

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLINGAME, AMENDING TITLE 25 (ZONING CODE) OF THE BURLINGAME MUNICIPAL CODE, CHAPTERS 25.59, 25.60, 25.26 AND 25.70 TO UPDATE EXISTING ACCESSORY DWELLING UNIT REGULATIONS TO BE CONSISTENT WITH RECENTLY ADOPTED AMENDMENTS TO CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22 RELATED TO ACCESSORY DWELLING UNITS

The City Council of the City of Burlingame ordains as follows:

Division 1. Factual Background

WHEREAS, on October 19, 2019, the State of California enacted legislation known as Assembly Bill 881, Assembly Bill 68, and Senate Bill 13, which, among other things, amended Sections 65852.2 and 65852.22 of the Government Code pertaining to accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the State of California has enacted legislation to encourage the construction of accessory dwelling units and junior accessory dwelling units in single family and multifamily residential zones, as further defined in this ordinance; and

WHEREAS, the revisions to State Law became effective on January 1, 2020. Local jurisdictions are required to comply with the new requirements, which supersede local ordinances. The proposed zoning amendments would ensure that the Burlingame Municipal Code is consistent with the new recently adopted State regulations and help clarify and improve various provisions of the accessory dwelling unit law to promote the development of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, Government Codes Sections 65852.2 and 65852.22 require the City of Burlingame to adopt zoning regulations in compliance with State law provisions regarding accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the proposed amendments to the zoning code related to accessory dwelling units are Statutorily Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15282(h) which exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.2 and 6582.22 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and

WHEREAS, said matters were heard by the Planning Commission of the City of Burlingame on February 24, 2020, at which time it reviewed and considered the staff report and all other written materials and testimony presented and recommended to the City Council that it adopt amendments to Title 25 (Zoning Code) of the Burlingame Municipal Code to amend Chapters 25.59, 25.60, 25.26, and 25.70 to update existing accessory dwelling unit regulations to be consistent with recently adopted amendments to California Government Code Sections 65852.2 and 65852.22 and additional changes to remove constraints to creating accessory dwelling units.

ORDINANCE NO. _____

WHEREAS, said matters were heard by the City Council of the City of Burlingame on March 2, 2020, at which time it reviewed and considered the staff report and all other written materials and testimony presented at said hearing and continued action on the item for further discussions and additional information regarding allowable rooflines, permeable surfaces and windows and skylights.

WHEREAS, said matters were heard by the City Council of the City of Burlingame on May 18, 2020, at which time it reviewed and considered the staff report and all other written materials and testimony presented at said hearing and continued action on the item for further discussions regarding the ability to monitor of the use within ADUs.

WHEREAS, at its regular meeting of July 6, 2020 the Burlingame City Council introduced an ordinance amending Title 25 – (Zoning Code) of the Burlingame Municipal Code, Chapters 25.59, 25.60, 25.26 and 25.70 to update existing Accessory Dwelling Unit regulations to be consistent with recently adopted amendments to California Government Code Sections 65852.2 and 65852.22 along with additional zoning code changes to the above stated chapters to remove constraints to the creation of accessory dwelling units and junior accessory dwelling units.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGAME ORDAINS AS FOLLOWS:

Division 2. The following code sections are amended, repealed or deleted as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text.

Section 1: Chapter 25.59 Accessory Dwelling Units, Section 25.59.010 Purpose, is amended as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS
25.59.010 Purpose.

The purpose of this chapter is to regulate ~~both existing and new~~ accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22 ~~residential zoning districts and on residential property consistent with state law (California Government Code Sections 65852.1 through 65852.2).~~ This chapter is intended to implement the Housing Element of the Burlingame General Plan by providing for additional housing opportunities. This will be accomplished by increasing the number of units available within existing neighborhoods while maintaining the primarily single-family and multifamily residential character of the area, and establishing standards for the development and occupancy of accessory dwelling units and junior accessory dwelling units to ensure that they are compatible with neighboring uses and structures, adequately equipped with public utility services, safe for human occupancy, and do not create unreasonable traffic and safety impacts.

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

ORDINANCE NO. _____

applicable provision of State law shall control, but all other provisions of this chapter shall remain in full force and effect.

An accessory residential dwelling unit or junior accessory dwelling unit which conforms to the requirements of this chapter shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing General Plan and zoning designations for the lot.

Section 2: Chapter 25.59 Accessory Dwelling Units, Section 25.59.015 Definitions, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.015 Definitions.

The following terms shall have the following meanings for this chapter only and shall supersede the terms defined by Chapter 25.08 (Definitions):

(a) "Accessory dwelling unit" or "ADU" means an attached or detached residential dwelling unit ancillary to a primary dwelling unit that provides complete independent living facilities for one (1) or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code. This Chapter recognizes three types of accessory dwelling units as defined below. Where a proposed accessory dwelling unit does not clearly fall into one of the defined types, the Community Development Director shall make a determination pursuant to Code Section 25.16.150.

(1) "Attached accessory dwelling unit" means an accessory dwelling unit that is constructed as a physical expansion (i.e., addition) of an existing primary dwelling unit, including construction of a new basement underneath a primary dwelling unit to accommodate an accessory dwelling unit.

(2) "Detached accessory dwelling unit" means an accessory dwelling unit that is constructed as a separate structure from the primary dwelling unit; or contained within the existing space of an accessory structure (as defined herein), including construction of a new basement underneath an accessory structure to accommodate an accessory dwelling unit.

(3) "Interior accessory dwelling unit" means an accessory dwelling unit that is contained within the existing space of a primary dwelling unit, including within its living area, basement, or attached garage; constructed as part of a proposed primary dwelling unit; or created from non-livable space of a multifamily dwelling.

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

ORDINANCE NO. _____

(c) "Efficiency kitchen" means a kitchen that includes each of the following:

(1) A sink and cooking facility with appliances (e.g., microwave, toaster oven or hot plate).

(2) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(d) "Junior accessory dwelling unit" or "JADU" means a residential dwelling unit that:

(1) is no more than 500 square feet in size,

(2) is contained entirely within an existing or proposed single family dwelling,

(3) includes its own separate sanitation facilities (bathroom containing a sink, toilet, and shower or tub), or may share sanitation facilities with the existing or proposed single family structure, and

(4) includes an efficiency kitchen, as defined in subsection (c) above.

(e) "Living area" means the interior habitable floor area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(f) "Nonconforming zoning conditions" means a physical improvement on a property that does not conform with current zoning standards.

(g) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to the entrance of an accessory dwelling unit or junior accessory dwelling unit.

(h) "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.

(i) "Tandem parking" means a parking configuration where two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Section 3: Chapter 25.59 Accessory Dwelling Units, Section 25.59.020 Accessory dwelling unit permit procedure, is amended as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.020 Applications and processing. ~~Accessory dwelling unit permit procedure.~~

(a) Applications for ADU and JADU permits ~~such an accessory dwelling unit permit~~ shall be in writing and filed with the Community Development Department ~~community development director~~ on a form approved by the ~~e~~C~~ommunity~~ ~~d~~ev~~elopment~~ ~~d~~irector.

ORDINANCE NO. _____

(b) As established by council resolution, a fee will be charged for an application for an ADU or JADU accessory dwelling unit permit under this chapter. All ADUs and JADUs are also subject to building permit fees.

(c) Within ~~sixty one hundred twenty~~ (60 120) days of receipt of a complete application, the ~~Community Development Department staff~~ community development director shall ministerially process for approval any application for an ~~accessory dwelling unit~~ ADU or JADU permit pursuant to this chapter. Incomplete applications will be returned with an explanation of what additional information is required. Upon finding that the ADU or JADU meets the requirements of this chapter, ~~performance standards set forth in Section 25.59.060 are met~~ the application proposal shall be approved ministerially without discretionary review or public hearing and the applicant may proceed to acquire a building permit. All ADUs and JADUs accessory units are categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines. ~~If the application does not meet all of the requirements of this chapter, the community development director shall deny the application.~~

(d) If an application for an attached ADU or JADU is submitted with an application for an addition to an existing single family dwelling or construction of a new single family dwelling that is subject to design review or other discretionary permit for the same parcel, the application for the ADU or JADU permit shall not be acted upon until the application for design review or other discretionary permit is approved. Following the approval for design review or other discretionary permit for the primary dwelling unit, the ADU or JADU application will be ministerially processed within 60 days of receipt of a complete application and approved if it meets the requirements of this chapter.

(e) If the applicant requests a delay, the 60-day time period for approval shall be tolled for the period of the delay.

Section 4: Chapter 25.59 Accessory Dwelling Units, Section 25.59.040 Revocation of accessory dwelling unit permit, is amended as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.040 Revocation of permit ~~accessory dwelling unit~~ permit.

(a) Grounds. An ADU or JADU ~~accessory dwelling unit~~ permit granted pursuant to this chapter may be revoked on any one or more of the following grounds:

(1) Failure to comply with the requirements of this chapter; ~~The performance standards outlined in this chapter are not being met;~~ or

(2) The ADU or JADU ~~accessory dwelling unit~~ is no longer used for residential purposes; or

(3) The parking required by this chapter is no longer provided; ~~or~~

(4) ~~The primary single family dwelling on the site is purposely demolished.~~

ORDINANCE NO. _____

(b) Notice. Written notice to revoke an ADU or JADU ~~accessory dwelling unit~~ permit shall be served on the property owner, as shown on the last equalized assessment roll, either personally or by certified mail, and shall state:

(1) The reasons for the proposed revocation.

(2) That the proposed action will be taken by the Community Development Director ~~director of community development~~ unless a written request for a hearing before the Planning Commission is requested within fifteen (15) days after the date of said notice. If no response is received, the Community Development Director ~~director of community development~~ shall ~~forthwith~~ will revoke the ADU or JADU ~~accessory dwelling unit~~ permit as set forth in the said notice.

(c) Hearing. If a hearing is requested, at least ten (10) days' notice thereof shall be given to the requested party. At ~~the any such~~ hearing, the property owner ~~may~~ shall call witnesses and present evidence in his or her behalf. Upon conclusion of ~~the such~~ hearing, the Planning Commission ~~will~~ determine whether or not the permit will ~~shall~~ be revoked. Such determination may be appealed to the city council in the same manner as for appeals taken on applications for the granting of conditional use permits or variances.

Section 5: Chapter 25.59 Accessory Dwelling Units, Section 25.59.050 Variances prohibited, is repealed and deleted in its entirety.

25.59.050 Variances prohibited.

~~—No variance under Chapter 25.54 shall be granted from any requirement of this chapter.~~

Section 6: Chapter 25.59 Accessory Dwelling Units, Section 25.59.055 Minimum standards for eligibility, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.055 Minimum standards for eligibility.

(a) No minimum lot area is required for creation of an ADU or JADU.

(b) An ADU or JADU shall only be allowed on a parcel which has been legally created in compliance with the Subdivision Map Act and Title 26 (Subdivisions), and where the ADU or JADU is developed with an existing or proposed single family dwelling, except for ADUs constructed on multifamily residential properties pursuant to Section 25.59.090.

(c) ADUs may only be permitted in districts zoned to allow single family dwelling or multifamily dwelling residential uses as a permitted use. ADUs are also permitted on any parcel that has a current and valid nonconforming single family or multifamily residential use, so long as the ADU complies with all other portions of this chapter.

ORDINANCE NO. _____

(d) JADUs may only be permitted in districts zoned to allow a single family dwelling residential use as a permitted use. JADUs are also permitted on any parcel that has a current and valid nonconforming single family residential use, so long as the JADU complies with all other portions of this chapter.

Section 7: Chapter 25.59 Accessory Dwelling Units, Section 25.59.060 Performance standards for accessory dwelling units, is repealed and replaced in its entirety with the following text:

Chapter 25.59 ACCESSORY DWELLING UNITS
25.59.060 General requirements and restrictions.

The following requirements and restrictions apply to all existing and new ADUs and JADUs, as applicable:

(a) ADUs and JADUs shall comply with all applicable provisions of this title and all applicable building, health and fire codes. However, ADUs and JADUs shall not be required to provide fire sprinklers unless required for the primary single family dwelling or multifamily dwelling structure.

(b) All development standards contained in the underlying zoning district, including Chapter 25.60, shall apply to ADUs and JADUs unless they are inconsistent with the provisions of this chapter, in which case the development standards of this chapter shall apply.

(c) Accessory dwelling units.

(1) ADUs may be rented separately from the single family dwelling or multifamily dwelling structure, but may not be sold or otherwise conveyed separately from the other dwellings on the lot, except as provided for by Government Code Section 65852.26.

(2) ADUs may not be rented for fewer than 30 consecutive calendar days.

(3) ADUs are not subject to any owner-occupancy requirement.

(d) Junior accessory dwelling units.

(1) JADUs may be rented separately from the single family dwelling, but may not be sold or otherwise conveyed separately from the single family dwelling on the lot.

(2) JADUs may not be rented for fewer than 30 consecutive calendar days.

(3) JADUs are subject to an owner-occupancy requirement. A person with legal or equitable title to the property shall reside on the property in either the primary dwelling or JADU as that person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city attorney, which shall run with the land and provide for the following:

ORDINANCE NO. _____

(i) A prohibition on the sale of the JADU separate from the sale of the single family dwelling;

(ii) A restriction on the size and attributes of the JADU consistent with this section;

(iii) A prohibition against renting the property for fewer than 30 consecutive calendar days; and

(iv) A requirement that either the primary residence or the JADU unit be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.

(e) If an ADU or JADU which was created within a single family dwelling, accessory structure or multifamily dwelling structure is required to be removed or is voluntarily removed, the kitchen facility shall be removed and the space shall be converted back to its original use. If an ADU was newly constructed, (1) the space or structure shall be entirely removed, or (2) the kitchen facility shall be removed and the space shall be converted to a permitted use allowed within the underlying zoning district, or (3) the kitchen facility shall be removed and the applicant shall obtain the appropriate land use permit for the proposed use within the space.

(f) Certificates of occupancy. A certificate of occupancy for an ADU shall not be issued before a certificate of occupancy is issued for the primary dwelling unit.

(g) Deed restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development 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:

(1) The ADU or JADU shall not be sold separately from the primary dwelling.

(2) The ADU or JADU is restricted to the approved size and to other attributes allowed by this Section.

(3) The deed restriction runs with the land and may be enforced against future property owners.

(4) The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the City, providing evidence that the ADU or JADU has in fact been eliminated. The City may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the City's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

(5) The deed restriction is enforceable by the Community Development Director or his or her designee for the benefit of the City. Failure of this property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

Section 8: Chapter 25.59 Accessory Dwelling Units, Section 25.59.070 Development standards for accessory dwelling units, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS
25.59.070 Development standards for accessory dwelling units.

An ADU shall be constructed only in accordance with the following development standards.

(a) Location and number. Only one (1) ADU shall be permitted per lot which contains an existing or proposed single family dwelling. ADUs may be located in any of the following:

(1) Within the walls of an existing or proposed single family dwelling;

(2) Attached to an existing or proposed single family dwelling;

(3) Within an existing accessory structure; or

(4) Detached from the single family dwelling, but located on the same lot as the existing or proposed single family dwelling.

(b) Minimum size. No ADU shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1.

(c) Maximum size. The maximum floor area for an ADU shall be 850 square feet or 1,000 square feet for two (2) or more bedrooms.

(1) Notwithstanding subsection (c), if there is an existing primary dwelling, an attached ADU shall not exceed fifty percent (50%) of the living area of the existing primary dwelling.

(2) If the ADU is created by converting space within an existing single family dwelling or accessory structure:

(i) an expansion limited to 150 square foot beyond the physical dimensions of the existing single family dwelling or accessory structure is permitted strictly to accommodate ingress and egress to the ADU; this additional square footage shall be exempt from lot coverage and floor area ratio requirements. The side and rear setback requirements for the single family dwelling may be reduced to no less than four (4) feet to accommodate an exterior stair and landing that provide required access to the ADU if it is located on the second story; and

ORDINANCE NO. _____

(ii) the ADU must have side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

(d) Floor area ratio and lot coverage. An ADU measuring no more than 850 square feet in size shall be exempt from floor area ratio and lot coverage requirements. An ADU greater than 850 square feet shall comply with the floor area ratio and lot coverage regulations as specified by the applicable zoning district.

(e) Setbacks. An ADU (attached or detached) shall conform to the following setback standards:

(1) A setback of four (4) feet is required from the side and rear property lines; however, no setbacks shall be required under the following circumstances:

(i) Existing livable space or an existing accessory structure that is converted, in whole or in part, to an ADU;

(ii) The ADU is constructed in the same location and to the same dimensions as an existing structure that is demolished solely for the purpose of constructing the ADU; or

(iii) Construction of a new detached ADU entirely located within the rear 30% of the lot. If any portion of the detached ADU is located forward of the rear 30% of the lot, it shall comply with the setback requirements of the applicable zoning district in which it is located; for detached ADUs that are no greater than 800 square feet and no taller than 16 feet, no more than four (4) foot side or rear setbacks shall be required.

(2) There shall be a minimum four (4) foot separation between a detached ADU and any other structure on the lot, as measured between the exterior walls of the structures.

(f) Maximum height and stories.

(1) Detached ADUs.

(i) All detached ADUs shall be limited to one (1) story in height and shall not be constructed above detached garages or detached accessory structures except for accessory dwelling units created entirely within an existing legal two-story detached accessory structure.

(ii) The maximum allowed building height for a detached ADU is 16 feet, as measured from average adjacent grade to the top of the highest roof ridge, and shall comply with the maximum allowed plate height requirements in subsection (iii).

(iii) The maximum allowed plate height is nine (9) feet, as measured from average adjacent grade to the top of plate. For detached ADUs containing a single slope, one side of the structure shall

ORDINANCE NO. _____

be allowed to have a plate height greater than nine (9) feet; the plate height of walls parallel with side and rear property lines shall not exceed nine (9) feet in height. For ADUs located within a designated flood zone, the maximum plate height shall be measured from finished floor.

(2) Attached ADUs. Attached ADUs may be constructed on the first or second floor of an existing or proposed single family dwelling and shall be subject to the height requirements of the applicable zoning district in which it is located.

(g) Entrance. An ADU shall have a separate exterior entrance from the main entrance to the existing or proposed single family dwelling. For an ADU located entirely on a second story, this shall require a separate interior or exterior stairway. The entrance to the ADU shall not face the same public street as the entrance to the single family dwelling, unless it is the only location determined to comply with applicable building and fire codes. A passageway from the ADU to a public street may be created, but is not required.

(h) Windows and skylights. Windows and glazed openings on walls parallel with property lines shall be located at least three (3) feet from property line. Skylights shall be allowed on sloping roofs facing interior yards, on sloping roofs facing side yards as long as the skylight is located at least 10 feet from property line, and on flat roofs. The placement of windows and skylights in ADUs shall comply with all applicable building and fire codes.

(i) Balconies/Decks. Balconies, second story decks, and rooftop terraces are prohibited for all ADUs. A green roof shall not be considered a balcony, second story deck or rooftop terrace.

(j) Interior Connection. Attached and interior ADUs may, but are not be required, to contain an interior doorway connection between the single family dwelling and ADU.

(k) Permanent Foundations.

(1) All ADUs shall be permanently attached to a permanent foundation.

(2) A recreational vehicle, commercial coach, trailer, motor home, camper, camping trailer, boat or similar vehicle shall not be used as an ADU.

(l) Existing ADUs built before January 1, 1954. For existing ADUs built before January 1, 1954 the following additional criteria shall be met:

(1) The ADU shall conform to the requirements of the California Health and Safety Code Section 17920.3, and the Uniform Housing Code as adopted by Section 17922;

(2) Improvements may be made to the ADU so long as it conforms to the requirements of this chapter and corrects any violation of Health and Safety Code Section 17920.3 and the Uniform Housing Code.

ORDINANCE NO. _____

Section 9: Chapter 25.59 Accessory Dwelling Units, Section 25.59.080 Development standards for junior accessory dwelling units, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.080 Development standards for junior accessory dwelling units.

A junior accessory dwelling unit shall be constructed only in accordance with the following development standards:

- (a) Location. The JADU may only be located within the walls of an existing or proposed single family dwelling. The JADU must have side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
- (b) Number. Only one (1) JADU shall be permitted per lot which contains an existing or proposed single family dwelling. A JADU may be allowed in conjunction with one (1) detached ADU on the same lot as long as the ADU does not exceed 850 square feet.
- (c) Minimum size. No JADU shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1.
- (d) Maximum size. The JADU shall not exceed 500 square feet in area. An expansion limited to 150 square foot beyond the physical dimensions of the existing single family dwelling is permitted strictly to accommodate ingress and egress to the JADU; this additional square footage shall be exempt from lot coverage and floor area ratio requirements. The side and rear setback requirements for the single family dwelling may be reduced to no less than four (4) feet to accommodate an exterior stair and landing that provide required access to the JADU if it is located on the second story.
- (e) Kitchen. The JADU shall contain an efficiency kitchen satisfying the following the criteria:
 - (1) Contains a sink and cooking facility with appliances (e.g., microwave, toaster oven or hot plate).
 - (2) Contains a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- (f) Bathroom. The JADU may have a separate bathroom, or may share a bathroom with the single family dwelling. The bathroom shall contain a sink, toilet, and shower or tub. If the bathroom is shared, there must be a connecting door between the JADU and the single family dwelling.
- (g) Entrance. The JADU shall have a separate exterior entrance from the main entrance to the existing or proposed single family dwelling. The entrance to the JADU shall not face the same public street as the entrance to the primary dwelling, unless it is the only location determined to comply with applicable building and fire codes. A passageway from the ADU to a public street may be created, but shall not be required.

(h) A JADU is not considered a separate or new dwelling for purposes of fire safety or life safety.

Section 10: Chapter 25.59 Accessory Dwelling Units, Section 25.59.090 Accessory dwelling units on multifamily residential properties, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.090 Accessory dwelling units on multifamily residential properties.

The following requirements and restrictions apply to creation of ADUs on multifamily residential properties.

(a) For the purposes of this section, the term "multifamily dwelling structure" means two (2) or more residential units contained within one (1) or more buildings on the same lot.

(b) Conversion. A minimum of one (1) and up to 25 percent of the existing dwelling units within a multifamily dwelling structure may be created within existing non-livable space(s), including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that the dwellings comply with building and fire codes. An ADU shall not be created within any portion of the habitable area of an existing dwelling unit in a multifamily structure. When calculating the number of allowed ADUs based on the percentage of existing multifamily units, round down to the nearest integer.

(c) New detached ADUs. In addition to ADUs allowed by subsection (b), up to two (2) new detached accessory dwelling units may be allowed provided that the height does not exceed 16 feet and that four (4) foot side and rear yard setbacks are maintained. These ADUs shall be subject to the standards, requirements, and restrictions of this Chapter.

(1) There shall be a minimum four (4) foot separation between a detached ADU and any other structure on the lot, as measured between the exterior walls of the structures.

Section 11: Chapter 25.59 Accessory Dwelling Units, Section 25.59.100 Design, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.100 Design.

The design of accessory dwelling units shall conform with the following standards:

(a) Attached and detached accessory dwelling units. The design of attached and detached accessory dwelling units shall be compatible or complementary in appearance with the primary structure located on the property, including coordination of exterior building materials and other architectural elements.

(b) Interior accessory dwelling units. Interior accessory dwelling units contained within the existing space of an attached garage shall include removal of garage doors which shall be replaced with architectural features the same as those of the primary dwelling unit, including the same wall

cladding, window type and trim that remove any appearance that the structure was originally a garage. This wall shall contain at least one (1) window that is consistent in size and type with other existing windows on the same building façade.

Section 12: Chapter 25.59 Accessory Dwelling Units, Section 25.59.110 Parking, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.110 Parking.

(a) Unless otherwise provided in this section, one (1) off-street parking space shall be provided for the ADU in addition to the off-street parking spaces required for the single family dwelling or multifamily residential structure. All parking shall be provided on a hard, all-weather surface.

(b) The parking space may be provided in setback areas or as tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(c) No parking shall be required for an ADU in any of the following instances:

(1) The ADU is located within one-half mile walking distance of public transit. For the purposes of this section only, public transit is defined as 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.

(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 existing accessory structure.

(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.

(d) No parking shall be required for a JADU and any parking displaced by its construction, including conversion of all or part of an existing attached garage, are not required to be replaced.

(e) When a garage, carport, or covered parking structure 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.

Section 13: Chapter 25.59 Accessory Dwelling Units, Section 25.59.120 Utilities and impact fees, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.120 – Utilities and impact fees.

(a) No ADU or JADU shall be permitted if it is determined that there is not adequate water or sewer service to the property, as determined by the City.

(b) Except as provided in subsection (c), an ADU may be required to have a new or separate utility connection, including a separate sewer lateral, between the ADU and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the ADU or its drainage fixture unit (DFU) values. Separate electric and water meters shall be required for the ADU.

(c) The following ADUs shall be exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges:

(1) Junior accessory dwelling units.

(2) Standard ADUs converted from interior space, unless the unit is constructed within a new single-family home.

(d) Impact Fees.

(1) No impact fees may be imposed on ADUs that are less than 750 square feet in size. For purposes of this section, “impact fees” include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

(2) For ADUs that have a floor area of 750 square feet or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

Section 14: Chapter 25.59 Accessory Dwelling Units, Section 25.59.130 Delay of enforcement of building standards, is added as follows:

Chapter 25.59 ACCESSORY DWELLING UNITS

25.59.130 – Delay of enforcement of building standards.

(a) Prior to January 1, 2030, the owner of an ADU that was built prior to adoption of the ordinance codified in this chapter, may submit a written request to the Chief Building Official requesting that correction of any violation of building standards be delayed for five (5) years. For purposes of this section, “building standards” refers to those standards enforced by local agencies under the authority of Section 17960 of the California Health and Safety Code.

ORDINANCE NO. _____

(b) The Chief Building Official will grant the application if the Chief Building Official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the Chief Building Official will consult with the Fire Marshal.

(c) No applications pursuant to this section shall be approved on or after January 1, 2030. However, any delay that was approved by the city before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the approval of the application.

(d) Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an ADU built prior to adoption of the ordinance codified in this chapter, shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an ADU pursuant to this section.

Section 15: Chapter 25.60 Accessory Structures in R-1 and R-2 Districts, Section 25.60.010 Conditional use permit requirements, is amended as follows:

Chapter 25.60 ACCESSORY STRUCTURES IN R-1 AND R-2 DISTRICTS
25.60.010 Conditional use permit requirements.

Accessory structures in the R-1 or R-2 Districts shall be a conditional use requiring a conditional use permit if any of the following will exist:

(a) Two (2) or more accessory structures, each having over one hundred twenty (120) square feet gross floor area, will exist on a single lot, except that there may be two (2) accessory structures if one is an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit;

(b) Any single accessory structure will exceed six hundred (600) square feet of gross floor area; except that an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit may be up to ~~six hundred forty (640)~~ 850 square feet or 1,000 square feet for two (2) or more bedrooms;

(c) All accessory structures on a single lot will exceed a total of eight hundred (800) square feet gross floor area; except that an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit may be up to ~~six hundred forty (640)~~ 850 square feet or 1,000 square feet for two (2) or more bedrooms;

(d) An accessory structure will occupy any portion of the lot in front of the main building; provided, where a dwelling has been erected on the rear sixty (60) percent of the lot prior to January 15, 1954, a garage may be erected in front of the main building, but not in any portion of the front setback; an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit may be located in front of the main building;

ORDINANCE NO. _____

(e) An accessory structure will be erected closer than four (4) feet to any other structure on the same lot, as measured between the exterior walls of the structures;

(f) Accessory structures will cover more than fifty (50) percent of the rear thirty (30) percent of a lot; an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit shall not be included in this calculation;

(g) The plate line of the accessory structure will be more than nine (9) feet above grade at the closest point between the plate line and adjacent grade; except that an accessory structure containing an accessory dwelling unit with a shed (single slope) roof which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit shall be allowed to have a plate height greater than 9 feet on one side of the structure; the plate height of walls parallel with side and rear property lines shall not exceed 9 feet in height;

(h) The roof height of the accessory structure will exceed ten (10) feet above grade, except the height may be increased one foot for each foot of separation from an adjacent property line, up to a maximum height of ~~fourteen~~fifteen (1415) feet, provided:

~~(1) Where the lot slopes more than ten (10) percent at the location of the accessory structure, the maximum height shall be four (4) feet above the plate line;~~

~~(2) The portion of the structure at the rear property line may have a maximum height of fourteen (14) feet if the structure has a pitched roof on both sides and the rear plate line does not exceed nine (9) feet above the natural grade;~~

~~(3)~~(1) The roof height of an accessory structure may have a maximum height of fifteen (15) feet above grade when the roof is pitched from ridge to plate on at least two (2) sides, and the ridge is no closer than five (5) feet to a side property line, and the rear plate line does not exceed nine (9) feet above the natural grade; except that an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit may be up to sixteen (16) feet above grade; and

~~(4)~~(2) No portion of the space within any accessory structure between the top of plate and the lowest portion of the roof structure including any dormer shall exceed seven (7) feet in height; this subsection shall not apply to an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit;

(i) Windows and glazed ~~Glazed~~ openings of the accessory structure on walls parallel with property lines will be that are located within ten (10) three (3) feet of the property line; or any portion of a glazed opening will be higher than ten (10) feet above grade; skylights on sloping roofs facing side yards located within ten (10) feet of property line or skylights on sloping roofs facing the rear property line;

(j) Water or sewer connections to the accessory structure will exceed building code minimums or the accessory structure will contain any shower, bath or toilet, except ~~that~~ for an accessory

ORDINANCE NO. _____

structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit;

(k) The accessory structure will enclose mechanical equipment, excluding air conditioning equipment, which is designed to operate on a regular or continuous basis, which may be objectionable because of loudness, hours of operation, odor or other reason, and which is to be located less than twenty (20) feet from any structure for habitation, or less than ten (10) feet from any property line; provided such shall be allowed without a special permit if the building official approves the structure as adequately sound insulated;

(l) - Storage of household goods, tools or equipment in the accessory structure will exceed ten (10) percent of the gross floor area of the main dwelling structure;

(m) Any portion of the accessory structure will be used for accessory living quarters, recreation purposes or for use in a home occupation; except for an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit does not require a conditional use permit;

(n) The accessory structure will be a greenhouse, trellis, lanai, patio shelter or similar structure exceeding one hundred twenty (120) square feet of gross floor area.

Section 16: Chapter 25.26 R-1 District Regulations, Section 25.26.035 Uses allowed with a special permit, is amended as follows:

Chapter 25.26 R-1 DISTRICT REGULATIONS

25.26.035 Uses allowed with a special permit.

The following are uses allowed in the district with a special permit:

(a) Attached garages for single-family dwelling units;

(b) Reduction in the number of parking spaces existing on site; except where the on-site parking requirement is met per Chapter 25.70 for the existing units on-site and the reduction in the number of parking spaces is for the purpose of creating an accessory dwelling unit which complies with the provisions of Chapter 25.59;

(c) Construction exceeding the limits of the declining height envelope;

(d) An accessory structure detached garage exempt from setback restrictions located within the rear forty (40) percent of the lot; except for an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit;

ORDINANCE NO. _____

(e) An accessory structure that is in the rear of the lot and that is more than twenty-eight (28) feet in width or depth, except ~~that~~ for an accessory structure containing an accessory dwelling unit which complies with the provisions of Chapter 25.59 and obtains an accessory dwelling unit permit.

~~(f) A direct exit from a basement to the exterior of the structure that is anything other than a light or window well.~~

Section 17: Chapter 25.26 R-1 District Regulations, Section 25.26.037 Prohibited uses, is repealed and deleted in its entirety.

~~25.26.037 Prohibited Uses.~~

~~The following uses are specifically prohibited in the R-1 Districts:~~

~~(a) Bathtubs and shower stalls in basements; and~~

~~(b) Bedrooms in basements.~~

Section 18: Chapter 25.70 Off-Street Parking, Section 25.70.010 Vehicle parking spaces to be provided, is amended as follows:

Chapter 25.70 OFF-STREET PARKING

25.70.010 Vehicle parking spaces to be provided.

(a) Parking Required. At the time of erection of any building or structure, or at the time any building or structure is enlarged or increased in capacity, there shall be provided off-street parking spaces with adequate and proper provision for ingress and egress by standard size automobiles.

(b) Parking with Remodel or Reconstruction. When any building is remodeled, reconstructed or changed in use by the addition of dwelling units, gross floor area, seating capacity, change in type of use or intensified use, such additional garage or parking facilities as may be required must be provided, except for accessory dwelling units and junior accessory dwelling units approved per Chapter 25.59.

(c) Minimum Requirements. The regulations which follow are the minimum requirements unless specific requirements are made for a particular use in a district. Additional spaces may be provided. Unless otherwise expressly permitted by a section of this chapter, parking required by this chapter is to be provided on the same lot as the use for which the parking is required.

Section 19: Chapter 25.70 Off-Street Parking, Section 25.70.030 Requirements for single-family dwellings, is amended as follows:

Chapter 25.70 OFF-STREET PARKING

25.70.030 Requirements for single-family dwellings.

The following are parking requirements for single-family dwellings.

ORDINANCE NO. _____

(a) **Parking Space Requirements.** Each single-family dwelling shall provide off-street parking spaces for at least two (2) vehicles, one of which must be covered by a garage or carport. The following further requirements apply to certain additions and to new single-family dwellings:

(1) An existing single-family dwelling increased in size to three (3) or four (4) bedrooms and a new single-family dwelling with up to four (4) bedrooms shall provide off-street parking spaces to current code dimensions for at least two (2) vehicles, one of which must be covered by a garage or carport;

(2) A single-family dwelling hereafter increased in size to five (5) or more bedrooms and a new single-family dwelling with five (5) or more bedrooms shall provide off-street parking to current code dimensions for at least three (3) vehicles, two (2) of which must be covered by a garage or carport;

(3) For the purposes of subsections (a)(1) and (2) of this section, an existing garage not less than eighteen (18) feet wide and ~~twenty (20)~~eighteen (18) feet deep interior dimension shall be considered to provide two (2) covered off-street parking places;

~~(4) For additions to existing single-family dwellings, an existing garage with an eighteen (18) foot depth interior dimension shall be considered to meet the dimensional requirements for a parking space;~~

~~(5)~~ Bedrooms that are within accessory dwelling units or junior accessory dwelling units shall not be counted toward the overall number of bedrooms for the primary single-family dwelling on the lot on which it is located; parking for accessory dwelling units shall comply with ~~Section~~ the provisions of Chapter 25.59-060(g).

(b) **Parking Aisles and Driveways.** Covered parking spaces shall have a twenty-four (24) foot back-up area or be designed to be entered or exited in no more than three (3) maneuvers. All spaces must allow entry in three (3) maneuvers in the forward direction.

(c) **Parking Limitations.**

(1) A vehicle shall not be parked between a structure and the front or side property line except in a garage, driveway or other approved parking; except for parking for an accessory dwelling unit which complies with the provisions of Chapter 25.59;

(2) Inoperative vehicles, vehicle parts, boats and campers (as defined by Section 243 of the Vehicle Code) shall not be stored or parked in driveways or between a structure and front or side property line;

(3) Required covered parking shall not be provided in tandem configuration; except for an accessory dwelling unit which complies with the provisions of Chapter 25.59;

(4) For an addition to an existing single-family dwelling and for accessory dwelling units, required uncovered spaces may be provided in tandem configuration and may extend:

- (A) In areas with sidewalks, to the inner edge of the sidewalk,
- (B) In areas without sidewalks to five (5) feet from the inner edge of the curb,
- (C) In areas without either sidewalks or curbs, to five (5) feet from the edge of pavement.

Section 20: Chapter 25.70 Off-Street Parking, Section 25.70.032 Requirements for duplexes, apartment hotels and condominium, is amended as follows:

Chapter 25.70 OFF-STREET PARKING

25.70.032 Requirements for duplexes, apartment hotels and condominium.

(a) Except as specified below for properties within certain portions of downtown Burlingame as identified in Figure 3-4 of the Burlingame Downtown Specific Plan, the following are parking requirements for duplexes, apartments, apartment hotels and condominiums:

(1) There shall be at least one and one-half (1 1/2) permanently maintained parking spaces on the same lot with the building for each studio or one-bedroom dwelling unit in the building.

(2) For each dwelling unit containing two (2) bedrooms, or two (2) potential bedrooms, there shall be provided at least two (2) parking spaces.

(3) For each dwelling unit containing three (3) or more bedrooms, there shall be provided at least two and one-half (2 1/2) parking spaces.

(b) For properties within the area identified in Figure 3-4 of the Burlingame Downtown Specific Plan, the following are parking requirements for duplexes, apartments, apartment hotels and condominiums:

(1) There shall be at least one permanently maintained parking space on the same lot with the building for each studio or one-bedroom dwelling unit in the building.

(2) For each dwelling unit containing two (2) bedrooms, or two (2) potential bedrooms, there shall be provided at least one and one-half (1 1/2) permanently maintained parking spaces.

(3) For each dwelling unit containing three (3) or more bedrooms, there shall be provided at least two (2) permanently maintained parking spaces.

(c) Accessory dwelling units. Where accessory dwelling units are allowed in compliance with Chapter 25.59, parking shall be provided with the provisions of Chapter 25.59.

(ed) Eighty (80) percent of the total required parking spaces shall be covered or within a garage or carport. Parking spaces shall not be situated in the front or side setback areas. A vehicle shall not be

ORDINANCE NO. _____

parked between a structure and the front or side property lines except in a garage, driveway or other approved parking.

(de) Inoperative vehicles, vehicles, vehicle parts, boats and campers (as defined by Section 243 of the Vehicle Code) shall not be stored or parked in driveways or between a structure and front or side property lines.

Division 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Division 4: This Ordinance shall be published in a newspaper of general circulation in accordance with California Government Code Section 36933, published, and circulated in the City of Burlingame, and shall be in full force and effect thirty (30) days after its final passage.

Emily Beach, Mayor

I, Meaghan Hassel-Shearer, City Clerk of the City of Burlingame, certify that the foregoing ordinance was introduced at a public hearing at a regular meeting of the City Council held on the 6th day of July, 2020, and adopted thereafter at a regular meeting of the City Council held on the _____ day of _____ 2020, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

Meaghan Hassel-Shearer, City Clerk