

ORDINANCE NO. 1966

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, APPROVING MUNICIPAL CODE AMENDMENT NO. 24-006 TO AMEND SECTION 30-467 OF THE FONTANA MUNICIPAL CODE, PURSUANT TO A STATUTORY EXEMPTION FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17 AND DIRECTING STAFF TO FILE A NOTICE OF EXEMPTION.

WHEREAS, pursuant to article XI, Section 5 of the California Constitution and Government Code section 37100, the legislative body of a city may pass ordinances not in conflict with the Constitution and laws of the State or the United States; and

WHEREAS, Government Code sections 50022.1 to 50022.10 authorizes a city to codify and recodify its ordinances; and

WHEREAS, the City of Fontana (“City”) desires to restate without substantive revision, amend and recodify certain ordinances codified in the Fontana Municipal Code (“Code”) through Municipal Code Amendment (“MCA”) No. 24-006; and

WHEREAS, the City of Fontana General Plan (“General Plan”) includes policies and actions calling for numerous updates to the Code; and

WHEREAS, Section 30-467. – Accessory dwelling units and junior accessory dwelling units. is amended to align with state law; and

WHEREAS, State law requires zoning regulations to be consistent with the general plan and therefore updating the Code would contribute to consistency with the General Plan; and

WHEREAS, the amendments in MCA No. 24-006 are consistent and compatible with the General Plan and are in line with goals, policies and objectives of the City; the Housing Element policies and the Zoning and Development Code; and

WHEREAS, the amendments in MCA No. 24-006 are in conformity with appropriate land use practices and will establish appropriate development standards for the land use designations; and

WHEREAS, the amendments in MCA No. 24-006 are attached here to as Exhibit “A” and incorporated herein by reference, will not be detrimental to the public health,

safety and general welfare, nor will it adversely affect the orderly development of property; and

WHEREAS, the amendments in MCA No. 24-006 will better express the City's policies and will generally promote good land use planning and regulation; and

WHEREAS, on January 21, 2025, the Planning Commission held a public meeting on MCA No. 24-006 where it received evidence and public testimony on the Code amendments and recommended that the Fontana City Council ("City Council") determine that the amendments are exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c), 15061(B)(3) (the common-sense exemption), and Sections No. 3.01, 3.22, and 10.59 of the 2019 Local Guidelines for Implementing CEQA. in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, the Planning Commission carefully considered all evidence and testimony presented at its public hearing on January 21, 2025, and approved Resolution No. 2025-002 to recommend that the City Council approve the modifications to the Zoning and Development Code; and

WHEREAS, on April 8, 2025, the City Council held a public hearing on MCA No. 24-006 where City Council received evidence and public testimony pertaining to the Zoning and Development Code amendments and documentation from the Planning Commission's public hearing on January 21, 2025; and

WHEREAS, the City Council carefully considered all information pertaining to MCA No. 24-006 that was presented at its public hearing on April 8, 2025; and

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

THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The recitals are true, correct and incorporated herein by this reference.

Section 2. CEQA. The City Council hereby determines that under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law, and which also regulates JADUs, as defined by

section 66313. Therefore, adoption of the proposed ordinance is statutorily exempt from CEQA in that it implements state ADU law.

Section 3. Development Code Amendment Findings. The City Council hereby makes the following findings for Municipal Code Amendment No. 24-006 accordance with Section 30-40 "Purpose" of the Fontana Zoning and Development Code:

Finding: **A Zoning and Development Code may be amended by changing the development standards (text) or zoning designation map boundaries of any zone whenever such an amendment is deemed necessary to protect or promote the public's health, safety or general welfare or when modification is viewed as appropriate in the context of generally accepted planning principles, surrounding land uses, and the General Plan.**

Findings of Fact: The Municipal Code Amendment permanently codifies the previously approved urgency ordinance. The Municipal Code Amendment aligns the municipal code with State of California law as it pertains to accessory dwelling units and junior accessory units. As such, the amendment will promote the General Plan goal of adequate housing to meet the needs of all residents in Fontana.

Section 4. Development Code Amendment Approval. Based on the foregoing, the City Council hereby approves the amendments as set forth in MCA No. 24-006, which is attached hereto as **Exhibit "A"** and incorporated herein by reference as fully set forth herein.

Section 5. Effective Date/Publication. This Ordinance shall take effect thirty (30) days after the date of the adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published by the City Clerk at least once in the Fontana Herald News, a local newspaper of the general circulation, published and circulated in the City of Fontana, and henceforth and thereafter the same shall be in full force and effect.

Section 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian or records is the City Clerk.

Section 7. Certification. The City Clerk of the City Council shall certify to the adoption of this Ordinance.

Section 8. Severability. If any provision of this Ordinance or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application.

APPROVED AND ADOPTED this 22nd day of April, 2025.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 8th day of April 2025, and was finally passed and adopted not less than five days thereafter on the 22nd day of April 2025, by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

“EXHIBIT A”

AMENDMENT TO FONTANA MUNICIPAL CODE CHAPTER 30

(*Additions shown in underline, deletions shown in ~~strikeout~~)

Sec. 30-467. Accessory dwelling units and junior accessory dwelling units.

(a) *Purpose; Application.*

(1) *Purpose.* The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

(2) *Application.* This section applies to all ADUs and JADUs for which a complete application is submitted on or after January 1, ~~2023~~ 2025. If a complete ADU or JADU application is submitted prior to that date, the applicant may elect in writing to proceed under the City's ADU regulations that were in effect at submittal; otherwise, this section governs. For purposes of this paragraph, a complete application includes an application that is deemed complete under state law.

(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 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)(8) below. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code § 17980.12.

(c) *Definitions.* As used in this section, 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 residence. An accessory dwelling unit also includes the following:

a. An efficiency unit, as defined by California Health and Safety Code § 17958.1; and

b. A manufactured home, as defined by California Health and Safety Code § 18007.

(2) *Accessory structure* means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) ~~*Attached accessory dwelling unit* means an ADU that is connected via a permanent wall, ceiling, or floor to a primary dwelling on the same lot. "Attached accessory dwelling unit" does not include an ADU that is only attached to a primary dwelling via a patio structure, overhang, breezeway, or similar structure.~~ Reserved.

- (4) *Complete independent living facilities* means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated.
- (5) *Efficiency kitchen* means a kitchen that includes all of the following:
- a. A cooking facility with appliances.
 - b. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- (6) "Junior accessory dwelling unit" or "JADU" means a residential unit that satisfies all of the following:
- a. It is no more than 500 square feet in size.
 - b. It 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. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - 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. It includes an efficiency kitchen, as defined in subsection (c)(5) above.
- (7) "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
- (8) *Living area* means the interior habitable area of a dwelling unit a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation, including basements and attics, but does not include a garage or any accessory structure.
- (8) *Nonconforming zoning condition* means a physical improvement on a property that does not conform with current zoning standards.
- (9) *Passageway* means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- (10) *Proposed dwelling* means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (11) *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.
- (12) *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.
- (13) *Total floor area* means the total floor area of the ADU or JADU, inclusive of all habitable and non-habitable areas of the structure, including, but not limited to stairways, hallways, basements, attics, garages, storage areas, restrooms.
- (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 lot with single-family.* One ADU as described in this subsection (d)(1)(a) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 1. 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
 2. Has exterior access that is independent of that for the single-family dwelling; and
 3. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 4. The JADU complies with the requirements of Government Code ~~§ 65852.22~~ sections 66333 through 66339.
 - b. *Limited detached on lot with single-family.* 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 each of the following limitations:
 1. The side- and rear-yard setbacks are at least four feet.
 2. The total floor area is 800 square feet or smaller.
 3. The peak height above grade does not exceed the applicable height limit in subsection (e)(2) below.
 - c. *Converted on lot with multi-family.* One or more ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (d)(1)(c), at least one converted ADU is allowed within an existing multi-family dwelling, up to a quantity equal to 25 percent of the existing multi-family dwelling units.
 - d. *Limited detached on lot with multi-family.* No more than two detached ADUs on a lot that has ~~an existing or a~~ proposed multi-family dwellings, or up to eight detached ADUs on a lot with existing multi-family dwellings, if each detached ADU satisfies all of the following:
 1. The side- and rear-yard setbacks are at least four feet. If the existing multi-family dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multi-family dwelling as a condition of approving the ADU.
 2. The peak height above grade does not exceed the applicable height limit provided in subsection (e)(2) below.
 3. If the lot has existing multi-family dwellings, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.
- (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 Planning 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:
 - 1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - 2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multi-family dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multi-family 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 subsection (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 multi-family dwelling residential use.
- c. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned for single-family residences.

(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 multi-family 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 multi-family 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 Public Resources Code § 21155, 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 multi-family 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 purposes of this subsection (e)(2), height is measured from existing legal grade to the peak of the structure.
- (3) *Fire sprinklers.*
- 4.a. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - 2.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 § 66340 et seq., 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 multi-family lot).
- (6) *Septic system.* If the ADU or JADU will connect to an onsite wastewater-treatment system, include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten years.
- (7) *Owner occupancy.* ~~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 governmental agency, land trust, or housing organization.~~
- a. ADUs created under this section on or after January 1, 2020 are not subject to an owner-occupancy requirement.
 - b. 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 0 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 building permit for a 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 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. Except as otherwise provided in Government Code ~~§ 65852.26~~ section 66341, the JADU may not be sold separately from the primary dwelling.
 - b. The 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 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 JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an 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 JADU in violation of the recorded restrictions or abatement of the illegal unit.
- (9) ~~Reserved. Income reporting. In order to facilitate the city's obligation to identify adequate sites for housing in accordance with Government Code §§ 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 and 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 of occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in California Building Code § 310, unless the building official or Code Compliance Department 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 non-residential 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 1,200 square feet.
- 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 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 limit, or open-space requirement may require the ADU to be less than 800 square feet.

(2) *Setbacks.*

- ~~d.a.~~ An ADU that is subject to this subsection (f) must conform to an 18-foot front-yard setback, subject to subsection (f)(1)(c) above.
- ~~e.b.~~ An ADU that is subject to this subsection (f) must conform to four-foot side- and rear-yard setbacks.
- ~~f.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 a legal existing structure.

- ~~(2)~~ (3) *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.

- ~~(3)~~ (4) *Passageway.* No passageway, as defined by subsection (c)(9) above, is required for an ADU.

~~(4)~~ (5) *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)(12) above.
- b. *Exceptions.* No parking under subsection (f)(4)(a) is required in the following situations:
 1. The ADU is located within one-half mile walking distance of public transit, as defined in subsection (c)(11) above.
 2. The ADU is located within an architecturally and historically significant historic district.
 3. The ADU is part of the proposed or existing primary residence or an accessory structure under subsection (d)(1)(a) above.
 4. When on-street parking permits are required but not offered to the occupant of the ADU.
 5. When there is an established car share vehicle stop located within one block of the ADU.
 6. When the permit application to create an ADU is submitted with an application to create a new single-family or new multi-family dwelling on the

same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (f)(4)(b)(1) through (5) above.

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

~~(5)~~ (6) *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 ten 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 a direct line of sight.
- g. All windows and doors in an ADU are less than 30 feet from a property line that is not a public right-of-way line must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

~~(6)~~ (7) *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-inch 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 six feet in height may be installed.
- c. All landscaping must be drought tolerant.

~~(7)~~ (8) *Historical 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.

(9) Allowed Stories. No ADU subject to this subsection (f) may have more than one story, except that an ADU that is attached to the primary dwelling may have the stories allowed under subparagraph (e)(2)(D) of this section.

- (g) *Fees.* The following requirements apply to all ADUs that are approved under subsections (d)(1) or (d)(2) above.

(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 (Government Code § 66000(b)) and a fee under the Quimby

Act (Government 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 ADU, divided by the floor area of the primary dwelling, 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), 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), all ADUs that are not covered by subsection (g)(2)(b) require a new, separate utility connection directly between the ADU and the utility for any utility that is provided by the city. All utilities that are not provided by the city are subject to the connection and fee requirements of the utility provider.
 1. 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.
 2. 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 violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

(2) *Unpermitted ADUs and JADUs constructed before ~~2018~~ 2020.*

- a. *Permit to legalize.* As required by state law, the city may not deny a permit to legalize an existing, but unpermitted ADU or JADU that was constructed before January 1, ~~2018~~ 2020, if denial is based on either of the following grounds:
 1. The ADU or JADU violates applicable building standards, or
 2. The ADU or JADU does not comply with the state ADU or JADU law (~~Government Code § 65852.2~~) or this ADU ordinance (Section 30-467).

b. *Exceptions.*

1. Notwithstanding subsection (h)(2)(a) above, the city may deny a permit to legalize an existing, but unpermitted ADU or JADU that was constructed before January 1, ~~2018~~ 2020, if the city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure to comply with the standards specified in Health and Safety Code section 17920.3.

2. 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 § 17920.3.