

ORDINANCE NO. 2020-478

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA APPROVING DEVELOPMENT CODE AMENDMENT 2019-135 AMENDING DEVELOPMENT CODE TABLE 17.25.040.A. AND SECTION 17.25.210 RELATING TO ACCESSORY DWELLING UNITS (ADUs) AND JUNIOR ACCESSORY DWELLING UNITS (JADUs) AND 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 2019, the California Legislature approved, and the Governor signed into law a number of bills (“new ADU laws”) that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the new ADU laws took effect January 1, 2020. The City’s ADU ordinance did not comply with the new ADU laws and the City’s ordinance became null and void on that date as a matter of law, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS, the City of Big Bear Lake desires to amend the Development Code and has prepared Development Code Amendment 2019-135, as described herein (hereinafter referred to as “Amendment”), to fully comply with Sections 65852.2 and 65852.22 of the Government Code; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing permit processing, permanent and seasonal occupancy, transient private home rentals, architectural standards and development impact fees, threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety; and

WHEREAS, on December 4, 2019, the Planning Commission held a duly noticed public hearing and unanimously adopted Resolution No. PC2019-16 recommending that the City Council adopt both an Urgency Ordinance and a Non-Urgency Ordinance for the regulation of ADUs and JADUs and approving Development Code Amendment 2019-135 and finding the ordinances exempt from CEQA and concluded the hearing on that date. The public hearing was held in Hofert Hall of the Civic and Performing Arts Center, 39707 Big Bear Boulevard, Big Bear Lake, CA, 92315; and

WHEREAS, the City Council has reviewed and considered the public testimony and agenda report prepared in connection with this ordinance, including the policy considerations discussed therein, and the consideration and recommendation by the City’s Planning Commission; and

WHEREAS, on January 13, 2020, the City Council of the City of Big Bear Lake held a duly noticed public hearing on Development Code Amendment 2019-135, including consideration of both an Urgency Ordinance and a Non-Urgency Ordinance for the regulation of ADUs and JADUs, and concluded the hearing on that date. The public hearing was held in Hofert Hall of the Civic and Performing Arts Center, 39707 Big Bear Boulevard, Big Bear Lake, CA, 92315; and

WHEREAS, in accordance with the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (Cal. Code of Regulations, title 14, § 15000 et seq.), the City has determined that the revisions to the Big Bear Lake Development Code are exempt from environmental review; and

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

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

Section 1. The City Council hereby specifically finds that all of the facts set forth in Recitals of this Ordinance are true and correct.

Section 2. The City Council hereby finds that pursuant to 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 ordinance is also 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 evidence presented to the City Council, including oral and written staff reports and public testimony during the above-referenced public hearing, the City Council finds as follows with respect to Development Code Amendment 2019-135 pertaining to Accessory Dwelling Units (ADU’s):

- a. The Development Code Amendment conforms with the goals, objectives and policies of the General Plan, specifically Land Use Element Policy L 1.7 pertaining to compatibility between different land uses, and incorporates regulations to integrate ADUs into the character of existing neighborhoods to the extent allowed by law. The amendment is consistent with Goal L 3 to provide for housing opportunities for all demographic and economic segments of the population and Policy L 3.3 that requires the planners to maintain the integrity, safety and attractiveness of residential neighborhoods.

To the extent allowed under the new ADU laws, the ordinance supports Community Design Element Goal CD 1 to create and maintain a well-designed built environment which contributes to the community's economic vitality, enhances the quality of life and reflects and enhances the beauty of the City's natural mountain setting.

The Amendment is consistent with goals and policies of the Housing Element, including Goal H2, and Policy H1.2 to assist in the development of and removal of barriers to housing for low and moderate-income households.

- b. The Development Code Amendment is necessary to implement the General Plan and provide for public safety, convenience, and general welfare because the current state standards that were passed by the Legislature do not represent the overall goals and policies of the General Plan. The current state law is general in nature and applies to all cities in the State. Big Bear Lake is unique because of our tourist economy, second home population, location, environment, and weather. Modifications to the state standards are necessary to implement the General Plan Policy's and Goals and to provide public safety and the overall general welfare of the citizens.
- c. The Amendment is consistent with the Development Code and its related provisions, because it requires ADUs to comply with existing Development Code provisions and residential development standards to the extent allowed under state law in order to maintain health, safety and welfare for our citizens. These requirements include TPHR regulations, architectural standards, laundry facilities, and parking space sizes.
- d. The Amendment is reasonable and beneficial at this time because the city's ADU regulations are inconsistent with the new ADU laws and became unenforceable on January 1, 2020. Therefore it is necessary to adopt regulations that are consistent with the new state laws contained in Government Code Sections 65852.2 & 65852.22, as amended.

Section 4. ADUs subject to the ADU permit requirements in Section 17.25.210(d)(2)(B) shall be reviewed through the Zoning Clearance Review process established in Development Code Section 17.03.240, and pay the associated application fee, as amended from time to time by City Council resolution.

Section 5. Based on the findings and conclusions set forth in paragraphs 1, 2, 3, & 4 above, the City Council hereby approves Development Code Amendment 2019-135 finding the action statutorily and categorically exempt from the California Environmental Quality Act and adopts Ordinance No. 2020-xxx, amending Development Code Table 17.25.040.A. and Section 17.25.210 relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) as attached hereto respectively as Ordinance Exhibit 1 (amendment to Table 17.25.040.A) and Ordinance Exhibit 2 (amendments to Section 17.25.210).

Section 6. This ordinance shall take effect 30 days following its 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 which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council and the people of the City of Big Bear Lake hereby declare 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.

Section 8. Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this Ordinance, insofar as they are substantially the same as the Ordinance provisions previously adopted by the City relating to the same subject matter or relating to the enumeration of permitted uses under the City's zoning code, shall be construed as restatements and continuations, and not as new enactments.

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

PASSED, APPROVED AND ADOPTED this 27th day of January, 2020.

AYES: Jackowski, Putz, Caretto, Herrick
NOES: None
ABSTAIN: None
EXCUSED: Jahn



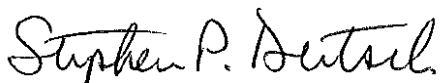
Rick Herrick, Mayor

ATTEST:



Erica Stephenson, City Clerk

APPROVED AS TO FORM:



Stephen P. Deitsch, City Attorney

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 Ordinance No. 2020-478 is a full, true and correct original of Ordinance No. 2020-478 of the City of Big Bear Lake, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA APPROVING DEVELOPMENT CODE AMENDMENT 2019-135 AMENDING DEVELOPMENT CODE TABLE 17.25.040.A. AND SECTION 17.25.210 RELATING TO ACCESSORY DWELLING UNITS (ADUs) AND JUNIOR ACCESSORY DWELLING UNITS (JADUs) AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

was duly passed and adopted by the said City Council, 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 27th day of January, 2020, and that the same was so passed and adopted by the following vote:

AYES:	Jackowski, Putz, Caretto, Herrick
NOES:	None
ABSTAIN:	None
EXCUSED:	Jahn

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 Ordinance No. 2020-478 was duly and regularly published according to law and the order of the City Council and circulated within said City.


Erica Stephenson, City Clerk

ORDINANCE EXHIBIT 1
AMENDMENT TO DEVELOPMENT CODE TABLE 17.25.040.A.
ACCESSORY USES AND STRUCTURES PERMITTED IN RESIDENTIAL ZONES

Zone District	R-L	R-1	R-3
<u>Animal Uses:</u>			
Keeping of domestic animals commonly kept as household pets; <ul style="list-style-type: none"> ▪ Single family residential: 2 dogs and/or cats over age of 4 mos. for each lot 7200 sq. ft. or less; 3 for lots 7201-10,000sq. ft.; 4 for lots of 10,001 – 20,000 sq. ft.; maximum of 5 for each lot over 20,000 sq. ft. ▪ Multiple family residential: 2 dogs and/or cats over age 4 mos. per dwelling unit 	P	P	–
Keeping of horses, llamas, donkeys, mules, burros, or ponies on lots of 1 acre or greater in area; 1 animal per each 10,000 sq. ft. of lot area, not to exceed 6 animals per lot or project	P	–	–
Keeping of exotic or wild animals	CUP	CUP	CUP
<u>Accessory Dwelling Units:</u>			
Junior Accessory Dwelling Units (JADUs) and Accessory Dwelling Units (ADU's)	P ¹	P ¹	P ¹
Caretaker's or manager's unit as part of approved project	–	–	P ¹
Board and room provided to not more than 2 boarders per dwelling unit	P	P	P
Temporary dependent housing unit ("granny unit")	CUP ¹	CUP ¹	CUP ¹
<u>Accessory Structures:</u>			

Zone District	R-L	R-1	R-3
Animal enclosures - large animals (barns, corrals, pastures, stables)	P ¹	-	-
Animal enclosures – small animals (dog houses, etc.)	P	P	P
Decks, patios, gazebos (covered or uncovered)	P	P	P
Garages, attached or detached; maximum one per dwelling unit, maximum area of 10 percent of lot area, not to exceed 1,500 sq. ft., provided that setbacks and open space requirements are met.	P	P	P
Guest house, with no kitchen facilities	P ¹	P ¹	P ¹ (for single family use only)
Signs, residential identification, pursuant to Chapter 17.12 (Signs)	SP	SP	SP
Tennis court, play court, swimming pool, jacuzzi, or other recreational facility for use by residents	P ¹	P ¹	Single-family: P ¹ Multi-family: part of PPR or CUP ¹
Storage buildings or children’s play house, for use by residents, not to exceed 2 such structures and a total of 1,000 square feet in area for each single family use; for multi-family, review as part of overall development plan	P	P	Single-family: P Multi-family: part of PPR or CUP
<u>Accessory Commercial Uses:</u>			
Day care, large family	LFD	LFD	LFD
Day care, small family	P	P	P
Home occupation permit	HOP	HOP	HOP
Vacation home rental	TPHR	TPHR	TPHR
<u>Temporary Uses:</u>			

Zone District	R-L	R-1	R-3
Special events	SE	SE	SE
Construction staging area (on-site only)	TUP	TUP	TUP
Temporary construction office/trailer	TUP	TUP	TUP
Temporary sales office/trailer/models	TUP	TUP	TUP
Caretaker's or owner's residence on permitted, active construction site	TUP	TUP	TUP

P = permitted use without land use approval; other permits may be required.

PPR = permitted subject to approval of a Plot Plan Review pursuant to Section 17.03.160.

CUP = permitted subject to approval of a Conditional Use Permit pursuant to Section 17.03.170.

TDH = permitted subject to approval of a Temporary Dependent Housing unit, pursuant to Section 17.25.130.

LFD = permitted subject to approval of a Large Family Day Care, pursuant to Section 17.03.260.

HOP = permitted subject to approval of a Home Occupation Permit, pursuant to Section 17.03.270.

TPHR = Permitted subject to approval of a Transient Private Home Rental unit, pursuant to Section 17.03.310.

SE = permitted subject to approval of a Special Event Permit, pursuant to Section 17.03.300.

SP = permitted subject to approval of a Sign Permit, pursuant to Chapter 17.12.

TUP = permitted subject to approval of a Temporary Use Permit, pursuant to Section 17.03.290.

¹ Subject to special development standards in this chapter.

“ _ ” = Not permitted.

ORDINANCE EXHIBIT 2
AMENDMENTS TO DEVELOPMENT CODE SECTION 17.25.210

The entirety of existing Development Code Section 17.25.210, as previously adopted by City Council Ordinance No. 2019-471, shall be repealed and replaced with the following language:

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 shall mean the same thing and 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 total at least 15 square feet in area.
 - (C) Food storage cabinets that total at least 30 square feet of shelf space.
- (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,
 - (C) Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - (D) 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 does not include 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 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.
- (ii) Has exterior access that is independent of that for the single-family dwelling.
- (iii) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

(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 is 16 feet or less.

(C) **Converted on Multifamily Lot:** Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may each have a converted ADU under this paragraph.

(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.

(ii) The total floor area is 800 square feet or smaller.

(2) **ADU Permit.**

- (A) Except as allowed under subsection (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 ADU permit shall be processed through the Zoning Clearance Review process established in Development Code Section 17.03.240, and subject to the associated application fee, as amended from time to time by City Council resolution.

(3) **Process and Timing.**

- (A) An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
- (B) The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, 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) In the case of a JADU and the application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.

(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 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) **Fire Sprinklers.** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

- (3) **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days nor operated under the City’s Transient Private Home Rental Program. Additionally, a primary dwelling unit containing an ADU or JADU on the same parcel shall not be used as a Transient Private Home Rental.
- (4) **No Separate Conveyance.** An ADU or JADU may be rented, but 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).
- (5) **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.
- (6) **Laundry Facilities.** An ADU shall be provided with utility hook-ups to accommodate installation of a washer and dryer.
- (7) **Owner Occupancy and Concurrent Rental of the Dwelling Units.**
 - (A) All ADUs which have successfully passed a final inspection and for which occupancy has been authorized before January 1, 2020, are subject to the owner-occupancy requirements that were in place when the ADU was created. Specifically, the previous regulations established by Ordinance No. 2019-471 required that the primary dwelling unit or the ADU on the property shall be occupied by an owner of the property as their permanent or seasonal (second home) residence. “Occupy” here means the right to use the unit exclusively at will. The owner may rent out either unit for longer than 30-day periods, but in no case shall the two units be concurrently rented.
 - (B) An ADU which has successfully passed a final inspection and for which occupancy has been authorized after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement for as long as that ADU exists.
 - (C) All ADUs which have successfully passed a final inspection and for which occupancy has been authorized on or after January 1, 2025, are subject to an owner-occupancy requirement. On or after January 1, 2025, where the property contains a primary dwelling unit, an ADU, and a JADU, the owner may rent out only two of the units for longer than 30-day periods, but in no case shall three units be concurrently rented. Where the property contains a primary dwelling unit and an ADU, or a primary dwelling unit and a JADU, the owner may rent out only one of the units for longer than 30-day periods but in no case shall two units be concurrently rented.

- (D) All JADUs are subject to an owner-occupancy requirement. The primary dwelling unit or the JADU on the property shall be occupied by an owner of the property as their permanent or seasonal (second home) residence. “Occupy” here means the right to use the unit exclusively at will. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
- (8) **Deed Restriction.** Prior to issuance of a final inspection and release of occupancy of 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 Planning Department. 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) 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 to the Director of the Planning Department, 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) **Parking.**

- (A) **General Parking Requirements.** No on-site parking shall be required for a JADU. One (1) on-site parking space shall be required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection (a)(11) above.
- (B) **Exceptions.** No on-site parking space for an ADU shall be required under subsection (e)(9)(A) in the following situations:
 - (i) The ADU is located within one-half mile walking distance of public transit, as defined in subsection (a)(10) above.
 - (ii) The ADU is located within an architecturally and historically significant district established by the city.
 - (iii) The ADU is a “Converted on a Single-family lot ADU” specifically within a 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.
- (C) **No Replacement Parking.** 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.

(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 bedrooms. No more than two bedrooms are allowed.
- (B) In addition to (f)(1)(A) above, 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 FAR, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.

- (2) **Floor Area Ratio (FAR).** In Commercial zones where accessory residential dwelling units are allowed, no ADU subject to this subsection (f) may cause the total FAR of the lot to exceed a ratio of 0.5, subject to subsection (f)(1)(C) above.
- (3) **Lot Coverage.** No ADU subject to this subsection (f) may cause the total lot coverage of the lot to exceed that of the lot coverage requirement of the underlying zone, subject to subsection (f)(1)(C) above.
- (4) **Minimum Open Space.** No ADU subject to this subsection (f) may cause the total percentage of open space of the lot to fall below that of the minimum open space requirement of the underlying zone, subject to subsection (f)(1)(C) above.
- (5) **Building Height.**
 - (A) A single-story attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure.
 - (B) A second story or two-story attached ADU may not exceed the height of the primary dwelling.
 - (C) A detached ADU may not exceed one story.
- (6) **Passageway.** No passageway, as defined by subsection (a)(8) above, is required for an ADU.
- (7) **Architectural and Design Requirements.**
 - (A) **Roof.** An ADU shall have a minimum roof pitch of 2:12, and shall have eave and gable overhangs of not less than 12 inches.
 - (B) **Design.** The ADU must use exterior materials and textures, colors, windows types, roofing materials, and roof pitch that appear the same as those of the primary dwelling unit.
 - (C) **Building Entrance.** The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.
 - (D) **Parking space dimensions.** Each unenclosed parking space shall be at least nine (9) feet wide by nineteen (19) feet deep. Each parking space that is provided within an enclosed garage shall be at least ten feet wide and twenty feet deep.

(g) **Fees.**

(1) **Impact Fees.**

- (A) No impact fee is required for an ADU that is less than 750 square feet in size.
- (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.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.

(2) **Utility Fees.**

- (A) Converted ADUs and JADUs on a single-family lot, created under subsection (d)(1)(A) above, are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required unless the ADO or JADU is constructed with a new single-family home.
- (B) All ADUs and JADUs not covered by subsection (g)(2)(A) above may be subject to a new, separate utility connection directly between the ADU or JADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, 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. The fee or charge may not exceed the reasonable cost of providing this service.

- (h) **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.