

SPECIAL MEETING

CITY OF LA VERNE

CITY COUNCIL AGENDA

Don Kendrick, Mayor
Charlie Rosales, Mayor Pro Tem
Robin Carder, Council Member
Tim Hepburn, Council Member
Muir Davis, Council Member



www.cityoflaverne.org
(909) 596-8726 - Phone
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City Hall Council Chamber
3660 D Street
La Verne, CA 91750

Monday, December 30, 2019 - 4:00 pm

City Hall

Council Chambers

3660 D Street, La Verne, CA 91750

Attendance and participation at the City of La Verne Council meetings are welcomed and appreciated. Community engagement provides the City Council with valuable information. Regular Meetings are held on the 1st and 3rd Monday of every month. In compliance with the American Disabilities Act, any person with a disability who requires a modification or accommodation in order to participate in a meeting should contact the City Clerk's Office at (909) 596-8726 at least 48 hours prior to the meeting.

Individuals may contact the City Clerk's Office for guidance on how to request an item to be added to a future Agenda. Materials related to an item on this agenda, submitted to the Council after distribution of the agenda packet, are available for public inspection at the meeting or in the City Clerk's Office during normal business hours.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL:** Council Member Carder, Council Member Davis, Council Member Hepburn, Mayor Pro Tem Rosales and Mayor Kendrick

4. Urgency Ordinance No. 1089 for Accessory Dwelling Units and Junior Accessory Dwelling Units -

In 2019 a number of bills were enacted relating to Accessory Dwelling Units and Junior Accessory Dwelling Units. These bills further restrict local control and mandated new requirements. These new laws go into effect on January 1, 2020, so staff is presenting an urgency ordinance that will comply with new State law. This item was originally planned to be discussed at the December 16th Council meeting but that was postponed due to a letter that was received questioning the validity of the draft ordinance. Staff and the City Attorney will discuss what changes have been made due to these concerns. Public hearings on this issue will be held before the Planning Commission and City Council in the early part of 2020.

STAFF RECOMMENDATION:

The City Council should adopt Urgency Ordinance No. 1089.

Ordinance No. 1089 - AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA VERNE, CALIFORNIA AMENDING THE ZONING PROVISIONS OF THE LA VERNE MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN ACCORDANCE WITH STATE LAW.

5. **PUBLIC COMMENTS/ORAL COMMUNICATIONS** - This is the time set aside for anyone wishing to address the City Council on items not listed in any other place on the agenda. Under the provisions of the Brown Act, the legislative body is prohibited from talking or engaging in discussion on any item not appearing on the posted agenda. However, your concerns may be referred to staff or set for discussion at a later date. Any person desiring to speak should complete a 'Speaker Card,' located at the podium, and hand it to the Assistant City Clerk. When addressing the Council, please go to the podium and state your name and address for the record. The Mayor reserves the right to place limits on duration of comments.

6. **ADJOURNMENT.**

Due to Limited Need and consistent with past practices, THE NEXT REGULAR MEETING of the LaVerne City Council is scheduled for Monday, January 6, 2020, at 6:30 pm will be cancelled.

Due to the City Hall being closed on Monday, January 20, 2020, in observance of a legal holiday, THE NEXT REGULAR MEETING of the La Verne City Council is scheduled for Tuesday January, 21, 2020, at 6:30 pm

ADVISORY STAFF

____ Robert Russi, City Manager
____ Robert Kress, City Attorney
____ Eric Scherer, Community Development Director

Posting Statement: On December 26, 2019, a true and correct copy of this Agenda was posted on the bulletin board at La Verne City Hall, 3660 D Street, La Verne, CA, and on the City's website at cityoflaverne.org.

Agenda Report

CITY OF LA VERNE

Community Development Department

DATE: December 30, 2019
TO: Honorable Mayor and City Council
FROM: Eric Scherer, AICP, Community Development Director 
SUBJECT: Urgency Ordinance for Accessory Dwelling Units and Junior Accessory Dwelling Units

AGENDA SUMMARY:

In 2019 a number of bills were enacted relating to Accessory Dwelling Units and Junior Accessory Dwelling Units. These bills further restrict local control and mandated new requirements. These new laws go into effect on January 1, 2020, so staff is presenting an urgency ordinance that will comply with new State law. This item was originally planned to be discussed at the December 16th Council meeting but that was postponed due to a letter that was received questioning the validity of the draft ordinance. Staff and the City Attorney will discuss what changes have been made due to these concerns. Public hearings on this issue will be held before the Planning Commission and City Council in the early part of 2020.

RECOMMENDATION:

Staff recommends that the City Council adopt Urgency Ordinance 1089.

BACKGROUND:

During the last legislative session there were a number of bills enacted relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUS). The Legislature has further restricted local control and mandated new requirements, including the approval of JADUS which is a unit of no more than 500 square feet contained within a single-family dwelling. If a city does not have an ADU ordinance that is compliant with State law, then any applications submitted will be processed under the State law requirements without any local input. As the new law goes into effect on January 1, 2020, it is necessary to adopt these changes through an Urgency Ordinance and then proceed with readoption through the regular manner which will include noticed, public hearings before both the Planning Commission and City Council.

It is noted that the adopted legislation is ambiguous at best with regard to several matters. The ordinance presented by staff reflects our best interpretation, keeping in mind previous directives and direct feedback on our draft ordinance from the Department of Housing and

Community Development (“HCD”) and the Legislature’s overriding intent this past legislative session to deal with California’s housing crisis.

After posting the agenda packet for the December 16, 2019 City Council meeting, Staff received a letter (attached) from an Attorney from “Californians for Homeownership”, a non-profit entity that has been sending similar letters to other cities that are adopting urgency ordinances on ADUs and JADUs. This letter identified five concerns that the non-profit had with our original draft ordinance. After further discussions with the City Attorney, Staff from HCD, and other Attorneys who are working on this same issue, Staff is proposing modifications to the original draft ordinance. These modifications are now tracked on the draft ordinance to easily identify the changes that are being proposed.

Some of these proposed changes may not fully address the issues raised in the letter, but as stated earlier, we still believe that there are conflicts and ambiguities within the bills that were approved as well as issues where there is no clear direction on what might have been intended. It is expected that there will be a clean-up bill to address these conflicts in the coming months. Staff will continue to follow these issues and may wait for such a clean-up bill to be passed before bringing the full ordinance back to the Planning Commission and City Council in public hearings.

ANALYSIS

The two primary bills that impacted accessory dwelling units were AB 68 and AB 881.

AB68:

AB 68 relates to Junior Accessory Dwelling Units (JADUs). A JADU is an accessory dwelling unit that is built within a single-family residential structure and is no more than 500 square feet. It may have its own sanitation facilities, but could share with the primary residence. The JADU must have kitchen facilities.

Prior to this legislative session, a City was not required to have a JADU and La Verne never enacted provisions allowing such units. That changed this year and JADUs are now required. If a City does not have an Ordinance, they will be approved in accordance with the provisions set forth in State law, although there is very little difference between the City’s proposed ordinance and Government Code section 65852.22.

The proposed ordinance does not require the front door to be located on a different side of the house from the front door of the primary unit and specifies that application fees must be paid along with permit and inspection fees.

In a JADU, the owner must reside in either the accessory or primary dwelling unit. In contrast, in an ADU, the City cannot impose this restriction for the next five years.

AB881:

AB 881 made a number of changes to the Accessory Dwelling Unit (ADU) provisions. Briefly:

- ADUs must now be allowed in all residential zones, albeit with some limitations. Additionally, in certain circumstances they are also required to be located in mixed-use zones.

- All ADUs, as well as JADUs, must be approved within 60 days if they meet the ministerial requirements. If the ADU or JADU is being proposed in conjunction with a new primary structure, the approval may be delayed until the primary structure is approved.
- The grounds on which ADUs may be denied are now limited to water, sewer, traffic flow and public safety. The originally proposed ordinance prohibited ADU's and JADUs in the Very High Fire Severity Zone and the Hillside Development Overlay Zone in order to protect the public health and safety. The Fire Marshal has submitted a memo that outlines the reason for this restriction. However, it might be prudent at this point to only restrict them in the Very High Fire Severity Zone based on the comments in the letter. Staff will further discuss this with the Council at the meeting and provide maps that show where the two areas are in the community.
- The City may no longer have a minimum lot size for lots on which ADUs must be allowed.
- The law has been clarified to provide that ADUs must be allowed within a proposed or existing primary dwelling in addition to being attached or detached. The difference between an interior ADU and a JADU would primarily be the size.
- At most, the City may require a four-foot side and rear yard setback. No setbacks may be required if the ADU is being converted from or constructed in the exact same location as a permitted accessory structure, including a garage. Garage conversions are mandatory and no replacement parking can be required for a garage that is removed as part of creating an ADU.
 - Because of this, the Ordinance includes amendments to require all accessory structures to have at least a four-foot setback. This will eliminate zero lot line accessory building conversions in the future.
 - There is some question if this section would allow for an ADU to be placed in the front yard. Staff is proposing that we still require the front yard setback of the respected zones in any scenario. Previously the ordinance said that an ADU needed to be behind the primary structure. That section has since been removed and revised to specify front yard setback.
- Through January 1, 2025, the City can no longer impose an owner-occupancy requirement for ADUs and this requirement may not be imposed on any units approved during this time, even after January 1, 2025.
- In regards to size, the original ordinance continued to require that the maximum size of an ADU be 50% of the size of the primary structure or up to 1,200 s.f., whichever is less. The ordinance has now been modified to simply allow for a maximum of an 850 s.f. unit for a studio or one bedroom unit and 1,000 s.f. for a unit that is more than one bedroom. However, we must still allow an ADU that is at least 800 square

feet that is 16' in height with at least a four-foot setback to the side and rear property lines, even if it means waiving development standards.

- Four categories of accessory dwelling units must be approved regardless of any other provisions for an ADU within a residential or mixed-use zone; these are:
 - An ADU within a proposed or existing single-family dwelling when certain conditions are met.
 - A *detached* ADU that is no more than 800 square feet, 16 feet high, and no more than four-foot side and rear yard setbacks. When this type of ADU is approved, the owner may also have a JADU within the house.
 - ADUs inside a multi-family dwelling in spaces that are not used as habitable spaces, such as storage rooms, boiler rooms, attics, basements, or garages provided the unit complies with the building code standards for dwellings. The City must allow up to 25% of the number of existing units and a minimum of one.
 - Two *detached* ADUs on a lot with a multifamily dwelling provided that each ADU is no greater than 16 feet in height and has minimum four-foot side and rear yard setbacks. State law does not impose a minimum size, but staff is recommending that an 800 square foot limit be imposed in this type of situation.
 - For the above four types of units, staff may not require correction of nonconforming zoning conditions.

Other Bills

SB 13 added section 17980.12 to the Health and Safety Code. Under this new requirement, through January 1, 2030, the City must include a notice to owners of ADUs with building code violations that they can seek to defer the corrections if it is not a matter of health and safety. If the City agrees, then enforcement shall be delayed for five years. This only applies to ADUs built before January 1, 2020 or to ADUs built after January 1, 2020 in a city that did not have a compliant ordinance, but does have one at the time the request for delay is made.

AB 670 added section 4751 to the Civil Code. This section provides that CC&Rs for lots zoned for single-family residential use may not prohibit or unreasonably restrict the construction or use of an ADU or JADU.

CEQA

This Ordinance is exempt to CEQA pursuant to CEQA Guidelines section 15282(h) which provides a statutory exemption for the adoption of an ordinance regarding accessory dwelling units to implement the provisions of Section 65852.1 and 65852.2 of the Government Code. As the standards of Government Code section 65852.22 relating to junior accessory dwelling units are incorporated into Government Code 65852.2, this

exemption covers junior accessory dwelling units as well. Regardless of whether the City adopts this Ordinance, accessory dwelling units and junior accessory dwelling units must be allowed in the City in accordance with the standards set forth in State Statute.

Therefore, this Ordinance is categorically exempt under the common sense exemption of CEQA Guidelines section 15061(b)(3) which provides that CEQA does not apply where it can be seen with certainty that the project will not cause any impacts.

Attachments: Urgency Ordinance No. 1089

Letter from Californians for Homeownership

Memo from Fire Marshal

URGENCY ORDINANCE NO. 1089

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LA VERNE, CALIFORNIA AMENDING THE ZONING
PROVISIONS OF THE LA VERNE MUNICIPAL CODE
RELATING TO ACCESSORY DWELLING UNITS AND
JUNIOR ACCESSORY DWELLING UNITS IN ACCORDANCE
WITH STATE LAW**

WHEREAS, there is a shortage of affordable housing in California which has led to homelessness and causes people to drive longer distances to work or to double-up on housing space which impacts the quality of life and creates negative environmental impacts; and

WHEREAS, the California State legislature adopted more than eighteen housing bills in 2019 to deal with the housing problem; and

WHEREAS, one way to combat this problem is through the construction of accessory dwelling units (also known as second units, in-law units, and granny flats); and

WHEREAS, in order to encourage the construction of accessory dwelling units and junior dwelling units, the State Legislature has again amended Government Code section 65852.2 and section 65852.22; and

WHEREAS, the new State laws relating to accessory dwelling units and junior accessory dwelling units takes effect on January 1, 2020 and the City is required to be in compliance with the new provisions by that time or the State provisions relating to these units will prevail and the City would lose local control; and

WHEREAS, the La Verne Fire Department has raised a number of concerns relating to the permitting of accessory dwelling units located within areas of the City designated as part of the Very High Fire Hazard Severity Zone and the Hillside Development Overlay Zone; and

WHEREAS, the Director of Public Works has raised concerns regarding both domestic and fire flow water supply capabilities, evacuation concerns, and the capacity of the City's wastewater system in the Hillside Development Overlay zone; and

WHEREAS, the City desires to amend its regulations to comply with State law; and

WHEREAS, the only way to be in timely compliance with the January 1, 2020 deadline is to adopt an urgency ordinance;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA VERNE,
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. Section 18.36.032 of the La Verne Municipal Code is hereby amended to read as follows:

18.36.032 General P-R development standards.

The following regulations apply to all P-R developments except as otherwise provided in an adopted specific plan.

A. For provisions on nonconforming structures and uses, see Section 18.10.060 of this code.

B. Yards. General provisions relating to yards are as follows:

1. Churches, private schools, institutions, or other similar uses when permitted in a P-R zone shall be at least twenty feet (6.096 meters) from every boundary line of the property. No front yard or side yard as required in a P-R zone shall be used for play or parking purposes.

2. In computing the depth of a rear yard where such rear yard opens onto an alley, one-half of such alley shall be included in computing the required rear yard.

3. For other provisions relating to yards, see Section 18.10.100 of this code.

C. Accessory Buildings. The following general provisions shall apply to accessory buildings in residential zones. Second units shall be regulated by Sections 18.36.190 and 18.36.200 of this chapter.

1. A detached accessory building may not occupy more than fifty percent of a rear yard. A detached accessory building not exceeding one story and sixteen feet in height may have a rear yard setback of four feet; provided, however, that a private garage having its vehicular entrance facing an alley shall be located not less than ten feet (3.048 meters) from the rear lot line.

2. On reversed corner lots, no accessory building shall be located closer to the street than the building line of the adjacent key lot.

3. A detached accessory building not exceeding one story and sixteen feet in height may have a side yard setback of four feet if the accessory building is not closer than seventy feet (21.226 meters) to the front lot line.

4. There shall be a minimum of five feet (1.52 meters) of unobstructed vertical clearance between an accessory building and other buildings on a residential lot. However, accessory structures less than ten feet from a primary building shall be treated as part of the primary building.

5. A gazebo shall be treated as an accessory structure.

D. Patios. Provisions for patios are as follows:

1. A patio, as defined in this title, may be erected in a rear yard, providing such patio does not extend into the minimum required rear yard more than fifteen feet (4.57 meters) nor extend to a point closer than ten feet (3.048 meters) from the rear lot line.

2. Patios as defined in this title are included in the calculation of lot coverage.

E. Minimum Lot Size. For minimum lot sizes in P-R zones, see Table 18.36.050 of this chapter.

SECTION 2. Sections 18.36.190 through 18.36.210 of the La Verne Municipal Code are hereby repealed.

SECTION 3. Chapter 18.120 is hereby added to the La Verne Municipal Code to read as follows:

CHAPTER 18.120 ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

18.120.010 Purpose.

A. In enacting this section, it is the intent of the city to encourage the provision of accessory dwelling units to meet a variety of economic needs within the city and to implement the goals, objectives, and policies of the housing element of the general plan. Accessory dwelling units provide housing for extended family members, students, the elderly in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create accessory dwelling units can benefit from added income, and an increased sense of security. Allowing accessory dwelling units in residential zones provides needed additional rental housing. This section provides the requirements for the establishment of accessory dwelling units consistent with Cal. Government Code §§ 65852.2 and 65852.22.

B. In cases of conflict between this chapter and any other provision of this title, the provisions of this chapter shall prevail. To the extent that any provision of this

Chapter is in conflict with State law, the mandatory requirement of state law shall control, but only to the extent legally required.

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18.120.020 Definitions.

For purposes of this Chapter, the following definitions shall apply.

"Accessory dwelling unit" shall mean a dwelling unit that is attached, detached, or located within an existing or proposed residential dwelling which provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking and sanitation facilities on the same parcel of land as the residential dwelling.

"Junior accessory dwelling unit" shall mean an accessory dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence. This does not include an attached garage or other attached accessory structure.

"Primary unit" shall mean an existing single-family dwelling, or the larger of two proposed units.

18.120.030 Applications.

A. Applications for junior and accessory dwelling units shall be ministerially processed within 60 days of receipt of a complete application and approved if they meet the requirements of this Chapter.

1. If the application is submitted in conjunction with an application for a new single-family dwelling, the application for the junior or accessory dwelling unit shall not be acted upon until the application for the new single-family dwelling is approved, but thereafter shall be ministerially approved if it meets all requirements within 60 days.

2. The City shall grant a delay if requested by the applicant.

B. All applications for junior or accessory dwelling units shall be accompanied by an application fee and a site plan, floor plan and elevations.

C. Junior and accessory dwelling units shall be subject to applicable inspection and permit fees.

18.120.040 Allowed Zones.

A. An application for an accessory dwelling unit shall be approved by the community development director or the director's designee upon the director's or designee's determination that the application meets all the requirements of this chapter, in the zoning districts listed below and specific plan areas as indicated in the specific plan.

1. A-1 limited agricultural;
2. PR-1/5 planned residential, 1 detached dwelling unit/5 acres;
3. PR-1D planned residential, 1 detached dwelling unit/acre;
4. PR-2D planned residential, 2 detached dwelling units/acre;
5. PR-3D planned residential, 3 detached dwelling units/acre;
6. PR-4.5D planned residential, 4.5 detached dwelling units/acre;
7. PR-5D planned residential, 5 detached dwelling units/acre;
8. PR-6A planned residential, 6 attached dwelling units/acre;
9. PR-7A planned residential, 7 attached dwelling units/acre;
10. PR-7.5A planned residential, 7.5 attached dwelling units/acre;
11. PR-8A planned residential, 8 attached dwelling units/acre;
12. PR-10A planned residential, 10 attached dwelling units/acre;
13. PR-15A planned residential, 15 attached dwelling units/acre.
14. C-P-D commercial-professional mixed development, where residential has been allowed as allowed by Section 18.120.060

B. An accessory dwelling unit may only be constructed on a lot which contains an existing or proposed single-family dwelling or an existing multi-family dwelling.

C. Based on the need to protect the public health and safety, no junior or accessory dwelling units are permitted on any lots in the Very High Fire Hazard Severity Zone shown in the Public Safety Element of the City's General Plan [or in the Hillside Development Overlay Zone] based on the following conditions, each and every one of which constitutes a separate and independent grounds:

1. Urban conflagration: increased structure density and spacing has significantly contributed to other fires transitioning from either a wildland fire or wildland urban interface fire to a fire where structures become the primary fuel type and main contributor of fire spread. This is due to fire receptive building construction, increased radiant heat production, increased ember cast, and direct flame impingement onto adjacent structures.

2. Structure defense: the City's ability to muster a response to wildland fire is constrained to limited available resources and staffing. Additional density in the hillside development overlay zone will require a commensurate increase in the number of resources required to defend additional structures when impacted by fire.

3. Evacuation: the city has two main north-south collector streets that provide for the evacuation of residents while concurrently providing ingress for firefighting resources. Additional vehicle trips into and out of the hillside density overlay zone will likely impact the ability to safely evacuate neighborhoods under fire conditions.

4. [Access: because garages may be converted without replacement parking and the ability to impose parking requirements on ADUs is limited, on-street parking will likely occur with the development of accessory dwelling units. The increase of on-street parking will significantly impact the ability to concurrently get firefighting resources into, and residents out of, neighborhoods under fire conditions-.]

5. Fire Flow/Water Supply: the City's water infrastructure and available fire flow was designed and built to meet the current residential density of the areas incorporated into the Very High Fire Hazard Severity Zone [and Hillside Development Overlay Zone]. Increases in density would cause fire flow concerns as well as domestic supply concerns.

6. [Wastewater System: the sewer system in the Hillside Development Overlay Zone was designed for the permitted zoning densities at the time. Segments in this area are already near capacity and adding additional units would create problems-.]

D. Accessory dwelling units shall not count in determining density or lot coverage and are considered a residential use consistent with the existing general plan and zoning designation for the lot.

18.120.050 Development Standards/Requirements – Accessory Dwelling Units.

A. Location/Number.

1. Attached and detached accessory dwelling units shall be required to be located on any lot with an existing or proposed single-family dwelling or an existing multi-family dwelling.

2. Attached and detached accessory dwelling units shall be located behind the rear building line of the primary residence in a single-family zone. However, this requirement shall not apply if the accessory dwelling unit is being converted from a legally existing accessory structure, including a garage, or constructed in the exact same location and to the exact same dimensions as a legal, previously existing accessory structure.

3. Only one accessory dwelling unit shall be allowed on a residentially zoned lot, unless otherwise permitted in accordance with Section 18.120.060 below.

B. Type of building. An attached or detached accessory dwelling unit shall be a permanent structure on a permanent foundation with permanent provisions for living, sleeping, food preparation, sanitation, and bathing. A manufactured home as defined in California Health and Safety Code section 18007 shall qualify.

C. Height. The height of an attached accessory dwelling unit shall not be more than thirty feet. The height of a ~~or-detached~~ accessory dwelling unit shall not be any higher than 16 feet or the height of the primary unit, whichever is greater, and in no event may exceed no higher than the height limit of the zoning district or specific plan in which it is located. The height may exceed the primary unit if it is built in an existing permitted space above a permitted garage.

~~D. Number of bedrooms. Both attached and detached accessory dwelling units may range in size from studio to 2 bedrooms.~~

~~E. Size.~~

D. Size.

1. ~~Attached/Detached accessory dwelling unit.~~

~~a. Maximum~~The maximum size ~~the square footage of an attached or detached accessory dwelling unit shall not exceed 50 percent of the existing or proposed family dwelling or 1,200~~ 850 square feet, ~~whichever for a studio or one bedroom and 1,000 square feet for a unit that is less.~~ more than one bedroom.

2. The minimum square footage for an attached or detached accessory dwelling unit shall not be more than the size allowed for an efficiency unit as defined in Health and Safety Code section 17958.1.

3. Notwithstanding the foregoing, any other provision of this section, development standards, except the front yard setback, shall be waived to allow an applicant shall be entitled to build an 800 square foot accessory dwelling unit provided that it is no more than 16 feet in height with at least four foot side and rear yard setbacks.

~~b. Minimum size the square footage of the accessory dwelling unit shall not be less than 150 square feet.~~

2. Interior accessory dwelling unit. The floor area of an interior accessory dwelling unit shall not exceed 50 percent of the primary structure or up to 800 square feet, whichever is less. An interior unit that is 500 square feet or less and built entirely within the single family home shall be considered a junior accessory dwelling unit and shall comply with Section 18.13.070 below.

F. Setbacks/Distance Between Buildings.

1. Attached and detached accessory dwelling units shall be located behind the rear building line of the primary residence.

2. An accessory dwelling unit, including a unit added above a permitted garage, shall have rear and side yard setbacks of at least four feet.

3. The setback requirements in subsections F.1 and F.2 above shall not apply if the accessory dwelling unit is being converted from an approved accessory structure, including an attached or detached garage, or being constructed in the same location and to the same dimensions as an approved existing accessory structure, including a garage.

4. Accessory dwelling units shall be required to comply with the requirements of the California Building Standards Code as set forth in Title 8.04 of this Code relating to the distance between buildings.

5. Detached accessory dwelling units shall be a minimum of 10 feet from other buildings on the same property.

G. Lot Coverage. The lot coverage standards of the underlying zoning district or specific plan area where the unit is located shall control.

H. Outdoor Living. For accessory dwelling units in single family zones, there must be outdoor living spaces that meet the following requirements:

1. Each unit shall have a separate usable outdoor living area of 400 square feet, with 15 feet minimum in any direction.

2. Outdoor living areas and the immediate surroundings shall be landscaped.

3. Outdoor living areas do not include parking areas, driveways, or front and rear yard setback areas.

I. Parking.

1. Parking shall be required at the rate of one space for each accessory dwelling unit. No parking spaces shall be required for an accessory dwelling unit created within an existing living space.

2. Parking spaces may be provided through tandem parking on an existing driveway; provided, that such parking does not encroach into the public sidewalk.

3. Parking spaces for accessory dwelling units may be provided in paved portions of setback areas; provided, that the amount of paving does not exceed the total amount of paving and hardscaped areas that are otherwise allowed by this Title.

4. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, such parking spaces need not be replaced.

5. Tandem parking and parking in setback areas shall not be allowed if the community development director makes specific findings that such parking is not feasible based upon specific site or regional topographical, or fire and life safety conditions.

6. Notwithstanding any other provision of this subsection I, no parking shall be required for the accessory dwelling unit if any of the following conditions apply:

a. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop;

b. The accessory dwelling unit is located within an architecturally and historically significant historic district;

c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure;

d. When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit; or

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

J. Design.

1. The accessory dwelling unit shall be of the same architectural style, including roof design, and color as the primary unit.

2. Windows, doors, trim, and other architectural embellishments, shall be of a quality that meets or exceeds that of the primary unit.

3. Window placement shall be sensitive to maintaining privacy between dwelling units and accessory dwelling units.

4. The accessory dwelling unit shall have a separate entrance from the primary dwelling unit.

5. The accessory dwelling unit shall not alter the appearance of the primary single-family dwelling unit.

K. Accessory dwelling units shall comply with all applicable building standards code requirements. However, fire sprinklers shall not be required in any accessory dwelling unit if they were required in the primary unit.

L. Utilities – connections, fees and capacity charges.

1. For an accessory dwelling unit contained within an existing or proposed single-family residence, or an existing accessory structure meeting the

requirements of section 18.120.160A.1 below, the city shall not require the installation of a new or separate utility connection between the accessory dwelling unit and the utility or impose a connection fee or capacity charge. Such requirement and charges may be imposed when the accessory dwelling unit is being constructed in connection with a proposed single-family residential dwelling.

2. For all other accessory dwelling units other than those described in subsection L.1 above, the city shall require a new or separate utility connection between the accessory dwelling unit and the utility and shall charge a connection fee or capacity charge that is proportionate to the burden of the proposed accessory dwelling unit based on the size or number of plumbing fixtures.

M. Impact Fees.

1. No impact fee shall be imposed on any accessory dwelling unit less than 750 square feet in size.

2. Notwithstanding any fee resolution to the contrary, for accessory dwelling units 750 square feet or greater, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling.

3. All applicable public service and recreation impact fees shall be paid prior to occupancy in accordance with Government Code sections 66000 et seq. and 66012 et seq.

4. For purposes of this section, "impact fee" shall have the same meaning as set forth in Government Code section 65852.2(f).

18.120.060 Mandatory Approvals.

A. Notwithstanding any other provision of this chapter, the City shall ministerially approve an application for any of the following accessory dwelling units within a residential or mixed-use zone. For new construction, if the unit is attached or detached, it shall be located behind the ~~rear building line of the primary residence~~front yard setback line in a single-family zone:

1. A junior or accessory dwelling unit within the existing or proposed space of a single-family dwelling or accessory structure subject to the following requirements.

a. An expansion of up to 150 square feet shall be allowed in an accessory structure solely for the purposes of accommodating ingress and egress.

b. The junior or accessory dwelling unit shall have exterior access separate from the existing or proposed single-family dwelling.

c. The side and rear setbacks shall be sufficient for fire and safety.

d. If the unit is a junior accessory dwelling unit, it shall comply with the requirements of Sections 18.120.070 and 18.120.080 below.

2. One detached accessory dwelling unit with at least four foot side and rear yard setbacks on a lot with an existing or proposed single-family dwelling, provided that the unit shall not be more than 800 square feet and shall not exceed 16 feet in height.

a. A junior accessory dwelling unit may be developed with this type of detached accessory dwelling unit, it shall comply with all requirements of Sections 18.120.070 and 18.120.080 below.

3. On a lot with a multifamily dwelling structure, up to 25 percent of the total multifamily dwelling units, but no less than one unit, shall be allowed within the portions of the existing structure that are not used as livable space, including, but no limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that each unit complies with state building standards for dwellings.

4. On a lot with a multifamily dwelling structure, up to two detached units, provided that neither unit is greater than 16 feet in height with at least four foot side and rear yard setbacks._

~~_____B. To the extent feasible, the development standards listed in Section 18.120.050 shall apply.~~

~~_____C.~~ B. For those accessory dwelling units which require mandatory approval, the City shall not require the correction of legal, nonconforming zoning conditions.

18.120.070 Junior Accessory Dwelling Units.

A. One junior accessory dwelling unit shall be allowed in the single-family residential zone in conjunction with an existing or proposed single-family dwelling. A junior accessory dwelling unit may be allowed on the same lot as a detached accessory dwelling unit where the detached accessory dwelling unit is no larger than 800 square feet and no taller than 16 feet.

B. The junior accessory dwelling unit shall be required to contain at least an efficiency kitchen which includes cooking appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit.

C. The junior accessory dwelling unit shall be required to have a separate entrance from the primary residence.

D. The junior accessory dwelling unit may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the junior

accessory dwelling unit shall share sanitation facilities with the single-family residence and shall have direct access to the single-family residence from the interior of the junior accessory dwelling unit.

E. No additional parking shall be required for a junior accessory dwelling unit.

F. A junior accessory dwelling unit shall be required to comply with applicable building standards.

G. The owner of property on which a junior accessory dwelling unit is constructed shall be required to abide by the following and record a deed restriction which shall run with the land and shall provide for the following:

1. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence;

2. A prohibition from enlarging the junior accessory dwelling unit beyond 500 square feet;

3. A prohibition from renting either the primary dwelling unit or the junior accessory dwelling unit for less than 30~~31~~ consecutive, calendar days;

4. A restriction that the owner resides in either the primary residence or the junior accessory dwelling unit. Notwithstanding the foregoing:

a. The owner may rent both the primary residence and junior accessory dwelling unit to one party with a restriction in the lease that that such party may not further sublease any unit or portion thereof; and

b. This restriction shall not apply if the owner of the single-family residence is a governmental agency, land trust, or housing organization; and

5. A statement that the deed restrictions may be enforced against future purchasers.

A copy of the deed restriction shall be filed with the Community Development Department after recordation.

H. For the purposes of applying any fire or life protection ordinance or regulation, or providing service water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered to be a separate or new dwelling unit.

I. The City shall not require the correction of legal, nonconforming zoning conditions for approval of a junior accessory dwelling unit.

18.120.080 Regulations.

A. Sales. Junior and accessory dwelling units cannot be sold separately from the primary unit.

B. Rental.

1. Neither the ~~Junior~~ or accessory dwelling unit, nor the primary residential dwelling unit, shall be rented for a period of less than ~~30~~31 days.

2. The junior or accessory dwelling unit may be rented separate from the primary residence.

C. Owner/Occupancy.

1. No new accessory dwelling unit shall have an owner/occupancy requirement until January 1, 2025.

2. All junior accessory dwelling units shall have an owner/occupancy requirement.

D. This Chapter shall in no way validate any existing illegal accessory dwelling unit nor shall it change a legal nonconforming unit to a conforming unit.

E. An application for an accessory dwelling unit to convert an illegal and/or nonconforming accessory dwelling unit to a legal conforming accessory dwelling unit shall be subject to the same standards and requirements as for a newly proposed unit.

F. Guesthouses that were previously approved and which have a valid building permit on file shall not be affected by this Chapter. However, an application to convert a guesthouse to an accessory dwelling unit shall be subject to this Chapter.

G. Revocation. The community development director shall have the authority to revoke an accessory dwelling unit permit if one or more of the requirements of this chapter are no longer met.

H. Enforcement. Until January 1, 2030, the City shall issue a statement along with a notice to correct a violation of any provision of any building standard relating to an accessory dwelling unit that provides substantially as follows:

You have been issued an order to correct violations or abate nuisances relating to your accessory dwelling unit. If you believe that this correction or abatement is not necessary to protect the public health and safety you may file an application with the Community Development Department. If the City determines that enforcement is not required to protect the health and safety,

enforcement shall be delayed for a period of five years from the date of the original notice.

This provision shall only apply to units built before January 1, 2020.

SECTION 4. CEQA. This Ordinance is exempt to CEQA pursuant to CEQA Guidelines section 15282(h) which provides a statutory exemption for the adoption of an ordinance regarding accessory dwelling units to implement the provisions of Section 65852.1 and 65852.2 of the Government Code. As the standards of Government Code section 65852.22 relating to junior accessory dwelling units are incorporated into Government Code 65852.2, this exemption covers junior accessory dwelling units as well. Regardless of whether the City adopts this Ordinance, accessory dwelling units and junior accessory dwelling units must be allowed in the City in accordance with the standards set forth in State Statute. Therefore, this Ordinance is categorically exempt under the common sense exemption of CEQA Guidelines section 15061(b)(3) which provides that CEQA does not apply where it can be seen with certainty that the project will not cause any impacts.

SECTION 5. Effective Date. This Ordinance shall take effect immediately pursuant to Government Code section 36937. The grounds constituting the urgency are set forth in the Whereas clauses of this Ordinance.

SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

SECTION 7. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be processed as required by law.

SECTION 8. Transmission to HCD. The City Clerk shall send a copy of this Ordinance to the Department of Housing and Community Development as required by State law.

APPROVED AND ADOPTED this 30th day of December, 2019, by the City Council at La Verne, California.

AYES:

NOES:
ABSENT:
ABSTAIN

Mayor of the City of La Verne

ATTEST:

Assistant City Clerk



December 15, 2019

VIA EMAIL

Mayor & City Council of La Verne
3660 D Street
La Verne, CA 91750
Email: c/o Eric Scherer, Community Development Director (eric@cityoflaverne.org)

RE: December 16, 2019 City Council Meeting, Agenda Item No. 7.b

To the Mayor and City Council:

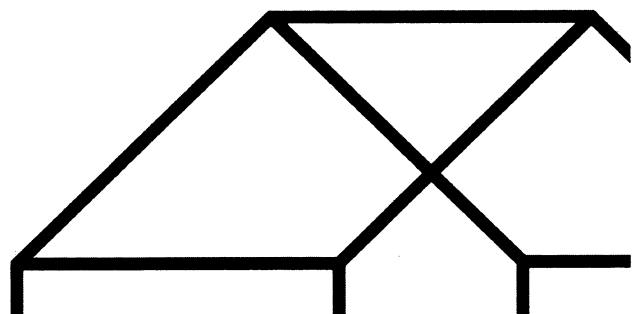
Californians for Homeownership is a 501(c)(3) non-profit organization devoted to using legal tools to address California's housing crisis. I am writing as part of our work monitoring local compliance with California's laws regarding accessory dwelling units (ADUs).

At your December 16 meeting, you will discuss amendments to the City's Municipal Code to address recent state ADU bills, including SB 13 (Wieckowski), AB 68 (Ting), and AB 881 (Bloom). These bills broadly overhaul state ADU law, and they nullify any local ordinance that does not strictly comply with their requirements.¹ Section 1.5 of AB 881 provides the final version of the state ADU law that will become operative on January 1, 2020.

Staff have prepared a draft ordinance that aims to bring the City into compliance with the revised version of Government Code Section 65852.2. If the City adopts a compliant ADU ordinance, it will be able to maintain certain local controls on ADU development. The draft ordinance generally does a good job complying with state law, and staff are to be commended for their work. However, we have identified some concerns, including:

- The draft ordinance sets a maximum unit size of 50% of the square footage of the primary residence for detached ADUs. This limit only applies to attached ADUs. *See* Gov. Code § 65852.2(a)(1)(D)(iv). For detached ADUs, the general state-law limit is 1,200 square feet, and City must not set a maximum size smaller than 850 square feet for studio and one-bedroom units, and 1,000 square feet for two-bedroom units. Gov. Code § 65852.2(c)(2)(B).
- Under proposed Municipal Code Section 18.120.050(E)(2), the City would require interior ADUs under 500 square feet to be JADUs, imposing upon them the additional development standards for JADUs (such as the owner-occupancy requirement). This is not

¹ A previous version of AB 68 provided that a conflicting local ordinance would be "null and void to the extent of such conflict." That provision was struck from the final bill, which provides for complete invalidation.



allowed. The applicant, not the City, gets to decide whether to apply to build an ADU or a JADU.

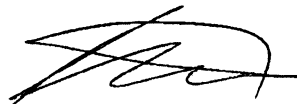
- Under proposed Municipal Code Section 18.120.050(G) and (H), the City would apply its lot coverage and “outdoor living” requirements to ADUs. The City must provide an exception to these standards to allow an 800 square foot attached or detached ADU to be built. Gov. Code § 65852.2(c)(2)(C). This requirement is separate from the requirement for mandatory approval for certain detached ADUs under Government Code Section 65852.2(e), discussed below.

- The draft ordinance properly accounts for the special mandatory approval procedure applicable to the categories of ADUs listed in Section 65852.2(e)(1). But the ordinance improperly attempts to apply an additional standard (requiring that the unit be constructed behind the primary dwelling) for certain of these ADUs. And the City is not allowed to require these ADUs to comply with local development standards at all, “to the extent feasible” or otherwise. The City must permit these units without applying any local development standards other than those specifically enumerated in Section 65852.2(e).

- The draft ordinance recycles the City’s existing Hillside Development Overlay Zone as an area of restricted ADU development, without making appropriate findings that this area actually falls into one of the categories of appropriate zones for ADU exclusion under Government Code Section 65852.2(a)(1)(A). The Overlay is multifaceted, and although portions may have been included for fire safety and evacuation reasons, others were presumably included in light of the Overlay’s purpose of preserving “natural landforms, off-site views and the aesthetically pleasing appearance of the natural and built environment of the hillsides.” Municipal Code Section 18.68.010. What’s more, while some of the City’s explanations for excluding the Overlay area are consistent with state law, others are suspect. For example, if on-street parking renders a street too narrow for use by emergency equipment, then parking on those streets should be banned for everyone. If the City already allows parking on a street, then it cannot be heard to claim that allowing ADU residents to park on that street would make the already-parked-on street more inaccessible. There is no rational explanation for why the use of on-street parking spots by ADU residents would create special or different risk. The City should adjust this limit to cover areas of specific safety concern, not the entire Overlay.

We hope that the above information is helpful to you as you move forward with the City’s ADU ordinance. We would like to be active participants in that process. To that end, we request that you include us on the notice list for any future public meeting regarding the City’s ADU policies, and we request that this letter be included in the correspondence file for those meetings. We look forward to working with you.

Sincerely,



Matthew Gelfand

cc: Bob Russi, City Manager (by email to brussi@cityoflaverne.org)



City of La Verne Fire Department Memorandum

To: Eric Scherer, Community Development Director
From: Robert Russell, Battalion Chief
Date: November 26, 2019
Subject: **Accessory Dwelling Units**

With the Governor's recent approval of SB 68, SB 13 and AB 881, it is likely that the City will have to adopt zoning and development standards related to the permitting of the newly allowed Accessory Dwelling Units (ADU's).

Considering this, there are significant issues related to additional residential development and increased density in the Very High Fire Hazard Severity Zone (VHFSZ) and specifically areas designated a part of the City's Hillside Development Overlay Zone (HDOZ).

The City has historically precluded the addition of accessory structures in the HDOZ due to fire safety concerns. The City should strongly consider the following when updating any ordinance relating to the permitting of ADU's located within areas designated as part of the HDOZ:

- **Urban Conflagration:** Increased structure density and spacing has significantly contributed to fire transitioning from either a wildland fire or wildland urban interface (WUI) fire to a fire where structures become the primary fuel type and main contributor of fire spread. This is due to fire receptive building construction, increased radiant heat production, increased ember cast, and direct flame impingement onto adjacent structures.
- **Fire Flow:** Per our City's water utility, the water infrastructure and available fire flow was designed and built to meet the current residential density of the areas incorporated into the VHFSZ/HDOZ. No additional ADU development should be approved unless the City's water utility can show that it can meet the required fire

flow required of any new development without negatively impacting the operation of the water distribution system.

- Structure Defense: The City's ability to muster a response to wildland fire is constrained due to limited available resources and staffing. Additional density in the VHFSZ/HDOZ will require a commensurate increase in the number of resources required to defend additional structures when impacted by fire.
- Evacuation: The city has two main north-south collector streets that provide for the evacuation of residents while concurrently providing ingress for firefighting resources. Additional vehicle trips into and out of the VHFSZ/HDOZ will likely impact the ability to safely evacuate neighborhoods under fire conditions.
- Access: With the condition that no on-site parking be required for both ADU's and Junior ADU's, on street parking will likely occur with ADU development in the VHFSZ/HDOZ. On street parking significantly impacts the ability to concurrently get firefighting resources into, and residents out of, neighborhoods with on street parking under fire conditions.