

**HERCULES PLANNING COMMISSION
RESOLUTION NO. 24-08**

A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE TO AMEND HERCULES MUNICIPAL CODE LAND USE REGULATION TABLES 13-6.1, 13-12.1, 13-15.1, 13-18.1, AND 13-32.1; AND AMENDING SECTION 13-35.320 ACCESSORY DWELLING UNITS, CHAPTER 13-36 TWO-UNIT DEVELOPMENT, CHAPTER 13-42 DESIGN REVIEW, CHAPTER 13-53 REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES, AND CHAPTER 13-60 DEFINITIONS, TO IMPLEMENT THE 6TH CYCLE HOUSING ELEMENT; COMPLY WITH SENATE BILLS NO. 450, 477, 745 AND 1211, ASSEMBLY BILL NO. 2162, AND THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT (RLUIPA); TO CORRECT IDENTIFIED INCONSISTENCIES AND FINDING THAT THIS ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the City of Hercules has prepared a draft update to the Housing Element of the General Plan to actively promote fair housing and meet the Regional Housing Needs Allocation for the 2023-2031 cycle; and

WHEREAS, the draft 2023-2031 Housing Element has been designed to align with the requirements established by State law; and

WHEREAS, on October 21, 2024, the California Department of Housing and Community Development found the draft 2023-2031 Housing Element to be in substantial compliance with State Housing Element Law; and

WHEREAS, the Housing Element outlines the City's approach to meeting local housing needs through policies and programs specified in the draft document; and

WHEREAS, these policies and programs include measures to remove barriers within the Hercules Municipal Code that may affect low and moderate-income households; and

WHEREAS, amendments to the Hercules Municipal Code are necessary to support the City's commitment to expanding housing opportunities; and

WHEREAS, the Governor of California has enacted housing laws, including Senate Bills 450, 477, 745, and 1211, as well as Assembly Bill 2694; and

WHEREAS, the land use provisions of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq., protect individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws; and

WHEREAS, minor revisions to the Hercules Municipal Code are being made to ensure consistency and clarity.

WHEREAS, on December 2, 2024, the Planning Commission held a duly noticed public hearing to consider these amendments and did hear and use its independent judgment to consider all said reports, recommendations, and testimony hereinabove set forth.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Hercules recommends that the City Council:

1. Find that this draft ordinance (Attachment 1a hereto) is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3) – Common Sense Exemption in that the proposed ordinance would only establish and clarify administrative processes and would not facilitate new construction or other groundbreaking activities. It can be seen with certainty that there is no possibility that the ordinance will result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment. Further, none of the circumstances described in CEQA Guidelines § 15300.2 applies. No unusual circumstances are present. This determination reflects the City of Hercules’ independent judgment and analysis.
2. Amend Hercules Municipal Code Land Use Regulation Tables 13-6.1, 13-12.1, 13-15.1, 13-18.1, and 13-32.1; and amending Section 13-35.320 Accessory Dwelling Units, Chapter 13-36 Two-Unit Development, Chapter 13-42 Design Review, Chapter 13-53 Reasonable Accommodations For Persons with Disabilities, and Chapter 13-60 Definitions, to implement the 6th Cycle Housing Element; comply with Senate Bills No. 450, 477, 745 and 1211, Assembly Bill No. 2162, and the Religious Land Use and Institutionalized Persons Act (RLUIPA); correct identified inconsistencies as noted by the additions and deletions shown in Attach 1a hereto.

PASSED AND ADOPTED by the Planning Commission of the City of Hercules on this 2nd day of December 2024 by the following vote:

AYES: Schaufenbil, Rubio, Morrison, Bhattarai and Most-Walker

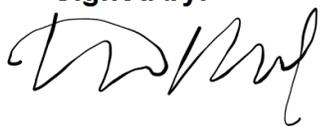
NOES: None

ABSENT: None

ABSTAIN: None

DocuSigned by:

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Robert Schaufenbil, Chair

ATTEST: **Signed by:**

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Timothy Rood, AICP
Community Development Director

Attach 1a: Draft Ordinance amending Hercules Municipal Code

CITY OF HERCULES ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES AMENDING PROVISIONS OF HERCULES MUNICIPAL CODE LAND USE REGULATION TABLES 13-6.1, 13-12.1, 13-15.1, 13-18.1 AND 13-32.1, AND AMENDING SECTION 13-35.320 ACCESSORY DWELLING UNITS, CHAPTER 13-36 TWO-UNIT DEVELOPMENT, CHAPTER 13-42 DESIGN REVIEW, CHAPTER 13-53 REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES, AND CHAPTER 13-60 DEFINITIONS TO COMPLY WITH THE 6TH CYCLE HOUSING ELEMENT, SENATE BILL NO. 450, 477, 745 AND 1211, ASSEMBLY BILL NO. 2162, RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT, CORRECTING FOUND INCONSISTENCIES AND FINDING THAT THIS ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the City of Hercules has prepared a draft update to the Housing Element of the General Plan to actively promote fair housing and meet the Regional Housing Needs Allocation for the 2023-2031 cycle; and

WHEREAS, the draft 2023-2031 Housing Element has been designed to align with the requirements established by State law; and

WHEREAS, the Housing Element outlines the City’s approach to meeting local housing needs through policies and programs specified in the draft document; and

WHEREAS, these policies and programs include measures to remove barriers within the Hercules Municipal Code that may affect low and moderate-income households; and

WHEREAS, amendments to the Hercules Municipal Code are necessary to support the City’s commitment to expanding housing opportunities; and

WHEREAS, the Governor of California has enacted housing laws, including Senate Bills 450, 477, 745, and 1211, as well as Assembly Bill 2694; and

WHEREAS, the land use provisions of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq., protect individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws; and

WHEREAS, minor revisions to the Hercules Municipal Code are being made to ensure consistency and clarity; and

WHEREAS, the Planning Commission did hold a properly noticed public hearing on December 2, 2024, to consider the proposed Text Amendment and did hear and use its independent judgement to consider all said reports, recommendations and testimony hereinabove set forth; and

WHEREAS, the Planning Commission at its December 2, 2024, meeting passed Resolution #24-XX recommending City Council adoption of an ordinance to amend the Hercules Zoning Ordinance as proposed in order to implement the requirements of the 2023-2031 Housing Element, to comply with Senate Bills 450, 477, 745, and 1211, as well as Assembly Bill 2162, land use provisions of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) and other minor revisions to the Hercules Municipal Code to ensure consistency and clarity; and

WHEREAS, on January 14, 2025, the City Council held a duly noticed public hearing to consider the proposed Ordinance related to amendments to the Hercules Municipal Code, received the staff report and staff presentation, received comments from the public and interested parties and discussed the matter; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby incorporates the above recitals into this Ordinance by this reference.

SECTION 2. Amendment. Deletions to the Hercules Municipal Code are shown in strikethrough. Additions are shown in bold/underline. The City Council of the City of Hercules does hereby amend Hercules Municipal Code Tables 13-6.1, 13-12.1, 13-15.1, 13-18.1 and 13-32.1, and amending Section 13-35.320, Chapter 13-36, Chapter 13-42, Chapter 13-53 and Chapter 13-60 to read as follows:

Chapter 13-6. Residential Districts

Table 13-6.1 Land Use Regulations: Residential District

	RS-E	RS-L	RM-L	RM-M	RM-H	See Also
Residential						
Single-Family Home	<u>A P</u>	<u>A P</u>	C	C	—	
Duet (Single-Family Attached)	—	—	<u>A P</u>	<u>A P</u>	—	
Duplex	—	—	<u>A P</u>	<u>A P</u>	—	
Multifamily Dwelling	—	—	C P	C P	C P	
Townhouse/Condominium	—	—	C P	C P	C P	
Two-Unit Development	P	P	—	—	—	Section 13-36

Table 13-6.1 Land Use Regulations: Residential District

	RS-E	RS-L	RM-L	RM-M	RM-H	See Also
Mobile Home	A	A	A	A	—	
Accessory Uses and Structures	A ⁽¹⁾	A ⁽¹⁾	A ⁽¹⁾	A	A	Section 13-35.210
Rooming and Boarding Houses (4 or less people)	A	A	A	C	—	
Rooming and Boarding Houses (5 or more people)	—	—	C	C	—	
Family Daycare Homes (14 or fewer children)	P	P	P	P	P	
Accessory Dwelling Unit	P	P	P	P	P	Section 13-35.320
Senior Housing	C <u>P</u> ⁽²⁾					
Emergency Shelter	—	—	P	—	—	Section 13-35.258
Single-Room Occupancy Units	—	—	—	—	—	
Supportive Housing (Apartment Type)	<u>p</u> ⁽²⁾	<u>p</u> ⁽²⁾	p ⁽²⁾	p ⁽²⁾	p ⁽²⁾	
Supportive Housing (Residential Care Facility Small Type)	A	A	P	P	P	
Supportive Housing (Residential Care Facility Large Type)	—	—	P	P	P	
Residential Care Facility (6 or fewer residents)	A <u>P</u> ⁽²⁾	A <u>P</u> ⁽²⁾	A <u>P</u> ⁽²⁾	A <u>P</u> ⁽²⁾	<u>P</u> ⁽²⁾	
Residential Care Facility (7+ residents)	—	—	—	C	C	

Table 13-6.1 Land Use Regulations: Residential District

	RS-E	RS-L	RM-L	RM-M	RM-H	See Also
Transitional Housing (Apartment Type)	<u>P</u> ⁽²⁾	<u>P</u> ⁽²⁾	€ <u>P</u> ⁽²⁾	€ <u>P</u> ⁽²⁾	€ <u>P</u> ⁽²⁾	
Transitional Housing (Residential Care Facility Small Type)	A	A	A	A	—	
Transitional Housing (Residential Care Facility Large Type)	—	—	—	€	€	
Commercial Uses						
Home Occupation	A	A	A	A	A	Section 13-35.270
Bed and Breakfast Inns	C	C	C	C	—	Section 13-35.250
Public and Quasi-Public Uses						
Clubs and Lodges	—	—	C	C	C	
Libraries, Museums and Galleries	—	—	C	C	C	
Park and Recreation Facilities	A	A	A	A	A	
Public Safety Facilities	A	A	A	A	A	
Religious General Public Assembly	C	C	C	C	C	
Schools, Public or Private	C	C	C	C	—	
Utility Facilities	C	C	C	C	—	
Key to Land Use Regulations						
A	Administrative Use Permit Required					
C	Conditional Use Permit Required					
DR	Design Review Required					

Table 13-6.1 Land Use Regulations: Residential District

	RS-E	RS-L	RM-L	RM-M	RM-H	See Also
P	Permitted Use					
—	Use Not Allowed					
<p>⁽¹⁾ Single story detached accessory structures under 120 square feet total on site are exempt from use permit requirements.</p> <p>⁽²⁾ <u>Subject to only those standards that are applicable to other residential uses of a similar type within the same zoning district and in compliance with all relevant federal and state licensing requirements.</u></p>						

Chapter 13-12. HTC Historic Town Center District

Table 13-12.1 Land Use Regulations: HTC Historic Town Center

	HTC	See Also
Commercial Uses		
Retail Stores		
2,000 sq ft or less	A	
More than 2,000 sq ft	C	
Grocery and/or Liquor	C	
Home Occupation	A	
Bed and Breakfast Inn/Hotel	C	
Outdoor Retail Sales and Services		
Permanent	C	
Temporary	A	
Recreation and Entertainment	C	

Table 13-12.1 Land Use Regulations: HTC Historic Town Center

	HTC	See Also
Restaurants, Delicatessens and Bars	A	
With Liquor Service	C	
Services and Offices		
Banks and Other Financial Services	A	
Business and Personal Services	A	
Business and Professional Offices	A	
Residential Uses		
Caretaker, Guest and Employee Housing	A	
Multifamily Dwelling	<u>A-P</u>	
Townhouse/Condominium	<u>A-P</u>	
Planned Unit Development	A	
Rooming and Boarding Houses	C	
Family Daycare Home (14 or fewer children)	P	
Senior Housing	<u>C P</u> ⁽²⁾	
Single-Room Occupancy Units	C	Section 13-35.332
Supportive Housing (Apartment Type)	P ⁽²⁾	
Transitional Housing (Apartment Type)	<u>A-P</u> ⁽²⁾	
Low-Barrier Navigation Center	P	Section 13-35.260
Public and Quasi-Public Uses		

Table 13-12.1 Land Use Regulations: HTC Historic Town Center

	HTC	See Also
Daycare Facilities (for employees, visitors and passengers)	A	
Government Offices	A	
Libraries, Museums and Galleries	A	
Park and Recreation Facilities	A	
Public Safety Facilities	C	
Accessory Uses and Structures	A ⁽¹⁾	

Key to Land Use Regulations

A Administrative Use Permit Required

C Conditional Use Permit Required

P Permitted Use

⁽¹⁾Facility or use is directly related to the primary use of site.

⁽²⁾**Subject to only those standards that are applicable to other residential uses of a similar type within the same zoning district, and in compliance with all relevant federal and state licensing requirements.**

Chapter 13-15. PC-R Planned Commercial Residential Mixed-Use District

Table 13-15.1 Land Use Regulations: PC-R Planned Commercial Residential Mixed-Use District

	PC-R	See Also
Commercial Uses		
Home Occupation	A	
Recreation and Entertainment	C	
Retail Sales		
Outdoor Sales	C	
Retail Stores		
2,000 sq ft or less	A	
More than 2,000 sq ft	C	
Restaurants and Delicatessens	A	
With Liquor Service	C	
Shopping Centers	C	
Services and Offices		
Athletic Clubs	C	
Business Services	A	
Hotel	C	
Offices and Banks	A	
Personal Services	A	

Table 13-15.1 Land Use Regulations: PC-R Planned Commercial Residential Mixed-Use District

	PC-R	See Also
Residential Uses		
Accessory Dwelling Unit	P	Section 13-35.320
Caretaker, Manager and Employee Housing	A	
Family Daycare Home (14 or fewer children)	P	
Live-Work Units	A	
Multifamily Dwellings	<u>A</u> P	
Townhouse/Condominiums	<u>A</u> P	
Planned Unit Development	A	
Supportive Housing (Apartment Type)	p ⁽²⁾	
Transitional Housing (Apartment Type)	<u>A</u> P⁽²⁾	
Low-Barrier Navigation Center	P	Section 13-35.260
Public and Quasi-Public Uses		
Daycare Facilities (for employees and visitors)	A	
Government Offices	A	
Libraries, Museums and Galleries	A	
Public Safety Facilities	A	
Urgent Medical Care	C	
Utility Facilities	C	

Table 13-15.1 Land Use Regulations: PC-R Planned Commercial Residential Mixed-Use District

	PC-R	See Also
Accessory Uses and Structures	A ⁽¹⁾	
Key to Land Use Regulations		
A Administrative Use Permit Required		
C Conditional Use Permit Required		
P Permitted Use		
⁽¹⁾ Facility or use is directly related to the primary use of site.		
⁽²⁾ <u>Subject to only those standards that are applicable to other residential uses of a similar type within the same zoning district and in compliance with all relevant federal and state licensing requirements.</u>		

Chapter 13-18. NTC New Town Center District

Table 13-18.1 Land Use Regulations: NTC District

	NTC
Commercial Uses	
Recreational Facilities	
Athletic Clubs	A
Other Commercial Athletic Facilities	C
Retail Sales	

Table 13-18.1 Land Use Regulations: NTC District

	NTC
Convenience Stores	C
Dry Cleaners and Laundries	C
Furniture, Furnishings, and Hardware Stores	C
Grocery and Liquor	C
Outdoor Retail Sales and Services	
Permanent	C
Temporary	A
Recreation and Entertainment	C
Restaurant, Delicatessen, and Bar	A
With Liquor Service	C
Retail Stores	
2,000 sq ft or less	A
More than 2,000 sq ft	C
Services and Offices	
Business Support Services	A
Hotels, Motels, Inns	C
Medical	
Medical and Dental Clinics and Services	A
Offices and Banks	

Table 13-18.1 Land Use Regulations: NTC District

	NTC
2,000 sq ft or less	A
More than 2,000 sq ft	C
Personal Services	A
Video/Media Rentals	C
Public and Quasi-Public Uses	
Daycare Facilities (for employees, residents and passengers)	A
General Daycare	C
Government Offices	A
Libraries, Museums and Galleries	C
Park and Recreational Facilities	A
Public Safety Facilities	A
Transit Facilities	
BART Stations	C
Transit Transfer Stations	C
Transit Malls	C
Transit Offices and Support Facilities	C
Utility Facilities	C
Residential Uses	

Table 13-18.1 Land Use Regulations: NTC District

	NTC	
Caretaker, Guest, and Employee Housing	A	
Multifamily Dwelling	A <u>P</u>	
Townhouse/Condominium	A <u>P</u>	
Planned Unit Development	A	
Family Daycare Home (14 or fewer children)	P	
Supportive Housing (Apartment Type)	p ⁽²⁾	
Transitional Housing (Apartment Type)	A <u>P</u> ⁽²⁾	
Low-Barrier Navigation Center	P	Section 13-35.260
Accessory Uses and Structures	A ⁽¹⁾	
Key to Land Use Regulations		
A	Administrative Use Permit Required	
C	Conditional Use Permit Required	
P	Permitted Use	
⁽¹⁾ Facility or use is directly related to the primary use of site.		
⁽²⁾ <u>Subject to only those standards that are applicable to other residential uses of a similar type within the same zoning district and in compliance with all relevant federal and state licensing requirements.</u>		

Chapter 13-32. Off-Street Parking and Loading Facilities

Table 13-32.1: Off-Street Parking and Loading Requirements

USE	PARKING SPACES	LOADING SPACES	COMMENT—PARKING
Public/Quasi-Public			
Public, government and utility offices and buildings	1.0 per employee	1.0 after 5,000 sf GFA and 1.0 per additional 200,000 sf GFA	Additional spaces provided for visitors as Commission requires
Parks, playgrounds and public recreation facilities	1.0 per employee		Additional spaces provided for visitors as Commission requires
General public assembly	0.25 per seat	1.0 after 5,000 sf GFA	According to permitted occupancy
Church	0.5 per seat	1.0 after 5,000 sf GFA	According to permitted occupancy
Libraries, museums and art galleries	1.0 per employee	1.0 after 5,000 sf GFA	Additional spaces provided for visitors as Commission requires

USE	PARKING SPACES	LOADING SPACES	COMMENT— PARKING
Day care center	1.0 per employee + 0.1 per student	None	
Elementary and middle schools	1.0 per employee	1.0 per 100,000 sf GFA	Additional spaces provided for visitors as Commission requires
High school	1.0 per employee + 0.25 per student of driving age	1.0 per 100,000 sf GFA	Additional spaces provided for visitors as Commission requires
Colleges and instructional schools	1.0 per employee + 0.6 per student	1.0 per 100,000 sf GFA	Employees for schools include teachers, administrators and all other personnel

Chapter 13-35. Specific Land Use Requirements

Sec. 13-35.320 Accessory Dwelling Units.

1. Purpose. This Section is intended to implement the General Plan policies which encourage accessory dwelling units (ADUs) on residential parcels, and is also intended to address the State’s ADU provisions as set forth in Government Code Section ~~65852.1~~ [66310 through 66342 as may be amended](#). ADUs are commonly referred to as second units, in-law-units, and accessory-apartments, and contribute needed

housing to the City's housing stock. ADUs do not exceed the allowable density for the lot and are consistent with General Plan and zoning designations.

2. Building Permit Required. The Community Development Director shall ministerially approve building permits for ADUs in compliance with this Section. No public hearing or any additional permit shall be required of applicants seeking approval of an ADU pursuant to this Section. The Community Development Director shall act on the application to create an ADU within 60 days from the date an application is complete if there is an existing single-family or multifamily dwelling on the lot. If the application involves an ADU where there is also an application for a new single-family dwelling on the lot, then the Community Development Director may delay action on the ADU application to coincide with the single-family dwelling application as long as the Director applies the ministerial review required by this Section. Applicants may request a delay or waive the 60-day approval period. Applications for ADUs not meeting the requirements of this Section are subject to the administrative use permit requirements set forth in Chapter 13-50.

3. Definitions.

“Accessory dwelling unit (ADU)” shall consist of complete independent living facilities for 1 or more persons including permanent provisions for sleeping, living, eating, cooking, and sanitation. An ADU shall have exterior entrance separate from the primary dwelling. An efficiency unit as defined in Health and Safety Code Section 17958.1 and a manufactured home as defined in Health and Safety Code Section 18007 are considered ADUs.

“ADU within existing space” or “JADU within existing space” means an ADU or JADU within the living area of an existing primary dwelling, within an attached or detached garage, or within other permitted accessory structure. An ADU within existing space may include an expansion of up to 150 square feet beyond the physical dimensions of the existing structure to accommodate ingress and egress.

“Attached ADU” means an ADU that is attached to an existing or proposed primary dwelling or accessory structure.

“Detached ADU” means an ADU that is not attached to an existing or proposed primary dwelling or accessory structure.

“Junior accessory dwelling unit (JADU)” means an ADU that is no more than 500 square feet in size and contained entirely within the walls of an existing or proposed single-family residence and which may or may not share sanitation facilities with the existing structure.

“Living area” includes the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

4. Lot Requirements. ADUs are allowed in single-family and multifamily residential zoning districts where there is exactly 1 single-family residence or at least 1 multifamily building on the parcel or proposed for the parcel. Except as specified in subsection (10) of this Section, a maximum of 1 ADU is allowed on a single-family lot. The City will not approve a building permit for an ADU unless and until the City receives the following:

A. Deed Restriction. A copy of a recorded deed restriction that complies with Government Code Section 27281.5, and states that the ADU will not be rented for less than 30 days and that the ADU will not be sold separately from the primary residence; and

B. Fees.

1) ADUs containing 750 or more square feet are subject to any fees for residential units required by the City’s Master Fee Schedule as it exists at the time the ADU application is filed. Fees shall be charged in proportion to the square footage of the primary dwelling (e.g., a 1,000-square-foot ADU would be charged 50 percent of the applicable fee if the primary dwelling is 2,000 square feet). ADUs on lots with a single-family residence are subject to single-family unit fees, while ADUs on lots with a multifamily residence are subject to multifamily unit fees. All fees are subject to the requirements of Government Code Section ~~65852.2~~ **66324** and the Mitigation Fee Act.

2) ADUs within existing space and ADUs containing less than 750 square feet are not subject to fees under this subsection (4)(B).

3) Notwithstanding the requirements of this subsection (4)(B), unless an ADU is constructed with a new single-family dwelling, it is not considered a “new” residential use for the purpose of calculating any connection fees, sewer facilities fees, or capacity charges. ADUs not constructed with a new single-

family home are only subject to connection fees, sewer facilities fees, and capacity charges to the extent that such fees and charges apply to existing uses.

5. Development Standards.

A. ADUs Within Existing Space. An ADU within existing space and a JADU within existing space are permitted as long as the side and rear setbacks are sufficient for fire and safety. No other development standards in this Section apply to ADUs and JADUs within existing space, except that:

- 1) Only 1 ADU within existing space and 1 JADU within existing space are allowed per lot unless a building permit or permits are obtained for multiple ADUs under subsection (10)(A) of this Section;
- 2) Garage spaces converted to ADUs shall replace garage doors with walls, windows, and/or doors rated by building code for habitable spaces.

B. Attached ADUs. Attached ADUs shall comply with the following requirements:

- 1) If the attached ADU contains 1 bedroom, it shall not exceed 850 square feet. If the attached ADU contains more than 1 bedroom, it shall not exceed 1,000 square feet.
- 2) All other development standards required by this subsection (5).

C. Detached ADUs. Detached ADUs shall comply with the following requirements:

- 1) If the detached ADU contains 1 bedroom, it shall not exceed 850 square feet. If the detached ADU contains more than 1 bedroom, it shall not exceed 1,000 square feet.
- 2) Detached ADUs shall have individual addresses separate from the primary residence. Addresses shall be displayed on the ADU building so that it is clearly visible and legible from the street or adjacent alley. If the ADU is located on the property such that it cannot be seen from a street or alley, the property shall post a sign or display some other type of marker in the front yard with the ADU address on it, subject to Fire District approval.
- 3) All other development standards required by this subsection (5).

D. Setbacks. No setbacks shall be required for ADUs within existing space as long as side and rear setbacks are sufficient for fire safety. A setback of 4 feet from side and rear lot lines is required for all other ADUs. No ADU shall be built over utility easements or recorded setbacks. No passageway between an ADU and an existing dwelling shall be required. All ADUs are subject to the same front and corner setbacks as the primary residence, except that front setbacks may not preclude statewide exemption ADUs (see subsection (10) of this Section).

E. Height. An ADU shall conform to the applicable height limits of the zoning district in which it is located, except that:

1) No new detached ADU shall exceed 16 feet, or 18 feet if the accessory dwelling unit is within 0.5 mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code, or if the accessory dwelling unit is detached and on a lot that has an existing or proposed multifamily, multistory dwelling. ADUs shall be allowed 2 feet of additional roof height if necessary to align with the roof pitch of the existing primary dwelling.

2) Second-story ADUs are allowed on top of existing, legally approved detached structures, provided height does not exceed that of the existing primary residence.

F. Building Code Requirements. Except as otherwise provided in this Section, all building code requirements that apply to detached dwellings apply to detached ADUs. Notwithstanding any requirements of this subsection (5)(F), a new or separate utility connection directly between the ADU and the utility is not required for either detached ADUs or attached ADUs unless a new or separate connection is necessary to serve the ADU due to:

- 1) The topography of the property;
- 2) Existing impediments such as trees, structures, or easements;
- 3) The location of the ADU on the property; or
- 4) Inadequate existing connections.

6. Design Standards. An ADU must conform to the design characteristics of the existing residence or residences. A determination of conformity shall be made if the ADU utilizes

all of the following features of the existing residence or residences: architectural features, building materials, and paint color. When an existing garage is converted to an ADU, windows and/or door features may be required for consistency with fire and building codes and in consultation with the Fire Marshal. ADUs constructed on any property that is designated in the California Register of Historic Resources as a historic contributing or landmark structure shall adhere to the Hercules Design Guidelines for Historic Preservation.

7. Fire Sprinklers. If the primary residence, whether existing or proposed, is required to contain fire sprinklers, then sprinkler installation is also required for the ADU.

8. Parking. In addition to the off-street parking spaces required for the existing residence, each ADU with 1 or more bedrooms must provide at least 1 off-street parking space; for ADUs without separate bedrooms (i.e., studios), additional off-street parking is not required. ADU parking spaces may be provided as tandem parking, including on an existing driveway or in paved setback areas, excluding the nondrivable front yard setback. Parking requirements shall be waived if the ADU is located: (A) within 0.5 mile walking distance of a public transit stop; (B) in a designated historic district; (C) in part of an existing primary residence or an existing accessory structure pursuant to subsection (5)(A) of this Section; (D) in an area requiring on-street parking permits not offered to the ADU occupant; or (E) within 1 block of a car-sharing pickup/drop-off location.

9. Replacement Parking. When a garage, carport, ~~or~~ covered parking structure, **or uncovered parking space** is demolished or converted in conjunction with the construction of an ADU (excluding JADUs), replacement parking shall not be required.

10. Statewide Exemption ADUs.

A. Notwithstanding the requirements of this Section, only building permits shall be required for ADUs and JADUs in the following circumstances:

1) One ADU within existing space of an existing or proposed single-family dwelling if the ADU has exterior access separate from the primary dwelling and sufficient side and rear setbacks for fire and safety.

2) One JADU within existing space of an existing or proposed single-family dwelling that has exterior access separate from the single-family dwelling, sufficient side and rear

setbacks for fire and safety, and meets all requirements of subsection (11) of this Section.

3) One detached, new construction ADU on a lot with an existing or proposed single-family dwelling that does not exceed 4-foot side and rear setbacks, that has a total floor area of no more than 800 square feet, and that does not exceed 16 feet in height. An ADU approved pursuant to this subsection may be combined with a JADU described in subsection (10)(A)(2) of this Section.

4) Multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with State building standards for dwellings. At least 1 ADU and up to 25 percent of the number of existing multifamily dwellings shall be allowed within an existing multifamily dwelling. ~~No more than 2 detached ADUs are allowed on a lot with an existing multifamily dwelling, subject to a height limit of 16 feet and 4-foot side and rear yard setbacks.~~ **On a lot with an existing multifamily dwelling, not more than 8 detached accessory dwelling units or up to the number of existing units on the lot, whichever is less.**

B. No applicant for a building permit sought under this subsection (10) shall be required to do, perform, or construct any of the following:

- 1) Correct nonconforming zoning conditions; or
- 2) Install fire sprinklers, unless they are required for the primary residence; or
- 3) Install new or separate utility connection or pay any connection fee, sewer facilities fee, or capacity charge, unless the ADU is constructed with a new single-family home.

C. ADUs constructed pursuant to this Section cannot be rented for a term less than 30 days.

D. An applicant for a building permit under this Section may be required to provide proof of a percolation test within the last 5 years (or 10 years if the percolation test has been recertified).

11. Junior Accessory Dwelling Units (JADUs). One JADU may be built per residential lot zoned for single-family residences with an existing or proposed single-family residence. The owner of the existing or proposed single-family residence must reside in the JADU

or the remaining portion of the single-family residence unless owner is a governmental agency, land trust, or housing organization.

A. Deed Restriction Required. The owner of the single-family lot upon which a JADU is constructed must record a deed restriction that: complies with Government Code Section 27281.5, runs with the land, states that the JADU cannot be separately sold from the single-family residence, states that the deed restriction can be enforced against future purchasers, and states that the size and attributes of the JADU must conform to the requirements of this Section and State law.

B. JADU Development Standards. The following development standards apply to JADUs:

1) Efficiency Kitchen. A JADU must have at least an efficiency kitchen, which includes a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

2) Parking. JADUs are not subject to the parking requirements of subsection (8) of this Section but may provide 1 or more parking spaces at the option of the owner.

3) Utilities. For purposes of providing service for water, sewer, or power, including any connection fee, a JADU shall not be considered a separate or new dwelling unit. No separate or new utility connections are required for JADUs. [Ord. 543 § 3, 2023; Ord. 531 § 2, 2021.]

Chapter 13-36. Two-Unit Development

Sec. 13-36.400 Objective Zoning Standards.

The following objective zoning standards supersede any other standards to the contrary that may be provided in the Zoning Ordinance as they pertain to a proposed housing development under Government Code Section [65852.21](#). Proposed housing developments shall be constructed only in accordance with the following objective zoning standards:

1. Building Height/Number of Stories. The maximum building height and maximum number of stories shall be as specified by the applicable zoning district.

2. Lot Coverage. The maximum lot coverage shall be as specified by the applicable zoning district, except if this standard would have the effect of physically precluding the

construction of 2 units or would result in a unit size of less than 800 square feet. Any modifications of development standards shall be the minimum modifications necessary to avoid physically precluding 2 units of 800 square feet on each parcel.

3. Minimum Living Area. The minimum living area of a primary dwelling unit shall be 150 square feet, subject to the restrictions specified by Health and Safety Code Section 17958.1.

4. Parking. One parking stall per primary dwelling unit shall be required, except for proposed housing developments located on parcels within 1/2 mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or within 1 block of a car share vehicle operating in accordance with California Vehicle Code Section 22507.1. Parking stalls may either be uncovered or covered (garage or carport) in compliance with the development standards of the applicable zoning district and Chapter 13-32 (Off-Street Parking and Loading Facilities).

~~5. Usable Open Space. Each parcel shall maintain a minimum of 500 square feet of private open space per primary dwelling unit except if this standard would have the effect of physically precluding the construction of 2 units or would result in a unit size of less than 800 square feet. Any modifications of development standards shall be the minimum modifications necessary to avoid physically precluding 2 units of 800 square feet on each parcel.~~

~~6-7. Setbacks. Proposed housing developments shall be subject to the setback and building separation requirements specified by Table 13-6.1 (Land Use Regulations: Residential District), except no more than 4 feet is required for rear and interior side setbacks. No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.~~

~~7 8. Paving. Proposed paving shall be as specified by Section 13-30.750 (Paving Within Residential Front, Rear, and Side Yard Areas.), except to allow a driveway with a width dimension not exceeding 10 feet. [Ord. 540 § 3, 2022.]~~

~~**Sec. 13-36.500 Objective Design Review Standards.**~~

~~The following objective design review standards apply to construction of new primary dwelling units and to any addition and/or alteration to existing primary dwelling units as~~

~~part of a proposed housing development. Existing features inconsistent with these standards may remain provided they are not altered or removed.~~

~~1. Existing Unit Conformity. If the proposed project contains an existing primary dwelling unit, new units shall conform to the design characteristics of the existing residence. A determination of conformity shall be made if the new unit utilizes all of the following features of the existing residence: architectural features, building materials, and paint color.~~

~~2. Balconies/Decks. Rooftop terraces and decks are prohibited. Balconies shall only be permitted on the front elevation of a primary dwelling unit(s).~~

~~3. Front Doors. Front door openings shall not exceed a width of 6 feet or a height of 9 feet. Front entry doors for duplex units in a side-by-side configuration shall be separated by a distance equal to half the linear length of the structure's front elevation.~~

~~4. Front Step-Back. Second-story wall(s) that front a public street shall be recessed by 5 feet from the first-story exterior walls, as measured wall to wall.~~

~~5. Garages. Garages placed on the front elevation of a primary dwelling unit shall not exceed 50 percent of the linear extent of the front elevation.~~

~~6. Stairways. Exposed exterior stairways are prohibited. Stairways necessary to access a dwelling unit located on a second floor shall be entirely enclosed within the structure and shall be included in the allowable floor area of the dwelling unit that it serves.~~

~~7. Windows. All second-story windows less than 8 feet from rear and interior-side property lines shall be clerestory with the bottom of the glass at least 6 feet above the finished floor. All other second-story windows shall be limited to the minimum number and minimum size as necessary for egress purposes as required by the Building Code.~~

~~8. Landscaping. A hedge, consisting of 15-gallon minimum evergreen shrubs at maximum 5-foot intervals, shall be planted along the parcel line (and outside of any easement) adjacent to the wall of the SB 9 dwelling unit that is closest to the parcel line. [Ord. 540 § 3, 2022.]~~

Chapter 13-42. Design Review

Sec. 13-42.500 Required Findings.

The Planning Commission shall make the following findings prior to approving a design review plan:

1. The approval of the design review plan is in compliance with all provisions of this Chapter, pertinent provisions of Zoning Ordinance and applicable zoning and land use regulations, including but not limited to the Hercules General Plan as amended and any specific plan.
2. The approval of the design review plan is in the best interests of the public health, safety, and general welfare.
3. General site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, public safety and similar elements have been designed to provide a desirable environment for the development.
4. General architectural considerations, including the character, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing, and similar elements ~~have been incorporated in order to insure the compatibility of this development with its design concept and the character of adjacent buildings~~ **are consistent with applicable design standards.**
5. General landscape considerations, including the location, type, size, color, texture and coverage of plant materials at the time of planting and after a 5-year growth period, provision for irrigation, maintenance and protection of landscaped areas and similar elements ~~have been considered to insure visual relief, to complement buildings and structures, and to provide an attractive environment for the enjoyment of the public~~ **are consistent with applicable design standards.** [Ord. 515 § 2, 2018; ZO § 42.500.]

Chapter 13-53. Reasonable Accommodations for Persons with Disabilities

Sec. 13-53.150 Findings.

The following findings shall be made in approving the request:

1. The parcel and/or housing, as the subject of the reasonable accommodation request, will be occupied as the primary residence by an individual protected under the Fair Housing Laws.

2. The request for reasonable accommodation is necessary to make specific housing available to 1 or more individuals protected under Fair Housing Laws.
3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
4. The requested reasonable accommodation will not require a fundamental alteration of the zoning laws of the City.
5. The requested reasonable accommodation will not adversely affect the health or safety of persons residing or working in the vicinity or be detrimental to the public health, safety, and welfare.
6. ~~The requested reasonable accommodation will not be injurious to property or improvements in the neighborhood.~~

Chapter 13-60. Definitions

Sec. 13-60.200 Definitions.

“Manufactured Home” shall mean the same as California Health and Safety Code Section 18007, as may be amended. Manufactured Homes are permitted in any residential zone where a conventional single-family detached dwelling is permitted subject to the same density and property development standards.

~~“Residential care facility” shall mean a building or portion designed or used for the purpose of providing 24-hour-a-day nonmedical residential living accommodations, where the duration of tenancy is determined, in whole or in part, by the individual resident’s participation in group or individual activities such as counseling, recovery planning, medical, or therapeutic assistance. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code [H&SC] Section 1250 et seq.), community care facilities (H&SC Section 1500 et seq.), residential care facilities for the elderly (H&SC Section 1569 et seq.) or facilities for the mentally disordered or otherwise handicapped (W&I Code Section 5000 et seq.), and alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11384.11), and other similar care facilities.~~

“Supportive housing” shall mean the same as California Government Code Section 65582, as may be amended. ~~(per California Government Code Section 65582[f], as may be amended) shall mean a dwelling unit occupied by a target population, with no limit on length of stay, that is linked to on-site or off-site services that assist the supportive housing resident(s) in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. A target~~

~~population means persons with low incomes having 1 or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Welfare and Institutions [W&I] Code Section 4500) and may include— among other populations—adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. Supportive housing may be designed as a residential group living facility or as a regular residential use and includes the following:~~

- ~~1. “Supportive housing—Apartment type” means 2 or more dwelling units on 1 parcel, where each unit functions as a single housekeeping unit and no on-site social services are provided.~~
- ~~2. “Supportive housing—Residential care facility small type” means 1 residential facility on a parcel with 6 residents or fewer (including minor children), excluding staff, that operates as a group living facility, where the residents share a common living area and a kitchen.~~
- ~~3. “Supportive housing—Residential care facility large type” means a residential facility with 7 or more residents that operates as a group living facility where the residents share a common living area and a kitchen.~~

~~“Transitional housing” shall mean the same as California Government Code Section **65582, as may be amended.** (per California Government Code Section 65582[h], as may be amended) shall mean buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than 6 months from the beginning of assistance. Transitional housing may be designed as a residential group living facility or as a regular residential use and includes the following:~~

- ~~1. “Transitional housing—Apartment type” means 2 or more dwelling units on 1 parcel, where each unit functions as a single housekeeping unit and no on-site social services are provided.~~
- ~~2. “Transitional housing—Residential care facility small type” means 1 residential facility on a parcel with 6 residents or fewer (including minor children), excluding staff, that operates as a group living facility, where the residents share a common living area and a kitchen.~~
- ~~3. “Transitional housing—Residential care facility large type” means a residential facility with 7 or more residents that operates as a group living facility where the residents share a common living area and a kitchen.~~

SECTION 3. CEQA. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3) – Common Sense Exemption in that the proposed ordinance would only establish and clarify administrative processes and would not facilitate new construction or other groundbreaking activities. It can be seen with certainty that there is no possibility that the ordinance will result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment. Further, none of the circumstances described in CEQA Guidelines § 15300.2 applies. No unusual circumstances are present. This determination reflects the City of Hercules’ independent judgment and analysis.

SECTION 4. The Ordinance would not be detrimental to the public interest, health, safety, convenience, or welfare of the City, as the proposed Ordinance will actively promote fair housing and meet the Regional Housing Needs Allocation for the 2023-2031 cycle of the Housing Element, bring the Hercules Municipal Code into compliance with housing laws, including Senate Bills 450, 477, 745, and 1211, as well as Assembly Bill 2162, provide updates that support the land use provisions of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) and minor modifications to ensure consistency and clarity;

SECTION 5. The Hercules City Council has reviewed, considered, and evaluated all of the information prior to acting upon Ordinance.

SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby 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 deleted.

SECTION 7. Codification. Section 2 of this Ordinance shall be codified in the Hercules Municipal Code. Sections 1 and 3 through 8 shall not be so codified.

SECTION 8. Effective Date and Publication. The City Clerk shall certify to the adoption of this Ordinance and shall publish or post the Ordinance as required by law. This Ordinance shall be effective thirty (30) days from date of final adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the ____ day of _____, 2025, and was passed and adopted at a regular meeting of the Hercules City Council on the ____ day of _____ 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dion Bailey, Mayor

Eibleis Melendez
City Clerk