

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: July 28, 2026

TO: Justin Hess, City Manager

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SUBJECT: Review of Updates to the Accessory Dwelling Unit Ordinance

RECOMMENDATION

Note and file.

BACKGROUND

The State of California regulates the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (“JADUs”) in all single-family and multifamily residential zones. Over the last five years, eight amendments have been adopted. To ensure consistency with the State regulations, Planning staff monitor legislative actions and prepare regular updates to the City’s regulations and development standards related to ADUs and JADUs (ADU Program). The most recent update to the City’s ADU Program was adopted by the City Council on November 7, 2023, to ensure consistency with two state bills from the 2022 legislative session: Senate Bill 897 and Assembly Bill 2221.

Since the City’s 2023 update to its ADU regulations, the California Legislature has enacted additional amendments to State ADU and JADU law, and the California Department of Housing and Community Development (“HCD”) ¹ has issued updated guidance regarding the interpretation of State ADU law. Although Planning staff has

¹ HCD is responsible for monitoring local compliance with State ADU Law (Cal. Gov’t Code §65585(j)(15)).

previously prepared minor updates to the City's ADU regulations to maintain consistency with state law, the extent of the amendments from the 2023, 2024 and 2025 legislative sessions, combined with HCD's recently released 2026 ADU Handbook (Attachment 1) and recent technical assistance letters issued to other jurisdictions (Attachment 2), required a more comprehensive update of the City's ADU Program to ensure compliance with current statutory requirements within State ADU Law.

On December 5, 2025, the City received a technical assistance letter from HCD requesting that the City demonstrate how the current ADU Program complies with state law or provide a timeline for bringing the City's ADU Program into compliance (Attachment 3). Staff responded to HCD and indicated that the City was in the process of preparing amendments to the ADU Program, with adoption anticipated by mid-to-late summer of 2026. Draft updates to the City's ADU Program were submitted to HCD for preliminary review on February 26, 2026, and HCD responded on April 3, 2026, with a comment letter (Attachment 4) identifying additional modifications to ensure consistency with State ADU Law.

As part of its review, HCD confirmed its most recent interpretation of State ADU Law ("HCD Interpretation") indicating that jurisdictions with a local ADU program must allow up to four ADUs on a lot with a single family dwelling in the following combination: one ADU approved under the local ADU program **in addition to** up to two ADUs and one JADU that must be approved under Government Code ("GC") Section 66323 (collectively, "66323 Units") (Attachment 5). Under Government Code Section 66323, local agencies must ministerially approve 66323 Units, without applying any local development standards. Prior to this HCD Interpretation, it was understood that jurisdictions were required to allow up to three ADUs on a lot with a single-family dwelling in accordance with GC Section 66323, but could deny a fourth ADU under a local ADU program. Now, under HCD Interpretation, if the City retains its Local ADU Program, the City will be subject to the following requirements:

- 1) A lot containing a single-family residential unit is eligible to build the following units, in addition to a primary single-family residence:
 - One ADU authorized through the City's local ADU Program (subject to the City's local development standards); and
 - One detached ADU of up to 800 square feet pursuant to GC Section 66323; and
 - One conversion ADU created within existing space of the single-family residence or accessory structure pursuant to GC Section 66323; and
 - One JADU within the existing space of the single-family residence pursuant to GC Section 66323.

- 2) A lot containing an existing or proposed multifamily dwelling is eligible to build the following, in addition to the primary multifamily dwelling:
- At least one ADU within the non-habitable space of an existing multifamily dwelling or up to 25% of the existing multifamily dwelling units; and
 - Up to two detached ADUs on a lot with a proposed multifamily dwelling; or
 - Up to eight detached ADUs on a lot with an existing multifamily dwelling, not to exceed the number of existing units on a lot.

Under the HCD Interpretation, a full buildout on an R-1 (single-family residential) zoned lot in the City could potentially result in four ADUs along with the primary single-family unit, for a total of five residential units on a lot originally developed with a single dwelling unit.

Based on HCD Interpretation, Los Angeles County currently allows applicants to build both 66323 Units and locally authorized ADUs concurrently, demonstrating that the HCD Interpretation is being actively implemented by local agencies throughout California (Attachment 6). Currently, the City maintains its Local ADU Program and staff is therefore processing ADU applications consistent with State ADU Law.

In addition to establishing minimum requirements for ADUs and JADUs, State ADU Law also allows local agencies to adopt ordinances authorizing ADUs to be sold separately from the primary residence as condominiums. In response to a request from Vice Mayor Mullins on May 4, 2026, staff evaluated these State ADU Law provisions and assessed whether adopting regulations authorizing the separate conveyance of ADUs as condominiums would be appropriate for the City. Following this review, staff determined that authorizing the separate sale of ADUs as condominiums is an optional provision under State ADU Law and is not recommended at this time. Allowing the separate sale of ADUs would be inconsistent with the City Council's goals and the General Plan's policies to preserve the character and stability of established residential neighborhoods. Accordingly, the proposed amendments are limited to those necessary to maintain consistency with State ADU Law and HCD's interpretation.

DISCUSSION

The City of Burbank's existing policies and legislative platform emphasize supporting Accessory Dwelling Units and Junior ADUs with reasonable limitations to ensure compatibility with existing single-family homes and surrounding neighborhoods. These guiding principles reflect the City's intent to encourage additional housing opportunities while maintaining the quality, character, and stability of established residential areas. As the City continues balancing local planning priorities with evolving state housing mandates, recent direction from state agencies requires careful consideration.

If the City retains a local ADU Program and applies the HCD Interpretation, a property could potentially be developed with up to five residential units in a single-family residential zone. Pursuant to State Density Bonus Law (GC Sections 65915-65918), housing projects consisting of five or more units may be eligible to seek additional residential density and waivers from the City's objective development standards, potentially resulting in up to a 100% density bonus.

Taking into consideration the City's goals, policies and legislative platform, the following options were developed:

Option 1: Remove the Local ADU Program but Retain the R-1-H and Very High Fire Hazard Severity Zone (VHFHSZ):

Under this option, the City would eliminate its local ADU program, including the options for locally permitted ADUs, while retaining the existing residential horse keeping zone (R-1-H) and Very High Fire Hazard Severity Zone (VHFHSZ) limitations and applying those provisions to State mandated ADUs authorized pursuant to Government Code Section 66323. These limitations currently restrict the construction to just one ADU, and in case of the horse keeping zone, restrict new ADUs to conversions of certain existing structures. While this option would preserve specific locally adopted standards previously supported by Council (Attachment 7), there is a risk that HCD could determine that the ordinance remains inconsistent with State ADU Law.

Option 2: Eliminate the Local ADU Program and Allow Only State Mandated ADUs:

Under this option, the City would repeal the Local ADU Program in its entirety, including the R-1-H and VHFHSZ provisions, and rely exclusively on State ADU Law. This option provides the highest level of certainty that the City's proposed Ordinance and updates to the ADU Program will comply with State law and receive HCD approval. It also minimizes the potential for additional ADUs beyond those required by state law and reduces the likelihood that a property could reach a unit count that may qualify for additional units under State Density Bonus Law. However, by eliminating the Local ADU Program there will be no local incentives for building ADUs pursuant to local development standards, and all ADUs and JADUs will be built only in accordance with the minimal development standards listed in GC Section 66323.

Option 3: Retain and Update the Local ADU Program consistent with State ADU Law and the HCD Interpretation:

Under this option, the City would retain the existing R-1-H and VHFHSZ restrictions on local ADUs while updating the remainder of the Local ADU Program to address HCD's comments. Implementing this approach would require additional findings and ordinance revisions, and it may still raise compliance concerns with HCD. This option would also allow the Local ADU Program to be combined with state mandated ADUs, which could result in an R1 zoned lot containing five or more units. A lot with five or more units could

enable developers to request additional units beyond what is typically allowed for ADUs under State Density Bonus Law.

Option 4: Retain and Update the Local ADU Program consistent with State ADU Law, but reject the HCD Interpretation:

Under this option, the City would update the Local ADU Program consistent with recent updates to State ADU Law. However, the City would retain its existing interpretation of State ADU Law and reject the recent HCD Interpretation. The Local ADU Program would give residents the option to build an ADU subject to the City's local development standards (which in some cases, allow larger ADUs than what is authorized under GC Section 66323). However, developers would not be eligible to build a local ADU if the lot contains State-mandated 66323 Units. Option #4 minimizes the potential for building five units on a single-family lot and triggering additional units under State Density Bonus Law, but it will raise compliance concerns with HCD. The City would have to follow the process in GC Section 66326(b)(2)(B) to adopt the local ordinance with findings that explain the reasons the City believes the Local ADU Program complies with State ADU Law. Under this scenario, there is a risk that HCD may disagree with the City's findings and alert the Attorney General, who could pursue enforcement action against the City. Potential consequences include decertification of the Housing Element, the associated statutory penalties, and litigation initiated by either the Attorney General or affected property owners.

Staff is preparing an Ordinance reflecting Option #1 to be presented to the Planning Commission as a Zone Text Amendment for formal consideration and recommendation. Following Planning Commission action, the proposed ordinance will be presented to City Council for possible introduction and adoption. Option #1, to eliminate the local program but retain the R-1-H and VHFHSZ, provides the most straightforward path to complying with the HCD Interpretation while facilitating ADU and JADU development that is more compatible with the City's existing vision for residential zones.

ENVIRONMENTAL REVIEW

This staff report is for informational purposes about the status of the ADU Ordinance Update and has no potential for resulting in a direct or indirect physical change to the environment and falls outside the definition of a "project" under the California Environmental Quality Act (CEQA) and is therefore not subject to CEQA pursuant to Section 15378 of Title 14 of the California Code of Regulations.

FISCAL IMPACT

There is no fiscal impact associated with this report.

CONCLUSION

If the City applies the HCD Interpretation, retaining the local ADU program would require the City to allow local ADUs in addition to state mandated ADUs authorized under Government Code Section 66323. As a result, the number of residential units permitted on single-family residential lots could increase significantly beyond what the City has previously planned for and contemplated. This increase in residential density could affect the City's policies regarding development of ADUs that are appropriately scaled and compatible with existing single-family homes and surrounding neighborhoods.

ATTACHMENTS

Attachment 1 – March 2026 ADU Handbook

Attachment 2 – City of Port Hueneme – Technical Assistance Letters

Attachment 3 – City of Burbank ADU Ordinance Updates - Letter of Technical Assistance

Attachment 4 – City of Burbank's Draft ADU Ordinance Preliminary Review

Attachment 5 – HCD Correspondences

Attachment 6 – LA County 2026 ADU Ordinance Amendments

Attachment 7 – Ordinance Nos. 18-3,901; 19-3,928; 20-3,931