



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY VICE MAYOR KAPLAN AND COUNCILMEMBER KALB

RESOLUTION TO AFFIRM AND CLARIFY THAT BUILDING AN ACCESSORY DWELLING UNIT (ADU) DOES NOT REQUIRE THE INSTALLATION OF SEPARATE UTILITY METERS FOR THE ACCESSORY DWELLING UNIT UNDER OAKLAND'S POLICIES, AND DIRECT OAKLAND'S LOBBYIST TO ADVOCATE FOR ANY STATUTORY CHANGES NECESSARY AT THE STATE LEVEL TO IMPLEMENT THIS CITY POLICY

WHEREAS, an accessory dwelling unit (ADU) is an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence, which includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family or multifamily dwelling; and

WHEREAS, Oakland is facing multiple extraordinary challenges when it comes to meeting its housing needs: the COVID-19 pandemic, gentrification and displacement, high rates of unemployment, and homelessness; and

WHEREAS, according to the City's Housing Element Annual Progress Report for 2020, the City has met only 43% of its Regional Housing Needs Allocation (RHNA) goals for very low-income housing, 25% of its RHNA goals for low-income housing, 3% of its RHNA goals for moderate income housing, and 22% of its overall affordable housing goals; and

WHEREAS, the December 2021 RHNA allocation plan for the Bay Area for 2023-2031 concluded Oakland needs 6,511 units of very low income housing, 3,750 units of low income housing, 4,457 units of moderate income housing, and 11,533 units of above moderate income housing - for a total need of 26,251 units; and

WHEREAS, ADUs are a critical form of infill development that address common development barriers such as affordability and environmental quality because they do not require paying for land, major new infrastructure, and are built with cost-effective one- or two-story wood frame construction; and

WHEREAS, allowing ADUs in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in the City; and

WHEREAS, the California Legislature has revised state ADU law to improve its effectiveness and promote the building of ADUs such as allowing ministerial approval for ADUs and limiting parking requirements; and

WHEREAS, between 2018 and 2019, permits for ADUs increased from almost 6,000 to almost 16,000 across the state, and during that same period, ADU completions more than tripled from 2,000 to almost 7,000¹; and

WHEREAS, in the January 2020 report *Oakland ADU Initiative: Existing Conditions and Barriers*, researchers estimated that 52,477 parcels could accommodate ADUs entirely within the building envelope of a single family residence or existing accessory structure, and estimated that 18,000 parcels could accommodate ADUs which involve new construction²; and

WHEREAS, despite legislative progress and overall increases in permitting and building ADUs, constructing an ADU in California remains expensive because of building costs and adhering to city/county construction standards; and

WHEREAS, according to a survey conducted by the UC Berkeley Turner Center for Housing and Innovation, 50% of homeowners found it difficult to build their ADUs due to their local agency's development standards, and 14% ranked utility connections among their top challenges³; and

WHEREAS, pursuant to Section 65852.2(f)(4) of the California Government Code, a city or county cannot require a new or separate utility connection for the ADU, where ADUs are being created on single-family lots with an existing single-family dwelling, and cannot charge any connection fee or capacity change⁴; and

WHEREAS, pursuant to Section 65852.2(f)(5) and consistent with Section 66013 of the California Government Code, a local agency *may* require separate utility connections between the primary dwelling and the ADU for other ADUs, but any connection fee or capacity charge must

¹ Chapple, Karen; Garcia, David; Valchuis, Eric; Tucker, Julian, [*Reaching California's ADU Potential: Progress to Date and the Need for ADU Financing*](#) (UC Berkeley Center for Community Innovation, August 2020).

² [*Oakland ADU Initiative: Conditions and Barriers Report*](#) (Metropolitan Transportation Commission/ Association of Bay Area Governments, page 33-36, June 2020).

³ Chapple, Karen; Ganetsos, Dori; Lopez, Emmanuel, [*Implementing the Backyard Revolution: Perspectives of California's ADU Owners*](#) (UC Berkeley Center for Community Innovation, page 6, April 2021)

⁴See *Accessory Dwelling Unit Handbook*, State Department of Housing and Community Development (December, 2020) available at: https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf (p. 15).

be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures; and

WHEREAS, despite the State Government Code prohibiting local agencies from requiring separate utility meters in certain circumstances, under current law, utility companies are still able to require separate metering which creates an additional hurdle for building ADUs; and

WHEREAS, Oakland's Municipal Code, Section 15.04.2.375, and Planning Code, Section 17.124.045, require for utility meters that provisions not be made for installing more than a single utility meter for a single-family dwelling without written authorization by a Building Official prior to installation, and that all utility meters be located within a box set within a building, on a non-street facing elevation, or screened with vegetation; but the Code provisions do not provide specific requirements for individual metering of ADUs; and

WHEREAS, there has been confusion among Oaklanders seeking to provide ADUs on their properties regarding whether or not they are required to install separate utility meters; and

WHEREAS, The Oakland City Council has repeatedly adopted policies, directives and budget actions seeking to make it easier for those who wish to, to be able to have ADUs on their properties, including reducing parking requirements, and voting to add staff and permit hours to enable more housing through the easier use of ADUs; and

WHEREAS, existing law, including Oakland Rent Adjustment Program Regulations, Appendix A, Section 10.1.10, prohibits owners from splitting the costs of shared utilities with or among residential tenants who live in separate rental units, giving owners the choice of installing individual meters or assuming responsibility for the cost of the shared utility; and

WHEREAS, Requiring the addition of separate utility meters for an ADU can add significant expense to the project, and also causes substantial delay to the effort, and in some cases, the extra burden causes people to give up on providing ADUs, and thus, the pressure to add separate utility meters for ADUs worsens our housing crisis; and now therefore be it

RESOLVED: That City Council hereby affirms and clarifies that Oakland's policies do not require the installation of separate utility meters for accessory dwelling units added to single-family lots with an existing single family dwelling, but if a landlord does not install a separate utility meter, they may not charge a tenant for utilities that are not separately metered, and

FURTHER RESOLVED: That Oakland's lobbyist shall advocate to effectuate any statutory changes necessary at the State level to allow ADUs without the installation of separate utilities meters; and be it

FURTHER RESOLVED: That City Council hereby affirms and clarifies that existing law prohibits owners from splitting the costs of shared utilities with or among tenants who live in separate residential rental units, giving owners the choice of installing individual meters or assuming responsibility for the cost of the shared utility; and

FURTHER RESOLVED: That the City Administration shall produce, post and disseminate materials, to be made publicly available, describing what steps are required for an accessory dwelling unit in Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO,
PRESIDENT FORTUNATO BAS
NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California