in June 2019, the City Council adopted the first ADU ordinance, Ordinance 2019-471. In January 2020, revisions to the ADU regulations were adopted by Ordinance 2020-478, providing for the development of ADUs and JADUs in accordance with state law. These provisions are contained in Development Code Section 17.25.210; and

WHEREAS, in September 2022, the California Legislature approved, and the Governor signed into law, a new bill, Senate Bill 897 (SB 897) that further amends Government Code Sections 65852.2 and 65852.22; and

WHEREAS, SB 897 takes effect January 1, 2023, and if the City’s ADU ordinance does not comply with the requirements imposed by SB 897 on that date, the City’s entire existing ADU ordinance becomes null and void as a matter of law; and

WHEREAS, the City desires to amend the Development Code regulations pertaining to ADUs and JADUs to comply with the amended provisions of Government Code Sections 65852.2 and 65852.22; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare based on the passage of SB 897 because if the City’s ordinance does not comply with the amended laws as of January 1, 2023, and the City’s ADU ordinance becomes null and void, the City would thereafter be limited to applying the few default standards that are provided in Government Code Sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact

property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council; and

WHEREAS, to protect the public safety, health, and welfare, the City Council may adopt this ordinance as an urgency measure in accordance with Government Code Section 36937, Subdivision (b); and

WHEREAS, at a regularly scheduled meeting of the City Council held on November 7, 2022, the City Council of the City of Big Bear Lake considered an urgency ordinance making revisions to the above-referenced section of Development Code. The public meeting was held in Hofert Hall of the Civic and Performing Arts Center, 39707 Big Bear Boulevard, Big Bear Lake, CA, 92315; and

WHEREAS, all legal prerequisites to the adoption of this urgency ordinance have occurred.

NOW, THEREFORE, the City Council of the City of Big Bear Lake does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Under California Public Resources Code Section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 and 65852.22 of the Government Code pertaining to ADUs and JADUs. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law. In addition to being statutorily exempt from CEQA, the proposed improvements under this ordinance are categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption pertains to the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot.

Section 3. Based on the findings and conclusions set forth in Sections 1 and 2, above, the City Council hereby adopts this Urgency Ordinance amending Development Code Section 17.25.210 as provided in Ordinance Exhibit 1, attached hereto and incorporated herein by reference.

Section 4. This urgency ordinance takes effect immediately upon its adoption.

Section 5. The City Clerk shall either: (a) have this ordinance published in a newspaper of general circulation within 15 days after its adoption or (b) have a summary of this ordinance published twice in a newspaper of general circulation, within 15 days after its adoption.

Section 6. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

Section 7. If any section, sentence, clause or phrase of this ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

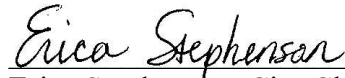
The City Clerk shall certify to the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED this 7th day of November, 2022.



Rick Herrick, Mayor

ATTEST:



Erica Stephenson, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF BIG BEAR LAKE)

I, Erica Stephenson, City Clerk of the City of Big Bear Lake, California, do hereby certify that the whole number of the City Council of the said City is five; that the foregoing Urgency Ordinance No. 2022-510 is a full, true and correct original of Urgency Ordinance No. 2022-510 of the City of Big Bear Lake, entitled:

URGENCY ORDINANCE AMENDING SECTION 17.25.210 OF THE DEVELOPMENT CODE RELATING TO ACCESSORY DWELLING UNITS (ADUs) AND JUNIOR ACCESSORY DWELLING UNITS (JADUs); FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

was duly passed and adopted by the said City Council by a four-fifths vote, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of said Council on the 7th day of November 2022, and that the same was so passed and adopted by the following vote:

AYES: Putz, Mote, Melnick, Herrick
NOES: None
ABSTAIN: None
ABSENT: Lee

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California that the foregoing Urgency Ordinance No. 2022-510 was duly and regularly published according to law and the order of the City Council and circulated within said City.



Erica Stephenson, City Clerk

EXHIBIT 1
AMENDMENTS TO DEVELOPMENT CODE SECTION 17.25.210
ACCESSORY DWELLING UNITS

Section 17.25.210 is hereby amended to read in its entirety as follows:

17.25.210 ACCESSORY DWELLING UNITS

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

(b) Effect of Conforming. An ADU or JADU that conforms to the standards in this section will not be:

- (1) Deemed to be inconsistent with the City’s General Plan and zoning designation for the lot or property on which the ADU or JADU is located.
- (2) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
- (3) Considered in the application of any local ordinance, policy, or program to limit residential growth.
- (4) Required to correct a nonconforming zoning condition, as defined in subsection (c)(7) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

(c) Definitions. As used in this section, the following terms are defined as follows:

- (1) “Accessory dwelling unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary dwelling unit. For the purpose of this ordinance, primary dwelling, primary dwelling unit, and primary residence mean the same thing and may be used interchangeably. An accessory dwelling unit also includes the following:
 - (A) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - (B) A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
- (2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

- (3) “Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- (4) “Efficiency kitchen” means a kitchen that includes each of the following:
 - (A) A cooking facility with appliances.
 - (B) A food preparation counter or counters that are of a reasonable size in relation to the size of the JADU.
- (5) “Junior accessory dwelling unit” or “JADU” means a residential unit that
 - (A) Is no more than 500 square feet in size.
 - (B) Is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - (C) Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - (D) If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
 - (E) Includes an efficiency kitchen, as defined in subsection (a)(4) above
- (6) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but not including a garage or any accessory structure.
- (7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform to current zoning standards.
- (8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (11) “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.

(d) **Approvals.** The following approvals apply to ADUs and JADUs under this section:

(1) **Building-permit Only.** If an ADU or JADU complies with each of the general requirements in subsection (e) below, it is allowed with only a building permit in the following scenarios:

(A) **Converted on Single-family Lot:** Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

- (i) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and,
- (ii) Has exterior access that is independent of that for the single-family dwelling; and.
- (iii) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
- (iv) The JADU complies with the requirements of Government Code Section 65852.22.

(B) **Limited Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (d)(1)(A) above), if the detached ADU satisfies the following limitations:

- (i) The side- and rear-yard setbacks are at least four-feet.
- (ii) The total floor area is 800 square feet or smaller.
- (iii) The peak height above grade does not exceed the applicable height limit in subsection (e)(2) below.

(C) **Converted on Multifamily Lot:** One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for a dwelling. Under this subsection (d)(1)(C), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

(D) **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:

- (i) The side- and rear-yard setbacks are at least four-feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modifications to the multifamily dwelling as a condition of approving the ADU.
- (ii) The peak height above grade does not exceed the applicable height limit provided in subsection (e)(2) below.

(2) **ADU Permit.**

- (A) Except as allowed under subsection (d)(1) above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections (e) and (f) below.
- (B) The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ADU-permit processing fee is determined by the Director of Community Development and approved by the City Council by resolution.

(3) **Process and Timing.**

- (A) An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
- (B) The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the city has not approved or denied the completed application within 60 days, the application is deemed approved unless either:
 - (i) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - (ii) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling or multifamily dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family dwelling or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- (C) If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a

list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (d)(3)(B) above.

- (D) A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

(e) **General ADU and JADU Requirements.** The following requirements apply to all ADUs and JADUs that are approved under subsections (d)(1) or (d)(2) above:

(1) **Zoning.**

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

(2) **Height.**

- (A) Except as otherwise provided by subsections (e)(2)(B) and (e)(2)(C) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.
- (B) A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
- (C) A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
- (D) An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (e)(2)(D) may not exceed two stories.
- (E) For the purposes of this subsection (e)(2), height is measured above existing legal grade to the peak of the structure.

- (3) **Fire Sprinklers.**
 - (A) Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - (B) The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- (4) **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
- (5) **No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).
- (6) **Septic System.** If the ADU or JADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- (7) **Owner Occupancy.**
 - (A) An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirements.
 - (B) Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
 - (C) As required by state law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement in this subsection (e)(7)(C) does not apply if the property is entirely owned by another government agency, land trust, or housing organization.
- (8) **Deed Restriction.** Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
 - (A) Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.

- (B) The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - (C) The deed restriction runs with the land and may be enforced against future property owners.
 - (D) The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - (E) The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
- (9) **Income Reporting.** In order to facilitate the city's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:
- (A) With the building permit application, the applicant must provide the city with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
 - (B) Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the city does not receive the report within the 90-day period, the owner is in violation of this Code, and the city may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the city may enforce this provision in accordance with applicable law.
- (10) **Building & Safety.**

- (A) **Must comply with building code.** Subject to subsection (e)(10)(B) below, all ADUs and JADUs must comply with all local building code requirements.
 - (B) **No change in occupancy.** Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (e)(10)(B) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.
- (f) **Specific ADU Requirements.** The following requirements apply only to ADUs that require an ADU permit under subsection (d)(2) above.
- (1) **Maximum Size.**
 - (A) The maximum size of a detached or attached ADU subject to this subsection (f) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
 - (B) An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
 - (C) Application of other development standards in this subsection (f), such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection (f)(1)(B) above or of an FAR, front setback, lot coverage, or open-space requirement may require the ADU to be less than 800 square feet.
 - (2) **Floor Area Ratio (FAR).** No ADU subject to this subsection (f) may cause the total FAR of the lot to exceed 45 percent, subject to subsection (f)(1)(C) above.
 - (3) **Setbacks.**
 - (A) An ADU that is subject to this subsection (f) must conform to a 25-foot front-yard setback, subject to subsection (f)(1)(C) above.
 - (B) An ADU that is subject to this subsection (f) must conform to 4-foot side- and rear-yard setbacks.
 - (C) No setback is required for an ADU that is subject to this subsection (f) if the ADU is constructed in the same location and to the same dimensions as an existing structure.

- (4) **Lot Coverage.** No ADU subject to this subsection (f) may cause the total lot coverage of the lot to exceed 50 percent, subject to subsection (f)(1)(C) above.
- (5) **Minimum Open Space.** No ADU subject to subsection (f) may cause the total percentage of open space of the lot to fall below 50 percent, subject to Subsection (f)(1)(C) above.
- (6) **Passageway.** No passageway, as defined in subsection (c)(8) above, is required for an ADU.
- (7) **Parking.**
 - (A) Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection (c)(11) above.
 - (B) Exceptions. No parking under subsection (f)(7)(A) is required in the following situations:
 - (i) The ADU is located within one-half mile walking distance of public transit, as defined in subsection (c)(10) above.
 - (ii) The ADU is located within an architecturally and historically significant historic district.
 - (iii) The ADU is part of the proposed or existing primary residence or an accessory structure under subsection (d)(1)(A) above.
 - (iv) When on-street parking permits are required but not offered to the occupant of the ADU.
 - (v) When there is an established car share vehicle stop located within one block of the ADU.
 - (vi) When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (f)(7)(B)(i) through (v) above.
 - (C) No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those on-site parking spaces are not required to be replaced.
- (8) **Architectural Requirements.**
 - (A) The materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design of those of the primary dwelling.

- (B) The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - (C) The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
 - (D) The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
 - (E) The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of seven feet.
 - (F) Windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent direct line of sight.
- (9) **Landscape Requirements.** Evergreen landscape screening must be planted and maintained between the ADU and adjacent parcels, as follows:
- (A) At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24” box size plant shall be provided for every ten linear feet of exterior wall.
 - (B) Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least 6 feet in height may be installed.
 - (C) All landscaping must be drought-tolerant.
 - (D) All landscaping must be from the City’s approved plant list.
- (10) **Historic Protections.** An ADU that is on or within 600 feet of real property that is listed in the California Register of Historic Resources must be located so as to not be visible from any public right-of-way.
- (g) **Fees.**
- (1) **Impact Fees.**
- (A) No impact fee is required for an ADU that is less than 750 square feet in size. For purposes of this subsection (g)(1), “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code §66000(b)) and a fee under the Quimby Act (Gov. Code §66477). “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
 - (B) Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of

the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.)

(2) **Utility Fees.**

- (A) If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
- (B) Except as described in subsection (g)(2)(A) above, converted ADUs on a single-family lot that are created under subsection (d)(1)(A) above are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.
- (C) Except as described in subsection (g)(2)(A) above, all ADUs that are not covered by subsection (g)(2)(B) require a new, separate utility connection directly between the ADU and the utility.
 - (i) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the floor area or the number of drainage-fixture-units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - (ii) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

(h) **Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.**

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

(2) **Unpermitted ADUs constructed before 2018.**

- (A) **Permit to Legalize.** As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:
 - (i) The ADU violates applicable building standards, or
 - (ii) The ADU does not comply with state ADU law (Government Code section 65852.2) or this ADU ordinance (Development Code Section 17.25.210).

(B) **Exceptions:**

- (i) Notwithstanding subsection (h)(2)(A) above, the city may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of the occupants of the structure.
 - (ii) Subsection (h)(2)(A) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.
- (i) **Nonconforming ADUs and Discretionary Approval.** Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (a) through (g)(2) of this section may be allowed by the City with a Conditional Use Permit, in accordance with the other provisions of this title.

End of Section 17.25.210