

DIVISION 3: Discretionary and Ministerial Permits

2-576 Accessory Secondary Dwelling Units (ADUs)

This ~~s~~Section is intended to implement the General Plan housing policy on accessory second-dwelling units, adopted in part in response to Government Code Sections 65852.1 and 65852.2, et seq., by allowing accessory secondary-dwelling units through ministerial review in the RS, RO, RD, and RM any residential-districts, subject to meeting the criteria defined below.

A. Definition. "Accessory Dwelling Unit" (ADU) means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. The ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. An ADU also includes: (a) an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code; and (b) a manufactured home, as defined in Section 18007 of the California Health and Safety Code.

BA. Where Permitted. In any residential district, a secondary dwelling unit may be permitted on a lot with a single family dwelling

1. ADUs shall be allowed in any residential zone where single family homes are permitted, subject to meeting the regulations of this sSection.
2. An ADU may only be permitted where there is one principal residence on the lot. In no case shall the number of dwelling units on the lot exceed two. ADUs are not permitted in duplexes, triplexes, or other buildings with more than one principal residence.
3. Additional dwelling units in the RO District only are subject to the regulations of Section 2-554. Zoning Code provisions for Additional Dwelling Units in the RO District.

CB. Ministerial Review and Approval Required. An ADU that meets the applicable locational and development standards of this Code shall be subject to ministerial review and approval. All permits shall be issued within 120 days of submission of a complete application for ADUs conforming to the provisions of this Section. secondary dwelling unit in a residential district will be approved if it fully conforms to the following criteria:

1. Application Requirements. Applicants for ADUs second dwelling units shall submit an application to the Department of Community Development Department, Planning Services Division, which, at a minimum, shall include:

a. Plot Plan (Drawn to Scale). Dimensions of the perimeter of the parcel on which the ADU second dwelling will be located. The Plot Plan should indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and should indicate all easements. and For ADUs that add habitable floor space, the Plot Plan should also indicate structures located within fifty (50) feet of the project site, and average slope calculations if the property is on a hillside site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included. Provide average slope calculations for the project site.

b. Floor Plans. Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.

c. Elevations. North, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed ~~ADU~~secondary dwelling unit.

d. Cross Section. ~~Provide~~For properties in the RS(VP) district only, building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights. Where cross-sections are required, they shall also be provided at the time of building permit application.

e. Deed Restriction. Deed restriction completed as required, signed and ready for recordation.

2. Findings Necessary for Approval. The Zoning Enforcement Official shall approve an ADU secondary dwelling unit upon finding the following:

a. The dwelling conforms to the design and development standards for ADUs~~secondary dwelling units~~ established in Subsection DC of this ~~s~~Section;

b. The ADU secondary unit maintains the scale of, and is visually compatible with, adjoining residences and the residences in the immediate vicinity; and its building materials, forms (e.g., roof pitch), colors, and exterior finishes are compatible with substantially the same as those on the existing dwelling;

c. Public and utility services including emergency access are adequate to serve both dwellings;

d. The ADU secondary unit is not located on, or adjacent to, real property that is listed in the California Register of Historic Places;

~~e. The secondary unit will not exceed the allowable density for the property upon which it is located;~~

~~ef. The ADU secondary dwelling unit is consistent with the General Plan and the zoning for the property, notwithstanding provisions of Government Code Section 65852.2 which exempt ADUs from General Plan and zoning density calculations.;~~

~~g. For Secondary Units located in a RO, RS, or RS-VP District, the main dwelling or secondary dwelling will be owner-occupied and eligible for a homeowner's exemption for state tax purposes.~~

DC. Design and Development Standards.

17. Attached and Detached Units Allowed. Both attached and detached ADUs~~secondary dwelling units~~ are allowed. Attached units may be within the envelope of the primary dwelling, or may be wholly or partially created through an addition to the primary dwelling. Attached ADUs may be permitted on conforming lots of any size, however, detached units must be sited on parcels containing at least ten thousand (10,000) square feet.

Detached units shall be ministerially permitted on lots larger than 7,500 square feet. On lots that are 7,500 square feet or less, a A detached ADU secondary dwelling unit that is sited on a property less than ten thousand (10,000) square feet may be considered through a Site Plan Review process through the Zoning Enforcement Official. Detached units on smaller parcels shall be considered as long as all other requirements relating to parking, lot coverage, building height and setbacks are met.

~~Detached secondary dwelling units are required to meet the building coverage requirements of Section 2-546, Accessory structures, in the RS, RD and RM Districts. Detached secondary dwelling units in the RO District shall comply with the requirements in Section 2-552, RO District— Accessory structures.~~

24. Unit Size

~~a. Lots 7,500 square feet or less. An ADU on a lot that is 7,500 square feet or less secondary dwelling constructed within or attached to an existing dwelling or garage shall be allowed to contain a floor area of up to ten percent (10%) of the lot area, or fifty percent (50%) of the heated floor area of the main dwelling, whichever is less, up to a maximum of seven hundred fifty (750) square feet.~~

~~b. Lots Larger than 7,500 square feet. An ADU on a lot larger than 7,500 square feet shall be subject to the following floor area maximums, except that under no circumstance may the floor area of the ADU exceed 50% of the primary residence.~~

<u>Lot Size</u>	<u>Maximum ADU Floor Area</u>
<u>7,500-9,999 Square feet</u>	<u>750</u>
<u>10,000-19,999 Square feet</u>	<u>900</u>
<u>20,000-39,999 Square feet</u>	<u>1,050</u>
<u>40,000 Square feet or more</u>	<u>1,200</u>

~~2. Prohibition—Garage Conversions. No secondary dwelling unit may be constructed, installed or created from the conversion of an existing garage unless a garage replacing the converted garage is provided on the lot.~~

3. **Required Setbacks.** Excepted as indicated in Subsection (D)(7) below, ADUs shall comply with all setback requirements established by the Zoning Code. Attached ADUs secondary dwelling units shall not be permitted in a required yard. Detached units are required to meet setback requirements established by this Code Section 2-546 related to Accessory Structures, while detached units in the RO District shall comply with all setback requirements defined for RO District.

4. **Height and Building Coverage.** The basic requirements of Article 5 (Residential Districts) shall apply, except as follows:

a. ADUs that are created through the construction of new habitable space above the first floor roofline shall be prohibited. However, an ADU created through the conversion of existing habitable space above the first floor roofline shall be ministerially permitted if it meets the other design and development standards of this Section.

b. Article 5 requirements may be unless modified by an overlay district.

Detached ADUs are required to comply with the 50% maximum building coverage requirements for Accessory Structures, in the RS, RD and RM-3000 Districts. Detached ADUs in the RO District shall comply with applicable zoning requirements for the RO District.

5. **Parking, Where Required.**

a. Parking for ADUs shall be provided in a manner consistent with California Government Code Section 65852.2. In the event of a conflict between the provisions of this Section and the provisions of this Code for Off-Street Parking and Loading, the provisions of this Section shall apply.

b. A minimum of one independently accessible off-street parking space shall be required for the ADU, in addition to any parking spaces required for the principal residential dwelling. For ADUs with more than one bedroom, one additional space shall be required for each bedroom. These parking requirements may be waived pursuant to Subsection (c)(6) below.

c. Parking for an ADU may be provided through any of the following methods:

- i. Conventional garages or carports
- ii. Uncovered paved areas such as an extended driveway
- iii. Tandem parking in an existing driveway

The ADU parking space may be located within required setback areas, where consistent with the other parking requirements established by this Code.

~~shall be required for a lot containing a secondary dwelling, unless a finding is made that additional parking requirements are directly related to the use of the second unit and consistent with applicable neighborhood standards applicable to the existing dwelling. Parking for a secondary dwelling unit may be provided in a tandem arrangement if located in the driveway and outside the front yard setback.~~

6. Parking Waivers. As mandated by California Government Code Section 6582.2, no off-street parking shall be required for an ADU in any of the following instances, provided that the ADU has one bedroom or less and meets all other standards in this Section:

- a. The ADU is located within one-half mile of public transit. This shall include properties within one-half mile of the BART stations and one-half mile of local AC Transit bus stops. Trans-bay commuter buses and Links Shuttle bus stops shall not be included. The half-mile standard shall be based on the actual walking route between the ADU and the transit stop rather than a straight line between the two points. The applicant must provide verification of the walking distance (in feet) between the residence and public transit stop at the time of application.
- b. The ADU is located within a formally recognized historic district, or on a property that is listed on the local, state, or national historic registers.
- c. The ADU is located entirely within the existing principal residence or an existing habitable accessory structure and results in no net addition of habitable floor space on the property.
- d. The ADU is located in an area where on-street parking permits are required but are not offered to the occupants of the ADU.
- e. The ADU is located within one block of a designated parking area for one or more car-share vehicles available to the general public by subscription.

7. Garage Modifications. An existing garage may be converted to an ADU only if the ADU meets the design and development standards of this Section, including all off-street parking requirements for the ADU and the principal residence. The following additional provisions shall apply, as required by California Government Code Section 65852.2(a)(1)(D).

- a. No setback shall be required for an existing garage that is converted to an ADU, provided that the construction complies with all applicable building and fire codes.
- b. If a garage or carport is demolished in conjunction with construction of an ADU, the replacement parking spaces for the principal residence and ADU may be met in any configuration on the same lot as the ADU, including but not limited to covered spaces, uncovered spaces, and tandem spaces. However, as required by the Off-Street Parking and Loading sections of this Code, paving for parking, walkways, and vehicular access shall not occupy more than 50% of the front setback in any residential district.

86. Subordinate to Existing Dwelling. The ~~ADU secondary unit~~ shall be visually subordinate to the existing dwelling, with an exterior entry that is clearly made to appear secondary to the entry for the existing dwelling. If the ADU is on a second story, it shall not be accessed by an exterior stairway that is visible from the public right-of-way.

98. Residential Site Plan Review. For ~~ADUs Secondary Units~~ located in an RO, RS, or RS-40 District that meets the standards for Residential Site Plan Review as defined in ~~this Code Section 2-580(D)~~, the ~~ADU Secondary Unit~~ shall comply with ~~the Residential Site Plan Review Standards contained in~~ Section 2-580(H) —Residential Site Plan Review Standards.

109. View Preservation/Site Plan Review. For ~~ADUs Secondary Units~~ located in a RS-VP District that meet the standards for View Preservation/Site Plan Review as defined in ~~this Code Section 2-582(D)(1)~~, the ~~ADU Secondary Unit~~ shall comply with ~~Section 2-582(D)(6)—View Preservation/ Site Plan Review Standards..the View Preservation/Site Plan Review Standards contained in Section 2-582(D)(6).~~

11. Connection to Street. No passageway shall be required in conjunction with the construction of an ADU, unless such a connection is mandated by the Americans with Disabilities Act or other state or federal safety code or standard. A passageway is a pathway that is unobstructed and clear to the sky, that extends from the street to the door of the ADU.

E. Fees.

1. The City may charge a fee for costs associated with the issuance of permits and inspections to determine whether the ADU is in compliance with the applicable development and design standards of this Section.

2. ADUs that result in no net increase in habitable floor space shall be exempt from local impact fees. ADUs that add habitable floor space may be subject to fees that are proportionate to the burden of the proposed ADU on City services. However, under no circumstance may an ADU be considered equivalent to a new single family dwelling unit for the purpose of fee calculation.

F. Prohibition on Short Term Rental. The rental of ADUs for terms shorter than 30 days shall be prohibited.

G. Building Safety

1. A smoke alarm and carbon monoxide detector shall be installed in all ADUs.

2. ADUs shall not be held to a higher standard than the principal residence for fire sprinklers. Fire sprinklers shall only be required if they would be required for an equivalent addition or modification of space on a residential property that was not associated with an ADU.

3. A permanent foundation shall be required for all detached ADUs.

4. Approval by the local health officer may be required where a private sewage system is being used.

~~HD.~~ Conditions Recorded. The City shall file a Notice of Occupancy Restriction (pursuant to ~~S~~ubsection (B)(2)(g)) with the Alameda County Recorder within thirty (30) days from the date of the approval of the ~~ADU secondary dwelling unit~~. The Restriction shall also include a prohibition on the sale of the ADU separate from the sale of the principal residence, including a statement that the deed restriction may be enforced against future purchasers.

IE. Prohibition - Subdivision - Separate Tax Assessment. Approval of an ~~ADU-secondary dwelling unit~~ shall not be deemed to be a division of land for purposes of Government Code Section 66410 et seq., or Title VII of the Municipal Code, nor shall the ministerial approval in accord with this Article entitle the applicant to:

1. Such a division of land; or
2. To have each of the two (2) dwelling units on the parcel separately assessed for property tax purposes. (Ord. 2012-013 § 3; Ord. 2003-010 § 1; Ord. 2001-015 § 1)

CONFORMING AMENDMENTS TO OTHER ZONING CODE SECTIONS

Article 3: Definitions

1-304 Definitions

Accessory Dwelling Unit ~~—See Secondary Dwelling Unit.~~ Accessory Dwelling Unit” (ADU) means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. ADUs shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. ADUs are regulated by Section 2-576: Accessory Dwelling Units.

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Dwelling, Secondary Unit – See “Secondary-Accessory Dwelling Unit”

In-law Unit – See “Secondary-Accessory Dwelling Unit”

Secondary Dwelling Unit ~~— See “Accessory Dwelling Unit” An accessory dwelling unit, attached or unattached to a single family residence, as regulated by Section 2-576: Secondary Dwelling Units.~~

Single-Family Residential. Buildings containing one *dwelling* unit and up to one Accessory Dwelling Unit located on a single lot. This classification includes mobile home and factory-built housing.

Article 5: Residential Districts

2-504: RO District—Use Regulations

A. RO District—Permitted Uses

11. Additional Residential *Dwelling* Units, including Accessory Dwelling Units. (Subject to the regulations of Section 2-554: RO District—Additional *Dwelling* Units and 2-576 – Accessory Dwelling Units)

2-506: RS District Use Regulations

A. RS District—Permitted Uses

1. Accessory uses when in conjunction with a permitted use, including Accessory Dwelling Units (Subject to the regulations of Section 2-576—Accessory Dwelling Units).

B. RS District—Conditionally Permitted Uses

- ~~6.—Secondary Dwelling Units. (Subject to the regulations of Section 2-576: Secondary Dwelling Units.)~~

(7-9 are renumbered as 6-8) 2-510 RM District—Use Regulations

2-508 RD District Use Regulations

A. RD District—Permitted Uses.

1. Accessory uses when in conjunction with a permitted use, including Accessory Dwelling Units in existing single family homes.

2-510 RM District Use Regulations

A. RM District—Permitted Uses.

1. Accessory uses when in conjunction with a permitted use, including Accessory Dwelling Units in existing single family homes.

2-546 Accessory Structures in RS, RD, and RM Districts

C. Maximum Lot Area and Coverage.

2. No single structure, excluding Accessory Dwelling Units as regulated by Section 2-576, shall occupy more than 500 square feet.

2-578 Residential Site Plan Review—Measure of Floor Area and General Requirements

D. Calculation of Floor Area

2. The floor area shall exclude:
 - a. Garages, carports, and accessory buildings, excluding Accessory Dwelling Units

Article 16: Development Regulations

4-1650 Development on Lots Not Meeting Minimum Area or Width

- A. R Districts. Such lots shall be subject to the same yard, setback, density, and FAR requirements as a standard lot. One (1) *dwelling* unit may be located on a lot of less than required area or width if it conforms to all requirements for a single-family *dwelling* in the RS District. A use permit shall be required for any other proposed new use. Accessory Dwelling Units shall not be permitted on such lots.

Article 17: Off-Street Parking and Loading Regulations

4-1704: Off-Street Parking and Loading Spaces Required, Table A

Use Classification	Off-Street Parking Spaces
Residential, Single Family	
Single-Family <i>Dwelling</i> (RS, RD, RO and RM)	2, non-tandem covered, per unit. New single-family dwellings or additions with more than 4 bedrooms or over 4,000 square feet of livable area shall require one additional space which may be uncovered and in tandem if it is located a minimum of 30 feet back from the front property line.
<u>Accessory Dwelling Unit (RS, RD, RO, and RM)</u>	<u>As prescribed by Section 2-576</u>

Article 25: Site Plan Approval

5-2502 Applicability

- B. Other New or Expanded Development, as listed below:
1. Single-, Two-, and Multi-Family Residential: DA, RD, RM, C, P, NA, SA, and I Districts. All proposals for new development, and proposed additions to existing development (where permitted or conditionally permitted per base district regulations), which would either:
 - a. Result in an additional *dwelling* unit, excluding an Accessory Dwelling Unit meeting all requirements of Section 2-576, eor

Article 30: Inclusionary Housing

6-3008: Exceptions

- D. Secondary-Accessory Dwelling Units