

EXHIBIT 6

Summary of ADU Laws and History of ADUs in the County of Ventura

Proposed NCZO Amendments for Accessory Dwelling
Units and Junior Accessory Dwelling Units
(PL20-0023)

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THE 2003 SECOND DWELLING UNIT ORDINANCE

In 2003, the County adopted a Second Dwelling Unit Ordinance that identified permitting and development standards for second units on properties that met certain criteria. The ordinance allowed for the creation of small second dwelling units, sometimes referred to as “granny flats” or “In-law units”, on certain residential properties; “second units” were the precursor to “accessory dwelling units” (ADUs). The 2003 ordinance was in effect until an urgency ordinance was passed in March 2017 to address the 2017/18 ADU Laws; the urgency ordinance was replaced by the County’s 2018 ADU Ordinance as described below.

THE 2017/18 ADU LAWS

Assembly Bill (AB) 2299, Senate Bill (SB) 1069, AB 494, and SB 229 (collectively the “2017/18 ADU Laws”) amended Government Code section 65852.2, the primary statute governing ADUs, to promote the construction of more ADUs. These acts also replaced the nomenclature “second dwelling unit” with “accessory dwelling unit”.

The 2017/18 ADU Laws made significant changes to state law by reducing barriers to the construction of ADUs. The 2017/18 ADU Laws required ministerial approval of ADUs and established maximum standards that local agencies must use to evaluate proposed ADUs. These laws significantly limited a local agency’s ability to restrict or prohibit ADUs. Local agencies were, however, still allowed to designate areas where ADUs could be prohibited or restricted based on the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety.

In addition to other mandatory requirements, the 2017/18 ADU Laws required local agencies to ministerially approve building permit applications for certain ADUs. To qualify for approval with only a building permit, the ADU had to be created within the existing space of an existing single-family dwelling or accessory structure located in a residential zone, with independent exterior access and side and rear setbacks sufficient for fire safety (“Mandatory Interior ADUs”). Importantly, no other ADU development standards could be applied to Mandatory Interior ADUs, including, for example, impact area restrictions for groundwater quality and traffic. All other ADUs (those not meeting the criteria of a Mandatory Interior ADU) were required to be approved ministerially (e.g., through a Zoning Clearance) and could be subject to local ADU development standards, including impact area restrictions, consistent with the 2017/18 ADU Laws. In addition to the 2017/18 ADU Laws, AB 2406 added section 65852.22 to the Government Code in 2016 (the “JADU Law”) which authorized the creation of another type of small interior unit known as a “junior accessory dwelling unit” (JADU). Pursuant to the JADU Law, local jurisdictions could opt to allow JADUs, but were not required to do so.

THE 2018 ADU ORDINANCE

On February 27, 2018, the County amended its then-existing Second Dwelling Unit Ordinance to comply with the 2017/18 ADU Laws. The Board of Supervisors hearing materials from February 2018¹ includes a detailed summary of the adopted ordinance. Below is a summary of the key provisions of the 2018 ADU Ordinance:

Mandatory Interior ADUs. As mentioned above, to comply with the 2017/18 Laws, ADUs created within an existing single-family dwelling or accessory structure were allowed with only a building permit if certain criteria were met.

Size of ADUs. The 2018 ADU Ordinance regulated the size of ADUs based in part on minimum lot size, total square footage, and their location (i.e., within or outside an Impact Area).

Parking Requirements. The 2017/18 ADU Laws limited the number of parking spaces that could be required, as reflected in the 2018 ADU Ordinance.

Owner Occupancy. The owner of the property was required to reside in the ADU or the primary dwelling unit.

JADU. The 2018 ADU Ordinance did not include provisions for JADUs.

Impact Areas. The 2018 ADU Ordinance carried over provisions from the former Second Dwelling Unit Ordinance, which, beginning in 2003, identified and regulated ADU development in two impact areas: the Arroyo Santa Rosa/Tierra Rejada (ASR/TR) Groundwater Quality Impact Area and the Ojai Traffic Impact Area (collectively, "Impact Areas").

The ASR/TR Groundwater Impact Area restricted lot size for ADUs based on excess nitrates in the groundwater. As a result, limitations based on bedroom equivalency, total square footage of the ADU, and lot area were implemented to protect against additional impacts by high nitrates in groundwater supplies while still allowing for ADUs. The Ojai Traffic Impact Area restricted ADUs based on the number of bedrooms, total square footage of the ADU, and lot area to reduce traffic flow impacts.

New ADU LAWS

Since the 2018 ADU Ordinance was adopted, many additional laws including, for example, AB 1584, AB 345, AB 3182, SB 1030, SB 1371, AB 881, AB 68, SB 13, AB 587, AB 670, and AB 671 (collectively the "New ADU Laws") have been enacted to further reduce barriers to the development and use of ADUs and JADUs. These laws have resulted in significant amendments to Government Code section 65852.2 pertaining to ADUs, and to Government Code section 65852.22 pertaining to JADUs.

¹ Board of Supervisor Hearing Materials for 2018 ADU ordinance, adopted February 27, 2018: <https://ventura.primegov.com/portal/item?id=128073>

Outlined below are the significant changes to the 2017/18 ADU Laws that were in effect at the time the 2018 ADU Ordinance was adopted, with reference to the statutory changes and ordinance sections where the statutory changes are implemented.

Expansion of Types and Numbers of ADUs and JADUs Allowed by Approval of Ministerial Building Permit with No Development Standards Applied

The New ADU Laws have, among other changes, greatly expanded the type and number of ADUs and JADUs that must be approved by building permit only and that are not subject to local development standards (Building Permit ADUs and JADUs).

As noted above, the 2017/18 ADU Laws only required Mandatory Interior ADUs to be approved with only a building permit. The new Building Permit ADUs and JADUs are summarized below with citations to the Proposed Ordinance sections that address these requirements.

- 1) Up to One ADU and One JADU Per Lot with a Proposed or Existing Single-Family Dwelling.** (Gov. Code, § 65852.2(e)(1)(A); Sec. 8107-1.7.4(a)) An application for a building permit to create one ADU and one JADU (not either/or) within a proposed or existing single-family dwelling located within a residential or mixed-use zone must be ministerially approved if certain conditions are met: (a) the unit is within the proposed or existing space of a single-family dwelling or within the existing space of an existing attached or detached accessory structure; (b) the space has exterior access and (c) rear and side setbacks sufficient for fire and safety. Note that for purposes of ADU law, there is a statutory definition of “accessory structure” which is different than the definition in the Non-Coastal Zoning Ordinance (NCZO). (See Gov. Code, § 65852.2(j)(2).) Additionally, there is no size limitation for an ADU created within the space of an existing or proposed single-family dwelling, or for an ADU created within the existing space of an existing accessory structure. JADUs are subject to the provisions of Government Code sec. 65852.22 and are not allowed in accessory structures.
- 2) Up to One Detached, New Construction ADU and One JADU Per Lot with a Proposed or Existing Single-Family Dwelling.** (Gov. Code, § 65852.2(e)(1)(B)); Sec. 8107-1.7.4(b)) An application for a building permit for one detached new construction ADU that does not exceed four-foot side and rear yard setbacks must be ministerially approved on lots with a proposed or existing single-family dwelling located within a residential or mixed-use zone. Local agencies may impose a size limitation on such ADUs of not more than 800 square feet and a height limitation of 16 feet. A new detached ADU may be combined with one JADU; the JADU must comply with the requirements of Government Code section 65852.22.
- 3) One or More ADUs in the Existing Non-Livable Residential Space of Multifamily Dwellings.** (Gov. Code, § 65852.2(e)(1)(C); Sec. 8107-1.7.4(c)) One or more ADUs may be created within portions of existing non-livable residential space in multifamily dwelling structures within a residential or mixed-use zone, that are not used for living space, such as storage rooms, boiler rooms, passageways, attics, basements, or garages if each unit complies with building standards. At least one ADU or the number of ADUs equal to up to 25 percent of the existing multifamily dwelling units is allowed, whichever is greater. As

explained by the California Department of Housing and Community Development (HCD), “if there is no existing non-livable space within a multifamily structure, an applicant would not be able to build an interior ADU under subdivision (e) [of Government Code section 65852.2].” (HCD ADU Handbook at p. 20²) Additionally, for lots with mixed-use development, HCD explains that the non-livable space used to create an internal ADU is limited to the residential areas of a mixed-use development and excludes areas used for commercial or other nonresidential activities including, for example, commercial parking or storage areas. (ADU Handbook at p. 21) Finally, HCD clarifies that “[u]nder subdivision (e), an applicant may apply to build up to two detached ADUs *and* at least one interior ADU up to 25 percent of the number of units in the proposed or existing multifamily dwelling”, which is described in more detail in section 4 below (HCD JADU Handbook at p. 20, emphasis added).

- 4) Up to Two Detached ADUs on a Lot with an Existing Multifamily Dwelling.** (Gov. Code, § 65852.2(e)(1)(D); Sec. 8107-1.7.4(d)) For residential or mixed-use zoned lots with an existing multifamily dwelling, local agencies must allow up to two detached ADUs subject to a 16-foot height limitation and four-foot rear and side setbacks. Notably, the statute does not place a size limitation on these detached ADUs; however, HCD has provided an opinion in certain ADU review letters that a local agency may impose a size limitation on new detached ADUs, but not on the conversion of existing detached structures to ADUs under this section. As discussed in section 3 above, applicants may apply for up to two detached ADUs in addition to ADUs created through the conversion of non-livable residential space. (HCD July 2022 ADU Handbook at p. 20.)

5) JADUs

Additionally, Government Code section 65852.22 defines a JADU as “a dwelling unit that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family dwelling. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.” Pursuant to Government Code sections 65852.2(e) and 65852.22, local agencies must ministerially approve JADU applications with a building permit in single-family residential zones provided the JADU meets the requirements of Government Code section 65852.22. The criteria for a JADU include, but are not limited to, the following (all of which have been included in the Proposed Ordinance (Exhibit 5) in Sec. 8107-1.7.6):

- a) JADUs are only allowed in single-family residential zones. (Gov. Code § 65852.22(a)(1))
- b) Only one JADU is allowed per lot and only within the walls of a proposed or existing single-family dwelling, which includes an attached garage. JADUs are not allowed in multifamily dwellings or accessory structures. JADUs are also prohibited if a lot has more than one single-family dwelling. (Gov. Code § 65852.22(a)(4))
- c) The JADU must have an efficiency kitchen that includes cooking facilities and a food preparation area and storage cabinets. (Gov. Code § 65852.22(a)(6))

² Accessory Dwelling Unit Handbook, July 2022, California Department of Housing and Community Development, <https://www.hcd.ca.gov/sites/default/files/2022-08/ADUHandbookUpdate.pdf>

- d) The JADU must have a separate entrance from the proposed or existing single-family dwelling. (Gov. Code § 65852.22(a)(5))
- e) The JADU must either include separate sanitation facilities or share sanitation facilities with the single-family dwelling. (Gov. Code § 65852.22(h)(1))
- f) No additional parking is required for a JADU. (Gov. Code § 65852.22(b)(1)) However, if a JADU is created by the conversion of an attached garage, replacement parking for the single-family dwelling must be provided; replacement parking can be uncovered on-site, and located in the setbacks, with limitations. (HCD ADU Handbook at p. 24)

Additional ADU and JADU mandates

The New ADU Laws imposed other requirements and restrictions on local ordinances summarized below with a state law citation as well as a reference to the section of the Proposed Ordinance where it is addressed.

- 1) **No Minimum Lot Size for ADUs.** Local agencies are precluded from requiring a minimum lot size for ADUs. (Gov. Code, § 65852.2(a)(1)(B)(i); Sec. 8107-1.7.5(f)).
- 2) **No Owner-Occupancy Requirements for ADUs permitted between January 2020 to January 2025.** Prohibits a local ordinance from requiring an applicant for an ADU to be an owner-occupant of ADUs approved between January 1, 2020, and January 1, 2025. (Gov. Code, § 65852.2(a)(6); Sec. 8107-1.7.7(d)(3).) However, if the single-family dwelling also has a JADU, then the owner must occupy either the JADU or the remaining part of the single-family dwelling. (Gov. Code, § 65852.22(a)(2))
- 3) **Rental Terms for ADUs Must Exceed 30 Days.** Building Permit ADUs must be restricted to rental terms that are longer than thirty days. (Gov. Code, § 65852.2(e)(4); Sec. 8107-1.7.7(d)(2)) For all other ADUs, a local agency may, but is not required, to restrict rental terms to longer than thirty days. (Gov. Code, § 65852.2(a)(6)) The Proposed Ordinance limits the rentals of all ADUs to terms that are longer than thirty consecutive days. (Sec. 8107-1.7.7(d)(2))
- 4) **No Transfer or Conveyance of ADU or JADU, Subject to Narrow Exception for ADU.** Except as provided in Government Code section 65852.26, an ADU may not be sold or otherwise conveyed separately from the primary residence. (Gov. Code, § 65852.2(a)(1)(D)(i)) Government Code section 65852.26 authorizes a narrow exception that allows the transfer of an ADU (but not a JADU) that was built or developed by a qualified nonprofit corporation and is subject to a recorded enforceable restriction on the use of the land if certain requirements are satisfied. JADUs may not be separately conveyed from the single-family residence. (Gov. Code, § 65852.22(a)(3)(A)) To implement state law limitations on the transfer and conveyance of ADUs and JADUs, the Proposed Ordinance includes a deed restriction requirement for both ADUs and JADUs. (Sec. 8107-1.7.7(e))
- 5) **Maximum Size of an ADU cannot be less than 850 square feet, or less than 1,000 square feet if the ADU Provides More than One Bedroom.** A local agency is prohibited from establishing a maximum size of an ADU of less than 850 square feet, or less than 1,000 square feet if the ADU contains more than one bedroom. (Gov. Code, § 65852.2(c)(2)(B); Sec. 8107-1.7.5(g)) According to HCD guidance, limits on the number

of bedrooms could be construed as discriminatory and would be considered constraints on the development of ADUs. (HCD Handbook at p. 17)

- 6) **Replacement Off-street Parking Cannot be Required if an ADU is created through the Demolition/Conversion of a Garage/Carport/Covered Parking Structure.** When a garage, carport, or covered parking structure is demolished in conjunction with an ADU or converted into an ADU, a local agency shall not require that those off-street parking spaces be replaced. (Gov. Code, § 65852.2, subdivisions (a)(1)(D)(xi)); Sec. 8107-1.7.5(c)(3))
- 7) **Parking for ADUs Not Required Under Certain Circumstances.** Notwithstanding any other law, a local agency cannot impose parking standards for ADUs that meet any of the following criteria (Gov. Code, § 65852.2 (d); Sec. 8107-1.7.5(c)(1)):
 - ADUs located within one-half mile walking distance of public transit;
 - ADUs located within an architecturally and historically significant historic district;
 - ADUs created as part of the proposed or existing primary residence or accessory structure;
 - When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
 - When there is a car share vehicle located within one block of the ADU.
- 8) **Limited Development Standard Exemption ADU.** Notwithstanding any other minimum or maximum size for an ADU, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached ADUs, an ADU up to 800 square feet with a height limitation of 16 feet with four-foot side and rear yard setbacks must be allowed to be constructed in compliance with all other local development standards (Limited Exception to Development Standards). (Gov. Code, § 65852.2(c)(2)(C); Sec. 8107-1.7.5(j))
- 9) **For JADUs, Must Require Owner-Occupancy of JADU or Remaining Portion of Single-Family Dwelling.** If a JADU is created within an existing or proposed single-family dwelling, the owner must occupy either the JADU or the remaining portion of the single-family dwelling, unless the owner is a government agency, land trust, or housing organization. (Gov. Code, § 65852.22(a)(2); Sec. 8107-1.7.7(d)(3))
- 10) **Deed Restriction Addressing Sale, Size and Attributes of JADU.** A recorded deed restriction, which shall run with the land, shall: prohibit the sale of the JADU separate from the sale of the single-family dwelling, including a statement that the deed restriction may be enforced against future purchasers; and restrict the size and attributes of the JADU pursuant to the requirements of Government Code section 65852.22. (Gov. Code, § 65852.22(a)(3); Sec. 8107-1.7.7(d)(4); Sec. 8107-1.7.7(e)(2))
- 11) **Impact Areas restricting ADUs may be based upon the adequacy of water and sewer services.** The New ADU Laws clarify that areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services as well as impacts on traffic flow and public safety. (Gov. Code, § 65852.2(a)(1)(A)) However, HCD now requires specific findings to restrict or prohibit ADUs. HCD's July 2022 ADU handbook further explains that "local governments may not preclude the creation of ADUs altogether, and

any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors.” (ADU Handbook July 2022 at p. 11). While detailed findings of fact are not required by, or mentioned anywhere in, Government Code section 65852.2, HCD is authorized by law to adopt guidelines to implement uniform standards or criteria that supplement or clarify the standards set forth in Government Code section 65852.2. Staff has not identified the detailed facts meeting HCD’s high evidentiary standard to justify the continued inclusion of the impact areas; therefore, the impact areas are not included in the Proposed Ordinance.

Miscellaneous ADU Laws

The following ADU Laws apply to the County but are not required to be included as provisions in the Proposed Ordinance:

- **HCD Review of Local Ordinance Compliance.** After a local agency adopts an ADU ordinance, it must be submitted to HCD for review. HCD must then submit findings to the local agency as to whether the ADU ordinance complies with ADU law. If HCD finds it does not, HCD shall provide the local agency with up to 30 days to respond before taking any other action. The local agency shall consider HCD’s findings and may either amend the ordinance to comply or make findings as to why the ordinance complies despite HCD’s findings. (Gov. Code, § 65852.2(h)(2))
- **No Fire Sprinklers are Required for ADUs Unless Required for Primary Dwelling.** The installation of fire sprinklers is not required for an ADU if sprinklers are not required for the primary residence. For example, fire sprinklers are not required for ADUs created in an existing structure that did not require fire sprinklers by the building code at the time. However, if the primary dwelling is new or undergoes a remodel, the ADU is required to have fire sprinklers. (Gov. Code § 65852.2(a)(1)(D)(xii) & (e)(3)) The Proposed Ordinance does not address fire sprinkler requirements as that is a Building and Fire Code issue which is addressed as part of the building permit process.
- **Impact Fee Exemptions.** Pursuant to Government Code section 65852.2, subdivision (f)(3), a local agency, special district, or water corporation shall not impose any impact fee upon the development of an ADU that is less than 750 square feet; any impact fees charged for an ADU that is 750 square feet or larger must be charged proportionately in relation to the square footage of the primary dwelling unit.
- **Delayed Enforcement of Building Standards for Certain Substandard ADUs.** If an ADU is in violation of building standards, the owner may request that the local agency delay its enforcement of building standard violation for five years, subject to compliance with Section 17980.12 of the Health and Safety Code, on the basis that correcting the violation is not necessary to protect health and safety. (Gov. Code, § 65852.2(n); Health & Safety Code, § 17980.12).
- **Maximum Review Time for an ADU and JADU Application Reduced from 120 days to 60 Days, with Automatic Approval if Review Not Completed within 60 Days.** The maximum time to review a completed ADU and/or JADU application is reduced from 120 days under the 2017/18 ADU Laws to 60 days. Additionally, if a local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. (Gov. Code, § 65852.2(a)(3) and (b)).

- **CC&Rs Prohibiting or Unreasonably Restricting ADUs/JADUs are Void.** Covenants, conditions, and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use that meets the requirements of Government Code sections 65852.2 or 65852.22, are void and unenforceable. (Civ. Code, § 4751.)
- **Housing Elements must Promote ADUs.** State law mandates local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households. (Gov. Code, § 65583(c)(7)). The Housing Element adopted in 2021 includes programs that address these requirements.