

MARIPOSA COUNTY

Code Compliance Advisory Committee

MEETING #13 DRAFT AMENDED MINUTES

New (amended) text shown in colored underlined font

Deleted (amended) text shown in strike through font

DATE: August 17, 2022

TIME: 2:00 - 4:00 PM

LOCATION: Board of Supervisors Chambers, 2nd Floor
5100 Bullion Street, Mariposa CA

1. Call to Order and Welcome at 2:02 PM by Chair Woblesky.

CCAC Members Present: Gabe Edwards, Robert Fox, Colleen Rhodes, Karen Smith, Danette Toso, and Karen Woblesky. Nancy Kemp arrived at 2:09 p.m.

CCAC Members Excused: Lydia Clary and Eileen Collins

County Staff Present: Deb Willis, Corrina Miranda and Sarah Williams. Samuel Cerveney arrived at 2:23 p.m.

Public Members Present: Al Golub, Ken Melton, Madison Kirkpatrick (*Mariposa Gazette*) and Jeannine Marsh. Linda (unknown last name) attended by phone.

2. Brief Follow Up re: Mariposa Resident, Judy Burden and her Public Comments made Regarding Public Nuisance and Pit Bulls

Toso stated she contacted Mariposa County Animal Control. The item is under investigation.

3. Approve Minutes of CCAC Meeting #12, 7/20/2022

No quorum available to consider; item continued. (Note – item was considered at 2:48 p.m., when a quorum was available.)

4. Presentation/Discussion/Possible Action re: Communication: Website Evaluation and Recommendations by CCAC Member Nancy Kemp

The Chair announced that this item will be considered later. (Note – item was considered at 2:50 p.m.)

5. Presentation/Discussion/Possible Action re: Vehicle Abatement Program by CCAC Member Karen Smith

Smith gave a presentation, reviewing the information she'd provided in the packet. Smith contacted the Sheriff's Department about the program, however they didn't return her call.

The program is an agreement between Highway Patrol, DMV and the County. Money is put aside from DMV fees and sent to County. Fee can be \$1 or \$2 per vehicle.

Program can be under Sheriff's Department or any other department that has enforcement authority.

Program not available for any vehicle that has tanks, such as RVs or boats.

When the regular enforcement process for junk vehicles is followed and doesn't work, the funds can be used to haul vehicles away, using contracted vehicle dismantling business or towing company.

Mariposa County doesn't have auto dismantler in county, which is an issue for the program to be successful in the county.

According to DMV records for 2021, Mariposa County has 29,094 vehicles that would be contributing to the program.

It costs about \$2,000 to haul off a vehicle and get it disposed of. County could do 14 or 15 vehicles annually with income from this program, if the \$1 per vehicle fee is charged.

Smith thinks we may not have enough vehicles to make the program worthwhile. Applications for the program are received one time per year, in August.

Toso said there are charities that will take junk vehicles too and it doesn't cost the county anything. Is a tax write-off.

Miranda said it is easy to use charities if the vehicle's title is available. The problem with using an unlicensed individual is that the vehicles can end up on another property. There's both a voluntary and compliance component to the issue.

Woblesky asked if we could use the ARPA funds to do this.

Miranda said that the program will involve the Sheriff's office, as the Sheriff's Office oversees the vehicle abatement per County Code. If the program is done on a voluntary basis by the property owners, the Sheriff's Office doesn't need to be involved. If there is title, then CHP doesn't have to be involved.

Smith feels we shouldn't get Mariposa County involved in the state program at this time. Would be a minimum of two years before any money comes in to do work. Should pursue voluntary abatement using ARPA funds.

Edwards said there is a value to scrap metal. He suggested making some ARPA funds available during the first year, while we apply to the state program.

Edwards suggested using ARPA funds to launch program, while waiting for state program to get in place.

Motion by Edwards to 1) approach Dallin Kimble, CHP and Steve Dahlem, 2) move forward with a program with a formal proposal, where abatement is done on voluntary basis and 3) keep an eye on applying to state program during the next 10-12 months.

Second by Kemp.

Motion passed. 7 ayes.

Smith will continue with next steps.

6. Presentation/Discussion/Possible Action re: Landfill and Transfer Stations by CCAC Member Colleen Rhodes

Rhodes gave presentation. She said the process is considerably more complicated than she originally thought it was.

Cervený said the objective is to pursue more free disposal days. The issue is where material is going to end up and how much material is anticipated.

Cervený is working with scrap metal hauler to do free pick-up days in rural areas of the county.

Challenges are that people save things...accumulate things...things that might be usable at some point in the future. But materials are never used.

The current limit to the county's landfill acceptance rate is 100 tons of trash per day. Normal day is 50 tons. With Caltrans project, amount increased to 80 tons per day.

The County landfill does not deal with vehicles.

To accommodate remote days, the cost increases significantly due to transportation costs.

Lead time to get a free landfill day / remote day is 2 months. Time is needed to coordinate transportation.

Motion by for Toso to continue working with County DPW Deputy Director to coordinate remote refuse pick up days.

Second by Rhodes.

Motion passed. 7 ayes.

3. Approve Minutes of CCAC Meeting #12, 7/20/2022

Item considered at 2:48 p.m.

Motion by Fox to approve draft minutes as presented.

Second by Kemp.

Motion passed. 5 ayes. Edwards and Smith abstained.

4. Presentation/Discussion/Possible Action re: Communication: Website Evaluation and Recommendations by CCAC Member Nancy Kemp

Item considered at 2:50 p.m.

Kemp made presentation.

There is Mariposa Planning Facebook and there is a Mariposa Planning page for code compliance and for CCAC.

Kemps feels we have the shell of what we need for web pages. However, we need to do things differently.

There is a tentative PIO who is currently working for the county. There is someone in Dallin's office who is working to clean up county pages.

Kemp feels someone should be watching these pages...how are CCAC's ideas working?

Kemp asked if there is someone who could be working with the webpages to update them?

Williams said that the CCAC makes recommendations to the Board of Supervisors. So this could be one of the recommendations.

Woblesky said we could also work with the PIO, when that person is appointed.

Smith said w should be focusing on social media, working with outside businesses involved in code compliance and working with the newspaper to communicate. We need to give examples of what we are communicating...pictures...

Edwards said the Chamber of Commerce wants to work with the County to make brochures and to develop FAQs. Lots of common questions could be answered in brochures. How large a building can I build without a permit? How tall can my fence be?

Woblesky asked about a contractor doing work without a permit. Who is responsible?

Willis said that the state contractor's license requires that contractors get permits for work. The county can report a contractor to CSLB, Contractors State Licensing Board, if the contractor is not obtaining required permits. The CSLB can take action against the contractor.

Smith asked about next steps. Thinks should go to Board.

Motion by Kemp to prepare communications plan in slide presentation to present to the Board. Presentation will include purpose of the program, handouts, information brochures, FAQs, CSLB requirements, Chamber proposal, which departments affected, etc. Smith and Kemp to work together.

Second by Smith.

Motion passed. 7 ayes.

5. Correspondence. Discussion/Possible Action: Information Bulletin from the Department of Housing and Community Development re: Tiny Homes

Willis said some communities are trying to allow tiny homes in their jurisdiction. There was question about whether they could be allowed here.

Melton said the issue is simple to address. People refer to tiny homes, which are described in the HCD memo. ~~They are~~ A tiny home is built haphazardly ~~and built~~ in your backyard with no standard. No definition in state. The other types of vehicles/structures do have definitions and standards including RVs, park trailers, manufactured homes, camping cabins, etc. A tiny home can meet those standards but then it isn't a tiny home. Tiny homes haven't been a problem. The Board has addressed them. We've got to separate the issues.

Melton said that Steve Dahlem's memo is not wrong, but the codes ~~has references that~~ aren't valid. We have to be innovative. You can throw your hands up and do nothing, but now we have the Oak Fire with lots of people homeless.

Melton says federal government ~~doesn't~~ hasn't regulated ~~this item~~ anywhere. We need to address this on the state level. Forget anything the state says about this because they won't do anything about this. Government body – if don't do anything about this issue, then they HAVE done something about this issue. ~~Inactivity is an action~~ The state has approved these by inaction.

HCD only regulates in parks, not outside of parks.

Melton recommends NOT regulating RVs.

He said the County has allowed permanent residency in RV parks. So why can't the County allow permanent residency in RVs in rural areas? Don't permit it, but don't prohibit it. There is a solution that could be pursued. He said the County shouldn't permit RVs, but if people do live in RV, they must meet minimum health and safety requirements including connection to power, sewer and water (Titles 13 and 15). Other jurisdictions are doing this. Melton doesn't believe we would get into trouble.

Melton says this committee could propose something to the Board in a short period of time, to make this work. He offered to put something together for the CCAC.

When reading legal advice ~~something prepared by a lawyer~~, the words “designed ~~to~~” or “intent” are not law, not prohibitive.

Woblesky asked what the CCAC wants to do? Reschedule? Have Dahlem attend?

Upon question from Kemp, Miranda provided information about the Oak Fire, use of RVs as temporary replacement housing, Cal Recycle cleanup efforts of hazardous household waste and what victims need to do. Miranda talked about her research on other jurisdictions' disaster recovery

provisions. She talked about the housing crisis in the state, and provisions for caretaker units. She talked about lessons learned from Detwiler Fire Disaster.

Woblesky said this issue would be put on the next meeting agenda.

Edwards asked Miranda if she could look at current case lot to see if she could identify violations where people were living in substandard housing because they can't find housing. Could this be an agenda item for the next month? How common is this issue? What are people living in when their conditions could be improved by moving into an RV?

Melton gave Woblesky information he wants included in next packet. Melton brought HCD bulletin statement to CCAC...references "occupy" tiny home. HCD says the county has leeway to make this work.

8. Review Homework Purpose and Assignment from CCAC #12

Woblesky said she handed out a worksheet which summarizes the direction the CCAC is headed. Not asking for direction or approval today. Have \$300,000 ARPA funds...need to use. Need to work with Board as team member. Say, this is where we're going...can we get your support?

Each member will work on this and provide to Sarah, who will include in next meeting's packet.

9. Discussion Possible Action re: Future CCAC Agenda Items. Next CCAC Meeting is scheduled for September 7, 2022 (Meeting #14)

- a. Tiny homes
- b. Memo to the Board on the CCAC's program (Homework)
- c. Vehicle Abatement Program (Smith)
- d. Cleanup Mariposa Efforts (Toso and Cerveney)
- e. Communication Program (Kemp)

10. Persons wishing to speak on a matter not on the agenda, but within the jurisdiction of the committee. No action will be taken by the CCAC.

None

11. Adjourn

Motion by Edwards to adjourn meeting at 3:59 p.m.

Second by Kemp.

Motion passed. 7 ayes.

Original Minutes prepared by Sarah Williams

Amendments to Minutes prepared by Colleen Rhodes

Vehicle Abatement Program

Agreement with state of CA, CHP and County

Submit a plan to CHP, if approved then it goes to the state for approval

Account set up with County and State

Most agreements \$1 per vehicle registered – some counties or cities \$2 per vehicle

Money collected and sent to County each quarter

- Keith Williams, straight pass from the State – no big deal
- Quarterly reports to State Controller
- Can be managed by any County Dept that has enforcement powers
- Doesn't have to be Sheriff's Dept

Steps to go through with property owner - follow abatement procedures set up by county

Contract with vehicle tower/dismantler

Mariposa County has approx. 29,000 vehicles, motorcycles, trailer (not house trailer) –

- \$29,000 per year

Tuolumne County has 81,000 vehicles registered, \$2 each so \$162,000 year

Estimated cost to dismantle a vehicle - \$2000 per CHP

- Mariposa County could only abate 14-15 cars per year

No dismantler in Mariposa County

- Vehicle would have to be towed to other county and dismantled – towing on top of dismantling charge

Tuolumne County – just pays \$145/hour to tow car to business. Tower makes deal with dismantler

- Tuolumne County only pays for towing. Approx 350 vehicles per year off public roads and property

Vehicles, not RVs or trailers because of hazmat issues – no mobile homes

- If agreement developed, focus on 'junk' cars.

Unknowns:

- Would the \$1 increase have to be voted on in general election
- Find a towing/dismantling company who would work with Vehicle Abatement Program
- Will scrap metal be considered a hazmat item in CA
- Use Covid \$ until 2024 and not set up an abatement program

W O R K S H E E T

DATE: TBD

DRAFT

TO: Mariposa County Board of Supervisors

FR: Code Compliance Advisory Committee (CCAC) _____

RE: Top Three Board Prioritization of CCAC Initial Code Compliance
Recommendations

ACTION REQUESTED

The CCAC (Code Compliance Advisory Committee) has identified several possible directions the CCAC is ready to begin researching in greater detail in order to make subsequent recommendations to the Board of Supervisors in response to the code compliance issues the committee has discovered since last November.

The CCAC requests that the Board of Supervisors provide feedback to the CCAC regarding the top three CCAC initial code compliance recommendations they can support.

We believe this action is timely as the recent allotment of ARPA (The American Rescue Plan Act of 2021) funds to the CCAC to utilize towards code compliance activities and related incentive programs encourages the Board of Supervisor's support in the CCAC's efforts prior to the CCAC's detailed focus and eventual recommendations.

BACKGROUND

- Brief statement of CCAC activities from November 2021 - August 2022
- Attachment of CCAC Compilation of Takeaways

Structural philosophy: Transparent,

Initial CCAC Code Compliance Recommendations

_____ Develop a clear internal code compliance process. Lydia's recommendation of affected departments meeting weekly and determining what department will be the lead. Developing a tracking system. Review correspondence templates.

_____ Update Mariposa County Ordinances. 15.10.260, 15.10.240, Junk, Abandoned Vehicles, Review of appeal process, review of fees, other

_____ Review existing code violations. Develop clear criteria for tracking and prioritization. Multiple pathways.

_____ Develop an amnesty program for code compliance.

_____ Develop an abatement program. Including vehicle abatement and junk.

Develop a communication program related to code compliance, assistance, other.

Develop a County-specific program for tiny homes and alternative/diverse/wider spectrum of housing options.

Develop Mariposa County programs that focus on community activities including additional dumpsters designated to outlying transfer stations, and remediation activities that support code compliance.

Other:



COUNTY COUNSEL/RISK MANAGEMENT

MEMORANDUM

DATE: March 11, 2022

TO: Sarah Williams, Planning Director

FROM: Steven W. Dahlem, County Counsel/Risk Manager *swd*

RE: Review of Potential Solutions – Permanent Occupancy in Park Trailer Unit (RV)

Questions Presented:

- 1. You have asked whether certain amendments (see below) to the Mariposa County Code would allow one park trailer unit on a parcel to be used for residential occupancy?**
- 2. You have asked whether those local code amendments adopted by the City of San Luis Obispo could be a model for allowing one park trailer unit on a parcel, as an accessory dwelling unit, to be used for residential occupancy?**

Regarding Question (1), a resident has suggested that a park trailer unit could be allowed as a residential use if the Mariposa County Code were amended as follows:

- a. Title 13.08.115 (Sewage Disposal), by deleting subsection B: “Travel trailers/recreational vehicles may not be used as a residence unless a permit has been obtained from the building department to do so in combination with a dwelling construction permit.”
- b. Title 15.10.270 (Regulations For Use Of Travel Trailers/Recreational Vehicles), by replacing the existing text with the following: “A. Any recreational vehicle intended to be occupied, longer than 14 nights in a 90-day period must be connected to an approved power source such as a permitted electrical service hook-up or any other power source approved by the building department. In addition, all applicable County Codes must be met, such as zoning, setbacks, units per parcel, etc. B. Any park trailer intended to be occupied, for any period of time must be connected to an approved power source such as a permitted electrical hook-up or any other power source approved by the building department. In addition, all applicable County Codes must be met, such as zoning, setbacks, units per parcel, etc.”

Regarding Question (2), the City of San Luis Obispo passed an ordinance permitting recreational vehicles as tiny houses in residential zones as accessory dwelling units, pursuant to Government Code 65852.2. The City specifically relied on Government Code Section 65852.2(g) which provides: “This

section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.”

Conclusions:

1. We conclude that amending the Mariposa County Code in the manner described above is inconsistent with state and federal law and is insufficient to allow a park trailer unit to be used as a residence.
2. We conclude that Government Code Section 65852.2 does not authorize the use of park trailer units as accessory dwelling units.
 - a. We conclude that a local ordinance adopted pursuant to Government Code Section 65852.2 may not authorize the use of park trailer units as accessory dwelling units.

Analysis:

1. Do certain amendments (see above) to the Mariposa County Code allow one park trailer unit on a parcel to be used for residential occupancy?

State and federal regulations define park trailers as recreational vehicles designed only for recreational use and not as a permanent residence or for permanent occupancy.

California Health and Safety Code Section 18010 provides in pertinent part: “Recreational vehicle” means both of the following:

- (a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy....
- (b) A park trailer, as defined in Section 18009.3.

California Health and Safety Code Section 18009.3 (a) provides in pertinent part: “‘Park trailer’ means a trailer designed for human habitation for recreational or seasonal use only....”

Mariposa County Code Section 15.10.270 implements state law. It provides:

- A. Travel trailers/recreational vehicles are considered sub-standard housing and as such cannot be used as a residence.

The definitions outlined above are consistent with federal definitions and regulations.

24 Code of Federal Regulations 3282.15(a) provides:

- (a) Exemption. A recreational vehicle that meets the requirements of this section is exempt from 24 CFR parts 3280 (Manufactured Home Construction and Safety Standards) and 3282 (Manufactured Home Procedural and Enforcement Regulations). (Parenthetical notes added.)

24 Code of Federal Regulations 3282.15(b) defines a recreational vehicle as:

- (1) A vehicle or vehicular structure not certified as a manufactured home;
- (2) Designed only for recreational use and not as a primary residence or for permanent occupancy; and is either:
 - (i) Built and certified in accordance with either the NFPA 1192 (incorporated by reference, see §3282.16) or ANSI A119.5 (incorporated by reference, see §3282.16), as provided by paragraph (c) of this section; or
 - (ii) Any vehicle which is self-propelled.

The Federal Department of Housing and Urban Development (HUD) has determined that:

Recreational vehicles are not subject to this part, part 3280. A recreational vehicle is a factory built vehicular structure designed only for recreational use and not as a primary residence or for permanent occupancy, built and certified in accordance with NFPA 1192-15 or ANSI A119.5-09 consensus standards for recreational vehicles and not certified as a manufactured home. 8/
Federal Register 6806, 6807.

Thus, recreational vehicles are exempted from the more stringent construction standards applicable to manufactured homes, specifically because they are not designed to be a primary residence.

Recreational vehicles, including park trailers, as defined in state law are licensed by the Department of Motor Vehicles and may be sited in special occupancy parks governed by the Special Occupancy Parks Act, Health and Safety Code Section 18860 et seq., by the California Department of Housing and Community Development.

The proposed amendments regarding utility hook ups and zoning setbacks do not address the regulatory gap presented by construction standards that do not meet the standards for manufactured housing. Construction standards for recreational vehicles are lowered based on the finding that recreational vehicles are not intended for permanent occupancy.

The proposed amendments assume regular sign-off by the building inspector that does not exist or seek to by-pass the local building inspector by relying on safety standards governing the manufacture of the recreational vehicle. But those standards are unavailing because they are not standards for manufactured housing. Recreational vehicle occupancy is governed by several state statutory schemes, including the Recreational Vehicle Park Occupancy Law, Civil Code Section 799.20 et seq., and Special Occupancy Parks Law, Health and Safety Code Section 18860 et seq. Nothing in the proposed amendments alters the application of these laws to recreational vehicles. Our conclusion is supported by the legislature's refusal to add park trailers to the list of structures that can be considered accessory dwelling units. *See infra*.

2. Does Government Code Section 65852.2 allow park trailers as accessory dwelling units?

Government Code Section 65852.2 was enacted in 1990 and has been amended many times since. It allows for local agencies to provide, by ordinance, for the creation of accessory dwelling units (ADUs) in areas zoned to allow single-family or multifamily use. The section provides that local agencies: (1)

designate areas where ADUs may be permitted; (2) impose standards on ADUs; (3) provide that ADUs do not exceed allowable density; and (4) require ADUs to comply with all of the requirements of subdivision (D)(i-xii), including compliance with local building code requirements that apply to detached dwellings, as appropriate. ADUs that meet the standards are to be considered and approved ministerially without discretionary review. *Government Code 65852.2(a)(3)*. If the local ordinance does not comply with Section 65852.2, it is null and void and the standards set forth in the statute shall apply. In the absence of a local ordinance, the statute applies. *Government Code 65852.2(a)(4)*

Government Code Section 65852.2(j) provides, in pertinent part:

As used in this section, the following terms mean:

- (1) "Accessory dwelling unit" means an attached or a 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. 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 the following:
 - (A) An efficiency unit.
 - (B) A manufactured home as defined in Section 18007 of the Health and Safety Code.
- ...
- (3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

Here, the legislature added examples of certain construction that would be considered ADUs, including efficiency units and manufactured homes, both of which have statutory definitions. The expression of some things in a statute necessarily means the exclusion of other things not expressed.

Gikas v. Zolin (1993) 6 Cal. 4th 841. The inclusion of some classes of structures, while not mentioning park trailers indicates the legislature's intent to exclude park trailers from among the classes of structures that may be classified ADUs. The legislative history expressly shows this exclusion.

In 1994, the legislature amended Government Code Section 65852.2 by Assembly Bill No. 3198. The Assembly forwarded to the Senate a bill which "added 'manufactured home,' 'efficiency unit,' and 'park trailer' to the definition of a second unit (now an accessory dwelling unit), as defined." (Parenthetical note added.) Before the bill was signed, the Senate "delete[d] references to 'park trailer' from the definition of second units." Thus, the legislature expressly considered and rejected the inclusion of park trailer among those types of construction that are considered ADUs.

Thus, the state statute does not allow park trailer units as accessory dwelling units.

a. May a local ordinance adopted pursuant to Government Code Section 65852.2 allow park trailer units as accessory dwelling units?

Government Code Section 65852.2(g) provides that: "This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit." We have found no case law interpreting Section 65852.2(g).

The question presented by this subsection is whether the word “creation” of accessory dwelling units relates to less restrictive requirements of building standards or of development standards. We believe, given the structure of the statutory scheme, the contents of section 65852.2, and the interpretation of the California Department of Housing and Community Development, that creation of accessory dwelling units in section 65852.2 relates only to development standards.

Government Code Section 65852.2 is found in Title 7, Planning and Land Use, Division 1, Planning and Zoning, Chapter 4, Zoning Regulations, Article 2, Adoption of Regulations, which encompasses sections 65850 – 65863.13.

Government Code Section 65850, entitled “Scope of power to regulate by ordinance,” provides in pertinent part:

The legislative body of a city or county may, pursuant to this chapter, adopt ordinances that do any of the following:

- (a) Regulate the use of buildings, structures, and land as between industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.
- (b) Regulate signs and billboards.
- (c) Regulate all of the following:
 - (1) The location, height, bulk, number of stories, and size of buildings and structures.
 - (2) The size and use of lots, yards, courts, and other open spaces.
 - (3) The percentage of a lot which may be occupied by a building or structure.
 - (4) The intensity of land use.

Thus, it appears from the scope of power defined by the section that the county’s ability to regulate under this chapter is confined to what may be called “development standards,” i.e., the use of buildings, structures and land. Nothing in the scope of power to regulate suggests anything related to building standards or alteration of the building code.

The language of Section 65852.2 is consistent with this scope of regulation. In each instance where the building code is referenced in Section 65852.2, the regulation makes clear that ADUs must adhere to the building code. For example, an ordinance must require that ADUs comply with all local building code requirements that apply to detached dwellings, as appropriate. *65852.2(a)(1)(D)(viii)*. No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit. *65852.2(a)(5)*. A local agency shall ministerially approve an application for a building permit within a residential zone for multiple ADUs within portions of multifamily dwelling structures if each unit complies with state building standards for dwellings. *65852.2(e)(1)(C)(i)*. The only possible exception is a reference in *Section 65852.2(c)* which provides that ADUs shall not be required to provide fire sprinklers if they are not required in the primary residence.

In its publication, Accessory Dwelling Unit Memorandum, December 2016, the California Department of Housing and Community Development, posed the question: Can a local government adopt less restrictive requirements? In response, it stated: “Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or

amending general plan policies.” All of these appear to be within the scope of regulatory powers identified in Section 65850. Nowhere does HCD suggest that a local agency may alter the building standards. Although the ultimate responsibility for the construction of a statute rests with the court, we accord great weight and respect to the construction of the statute by the agency charged with administering the statute. *Sharon S. v. Superior Court (2003) 31 Cal.4th 417, 436.*

You have provided us with an ordinance from the City of San Luis Obispo which specifically cites Government Code Section 65852.2(g) as authority “to adopt less restrictive requirements than the state mandated minimums for accessory dwelling units.” The San Luis ordinance allows recreational vehicles (park trailer units) as “tiny houses” in residential zones.

We are also aware that the City of Fresno adopted an ordinance allowing tiny houses, defined as, “licensed and registered with the California Department of Motor Vehicles and meets ANSI 119.2 or 119.5 requirements.”

We also note that in both cases, San Luis Obispo and Fresno require as a condition of approval that the owner enter into an indemnity agreement with the City.

Based on our reading of Government Code 65852.2, we do not believe the statute’s allowing local authorities to adopt less restrictive requirements than the state mandated minimums for accessory dwelling units extends to modification of building code standards. Thus, we believe that a local ordinance may not allow park trailers as permanent residences.

If you have further questions, please feel free to contact me.