

URGENCY ORDINANCE NO. 1813

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF LA HABRA, CALIFORNIA TO AUTHORIZE
ACCESSORY DWELLING UNITS CONSISTENT WITH
NEW STATE LAW REQUIREMENTS**

WHEREAS, effective January 1, 2020 multiple new housing relating to accessory dwelling units (ADUs) will become law, including AB 68, AB 881, SB 13, AB 587, and AB 670; and

WHEREAS, municipal regulations which are inconsistent with state law may be preempted effective January 1, 2020; and

WHEREAS, to preserve what limited authority the city has remaining to regulate ADUs, it is desirable that the City update its laws consistent with the law as it will be in effect January 1, 2020.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA HABRA DOES
ORDAIN AS FOLLOWS:**

SECTION 1. On January 1, 2020 Municipal Code Section 18.24.030.F is revised as follows:

~~F. ““Secondary dwelling unit” means any residential dwelling unit which provides complete independent living facilities on the same parcel where one and only one, legal single family residence exists and includes the permanent provisions for living, sleeping, eating, cooking and sanitation in compliance with the development standards established in Section 18.24.050(G), “Secondary Dwelling Units,” of this chapter.”~~

F. “Accessory dwelling unit” shall have the same definition as provided in Government Code section 65852.2 as it may be amended from time to time. See Section 18.12.150, “Accessory Dwelling Units.”

SECTION 2. On January 1, 2020 Municipal Code Section 18.24.050.E is deleted.

SECTION 3. On January 1, 2020 Municipal Code section 18.12.150, “Accessory Dwelling Units” is revised to provide

A. Accessory dwelling units—Purpose, definitions, occupancy.

1. Purpose. The City of La Habra finds and declares that accessory dwelling units are an important form of housing that contributes to the character and diversity of housing opportunities. Accessory dwelling units provide affordable housing for

family members, students, elderly, in-home health care providers, the disabled and others, at below market rental rates within existing neighborhoods. The City intends to encourage accessory dwelling units and, impose standards on such units that will enable homeowners to create accessory dwelling units that will be compatible, as much as possible, with their neighborhoods. An additional purpose of this ordinance is to comply with Sections 65852.2 and 65852.22 of the California Government Code relative to accessory dwelling units and junior accessory dwelling units.

2. Definitions.

- a. The terms “accessory dwelling unit”, “public transit”, “passageway” and “tandem parking” all have the same meaning as that stated in Government Code section 65852.2 as that section may be amended time to time.
- b. The term “Housing Organization” shall have the same meaning as that stated in Government Code Section 65589.5(k)(2), as that section may be amended from time to time.
- c. “Junior accessory dwelling unit” shall have same meaning as that stated in Government Code section 65852.22(h)(1) as that section may be amended time to time.

3. Occupancy. Accessory dwelling units may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

B. Accessory dwelling units—Application for accessory dwelling unit permit.

1. Accessory dwelling units are permitted in all zones within the City where single-family or multi-family residential units are permitted, subject to the owner first obtaining a building permit. Any application for an accessory dwelling unit that meets the unit size standards and development standards contained in Sections C or D of this section, or is the type of accessory dwelling unit described in Subsection E of this section, shall be approved ministerially by the city by applying the standards herein and without a public hearing.
2. An application for an accessory dwelling unit building permit shall be made by the owner of the parcel on which the primary unit sits and shall be filed with the city on a city-approved application form and subject to the established fee.
3. Applications for accessory dwelling units shall conform to the requirements for and obtain a building permit as determined by the city building official. In addition, the application shall include the following documents, which shall be reviewed and approved by the director of community development or designee:
 - a. Plot Plan (drawn to scale). Dimension the perimeter of the parcel on which the accessory dwelling unit will be located. Indicate the location and dimensioned setbacks, and dimensions of all existing and proposed structures on the site. Provide dimensions of all easements, right of way(s), building envelopes, parking and paved areas.
 - b. Floor Plans. Complete floor plans of both existing and proposed conditions shall be provided. Each room shall be dimensioned and resulting floor area

calculation included. The use of each room shall be labeled. The size and location of all doors, closets, walls and cooking facilities shall be clearly depicted.

- c. Elevations. North, south, east, and west elevations that show all exterior structure dimensions, all architectural projections, and all openings for both the existing residence and the proposed accessory dwelling unit.

C. Accessory dwelling units—Unit size standards. All accessory dwelling units shall not exceed the size standards listed below for attached or detached units or garages.

1. Attached Units in Single Family Dwellings: The maximum floor area of an attached accessory dwelling unit on a single-family lot shall be either:
 - a. Eight hundred fifty (850) square feet for an accessory dwelling unit that is a studio or one-bedroom unit; or
 - b. One thousand (1000) square feet for an accessory dwelling unit that has two or more bedrooms.
2. Detached Units on Single Family Dwelling Lots:
 - a. A detached unit shall not exceed one thousand two hundred (1,200) square feet of living area.
 - b. A single-car carport may be attached to the detached accessory dwelling unit.
3. ADUs on Multi-family Dwelling Lots. The maximum floor area of an attached or detached accessory dwelling unit on a multi-family dwelling lot shall be either:
 - a. Eight hundred fifty (850) square feet for an accessory dwelling unit that is a studio or one-bedroom unit; or
 - b. One thousand (1000) square feet for an accessory dwelling unit that has two or more bedrooms.
4. Setback requirements.
 - a. No setbacks are required for those portions of accessory dwelling units that are created by converting existing living area or existing accessory structures to new accessory dwelling units or constructing new accessory dwelling units in the same location and to the same dimensions as an existing structure.
 - b. For all other accessory dwelling units, there must be a minimum of four feet of setbacks from side and rear lot lines and comply with all applicable front yard setbacks.
 - c. The minimum required distance between a detached accessory dwelling unit and the primary dwelling unit, and all other structures, including garages, on the property, shall be ten feet.

D. Accessory dwelling units—Development standards.

Any permit for an accessory dwelling unit shall be subject to the development standards listed below.

1. Legal lot/residence. An accessory dwelling unit shall only be allowed on a lot within the city that contains a legal, single-family or multi-family residence as an existing or proposed primary unit on a lot.
2. Number of accessory dwelling units per lot. For lots with proposed or existing single-family residences, no more than one (1) attached or detached accessory dwelling unit shall be permitted on the lot.
 - a. Notwithstanding the above, a lot with a single-family residence may have one (1) junior accessory dwelling unit and (1) detached accessory dwelling unit.
 - b. For lots with existing multi-family residential dwellings:
 - i. No more than twenty-five percent (25%) of the number of the existing units, but at least one (1) unit, shall be permitted as accessory dwelling units constructed within the non-livable space of the existing building provided that applicable building codes are met; or
 - ii. No more than two detached accessory dwelling units, provided that no such unit shall be more than sixteen (16) feet in height, and have a minimum of four-foot side and rear yard setbacks. The maximum square footage of detached accessory dwelling units on lots with existing multi-family residential dwellings shall comply with the limits set forth in subsection C of this section.
3. Building Code Compliance. All new accessory dwelling units must satisfy the requirements of Title 15 of the Municipal Code (“Buildings and Construction”) and any other applicable provisions of the California Building Standards Code. However, fire sprinklers shall not be required if they are not required for the primary residence.
4. Fees and Charges.
 - a. City/public utilities.
 - i. All accessory dwelling units must be connected to public utilities, including water, electric, and sewer services. For example, accessory dwelling units and junior accessory dwelling units that are proposed to be installed on a property with only septic tanks are prohibited.
 - ii. Except as provided in subsection iii below, the City may require the installation of a new or separate utility connection between the accessory dwelling unit and the utility. The connection fee or capacity charge shall be proportionate to the burden of the proposed accessory dwelling unit based on either its square feet or number of drainage fixture unit values.
 - iii. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-family

dwelling, unless the accessory dwelling unit is being constructed in connection with a new single-family dwelling.

iv. Regardless of where it is located, for the purposes of calculating utility connection fees or capacity charges, accessory dwelling units shall not be considered a new residential use unless the accessory dwelling unit was constructed with a new single-family dwelling.

b. **Building Fees.** Fees for building permits shall be waived, for an accessory dwelling unit, if a covenant in a form acceptable to the city attorney is recorded on the property requiring the accessory unit to be occupied exclusively for persons that qualify as very low-income. Very low-income is defined as fifty percent or below of average medium income, for Orange County, adjusted for family size.

c. **Impact Fees**

i. For accessory dwelling units of seven hundred fifty (750) square feet or larger, all impact fees applicable to accessory dwelling unit's construction shall be paid to the city in amounts proportional to the size of the accessory dwelling unit relative to the square footage of the primary dwelling unit.

ii. For accessory dwelling units seven hundred forty-nine (749) square feet or smaller, no impact fees shall be charged, unless otherwise allowed by state law.

iii. For purposes of this subsection, "impact fee" has the same meaning as specified in Government Code section 66000(b) and also includes in-lieu park fees as specified in Government Code section 66477.

5. **Parking.**

a. The City shall require the owner to provide one parking space unless the accessory dwelling unit has no bedrooms (e.g., a studio), in which case no space is required. The required parking space may be provided as:

i. Tandem parking on an existing driveway in a manner that does not encroach onto a public sidewalk; or

ii. Within a setback area or as tandem parking in locations determined feasible by the City for such use. Locations will be determined infeasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the City.

b. Notwithstanding the foregoing, no parking space shall be required for an accessory dwelling unit if:

i. It is located within one-half mile walking distance of public transit;

ii. It is located within an architecturally and historically significant district;

iii. It is part of a proposed or existing primary residence or accessory structure;

- iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
- v. Where there is a car share vehicle located within one block of the accessory dwelling unit.

c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the off-street parking spaces do not have to be replaced.

6. Recorded Covenants. Before obtaining a permit for an accessory dwelling unit, the property owner shall file with the county recorder a declaration or agreement of restrictions, which has been approved by the city attorney as to its form and content, describing restrictions that allows for and the continued use of the accessory dwelling as follows:

a. the accessory dwelling unit shall not be sold separately from the primary residence;

b. the accessory second unit is restricted to the maximum size allowed per the development standards set forth in this section;

c. starting in January 1, 2025, the accessory dwelling unit shall be considered legal only as long as either the primary residence or the accessory dwelling unit is occupied by the owner of record; and

d. the restrictions shall be binding upon any successor in ownership of the property, and lack of compliance shall result in legal action against the property owner for noncompliance with the requirements for an accessory dwelling unit.

7. Conversion of existing primary unit. An existing primary dwelling may be converted to an accessory dwelling unit if it complies with all applicable requirements of this ordinance. If so, a new, larger primary residence may be constructed.

8. Design requirements for new units. All new accessory dwelling units must comply with the following design requirements:

a. The exterior materials, colors, roof pitch and architecture shall be similar to and compatible with those of the primary unit.

b. Accessory dwelling units shall not exceed the height level of the tallest existing structure on the parcel or as required in the base zoning district, whichever is less.

c. Lighting shall not spill on to neighboring lots.

9. Accessibility standards. New construction of any ground level accessory dwelling unit shall be designed and constructed to allow for disability/accessibility standards. Plans shall demonstrate future entrance capability and actual construction shall include adequate door and hallway widths, maneuvering space in kitchens and bathrooms, and structural reinforcements for grab bars.

10. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

11. Waiver of Standards. One or more of the development standards identified in this section D or in section C, above, can be modified or waived by the director of community and economic development or designee ("director") if: (a) a covenant is recorded on the property requiring the accessory dwelling unit to be occupied by persons that qualify as low-income as identified in the city of La Habra Housing Element and approved by the director when such modification or waiver is in the determination of the director necessary to provide low-income housing; and (b) the director determines that the value of the incentive offered does not exceed the value to the public of the recorded covenant.

E. Accessory Dwelling Unit Exceptions.

1. Accessory dwelling units shall be approved for the following types of accessory dwelling units, regardless of whether the applicant meets the development standards contained in this Title.

- a. For lots with single family dwellings, one of the following:
 - i. One interior accessory dwelling unit or one junior accessory dwelling unit per lot constructed within an existing or proposed single-family or "accessory structure" as that term is defined in Government Code section 65852.2, including the construction of up to a one hundred fifty (150) square foot expansion beyond the same physical dimensions as the existing accessory dwelling structure to accommodate ingress and egress. The accessory dwelling unit or junior accessory dwelling unit must have exterior access and side and rear setbacks sufficient for fire safety. If the unit is a junior accessory dwelling unit, it must also comply with the requirements of subsection G below; or
 - ii. One new, detached accessory dwelling unit with a minimum four-foot side and rear setbacks, up to eight hundred (800) square feet and no more than sixteen (16) feet high on a lot with an existing or proposed single family dwelling. A junior accessory dwelling unit may also be built within the existing or proposed dwelling of such residence in connection with the accessory dwelling unit.
- b. On a lot with an existing multifamily dwelling:

i. Accessory dwelling units may be constructed in areas that are not used as livable space within an existing multi-family dwelling structure (i.e., storage rooms, boiler rooms, passageways, attics, basements, or garages), provided the spaces meet state building standards for dwellings. The number of interior accessory dwelling units permitted on the lot shall not exceed twenty-five percent (25%) of the current number of units of the multi-family complex on the lot and at least one such unit shall be allowed. Units constructed pursuant to this subsection shall not exceed eight hundred (800) square feet in floor area; and

ii. Up to two (2) detached accessory dwelling units may be constructed, provided they are no taller than sixteen (16) feet, and they have at least four (4) feet of side and rear yard setbacks. Units constructed pursuant to this subsection shall not exceed eight hundred (800) square feet in floor area.

2. Accessory dwelling units approved under this Subsection E shall not be rented for a term of less than thirty (30) days.

3. Accessory dwelling units or junior accessory dwelling units approved under this Subsection E shall not be required to correct legal nonconforming zoning conditions.

F. Accessory dwelling units—General plan consistency.

In adopting these standards, the city recognizes that the approval of dwelling units may, in some instances, result in dwelling densities exceeding the maximum densities prescribed by the general plan. The city finds that this occurrence is consistent with the general plan, as allowed under state planning and zoning law applicable to accessory dwelling units, and that the amendment furthers the goals, objectives, and policies of the general plan housing element.

G. Junior Accessory Dwelling Units.

1. Purposes: This section provides standards for the establishment of junior accessory dwelling units. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, will be constructed within the walls of an existing or proposed single family residence and requires owner occupancy in the single family residence where the unit is located.

2. Size: A junior accessory dwelling unit shall not exceed 500 square feet in size.

3. Owner Occupancy: The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a primary residence either the primary dwelling or the junior accessory dwelling. Owner-occupancy is not required if the owner is a governmental agency, land trust, or housing organization.

4. **Sale Prohibited:** A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.
5. **Short term rentals:** The junior accessory dwelling unit shall not be rented for periods of less than 30 days.
6. **Location of Junior Accessory Dwelling Unit:** A junior accessory dwelling unit shall be created within the existing walls of an existing primary dwelling.
7. **Kitchen Requirements:** The junior accessory dwelling unit shall include an efficiency kitchen, including a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
8. **Parking.** No additional parking is required beyond that required at the time the existing primary dwelling was constructed.
9. **Fire Protection; Utility Service.** For the purposes of any fire or life protection ordinance or regulation or for the purposes of providing service for water, sewer, or power, a junior accessory dwelling unit shall not be considered a separate or new unit, unless the junior accessory dwelling unit was constructed in conjunction with a new single-family dwelling. No separate connection between the junior accessory dwelling unit and the utility shall be required for units created within a single-family dwelling, unless the junior accessory dwelling unit is being constructed in connection with a new single-family dwelling.
10. **Deed Restriction.** Prior to the issuance of a building permit for a junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the city that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, requires owner-occupancy consistent with subsection (3) above, does not permit rentals for periods 30 days or shorter, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.

SECTION 5. Urgency. Effective January 1, 2020 multiple new housing relating to accessory dwelling units (ADUs) will become law, including AB 68, AB 881, SB 13, AB 587, and AB 670. Subsection (a)(4) of Government Code 65852.2 will state in part, "if a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void..." If the City is unable to enforce its design standards, or otherwise approve ADUs in a manner consistent with state law effective January 1, 2020, the city could be required to approve ADUs that are directly inconsistent with the development standards that apply throughout the city, or could subject to litigation. The City desires to allow the public to know the processes that will apply to proposed ADUs effective January 1, 2020, and absent an urgency ordinance, the ordinance could not be in effect by January 1, 2020. For these

reasons, this ordinance is necessary for the immediate preservation of the public peace, health and safety.

SECTION 6. Compliance with CEQA. Adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) under Public Resources Code § 21080.17 [statutory exemption for second unit ordinances]; CEQA Guidelines §§ 15282(h) [statutory exemption for second unit ordinances]; 15303 [new construction or small structures] and 15305 [minor alterations to land]. This ordinance is also exempt under CEQA Guidelines section 15061, because this ordinance will not have a significant effect on the environment, because ADUs will largely constitute infill housing which is exempt from CEQA.

SECTION 7. Inconsistencies. Any provision of this ordinance which is inconsistent with state law shall be interpreted in a manner to be consistent with state law. If any provision of the La Habra Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

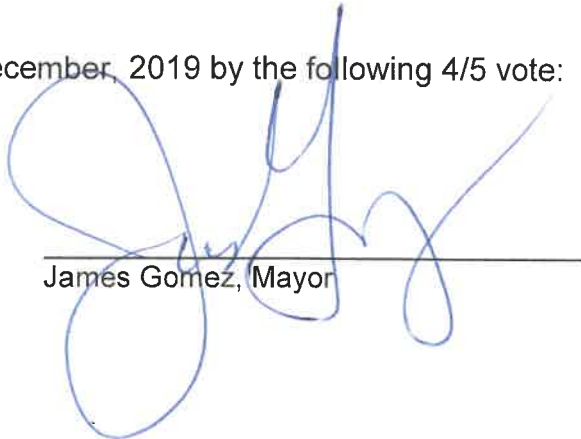
SECTION 8. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of La Habra hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 9. Effective Date. Consistent with its authority to adopt an urgency ordinance pursuant to Government Code 36934 and 36937, this Ordinance shall take effect immediately.

SECTION 10. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

SECTION 11. Transmit Ordinance to HCD. The City Clerk is directed to send a copy of this ordinance to the Department of Housing and Community Development within 60 days of the adoption of this ordinance.

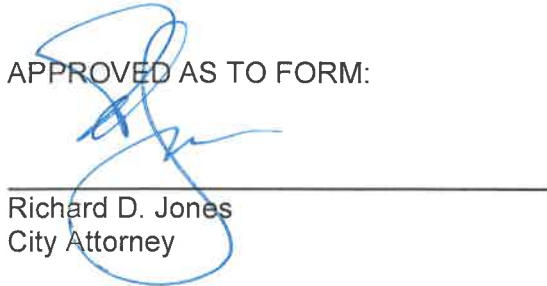
PASSED AND ADOPTED this 2nd day of December, 2019 by the following 4/5 vote:


James Gomez, Mayor

ATTEST:


Laurie Swindell, CMC
City Clerk

APPROVED AS TO FORM:


Richard D. Jones
City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF LA HABRA)

I, Laurie Swindell, City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Urgency Ordinance No. 1813 introduced at a regular meeting of the City Council of the City of La Habra held on the 2nd day of December, 2019, and duly adopted at a regular meeting held on the 2nd day of December, 2019, by the following vote:

AYES: COUNCILMEMBERS: GOMEZ, BEAMISH, ESPINOZA, MEDRANO, SHAW
NOES: COUNCILMEMBERS: NONE
ABSTAIN: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

Said Urgency Ordinance will be published or posted pursuant to law.

Witness my hand and the official seal of the City of La Habra this 2nd day of December, 2019.


Laurie Swindell, CMC
City Clerk