

## Proposed Zoning Code Amendments

### **§ 1.12.108 Definitions.**

#### **Accessory Dwelling Unit (ADU).**

An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons, and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the single-family or multi-family dwelling is, or will be, situated.

An ADU also includes the following:

- A.** An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code.
- B.** A manufactured home, as defined in Section 18007 of the California Health and Safety Code.

See also Section 2.04.388 Accessory Dwelling Units (ADUs).

#### **Junior Accessory Dwelling Unit (JADU).**

A unit that is no more than 500 square feet of interior livable space and is contained entirely within a single-family residence or the attached garage. A JADU may include separate sanitation facilities-or may share sanitation facilities with the existing structure.

### **§ 2.04.388 Accessory Dwelling Units (ADUs).**

- A.** Introduction. This section is intended to implement Government Code Sections **66310 - 66342** by allowing the creation of Accessory Dwelling Units (ADUs) and/or Junior Accessory Dwelling Units (JADUs) through ministerial review subject to meeting the criteria defined below.

In the event of a conflict between the provisions of this Chapter and another section of the Zoning Code, the provisions of this Chapter shall prevail. In the event of a conflict between the provisions of this Chapter and the California Government Code, as may be amended, the provisions of the applicable Government Code shall prevail.

Notwithstanding the definitions of "Multi-Family Dwelling" and "Single-Family Dwelling" in Section **1.12.108** Definitions, for the purposes of compliance with State ADU Law, a structure with two or more attached dwellings on a single lot is considered a "Multi-Family Dwelling." Multiple detached Single-Family Dwellings on the same lot are not considered Multi-Family Dwellings.

- B.** Accessory Dwelling Unit Regulations. The following provisions apply to all ADUs that are not State Exempt Accessory Dwelling Units, as described in Section **2.04.388.E**. A building permit for an ADU shall only be issued if it complies with the following development standards and regulations:

1. Location. An ADU may be permitted on a lot of any size, with an existing or proposed Single-Family Dwelling or Multi-Family Dwelling, in a residential or mixed-use zoning district.
2. Number Permitted.
  - a. For lots with a Single-Family Dwelling, there shall be a maximum of one (1) ADU, except as otherwise allowed under Section **2.04.388.E** State Exempt ADUs.
  - b. For lots with a Multi-Family Dwelling, refer to Section **2.04.388.E** State Exempt ADUs.
  - c. For JADUs, refer to Section **2.04.388.F** Junior Accessory Dwelling Units (JADUs).
3. Unit Size.
  - a. The maximum interior livable space of ADUs shall not exceed the greater of the following:
    - i. 1,000 square feet, regardless of bedroom sizes; or
    - ii. If over 1,000 square feet, 50% of the total floor area of the primary dwelling, not to exceed 1,200 square feet.
  - b. An ADU shall be a minimum of 150 square feet of interior livable space or the size necessary to accommodate an efficiency unit, as defined in Sections **18007** and **17958.1** of the Health and Safety Code, whichever is greater.
4. Setbacks and Separation.
  - a. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an ADU or to a portion of an ADU. An expansion of up to one hundred fifty (150) square feet of additional floor area shall be allowed and limited to accommodating ingress and egress. Further expansion shall be subject to setback requirements applicable to a new ADU.
  - b. For all other structures, a setback of no more than four feet from the side and rear lot lines shall be required for an ADU.
  - c. ADUs shall not occupy a required front yard and shall be subject to the driveway visibility requirements of Section 4.08.148 Driveways– Visibility, except as may be necessary to permit an ADU with 800-

square feet of interior livable space with four-foot side and rear yard setbacks.

5. Height. Notwithstanding the definition of "Height" in Section **1.12.108** Definitions, ADUs shall not exceed the heights established below as measured from the finished adjacent ground level to the highest point on the finished roof.
  - a. A detached ADU shall not exceed 16 feet in height.
  - b. A detached ADU that is within one-half of one mile (0.5 mile) walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section **21155** of the Public Resources Code, shall not exceed 18 feet in height. An additional two feet in height shall also be allowed to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
  - c. A detached ADU that is located on a lot with an existing or proposed multi-story, Multi-Family Dwelling shall not exceed 18 feet. An additional two feet in height shall also be allowed to accommodate a roof pitch on the ADU that is aligned with the roof of the primary dwelling unit.
  - d. An attached ADU shall not exceed 25 feet in height or the height limitation of the zoning district where the lot is located, whichever is lower.
6. Floor Area. An ADU shall comply with the maximum lot coverage, floor area ratio (FAR), and minimum open space requirements established by the zoning district in which the property is located, except as may be necessary to permit an ADU with 800 square feet of interior livable space and with four-foot side and rear yard setbacks.
7. Parking. No parking spaces shall be required for an ADU. No replacement parking spaces shall be required when a garage, carport, parking structure, or uncovered off-street parking space is demolished in conjunction with the construction of an ADU or is repurposed as an ADU.
8. Group R Occupancy Change. In accordance with Government Code Section 66314(d)(8), ADUs shall comply with local building code requirements that apply to detached dwellings, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the Chief Building Official makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety.

9. Entrance. An ADU shall include its own entrance, separate from the main entrance to the primary dwelling structure(s).
  10. No Short-Term Rental. ADUs shall not be rented for terms of 30 days or less.
  11. Occupancy. Owner-occupancy shall not be required for an ADU.
  12. Sale. The ADU shall not be sold or separately conveyed from the primary structure, unless allowed under Government Code Section **66341** or the City adopts an ordinance allowing separate sale pursuant to Government Code Section **66342**.
  13. No Deed Restriction. No deed restriction shall be required as a condition of approval of an ADU, except as required for JADUs pursuant to Section 2.04.388.F.11
- C. Review and Approval Authority**. Application for an ADU and/or JADU shall be subject to ministerial building permit review and approval.
1. Completeness Review. The City shall determine whether an application for an ADU or JADU is complete and provide written notice of the determination no later than 15 business days after receiving the application.
    - a. The written notice shall provide the applicant with a list of incomplete items and a description of how the application can be made complete.
    - b. After receiving notice that the application was incomplete, an applicant may remedy the identified deficiencies. In the review of a resubmittal pursuant to this section, the City shall not require the application to include an item that was not included in the list. The City shall determine whether the resubmittal is complete and provide written notice of the determination no later than 15 business days after receiving the resubmittal.
    - c. If the City fails to provide written notice of completeness within 15 business days, the application shall be deemed complete.
  2. Approval and Denial Timeline. The City shall approve or deny a complete application within 60 days of receipt if there is an existing Single-Family or Multi-Family dwelling on the lot. If the City does not act on a complete application within 60 days, the application shall be deemed approved.
    - a. If the permit application to create or serve an ADU is submitted with a permit application to create a new Single-Family or Multi-Family Dwelling on the lot, the City may delay approving or denying the permit application for the ADU until the City approves or denies the permit application to create the new Single-Family or

Multi-Family dwelling, but the application to create or serve the ADU shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

- b.** If the permit application to create or serve a JADU is submitted with a permit application to create or serve a new single-family dwelling on the lot, the City may delay approving or denying the permit application for the JADU until the City approves or denies the permit application to create or serve the new single-family dwelling, but the application to create or serve the JADU shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

- 3.** Denial – Written Comments Required. If an application to create an ADU or JADU is denied, the City shall provide the applicant (in writing) with a full set of comments identifying items that are deficient and describing how the application can be remedied. Written comments shall be provided within the 60-day review period.
- 4.** Appeal. An applicant may appeal the denial of an ADU or JADU or a determination of an incomplete application to the City Council in accordance with Zoning Code Chapter **5.20** Appeals. The City shall issue a final written determination on any such appeal no later than 60 business days after receipt of a written appeal.

**D.** General Regulations.

- 1.** Density. ADUs and JADUs do not count toward the maximum density established by the zoning district in which the property is located.
- 2.** HOA Non-Interference. No homeowners' association review, approval, or comment shall be required as a condition of approval by the City of any ADU or JADU application.
- 3.** Fire Sprinklers. In accordance with Government Code sections 66314(d)(12) and 66323(d), the construction of an ADU or JADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling. Fire sprinklers shall not be required for an ADU or JADU as a condition of ministerial approval. The City shall not require correction of nonconforming zoning conditions, including the absence of fire sprinklers, as a condition of ADU or JADU permit approval.
- 4.** Impact Fees. No impact fee shall be imposed on the development of an ADU with 750 square feet or less of interior livable space, or on a JADU with 500 square feet or less of interior livable space. Impact fees on ADUs with more than 750 square feet of interior livable space shall be charged proportionately

to the impact fee charged for the primary dwelling unit on a per-square-foot basis.

5. Utility Connection Fees. Converted ADUs and JADUs shall not be considered a new residential use for utility connection fees or capacity charges; no new or separate utility connection shall be required for conversion ADUs and JADUs (except when built with a new Single-Family Dwelling); connection fees shall be proportionate to the primary dwelling on a per-square-foot basis.
  6. Unpermitted ADUs. The City shall not deny a building permit application to legalize an unpermitted ADU or JADU that was constructed before January 1, 2020, when the ADU or JADU does not comply with Government Code Sections 66311 et seq. or 66333 et seq., as applicable, or any local ordinance regulating ADUs or JADUs, unless the Chief Building Official makes a finding that correcting the violation is necessary to comply with the standards specified in Section **17920.3** of the Health and Safety Code.
  7. Legalization. The City shall post on its public website: (a) a checklist of Health & Safety Code §17920.3 substandard conditions used to evaluate pre-2020 legalization applications; and (b) notice that property owners may obtain a confidential third-party inspection by a licensed contractor before submitting a legalization application.
  8. Non-Conforming Zoning Conditions. The City shall not deny a building permit application to create an ADU or JADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU or JADU.
  9. Demolition of Detached Garages. A demolition permit for a detached garage to be replaced with an ADU shall be reviewed concurrently with the building permit application for the creation of the ADU and issued at the same time. No written notice or placard shall be required for such demolitions unless the property is within a historic district.
  10. Pre-Approved ADUs. The City shall establish a pre-approved ADU plan program and post pre-approved plans on its website. Applications submitted with a pre-approved or identical plan shall be reviewed within 30 days.
- E.** State Exempt ADUs. State Exempt Accessory Dwelling Units refer to Accessory Dwelling Units that are created pursuant to Government Code Section 66323. The regulations described in Section **2.04.388.B** Accessory Dwelling Units Regulations do not apply to State Exempt Accessory Dwelling Units. Pursuant to Government Code Section **66323**, an application for a building permit for a State Exempt Accessory Dwelling Unit within a residential or mixed-use zoning district shall be ministerially approved to create any of the following units, or any

combination of the following. The four categories of State Exempt ADUs listed below may be combined as allowed by the site and lot conditions.

- 1.** Single Family - Accessory Dwelling Units Within Existing or Proposed Space. One ADU and one JADU per lot with a proposed or existing Single-Family Dwelling if all of the following apply:

  - a.** The ADU or JADU is within the proposed space of a Single-Family Dwelling or existing space of a Single-Family Dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
  - b.** The space has exterior access from the proposed or existing single-family dwelling.
  - c.** The side and rear setbacks are sufficient for fire and safety.
  - d.** The JADU complies with the requirements of Section **2.04.388.F** Junior Accessory Dwelling Units.
- 2.** Single Family - New Detached Accessory Dwelling Units. One detached, new construction, ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing Single-Family Dwelling. The ADU shall meet the following conditions:

  - a.** A total floor area limitation of not more than 800 square feet of interior livable space.
  - b.** A height limitation as provided in Section **2.04.388.B.5.**
- 3.** Multi-Family Dwellings - Accessory Dwelling Unit Conversions. At least one ADU within an existing Multi-Family Dwelling and up to 25 percent of the existing Multi-Family Dwelling units within the portions of existing Multi-Family 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.
- 4.** Multi-Family Dwellings - Detached Accessory Dwelling Units. Multiple ADUs that are located on a lot that has an existing or proposed Multi-Family Dwelling, but are detached from that Multi-Family Dwelling and meet the following conditions:

  - a.** On a lot with an existing Multi-Family Dwelling, no more than eight detached ADUs shall be permitted. However, the number of

detached ADUs allowable pursuant to this clause shall not exceed the number of existing units on the lot.

- b.** On a lot with a proposed Multi-Family Dwelling, not more than two detached ADUs shall be permitted.
- c.** ADUs shall be subject to four-foot rear and side yard setbacks.
- d.** A height limitation as provided in Section **2.04.388.B.5.**
- e.** If an existing Multi-Family Dwelling has a rear or side setback of less than four feet, no modification of the existing Multi-Family Dwelling shall be required as a condition of approving the application to construct an ADU that satisfies the requirements of this section.

**F.** Junior Accessory Dwelling Units (JADUs). The following provisions apply to all Junior Accessory Dwelling Units. A building permit for a JADU shall only be issued if it complies with the following development standards and regulations:

- 1.** Location Permitted. A JADU may be permitted on a lot with an existing or proposed Single-Family Dwelling.
- 2.** Located within a Single-Family Dwelling. JADUs shall be located entirely within the walls of a proposed or existing Single-Family Dwelling, including an attached garage. For purposes of this section, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing Single-Family Dwelling.
- 3.** Maximum Number of Units. There shall be a maximum of one JADU per lot. A JADU may be in addition to an attached or detached ADU(s).
- 4.** Unit Size. The total interior livable space of a JADU shall not be more than 500 square feet, excluding any shared sanitation facility within the primary Single-Family Dwelling.
- 5.** Parking. No parking spaces shall be required for a JADU. No replacement parking spaces shall be required when an attached garage is converted to a JADU.
- 6.** Separate Entrance. JADUs shall have a separate entrance from the main entrance of the proposed or existing Single-Family Dwelling. If a permitted JADU does not include a separate bathroom, the permitted JADU shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.
- 7.** Efficiency Kitchen. A JADU shall include an efficiency kitchen, which shall include the following:

- a.** A cooking facility with appliances.
  - b.** A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- 8.** Sanitation Facilities. A JADU may share sanitation facilities with the primary Single-Family Dwelling.
- 9.** Owner-Occupancy. If the JADU has shared sanitation facilities with the primary Single-Family Dwelling, owner-occupancy shall be required. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy shall not be required if the JADU has separate sanitation facilities, or if the owner is another governmental agency, land trust, or housing organization.
- 10.** Separate Sale Prohibited. A JADU shall not be sold or otherwise conveyed separately from the primary Single-Family Dwelling.
- 11.** Deed Restriction. A deed restriction, which shall run with the land, shall be filed with the building permit application and include the following:
  - a.** Prohibition on the sale of the JADU separate from the sale of the Single-Family Dwelling, including a statement that the deed restriction may be enforced against future purchasers.
  - b.** A restriction on the size and attributes of the JADU that conforms with Government Code Sections **66333** through **66339**.
- 12.** No Short-Term Rental. JADUs shall not be rented for terms of 30 days or less.