



## **Agenda Item No. 12.**

### **Staff Report**

**Date:** October 13, 2022

**To:** Mayor Kuhl and Council Members

**From:** Rebecca Markwick, Planning and Building Director

**Subject:** Town Council discussion of Ross Municipal Code Chapter 18.42 "Accessory Dwelling Units"

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#### **Recommendation:**

It is recommended that the Town Council receive a presentation and provide direction to staff on proposed changes, if any, to Ross Municipal Code (RMC) Chapter 18.42 "Accessory Dwelling Units (ADU)."

#### **Background and discussion:**

The Town Council has requested a review and discussion of the Town's Accessory Dwelling Unit (ADU) Ordinance. To facilitate this discussion, this staff report will outline the history of the ADU Ordinance, and relevant information about ADU's. Additionally, the report will describe how Ross's ADU Ordinance compares to other similar cities, using Belvedere, Tiburon, San Anselmo and Larkspur as examples. Finally, staff will provide topical suggestions for possible amendments to the code, based on prior discussions with Town Councilmembers, and staff's own experience with processing ADU applications.

#### **Existing ADU Ordinance:**

Over the past three years, the State of California has implemented legislation restricting local control to remove barriers from building new Accessory Dwelling Units (ADUs) and to preempt local regulation and land use control for certain types of ADU applications. The Town responded to the 2016 ADU housing legislation with the adoption of Ordinance No. 679 on January 12, 2017 and with the adoption of Ordinance No. 703 on January 16, 2020. A link to the 2017 report can be found [here](#) and a link to the 2020 report can be found [here](#).

#### **Application of ADU Ordinance:**

ADU construction is regulated through planning approval and building permit issuance. There are two paths that homeowners can pursue, either a ministerial or discretionary approval. A ministerially approved ADU can be a maximum of 800 SF; have a maximum height of 16 feet, 4-

foot side and rear yard setbacks and meet the front yard setback for the specific zoning designation it is located in. A discretionary process is applied to ADU's that do not meet the requirements for the ministerial approval, for example, units that are proposed to be 18 feet in height, 900 SF, etc. State law requires that towns can only apply objective standards, which is not typical for projects in the Town of Ross. The Town Council has asked that staff review the Town's standards in comparison to similar communities in Marin County.

The Town has incorporated into the ADU Ordinance objective standards that meet the needs of Ross as well as some standards similar to neighboring Marin towns. Because the state has specific requirements that limit local control, many of the development requirements and ordinances are similar to the town of Ross. Similar development standards include location, access, kitchen facility and bathrooms, setbacks, floor area, and parking requirements.

Some examples of standards that were developed specific to Ross include:

- *Lighting.* All exterior lighting, including landscape lighting, must be dark sky compliant. All new exterior lighting must be designed and installed so that the filaments, light sources or lenses are shielded and downward facing with opaque materials in such a way that they will not be visible at property lines. The exterior lights shall have a color temperature of 3500 Kelvin or lower (warm not cool).
- *Landscaping.* Any tree over 12 inches in circumference removed in conjunction with the construction of an ADU must be replaced by a 24-inch box tree on the project site, unless it is determined by the Fire Marshal that replacement planting is not feasible.
- *Windows.*
  - (1) All windows that face a side yard adjoining a side yard of an adjacent property and are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU. Windows, other than clerestory, may be allowed on the building elevation that faces the side yard adjoining a side yard of an adjacent property located within 15 feet of that shared property line following submittal of an application for and approval of a discretionary ADU Exception Permit application per Section 18.42.065 or with written approval from the adjacent property owner that faces the window(s).
  - (2) All windows that face a rear yard adjoining a rear yard of an adjacent property that are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU. Windows, other than clerestory, may be allowed on the building elevation that faces the rear yard adjoining a rear yard of an adjacent property following submittal of an application for and approval of a discretionary Design

Review application by the Zoning Administrator or with written approval from the adjacent property owner that faces the window(s).

The following is a list of ADU requirements in neighboring cities/towns that the Town Council might consider prior to providing direction to staff for potential amendments to the Town of Ross ADU ordinance.

#### Tiburon

- Architectural compatibility
  - Color and materials. The color and materials of the accessory dwelling unit shall match the primary unit.
  - No windows facing the rear and side property lines are allowed when located less than six feet from the rear or side property line.
  - No entryways are allowed within ten feet of a side or rear property line.
  - The accessory dwelling unit shall not have any reflective roof or building material.
  - The roof color of the accessory dwelling unit shall use similar roof materials and color as the primary dwelling unit.
  - No portico, trellis or other roof is allowed as part of the accessory dwelling unit. A 5x5 foot entryway roof is allowed but must be at least ten feet from any property line.
  - Two trees shall be planted at each proposed window of the accessory dwelling unit facing a neighboring property where such trees are consistent with the Fire Code.

#### Belvedere

- Some architectural standards to consider
  - Newly constructed accessory dwelling units shall be of the same or similar architectural style, detail, color, and building material as the primary dwelling unit.
  - Any new window that faces an adjoining residential property shall be either made of opaque glass and/or have a sill height above eye level. Any new door that faces an adjoining residential property shall either not include windows, or all windows must be made of opaque glass.
  - Where visible from off-site locations, skylights shall not have white or light opaque colored exterior lenses.

#### Larkspur

- Has restricted areas, which prohibit ADU's in very high fire hazard zones where ingress/egress is constrained.

San Anselmo

- **Architectural Design Standards**
  - No heritage tree (as defined in Title 4, Chapter 13) shall be removed in conjunction with the construction of an accessory dwelling unit until a building permit has been issued for the accessory dwelling unit.
  - The following standards apply to newly constructed accessory dwelling units located within required side and rear setbacks for the district in which the unit is located under Development Standards Table 4A and not conversions of existing structures:
  - The entrance to the accessory dwelling unit shall minimize noise and privacy impacts for neighbors by facing the entrance towards the interior of the lot and/or away from neighboring development, unless the accessory dwelling unit is directly accessible from an alley, public path, or public street.
  - Wall heights shall be limited to a maximum height of eight (8) feet on the interior and eleven and one half (11.5) feet on the exterior. Planning Department staff shall develop written standards that illustrate how wall height will be measured for various roof forms.

Working with the Town of Ross ADU Ordinance is relatively straight forward and clear for staff to apply. One issue for the Town Council to consider is requiring landscaping in ministerially approved ADU's at the side and rear property line when the ADU is proposed 4 feet from the property line. Given the size of some of the lots in Ross this would be beneficial in providing screening of the ADU structure.

Another issue for Town Council consideration is that Ross does not have specific, objective architectural standards similar to Belvedere and Tiburon, which require the architecture of the ADU to match that of the home, or any specific standards related to doorway/entryway standards.

**Housing Element Update**

The Housing Element is currently being updated. ADU production is a significant component of the Housing Element update. Any amendment to the ADU ordinance should consider the fact that ADU production will increase over the next eight years to meet the Town's allocated housing units.

**Next Steps:**

The Town Council may continue this discussion or direct staff to develop specific amendments to the ADU Ordinance and present a draft Ordinance at a future public hearing.

**Fiscal, resource and timeline impacts:**

There would be no fiscal impacts to amending the ADU Ordinance beyond typical staff and Town Attorney time.

**Environmental review (if applicable)**

This action is not subject to the California Environmental Quality Act.

**Attachments**

1. Section 18.42 Accessory Dwelling Units of the Ross Municipal Code
2. Tiburon, Belvedere, Larkspur and San Anselmo ADU Ordinances

# ATTACHMENT 1

## Chapter 18.42

### ACCESSORY DWELLING UNITS

#### Sections:

18.42.010	Purpose.
18.42.020	Definitions.
18.42.030	ADU Permit Required.
18.42.040	Permit Application and Procedures.
18.42.050	General Requirements – ADUs/JADUs.
18.42.055	Development Standards - ADUs.
18.42.060	Guaranteed Allowance.
18.42.065	Exceptions to Standards for ADUs.
18.42.070	Development Standards - JADUs.
18.42.075	Units Subject to Limited Standards.
18.42.080	Rent-Restricted ADUs.
18.42.081	Urban Lot Splits and Two-Unit Housing Development.
18.42.085	Termination of Permit and Use.
18.42.090	Administration and Enforcement.

*Editor's Note: Chapter 18.42 formerly titled Residential Second Units*

18.42.010 Purpose. The purpose of this chapter is to establish the procedures and development standards for the ministerial, non-discretionary processing of applications for new accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) in compliance with California Government Code Section 65852.2 and Section 65852.22 and consistent with the policies, goals and programs of the Housing Element of the General Plan. ADUs and JADUs increase the overall supply of housing within established residential zoning districts or as part of new residential subdivisions, while maintaining the existing character of the neighborhood. Such units are intended to increase the supply of smaller, more affordable housing within existing residential neighborhoods and provide independent living units for prospective and current residents, including family members, students, local employees, the elderly, in-home health and childcare providers, and single adults, among others. The intent of the Town in adopting the code section is to ensure that the Town’s ordinance has the effect of providing for the creation of ADUs and JADUs and that the provisions in this ordinance relating to matters including size, parking, and other development standards are not arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs or JADUs consistent with state law intended to promote their development. (Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011; Ord. 578 §8(part), 2003).

18.42.020 Definitions. For the purposes of this chapter the following words have the following definitions:

"Accessory dwelling unit" shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Accessory dwelling unit – attached” means an accessory dwelling unit that shares a common wall with the primary dwelling unit.

“Accessory dwelling unit – detached” means an accessory dwelling unit that is constructed as a separate structure from the primary dwelling unit.

“Affordable rent certification” means documentation and certification that an accessory dwelling unit is being rented to a very low-income household at an affordable rent level or is exclusively being occupied by an owner whose household qualifies as a very low-income household. Required information for documentation and certification shall include the rent charged, the utilities included in the monthly rent, the household size of the accessory dwelling unit, the names and ages of the accessory dwelling unit occupants, and the gross household income of the accessory dwelling unit household.

“Affordable rent level” means that the accessory dwelling unit household’s monthly cost of rent, plus the cost of electricity, gas, water and sewer service, and garbage collection (hereinafter “utilities”) is 30% or less than the upper limit of the annual gross household income, divided by 12, for a specified income category and household size as last published by the California Department of Housing and Community Development (hereinafter “HCD”). The Town shall determine maximum affordable rent levels for rent-restricted accessory dwelling units following the annual publication of the State Income Limits by HCD. In determining rent levels, the household size for rent-restricted accessory dwelling units shall be: studio, 1 person; one-bedroom, 2 persons; two-bedroom, 3 persons; and, three-bedroom, 4 persons. The cost of utilities for the accessory dwelling unit shall be included in the affordable rent level. For rent-restricted accessory dwelling units where utilities are separately metered and billed, and where the accessory dwelling unit household is responsible for the costs of that household’s use of utilities, the maximum rent shall be set at 90% of the affordable rent level.

“Efficiency kitchen” shall have the same meaning as defined in California Government Code Section 65852.22, as amended from time to time.

“Existing structure” means an existing permitted or otherwise legal single-family residence, including all fully enclosed areas such as a partial basement, an attached garage, or an accessory structure that can be made safety habitable under building codes.

“Gross household income” means the total monies earned or received by all members of a household age 18 and over, including: wages and all types of compensation, before any payroll deductions; spousal and child support; social security, retirement, disability, insurance, and other types of periodic payments; unemployment compensation and other payments in-lieu of earnings; welfare and other public assistance; interest, dividends and other payments generated from any real or personal property; net business income; and, any other type of payment determined to qualify as income by the U.S. Department of Housing and Urban Development (HUD) and as published in the HUD’s Housing Choice Voucher Program Guidebook. The annual gross household income is calculated by multiplying the monthly amounts earned or received at the time of certification by 12 and adjusting for anticipated payments and changes in amounts over the next 12 months.

“Household” means those persons who collectively occupy a housing unit. A property owner’s household shall include any child or dependent, as defined in section 152 of the Internal



Revenue Code, of the property owner who is under the age of 18 or is under the age of 24 and is a full-time student.

“Household size” means the number of persons in a household.

“Junior accessory dwelling unit” shall have the same meaning as defined in California Government Code Section 65852.22, as amended from time to time.

“Kitchen” shall mean a room or portion thereof containing permanent facilities designed and used for food preparation, cooking, eating and dish washing. A kitchen shall include all of the following: a sink with hot and cold running water; a range or stove and oven; at a minimum, an apartment-sized refrigerator; and built-in dish and utensil storage spaces. A kitchen may also include any of the following: microwave, convection oven, hot plate or automatic dish washer.

“Nonconforming accessory dwelling unit” means an accessory dwelling unit approved as an accessory dwelling unit or second unit through the issuance of a conditional use permit or an accessory dwelling unit that meets the definition of an accessory dwelling unit and was occupied prior to effective date of this ordinance. The Planning Department shall determine the status of such units in accordance with the provisions of this code.

“Public transit” means a location, including but not limited to, a bus stop or train station, where the public may access buses, trains, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. Public transit does not include school bus stops associated with bus routes operated seasonally or only during school hours for the intended purpose of serving students, even if the general public may access such bus service; or school bus routes provided by a school district for the exclusive use of students.

“Rent-restricted accessory dwelling unit” means an accessory dwelling unit that is approved under a rent-restricted accessory dwelling unit permit. A rent-restricted accessory dwelling unit shall only be rented to a very low-income household at an affordable rent level or occupied by an owner whose household qualifies as a very low-income household. “Rent” means to enter into an agreement whereby the occupant(s) of the accessory dwelling unit makes a monetary payment or exchange of goods or services in consideration of occupancy of the accessory dwelling unit.

“Single family residential zoning district” means a district listed in this code that allows one single-family dwelling on a particular lot or parcel, otherwise known as an “R-1” zoning district.

“Tandem parking” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Very low-income household” means a household with an annual gross household income of 50% or less than the Marin County median annual gross household income for that household size as last published by HCD. (Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011; Ord. 578 §8 (part), 2003).

18.42.030 ADU Permit Required. An ADU or JADU is allowed on any parcel in a single-family residential or multifamily residential zoning district with a primary unit, subject to

the issuance of an ADU permit. (Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

18.42.040 Permit Application and Procedures.

(a) ADUs Subject to Administrative Review.

(1) Application. An owner may apply for an ADU permit by submitting an application to the Planning Department on a form provided by the Town. The application form shall specify the information required from applicants. The town council may establish a fee for the application.

(2) Decision. The Planning Department shall consider the application without discretionary review, public notice, or a hearing. The Planning Department shall approve the application if the application meets all of the requirements and standards of this Chapter. The Planning Department shall deny the application if he or she determines that it does not meet all of such requirements. The Planning Department's decision shall be in writing and shall state the reasons for approval or denial. The Planning Department's decision shall be final.

(b) ADUs Subject to Town Council Review.

(1) General. The town council may grant discretionary exceptions to the development standards regulating the number of ADU permitted on a lot or parcel and ADU height, location, size and floor area as set forth in Sections 18.42.050 and 18.42.055.

(2) Application for Exception. Where an owner seeks an exception to the development standards of this Chapter, the owner may apply for an ADU permit by submitting an application to the Planning Department on a form provided by the Town. The application form shall specify the information required from applicants. The town council may establish a fee for the application.

(3) Application for Exception to Floor Area and/or Building Coverage. Where an owner seeks an exception to the floor area and/or building coverage requirement as set forth in Section 18.42.065 of this Chapter, the owner may apply for an ADU permit by submitting an application to the Planning Department on a form provided by the Town consistent with the provisions of Section 18.42.080 of this Chapter. The application form shall specify the information required from applicants. The town council may establish a fee for the application.

(4) Hearing. The town council shall hold a public hearing on the application.

(5) Decision. The town council shall approve, conditionally, approve, or deny the ADU exception application in accordance with the provisions of Section 18.42.065 or Section 18.42.080. The town council shall make its determination on the individual merit of each application without following or establishing precedent. The town council shall not approve an application unless it makes specific findings of fact as provided in Section 18.42.065 or Section 18.42.080. (Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

18.42.050 General Requirements – ADUs and JADUs.

(a) ADUs and JADUs may be constructed on a residentially zoned parcel with a proposed or existing single-family or multifamily dwelling.

(b) An ADU may either be attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(c) Owner Occupancy. Owner occupancy is not required for either the primary residence or the ADU/JADU.

(d) Street addresses shall be assigned to all ADUs to assist in emergency response.

(e) The ADU/JADU may be rented but shall not be sold independently of the primary dwelling on the parcel.

(f) The ADU/JADU shall not be rented for less than 30 consecutive days.

(g) Permanent Foundation. A permanent foundation shall be required for all ADUs.

(Ord. 708 (part), 2020; Ord. 703 (part), 2020).

18.42.055 Development Standards - ADUs.

(a) Separate Kitchen and Bathroom. All ADUs shall contain a separate kitchen and bathroom independent of the primary residence.

(b) Location. Detached ADUs shall be separated from the primary dwelling and any accessory structures by a minimum of 3 feet.

(c) Height. An attached ADU or detached ADU shall not exceed 16 feet in height. The height may be increased following submittal of an application for and approval of a discretionary ADU Exception Permit application per Section 18.42.063

(d) Bedrooms. All ADUs are limited to a maximum of two bedrooms.

(e) Size. ADUs shall be subject to the size limitations set forth in Table 1.

**Table 1.**

<b>ADU Type</b>	<b>Maximum ADU Floor Area</b>
Attached	
One bedroom or less	50 percent of the existing primary dwelling or 850 sq. ft., whichever is less
More than one bedroom	50 percent of the existing primary dwelling or 1,000 sq. ft., whichever is less
Detached	
One bedroom or less	850 sq. ft.

More than one bedroom	1,000 sq. ft.
Junior	500 sq. ft.

(1) The Town Council may grant an ADU size increase to 1,200 square feet per Section 18.42.065 and Section 18.42.080 of this Chapter.

(f) Parking.

(1) One off-street parking space shall be provided for each ADU in addition to those required for the primary unit. The parking spaces may be provided as tandem parking on a driveway. Off-street parking is not required for an ADU in any of the following instances:

- i. The ADU is located within one-half mile of public transit.
- ii. The ADU is located within a historic district.
- iii. The ADU is part of the proposed or existing primary residence or an accessory structure.
- iv. When on-street parking permits are required but not offered to the occupant of the ADU.
- v. When there is a dedicated parking space for a car share vehicle located within one block of the ADU.

(2) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces need not be replaced.

(g) Lighting. All exterior lighting, including landscape lighting, must be dark sky compliant. All new exterior lighting must be designed and installed so that the filaments, light sources or lenses are shielded and downward facing with opaque materials in such a way that they will not be visible at property lines. The exterior lights shall have a color temperature of 3500 Kelvin or lower (warm not cool).

(h) Landscaping. Any tree over 12 inches in circumference removed in conjunction with the construction of an ADU must be replaced by a 24-inch box tree on the project site, unless it is determined by the Fire Marshal that replacement planting is not feasible.

(i) Windows.

(1) All windows that face a side yard adjoining a side yard of an adjacent property and are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU. Windows, other than clerestory, may be allowed on the building elevation that faces the side yard adjoining a side yard of an adjacent property located within 15 feet of that shared property line following submittal of an application for and approval of a discretionary ADU Exception Permit application per Section 18.42.065 or with written approval from the adjacent property owner that faces the window(s).

(2) All windows that face a rear yard adjoining a rear yard of an adjacent property that are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU. Windows, other than clerestory, may be allowed on the building elevation that faces the rear yard adjoining a rear yard of an adjacent property following submittal of an application for and approval of a discretionary Design Review application by the Zoning Administrator or with written approval from the adjacent property owner that faces the window(s).

(j) Setbacks. ADUs shall be subject to the following requirements related to setbacks:

(1) No setback shall be required for an existing living area or accessory structure that is fully or partially converted to an ADU, or for a structure constructed in the same location and to the same or smaller dimensions as an existing living area or accessory structure that is fully or partially converted to an ADU.

(2) Setbacks of four feet from the side and rear lot lines are required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(k) Flood Plain. An attached or detached ADU located in the flood plain shall comply with Chapter 15.36 of the Municipal Code.

(l) Adequate Services. The proposed method of water supply and sewage disposal for the ADU/JADU must be provided, as well as service availability from any associated electric and gas provider for the lot. Letters of service availability must be provided by the appropriate utilities service provider(s) for the lot. The property owner must also demonstrate existing or future legal access.

(m) Prior Discretionary Approvals. The ADU shall not conflict with any other requirements associated with prior land use entitlements (e.g. Design Review, Nonconformity Permit) granted for the subject property, unless such requirements have been amended through required approval processes. (Ord. 708 (part), 2020; Ord. 703 (part), 2020).

#### 18.42.060 Guaranteed Allowance.

All standards related to size, limits on lot coverage, floor area ratio, and/or minimum lot size that apply to an ADU shall not prohibit an ADU with up to 800 square feet of floor area, a height of up to 16 feet, and four-foot side and rear yard setbacks, provided the ADU complies with all other applicable standards. (Ord. 708 (part), 2020; Ord. 703 (part), 2020).

#### 18.42.065 Exceptions to Standards for ADUs.

At its discretion, the town council may grant exceptions to the general requirements and development standards for an ADU as set forth in Section 18.42.050 and Section 18.42.055 of this code.

(a) Exception to Number of ADUs. The town council may grant an exception to the number of ADUs permitted on a lot or parcel to permit two ADUs on a parcel or lot, provided the parcel or lot is at least one acre in size.

(b) **Exceptions to Floor Area and/or Building Coverage.** (1) The town council may grant an exception to allow the nonconforming floor area and/or building coverage of an ADU to exceed 800 square feet up to 1,200 square feet if the ADU is to be rent restricted for a very low-income household subject to the provision of Section 18.42.080 of the Ross Municipal Code. (2) The Town Council may grant an exception to allow any amount of existing floor area that is converted to new ADU space to be transferred as a floor area allowance for a new addition to the primary residence.

(c) **Exception to Height.** The town council may grant an ADU height increase to two stories with a maximum building height of thirty feet at any point when measured from either existing or finished grade, whichever is lower.

(d) **Exception to Location.** The town council may grant an exception to the location standard to allow a newly constructed ADU above an existing first floor.

(e) **Exception to Size.** The town council may grant an ADU size increase to 1,200 square feet.

(f) **Exception to Windows.** The town council may grant an exception to Section 18.42.055(j)(1).

(g) The town council may grant an exception enumerated above if the exception complies with the design review criteria and standards of Section 18.41.100, the adopted Design Guidelines, and if the town council makes the following findings:

(1) The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good.

(2) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.

(3) Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.

(4) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes. (Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

#### 18.42.070 Development Standards – JADUs.

JADUs are subject to the following objective development standards.

(a) **Entryways.** A JADU must include a separate entrance from the main entrance to the primary residence, with direct access to the main living area. A JADU may include a second interior doorway for sound attenuation.

(b) Location. The JADU must be created within the existing walls of an existing single-family residence and must include an existing bedroom.

(c) Kitchen. The JADU shall include an efficiency kitchen as defined in California Government Code Section 65852.22.

(d) Bathroom. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

(e) Size. The size of a JADU shall not exceed 500 square feet of gross floor area. The gross floor area of a shared sanitation facility shall not be included in the maximum gross floor area of the unit. (Ord. 708 (part), 2020; Ord. 703 (part), 2020).

18.42.075 Units Subject to Limited Standards.

Notwithstanding sections 18.42.055, 18.42.060, 18.42.065 and 18.42.070 of this Chapter, accessory dwelling unit and junior accessory dwelling unit permits shall be issued based solely on the standards set forth in this section and all applicable Building Code standards, as follows:

(a) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(1) The ADU or JADU unit 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.

(2) The space has exterior access from the proposed or existing single-family dwelling.

(3) The side and rear setbacks are sufficient for fire and safety.

(4) The JADU complies with the requirements of Section 65852.22.

(b) 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 may be combined with a JADU described in subsection (a)(1) of this section. A local agency may impose the following conditions on the accessory dwelling unit:

(1) A total floor area limitation of not more than 800 square feet.

(2) A height limitation of 16 feet.

(c) Multifamily Dwelling ADUs

(1) 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.



(2) A local agency shall allow at least one ADU within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(d) Not more than two ADUs that are located on a lot that has an existing multifamily dwelling but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(e) Rentals of ADU and JADU permitted pursuant to this section shall be for a term longer than 30 days.

(f) Installation of fire sprinklers are not required in an ADU or JADU if sprinklers are not required for the primary residence.

(g) ADUs and JADUs permitted under this section shall not be required to install a new or separate utility connection directly between the ADU and the utility nor shall a related connection fee or capacity be charged unless the ADU or JADU is proposed to be constructed with a new single-family home. (Ord. 708 (part), 2020; Ord. 703 (part), 2020).

#### 18.42.080 Rent-restricted ADUs.

At its discretion, the town council may grant an exception to the floor area requirement for ADUs if the owner agrees to occupy or rent a newly constructed ADU as a rent restricted ADU, if the ADU is not located on a hillside area as defined in Section 18.39.020(a), and if the town council makes specific findings of fact as set forth in this section.

(a) Exceptions to Floor Area and/or Building Coverage. (1) The town council may grant an exception to allow the nonconforming floor area and/or building coverage of an ADU to exceed 800 square feet up to 1,200 square feet if the ADU is to be rent restricted for a very low-income household. (2) The Town Council may grant an exception to allow any amount of existing floor area that is converted to new ADU space to be transferred as a floor area allowance for a new addition to the primary residence.

(b) The town council may grant a floor area exception if the exception complies with the design review criteria and standards of Section 18.41.100 and the town council makes the following findings:

(1) The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good.

(2) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.

(3) Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.

(4) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.



(c) Declaration of Rent Restrictions. The owner shall submit a signed Declaration of Rent Restrictions, to be recorded before or concurrently with, and as a condition of, issuance of the rent restricted ADU permit, reflecting the rent restriction. The Town shall provide the form of such Declaration.

(d) Affordable Rent Certification. An owner who has executed a Declaration shall submit to the Town an ADU Affordable Rent Certification on an annual basis, effective each December 31 and as part of the annual Town business license application and renewal, if the ADU is being rented. The ADU Affordable Rent Certification shall include the rent charged, the cost of the utilities, whether the utilities are included in the cost of rent, the household size of the ADU, the names and ages of the ADU occupants, the gross household income of the ADU household, and other information as determined appropriate by the Town. The Town shall provide the form of the Certification to be signed under penalty of perjury by both the owner and the tenant, if any.

(e) Termination of Rent-Restricted ADU Permit. At its discretion, the town council may grant an owner's request to terminate a rent restricted ADU permit. The town council shall consider the length of time such permit has been in force, the conditions of approval, the exceptions granted for the permit, and the impact on the town's affordable housing supply. In no case shall such permit be terminated prior to 20 year from the date of town council approval under this section. As a condition of termination, the town council shall require the owner to make modifications to the property to comply with current building code requirements and to comply with the planning code requirements in effect at the time the exception(s) was granted or obtain a variance from such requirements. (Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

18.42.081 Urban Lot Splits and Two-Unit Housing Development. Pursuant to the authority provided by section 65852.21(f) of the Government Code, no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot in a single-family zoning district if: 1) an Urban Lot Split has been approved pursuant to Chapter 17.37 herein, and 2) a Two-Unit Housing Development has been approved for construction pursuant to Chapter 18.43. (Ord. 717 (part), 2022).

18.42.085 Termination of Permit and Use.

At his/her discretion, the Planning Director or his/her designee may grant an owner's request to terminate an ADU/JADU. As a condition of termination, the Planning Director or his/her designee shall require the owner to make modifications to the property to comply with current building code requirements and remove the kitchen. The property owner shall apply for a building permit to remove the kitchen as required by the Town's building and fire codes. (Ord. 703 (part), 2020).

18.42.090 Administration and Enforcement.

(a) Any exception request that does not comply with the prescribed limitations set forth in this chapter shall require a variance, pursuant to Chapter 18.48.

(b) Nonconforming ADU.

(1) Nonconforming ADU previously granted a use permit or administrative approval may continue in use subject to the conditions of their original approval and the

provisions of Chapter 18.44 of this code.

(2) It is declared that any non-conforming ADU not previously granted a conditional use permit and not given conforming status prior to June 1, 2012 or issued a certificate of conformity, shall constitute a public nuisance, and such nuisance may be abated as provided by law.

(c) Inactive applications. Consistent with state law, the Planning Department may administratively deny without prejudice any application which remains incomplete or inactive for a period of greater than ninety days or is continued at the applicant's request for more than sixty days.

(d) Violation. An illegal ADU is an ADU which is not an approved ADU, nonconforming ADU, or is in violation of the Declaration of Deed Restrictions or the Declaration of Rent Restrictions. The Town Manager is authorized to pursue any remedies provided by law against the owner of an illegal ADU or an ADU not maintained in conformance with this Chapter, including but not limited to:

(1) General. Those remedies set forth in Chapters 9.04 and 18.64 of this code;

(2) Costs. In any civil enforcement action, administrative or judicial, the Town is entitled to recover its attorneys' fees and costs from an owner who is determined to have an illegal ADU;

(3) Revocation of the ADU Permit;

(4) Citations issued pursuant to the Administrative Citation Procedure authorized by California Government Code, Section 53069.4;

(5) Deed Restriction/Contract. Any liquidated damages or stipulated penalties authorized under any deed restriction or contract executed by the owner as a condition of the issuance of the ADU permit.

(e) Enforcement. Failure to comply in any way with the provisions of this chapter, approved plans, or conditions for application approval constitutes grounds for the town to immediately stop work related to the noncompliance until the matter is resolved or require that the noncompliance be remediated. Such violation will be subject to the enforcement penalties and procedures of Chapters 9.04 and 18.64 of this code. (Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 641 (part), 2013; Ord. 625 (part), 2011; Ord. 578 §8(part), 2003).

## ATTACHMENT 2

### **19.79.010 Purpose.**

The purpose of this chapter is to provide for the creation of accessory dwelling units and junior accessory dwelling units in a manner consistent with the requirements set forth in California Government Code Sections 65852.2 and 65852.22. The purpose of accessory dwelling units and junior accessory dwelling units is to expand the opportunity for small, lower cost housing in the City of Belvedere, while preserving the residential character of its neighborhoods. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

### **19.79.030 Permit application and procedures.**

- A. *Permit Required.* An accessory dwelling unit and/or junior accessory dwelling unit is allowed on any parcel in a single-family residential or multifamily residential zoning district with a primary unit. Unless exempt pursuant to Section 19.79.080, an accessory dwelling unit and junior accessory dwelling unit must receive a permit under this chapter.
- B. *Application and Review Authority.* An application for an accessory dwelling unit or junior accessory dwelling unit shall be made by the property owner and filed with the Planning Department on a form prescribed by the Director of Planning and Building, containing such information as reasonably requested by the Director of Planning and Building, and accompanied by the appropriate fee. In addition to an accessory dwelling unit permit, the applicant shall be required to obtain a building permit if repair, rehabilitation, or other work would otherwise require a building permit.
- C. *Ministerial Review.* For applications that satisfy the requirements of this chapter, the Director of Planning and Building or her/his designee, shall issue an accessory dwelling unit permit as a ministerial permit, without discretionary review, public hearing, or design review. The decision shall be final, and state in writing the reasons for approval or denial.
- D. *Review Timing.* The City shall act upon an application to create an accessory dwelling unit or junior accessory dwelling unit within sixty days from receiving a complete application. If the City does not act within sixty days, the application shall be deemed approved. If the application is submitted with an application to create a new single-family dwelling, the City may delay acting on the application for the accessory dwelling unit or the junior accessory dwelling unit until the City acts on the underlying permit application to create the new single-family dwelling. The portion of the application for the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review, including design review, or public hearing. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

### **19.79.040 General requirements for accessory dwelling units and junior accessory dwelling units.**

Unless otherwise provided for in this chapter, accessory dwelling units and junior accessory dwelling units are subject to the following requirements:

- A. *Zoning Conformance.* Accessory dwelling units and junior accessory dwelling units shall comply with the provisions in this chapter as well as the underlying zoning district. In instances where there is a conflict, this chapter shall govern.
- B. *Location of Unit.* An accessory dwelling unit may either be attached to, or located within, a proposed or existing primary dwelling or accessory structure, including a garage or storage area; or detached from a proposed or existing primary dwelling unit located on the same lot.
- C. *Number of Units.* One accessory dwelling unit and one junior accessory dwelling unit are permitted per residentially zoned lot that contains an existing or proposed single-family dwelling.
- D. *Owner Occupancy.* Owner occupancy is not required for an accessory dwelling unit. Owner occupancy is required for a junior accessory dwelling unit. The owner may reside in the primary dwelling or the junior accessory dwelling unit.
- E. *Building Codes.* Accessory dwelling units and junior accessory dwelling units shall comply with all applicable building, fire, and health and safety codes.
- F. *No Sale.* An accessory dwelling unit or junior accessory dwelling unit may not be sold separately from the existing dwelling unit.
- G. *Adequate Services.* Proof of the proposed method of water supply and sewage disposal must be provided and confirmed by letters of service availability from the appropriate utility service providers for the lot. The property must have existing or future legal access.
- H. *Fees.* An accessory dwelling unit or junior accessory dwelling unit shall not be considered a separate or new dwelling unit for purposes of collecting impact fees, or the provision of water, sewer, and power unless the unit was constructed concurrently with a new single-family dwelling.
- I. *No Short-Term Rental.* An accessory dwelling unit or junior accessory dwelling unit shall not be rented for less than thirty consecutive days. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

### **19.79.050 Accessory dwelling unit development standards.**

Accessory dwelling units are subject to the following requirements unless exempted from an accessory dwelling unit permit pursuant to this chapter:

- A. *Setbacks and Other Zoning Regulations.*

1. No setbacks shall be required for the following:
  - a. An existing living area that is converted to an accessory dwelling unit or portion of an accessory dwelling unit;
  - b. An accessory structure that is converted to an accessory dwelling unit or portion of an accessory dwelling unit; or
  - c. A structure constructed in the same location and to the same dimensions as an existing structure, that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
2. A minimum side and rear yard setback of four feet shall be required for an accessory dwelling unit that is not constructed in the same location and to the same dimensions as an existing structure, including a garage or accessory structure.
3. Front yard setback requirements of the underlying zoning district apply for a newly constructed attached or detached accessory dwelling unit.
4. Notwithstanding any provision in this chapter, side and rear yard setbacks must be sufficient for fire safety as determined by the Building Department and/or the Fire District.
5. Lot coverage and floor area ratio requirements of the underlying zoning district apply for a newly constructed attached or detached accessory dwelling unit. Notwithstanding this section, an attached or detached accessory dwelling unit must be allowed a floor area of at least eight hundred square feet, sixteen feet in height, with minimum four-foot side and rear yard setbacks.

*B. Maximum and Minimum Unit Size.*

1. The maximum floor area square footage for a studio or one bedroom accessory dwelling unit is eight hundred fifty square feet, and one thousand square feet if the accessory dwelling unit contains more than one bedroom.
2. The total floor area of an attached or detached accessory dwelling unit shall not exceed fifty percent of the existing or proposed primary dwelling. Notwithstanding this provision, an attached or detached accessory dwelling unit must be allowed at least eight hundred square feet of floor area.
3. The minimum floor area for an accessory dwelling unit is one hundred fifty square feet, which is the minimum square footage required for an efficiency unit as defined in California Health and Safety Code Section 17958.1 as may be amended from time to time.

*C. Height.* A detached or attached accessory dwelling unit shall not exceed sixteen feet in height.

*D. Lot Coverage and Floor Area Ratio.* The accessory dwelling unit shall comply with the lot coverage and floor area ratio requirements of the underlying zoning district unless otherwise required by this chapter or State law. Lot coverage or floor area ratio limits do not apply for either an attached or detached accessory dwelling unit that does not permit at least an eight-hundred-square-foot accessory dwelling unit, that is up to sixteen feet in height, with minimum four-foot side and rear yard setbacks. For the purposes of determining maximum lot coverage and

floor area ratio requirements, residential second unit square footage shall be calculated as part of the primary living unit.

E. *Lot Size.* There shall be no minimum lot size required for an accessory dwelling unit or junior accessory dwelling unit.

F. An accessory dwelling unit shall include a separate kitchen, bathroom, and access from the primary dwelling unit. It may contain an interior connection to the primary dwelling unit.

G. Pursuant to State law, an accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building, shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the General Plan and zoning district.

H. Accessory dwelling units are not required to have fire sprinklers or other fire safety requirements if not required in the primary residence.

I. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

J. The correction of underlying nonconforming zoning conditions is not required as a condition of approval. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

## **19.79.060     Parking requirements.**

A. One parking space is required per accessory dwelling unit unless otherwise provided for in this chapter.

B. Parking spaces may be located on a contiguous lot if that lot is owned by the record owner of the accessory dwelling unit, however, in such case a parking easement or other deed restriction in a form acceptable to the City Attorney shall be recorded prior to issuance of a building permit.

C. Parking may be provided through tandem parking on an existing driveway.

D. Off-street parking shall be permitted in setback areas in locations determined by the Director of Planning and Building, unless specific findings are made that parking in setback areas is not feasible based on specific site, regional, topographical, or fire and life safety conditions, which conditions shall include but are not limited to circumstances where parking would impede reasonable emergency and fire access.

E. No replacement parking for the primary dwelling unit shall be required if the accessory dwelling unit was created by the demolition or conversion of a garage, carport, or covered parking structure to an accessory dwelling unit.

F. *Parking Exemptions.* An accessory dwelling unit shall be exempt from the parking requirement of this section if the unit is:

1. Located within one-half mile walking distance of a public transit stop;

2. Located within an historic district, as may be designated by the City Council from time to time;
3. Located within one block of a car share vehicle pick up or drop off location as defined in the California Vehicle Code;
4. The accessory dwelling unit is built within a legally existing primary residence or legally existing accessory structure;
5. The unit is an attached or detached accessory dwelling unit that is no more than eight hundred square feet in floor area, no more than sixteen feet in height, with minimum four-foot side and rear yard setbacks; or
6. If on-street parking permits are required but not offered to the occupant of the accessory dwelling unit. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

### **19.79.070 Accessory dwelling unit architectural standards.**

Accessory dwelling units are subject to the following objective standards unless exempted from an accessory dwelling unit permit pursuant to this chapter:

- A. Newly constructed accessory dwelling units shall be of the same or similar architectural style, detail, color, and building material as the primary dwelling unit.
- B. Any new window that faces an adjoining residential property shall be either made of opaque glass and/or have a sill height above eye level. Any new door that faces an adjoining residential property shall either not include windows, or all windows must be made of opaque glass.
- C. All exterior lighting shall be low wattage, shielded, and directed downward.
- D. Where visible from off-site locations, skylights shall not have white or light opaque colored exterior lenses.
- E. An accessory dwelling unit that includes exterior alterations or additions to a property that is listed in the California Register of Historic Places or on a local historical register shall not be approved if it may cause an adverse impact to the historical significance of the property. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

### **19.79.080 Exemptions from permit.**

A. An accessory dwelling unit permit shall not be required in the following instances for projects located within a residential or mixed-use zone. Such projects will be ministerially approved upon valid application of a building permit. Projects exempt under this section remain subject to other applicable construction-related permit requirements such as grading permits.

1. The accessory dwelling unit and/or junior accessory dwelling unit is:
  - a. Within the proposed space of a single-family dwelling, or the existing space of a single-family dwelling or accessory structure.



- b. Has exterior access from the proposed or existing single-family dwelling; and
  - c. Has side and rear yard setbacks sufficient for fire safety.
  - d. One accessory dwelling unit and one junior accessory dwelling unit per lot are allowed under this exemption.
  - e. An accessory dwelling unit within the existing space of an accessory structure may be expanded an additional one hundred fifty square feet if necessary to accommodate ingress and egress. This subsection does not apply to a junior accessory dwelling unit.
2. One newly constructed detached accessory dwelling unit that is up to eight hundred square feet of floor area, up to sixteen feet in height, with minimum four-foot side and rear yard setbacks on a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit located on the same lot.
3. The junior accessory dwelling unit complies with the requirements of California Government Code Section 65852.22 as may be amended from time to time.
4. Accessory dwelling units 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. Accessory dwelling units in existing multifamily structures shall be limited to one unit or twenty-five percent of the existing multifamily dwelling units.
5. Not more than two accessory dwelling units located on a lot that has an existing multifamily dwelling and are detached from that existing multifamily dwelling, subject to a height limit of sixteen feet and minimum four-foot side and rear yard setbacks. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

## **19.79.090 Junior accessory dwelling unit development standards.**

Unless otherwise provided for in this chapter, junior accessory dwelling units are subject to the following requirements:

- A. *Location.* A junior accessory dwelling unit shall be located within an existing or proposed single-family residence. One junior accessory dwelling unit is allowed per lot.
- B. *Unit Size.* No junior accessory dwelling unit shall be less than one hundred fifty square feet or more than five hundred square feet in size. The square footage of any shared sanitation facilities with the primary dwelling unit shall not be included in the square footage calculation.
- C. *Access.* The junior accessory dwelling unit shall have a separate exterior entrance from the primary dwelling unit.

D. *Sanitation and Kitchen Facilities.* A junior accessory dwelling unit may include separate sanitation facilities, or it may share such facilities with the primary dwelling unit. The junior accessory dwelling unit shall include an efficiency kitchen.

E. No parking is required for a junior accessory dwelling unit.

F. Replacement parking for the primary dwelling unit shall be required if a junior accessory dwelling unit is created by the demolition or conversion of a garage, carport, or covered parking structure to a junior accessory dwelling unit. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

### **19.79.100 Deed restrictions.**

A. Before obtaining a building permit for an accessory dwelling unit or a junior accessory dwelling unit, the property owner shall file a deed restriction with the Marin County Recorder requiring that:

1. The accessory dwelling unit or junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;
2. An accessory dwelling unit or junior accessory dwelling unit may be rented, but no short-term rentals of thirty days or less are allowed;
3. The restrictions applicable to the unit shall be binding upon any successor in ownership and may be enforced against future purchasers; and
4. The deed restrictions shall lapse automatically upon removal of the accessory dwelling unit or junior accessory dwelling unit.

B. In any case where a building permit is not required for an accessory dwelling unit or junior accessory dwelling unit, an executed declaration or agreement of restrictions as required herein shall be submitted to the City for recordation in a form acceptable to the City Attorney, along with applicable recordation fees, and prior approval of the accessory dwelling unit or junior accessory dwelling unit. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

### **19.79.110 Exceptions.**

An applicant may request exceptions to the requirements in this chapter by applying for a conditional use permit pursuant to Chapter 19.80. Any exceptions approved pursuant to a conditional use permit must also comply with all design review standards. Any detached accessory dwelling unit approved by a conditional use permit shall not exceed one thousand two hundred square feet. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

**19.79.120 Violations and enforcement.**

It shall be unlawful for any person to construct or maintain an accessory dwelling unit or junior accessory dwelling unit on property within the City without compliance with this chapter. The maintenance, ownership, or use of any accessory dwelling unit or junior accessory dwelling unit except as permitted in this chapter shall constitute a nuisance, subject to abatement pursuant to the Municipal Code, or any other remedy allowed in the Municipal Code and State law. All remedies are cumulative. (Ord. 2021-04 § 2, 2021; Ord. 2021-03 § 3, 2021.)

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**The Belvedere Municipal Code is current through Ordinance 2022-05, passed July 11, 2022.**

Disclaimer: The City Clerk's office has the official version of the Belvedere Municipal Code. Users should contact the City Clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: [www.cityofbelvedere.org](http://www.cityofbelvedere.org)

Code Publishing Company

## **Chapter 18.23**

### **ACCESSORY DWELLING UNITS**

Sections:

- 18.23.010 Purpose.**
- 18.23.020 Definitions.**
- 18.23.030 Permitted Districts.**
- 18.23.040 Restricted Areas.**
- 18.23.050 Application.**
- 18.23.060 Development Standards.**
- 18.23.070 Administrative Review.**

**Prior ordinance history:** Ord. 698.

#### **18.23.010 Purpose.**

The purpose of these regulations is to comply with California Government Code Sections 65852.2 and 65852.22 which provide for local jurisdictions to set standards for the development of accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring they remain compatible with the existing neighborhood character. (Ord. 1045 § 2, 2020; Ord. 1044 § 3, 2020; Ord. 1038 § 1 (part), 2019; Ord. 1030 § 2(12), 2018; Ord. 1012 § 5, 2016; Ord. 921 § 4, 2003. Formerly 18.21.010)

#### **18.23.020 Definitions.**

For the purposes of this chapter, the following words and phrases are defined as follows:

“Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

“Accessory dwelling unit, attached” means an accessory dwelling unit that shares a common wall with the primary dwelling unit on the lot, by being constructed as a physical expansion (i.e., addition) of the primary dwelling unit.

“Accessory dwelling unit, detached” means an accessory dwelling unit that is constructed as a separate structure or as an addition to an accessory structure that is separate and detached from the primary dwelling unit on the same lot.

“Accessory dwelling unit, interior” means an accessory dwelling unit created by the conversion of existing floor space, which is either: (1) contained within the existing floor area of a primary dwelling unit; (2) conversion of an

existing garage of the primary dwelling; or (3) is entirely contained within the existing legal space of an existing accessory structure, such as a garage.

*Floor Area.* For the purpose of this chapter, "floor area" is habitable space consisting of all interior living spaces including, but not limited to, an entry, hallways, sleeping areas, sanitation, and eating and kitchen facilities.

"Owner" means the individual or entity that owns a majority (i.e., greater than fifty (50) percent) interest in the property. The owner of property owned in joint tenancy shall be any party named. The owner of property owned as a tenancy in common shall be any party named, unless ownership shares are specified, in which case the owner shall be the individual(s) with a majority interest.

"Public transit stop" means a designated bus stop for general use of public and commuters, train stop, ferry terminal, or other public transit station.

"Tandem parking" means parking spaces for two (2) or more automobiles on a driveway or in any other location on the lot, lined up behind one another. (Ord. 1045 § 2, 2020; Ord. 1044 § 3, 2020; Ord. 1038 § 1 (part), 2019)

### **18.23.030 Permitted Districts.**

Attached, detached, and interior accessory dwelling units shall be permitted in the R-1, R-2, R-3, RMP, SD, GD, and TD Districts and as specified in the ordinances governing planned development zoning districts that permit residential use. A parcel with a single-family residential use may have only one accessory dwelling unit and one junior accessory dwelling unit. (Ord. 1045 § 2, 2020; Ord. 1044 § 3, 2020; Ord. 1038 § 1 (part), 2019; Ord. 1030 § 2(12), 2018; Ord. 1012 § 5, 2016; Ord. 992 § 5, 2013; Ord. 921 § 4, 2003. Formerly 18.21.020, 18.23.020)

### **18.23.040 Restricted Areas.**

Due to the City's unique local climatic, geologic and topographic conditions, accessory dwelling units are not permitted in certain hillside residential areas that are determined to have inadequate roadways to provide adequate ingress and egress for emergency access and evacuation in the event of a fire or other emergency. It is the determination of the City that additional dwelling units in these areas would present negative impact on traffic flow and public safety.

A. New accessory dwelling units are not permitted in very high fire hazard severity zones, per Larkspur Municipal Code Section 14.10.010, where the primary access to the property is on roadways that are subject to constrained ingress/egress for emergency vehicles and resident evacuation. In determining which areas are subject to constrained ingress/egress, the City identified areas that are served by a single emergency access route (no alternate routes) meeting one or more of the following criteria:

1. Streets with limited width, where permitted on-street parking is strictly limited to designated locations with white outlined parking space rectangles.

2. Streets with insufficient roadway width. A minimum twenty-foot roadway width is required for emergency access.
  3. One-lane roadways allowing two-way traffic.
  4. Remote areas not served by improved or paved roads.
- B. The restrictions of subsection (A) of this section shall apply to all properties that have vehicular access from:
1. Madrone Avenue, west of Olive Avenue, including but not limited to those properties located on Echo Place, Glen Way, Hatzic Court, Jones Way, Nightingale Road, Oak Road, Penny Lane, Polhemus Way, Redwood Avenue, Ridgeway Lane, Scott Lane, Valley Way, Wilson Way.
  2. Millard Avenue, 49 to 63 Olive Avenue, and Scott Way.
  3. 31 Piedmont Road west to 260 Piedmont Road, including Coleman Avenue and Piedmont Court.
  4. Owlswood Drive, Marina Vista Avenue, and Sunrise Lane.
  5. Any property that is accessed solely by an unimproved or unpaved road.
- C. An owner may apply for a waiver from the restrictions on accessory dwelling units established by this section. The waiver shall be considered for approval or denial by the Zoning Administrator, who shall make such determination after consultation with the Fire Department. In deciding whether or not to grant the requested waiver, the Zoning Administrator shall consider only factors related to ingress/egress for emergency vehicles and resident evacuation. These factors may include, but are not limited to, whether there are multiple routes of ingress or egress to the property as well as the distance from the property to the closest road with unconstrained ingress and egress. (Ord. 1045 § 2, 2020; Ord. 1044 § 3, 2020; Ord. 1038 § 1 (part), 2019)

### **18.23.050 Application.**

The construction or installation of an accessory dwelling unit is a ministerial decision as required by state law. Ministerial approvals are not subject to review at a public hearing. Construction of an accessory dwelling unit shall be subject to submittal of a building permit application and fee, accompanied by the following forms and information:

- A. An accessory dwelling unit application form and checklist, provided by the Planning and Building Department and signed by the owner and applicant (if different from the owner), under penalty of perjury.
- B. A site plan of the property drawn to scale, including but not limited to the following information:
  1. All streets, walks, driveways, paths, parking areas, patios, and other hard surface areas.
  2. All existing structures on the subject property and all existing structures on adjacent properties that are within ten (10) feet of the subject property's property lines.
  3. All heritage trees.

4. Property lines with metes and bounds description and all easements.
- C. Topographic survey of subject property if new additions are proposed. Survey shall identify lot area and average grade. The scale of the map shall be the same as the site plan and the two plans may be combined. The contour interval shall not be greater than five (5) feet. (Not required for interior accessory dwelling units.) This requirement may be waived by the Planning Director if sufficient information is otherwise available to ensure the accuracy of the proposed site plan.
- D. Building elevations, section drawings, and roof plans depicting a proposed attached and/or detached addition.
- E. Floor plans showing existing conditions and proposed alterations, dimensioned at one-quarter-inch or one-eighth-inch scale, and identifying the floor area of the existing residence and proposed accessory unit. Plans shall provide a calculation of floor area which conforms to the development standards as outlined in Larkspur Municipal Code Section 18.23.060.
- F. Photographs of existing primary residence.
- G. The Director of Planning and Building may waive any of the above required informational items, maps, drawings, etc., if, in his or her opinion, they are unnecessary or unreasonable under the circumstances.
- H. Applicant must obtain any other applicable permits required to construct an ADU in the specific location proposed, including, but not limited to, grading permits, stream alteration permits and heritage tree removal permits, prior to the issuance of a building permit. (Ord. 1045 § 2, 2020; Ord. 1044 § 3, 2020; Ord. 1038 § 1 (part), 2019; Ord. 1030 § 2(12), 2018; Ord. 1012 § 5, 2016; Ord. 992 § 6, 2013; Ord. 921 § 4, 2003. Formerly 18.21.030, 18.23.030)

### **18.23.060 Development Standards.**

An accessory dwelling unit, as defined in Larkspur Municipal Code Section 18.23.020, shall comply with the following development standards:

- A. *Number of Units.* Accessory dwelling units are only permitted on parcels with an existing or proposed single-family use or a multifamily residential use. A parcel with a single-family residential use may have only one accessory dwelling unit. A parcel with a multifamily use may have:
  1. Interior accessory dwelling units: at least one and up to a maximum of twenty-five (25) percent of the existing multifamily dwelling units, which shall be converted from existing nonhabitable space.
  2. Attached or detached (exterior) accessory dwelling units: no more than two (2) per site.
- B. *Location of Accessory Dwelling Unit.* The accessory dwelling unit may be within, attached to, or detached from the primary dwelling unit, duplex or multifamily residence. Accessory dwelling units may be created through the conversion of a garage, carport, covered parking structure, storage area or accessory structure.

C. *Access.* An attached or interior accessory dwelling unit (attached to, or located within, the primary dwelling unit) shall have a separate, independent exterior entrance.

D. *Kitchen Facility and Bathroom.* The accessory dwelling unit shall contain its own cooking facility/kitchen and bathroom, separate from the primary dwelling unit.

1. The kitchen facility must include, at minimum, for food preparation, cooking, eating and dishwashing, the following features: a sink with hot and cold running water, a range or stove-top and an oven, an apartment-sized refrigerator, and counter and food storage cabinets that provide no less than forty (40) square feet of shelf space.

2. The bathroom must include, at minimum, for sanitary purposes, the following features: toilet, sink with storage space, shower and/or bathtub.

E. *Setback and Other Zoning Regulations.* For purposes of setbacks and other zoning regulations, the accessory dwelling unit shall be considered to be a part of the principal use of the subject site and shall be subject to the same requirements of the underlying zoning district, including standards for lot coverage, setbacks, floor area, and height, unless otherwise provided below.

1. When an existing residence has nonconforming setbacks, the conversion of space to an interior accessory dwelling unit shall not require additional setbacks, except as required for fire safety.

2. No setback shall be required for an existing legal accessory structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.

3. A setback of no more than four (4) feet from the side and rear lot lines shall be required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

4. Attached and detached accessory dwelling units which are no larger than eight hundred (800) square feet and no more than sixteen (16) feet in height are exempt from lot coverage, floor area ratio, open space, and minimum lot size standards, and are subject to no more than a four (4) foot side yard setback and a four (4) foot rear yard setback.

F. *Floor Area Limits.* The accessory dwelling unit shall have a minimum floor area of one hundred fifty (150) square feet (required to accommodate an efficiency unit per Health and Safety Code, Section 17958.1), and a maximum floor area of eight hundred fifty (850) square feet in size for studio and one bedroom units. A two (2) bedroom shall have a maximum floor area of one thousand (1,000) square feet in size. For units of three (3) or more bedrooms, the maximum floor area shall be either one thousand two hundred (1,200) square feet or fifty (50) percent of the floor area of the existing primary dwelling, whichever is less.

G. *Parking Requirements.*

1. Unless otherwise specified in subsection (G)(2) of this section:

- a. One additional off-street parking space is required for each attached or detached accessory dwelling unit.



- b. No additional off-street parking is required for the primary residence, except as specified under subsection (G)(4) of this section.
  - c. *Parking Space Dimensions.* All required interior and exterior parking space dimensions shall be pursuant to Larkspur Municipal Code Section 18.56.150(A)(11), a minimum of nine (9) feet wide by eighteen (18) feet long for nonconfined stall, and a minimum twelve (12) feet wide by eighteen (18) feet long for confined stall.
2. *Parking Exemptions.* Off-street parking is not required for an accessory dwelling unit in the following instances:
- a. The accessory dwelling unit is located within one-half-mile walking distance of a public transit stop;
  - b. The accessory dwelling unit is located within an architecturally and historically significant historic district;
  - c. In an area requiring on-street parking, permits are required but not offered to the occupant of the accessory dwelling unit;
  - d. When the accessory dwelling unit is located within one block of a car sharing pick-up/drop-off location;
  - e. The accessory dwelling unit is built within the legally existing primary residence or a legally existing accessory structure (interior accessory dwelling unit); and
  - f. Attached or detached accessory dwelling units which are no more than eight hundred (800) square feet in floor area, no more than sixteen (16) feet in height, and at least four (4) foot side and rear yard setbacks.
3. *Location of Required Parking.* Parking required for the accessory dwelling unit may be located in a garage, carport, uncovered or tandem space on a driveway:
- a. Required replacement parking may be located within the required front yard setback, street side setback, and rear yard setback areas. Parking in setbacks and tandem parking may not be permitted if the Fire Department determines that parking in those areas is unsafe due to site-specific fire and/or life safety conditions.
  - b. A parking structure (e.g., carport, garage, or parking deck) shall comply with required setbacks for both primary and accessory structures.
4. *Replacement Parking.* When an existing garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, no replacement parking is required.
5. *Substantial Remodels of Primary Dwelling.* Substantial remodels to an existing primary dwelling, unless such remodel is solely for the construction of an accessory dwelling unit and does not involve any other changes,

may require additional parking for the primary dwelling as applicable, subject to Larkspur Municipal Code Section 18.56.030(B).

H. *Architectural Standards.* Attached and detached accessory dwelling units and conversions of an existing legally permitted accessory structure shall be designed to comply with the following standards:

1. *Materials and Colors.* All external construction shall be constructed of the same or similar exterior materials, finishes, and family of colors as the primary dwelling unit on site.
2. *Exterior Lighting.* Exterior lighting shall be dark sky compliant, and shielded and/or directed so that it does not glare off site or illuminate onto adjacent and nearby property.
3. *Privacy.* Windows shall be located offset from neighbors' windows to maximize privacy and to avoid line of sight to windows of abutting properties. Clerestory windows, obscured glass, and other techniques may be used to avoid line of sight. All second story windows facing adjacent properties and located thirty (30) feet or less from the property line shall have a sill height of at least six (6) feet above finished floor or composed of obscured glass.

I. *Heritage Trees.* Any new construction of accessory dwelling units that impacts or requires removal of heritage trees shall comply with the requirements of Larkspur Municipal Code Chapter 12.16, Heritage Trees.

J. *Building Code.* Accessory dwelling units shall comply with all applicable requirements of the California Building Codes, as adopted by reference in Larkspur Municipal Code Title 15.

K. *Permanent Foundation.* A permanent foundation shall be required for all accessory dwelling units.

L. An accessory dwelling unit shall not be rented, leased, or provided for compensation for a period of less than thirty (30) days.

M. Fire sprinklers and other fire safety measures are not required if they are not required in the primary dwelling unit.

N. *Street Address Required.* Street addresses shall be assigned to all accessory dwelling units to assist in emergency response.

O. *Business License Required.* If the accessory dwelling unit is a rental, the property owner shall comply with Larkspur Municipal Code Chapter 5.04, Business Licenses and Regulations.

P. *Deed Restriction.* Prior to obtaining a building permit for an accessory dwelling unit, a deed restriction, approved by the Planning Director or his/her designee, shall be recorded with the County Recorder's office. Said deed restriction shall run with the land, and shall be binding upon any successor in ownership of the property. A copy of the final recorded deed restriction shall include the following:

1. An accessory dwelling unit may not be sold or otherwise conveyed separately from primary residence.
2. Any modification of the accessory dwelling unit or termination of use shall be subject to the then applicable zoning and building codes. For example, if the kitchen, bathroom, and/or sleeping facilities of the

accessory dwelling unit are removed and the structure no longer qualifies as an accessory dwelling unit, the structure may be required to provide additional off-street parking or comply with lot coverage requirements.

Q. *Historic Preservation.* New additions and detached structures which include an accessory dwelling unit to any real property listed in the National and California Registers of Historic Places or identified in the Local Inventory of Historic Places may be subject to the requirements of the Larkspur Municipal Code Chapter 18.19, Heritage Preservation. (Ord. 1045 § 2, 2020; Ord. 1044 § 3, 2020; Ord. 1038 § 1 (part), 2019; Ord. 1030 § 2(12), 2018; Ord. 1012 § 5, 2016; Ord. 953 § 1(28), 2007; Ord. 921 § 4, 2003. Formerly 18.21.040, 18.23.040)

### **18.23.070 Administrative Review.**

- A. A request for an administrative/ministerial review that is limited to the objective standards and criteria for accessory dwelling units contained in Larkspur Municipal Code Section 18.23.050 may be initiated by filing a building permit application with required application forms and checklist, and paying applicable fees.
- B. Approval of an accessory dwelling unit is a ministerial decision as required by state law. Ministerial approvals are not subject to review at a public hearing and review of accessory dwelling units is limited to the development standards and criteria established by the City as set forth in Larkspur Municipal Code Section 18.23.060.
- C. A complete application for an accessory dwelling unit permit that meets the development standards contained in Larkspur Municipal Code Section 18.23.060 shall be administratively approved without discretionary review or public hearing within sixty (60) days of receiving the application. The City and applicant may agree to additional time with a written request from the applicant.
- D. *Exceptions.*
1. Development standards for accessory dwelling units apply to the accessory dwelling unit only. When the accessory dwelling unit is an integral component of a larger project that is subject to discretionary review (e.g., floor area exception, variance, or heritage tree removal permit) by the Zoning Administrator or Planning Commission, building permits for the accessory dwelling units may be issued only after associated approvals have been secured.
  2. In the commercial SD and GD Zoning Districts, and within the historic overlay district, design review shall be required for exterior modifications, structures, and new additions. Creation of an interior accessory dwelling unit in the SD and GD Zoning Districts is administrative review. (Ord. 1045 § 2, 2020; Ord. 1044 § 3, 2020; Ord. 1038 § 1 (part), 2019)

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Code Publishing Company

## Chapter 6 ACCESSORY DWELLING UNITS<sup>1</sup>

### Sections:

### ***Article 1. Purpose, Applicability, Definitions***

#### **10-6.101 Purpose.**

This chapter provides regulations for developing accessory dwelling units. The purpose of permitting accessory dwelling units is to expand the opportunity for small, lower cost, housing units in San Anselmo, while preserving the character of residential neighborhoods.

(Ord. No. 1115, § 14, 2-28-2017; Ord. No. 1142, § 3(Exh. 1), 11-26-2019; Ord. No. 1143, § 2(Exh. 1), 12-10-2019)

#### **10-6.102 Applicability.**

An accessory dwelling unit may be constructed on a lot that meets all the following minimum standards:

- (a) Zoning district. A lot located in any zoning district that allows for single family and multifamily development.
- (b) Existing or proposed primary dwelling unit. A lot that is presently developed with at least one (1) primary dwelling. In addition, an accessory dwelling unit may be approved in connection with a building permit to construct a new primary dwelling. No accessory dwelling unit or junior accessory dwelling unit shall be allowed for units on parcels that use both the authority contained in Government Code section 65821.21 and the authority contained in Government Code Section 66411.7.

(Ord. No. 1115, § 14, 2-28-2017; Ord. No. 1142, § 3(Exh. 1), 11-26-2019; Ord. No. 1143, § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020; Ord. No. 1159, § 18, 12-14-2021; Ord. No. 1160, § 18, 12-14-2021)

#### **10-6.103 Definitions.**

In addition to the terms defined by Article 17 (Definitions), the following terms shall have the following meanings as used in this chapter:

"Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons and is located on the same lot as the proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. An accessory dwelling unit also includes an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

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<sup>1</sup>Editor's note(s)—Ord. No. 1115, § 13, adopted February 28, 2017, repealed ch. 6, §§ 10-6.101—10-6.401 and enacted a new ch. 6 as set out herein. The former ch. 6 pertained to residential second units and derived from § 1, Ord. 1033, eff. June 24, 2003; Ord. No. 1087, 4-9-2013; Ord. No. 1112, § 2, 12-13-2016.

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"Junior accessory dwelling unit" is a unit that complies with the requirements of Government Code Section 65852.22, as amended from time to time.

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

"Multifamily dwelling" means a dwelling on a site with more than one (1) unit that is not within a single-family residential district (R-1, R-1-H, R-1-C) or a specific planned development district (SPD or PPD) with underlying single-family residential zoning ("single family zoning district"). A site with more than one (1) residential unit in a single-family zoning district shall be considered a single-family residence with accessory dwelling unit(s) that may be nonconforming in size, number, or other development standards.

"Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

"Passageway" as defined in Government Code Section 65852.2, as amended, means a pathway that is unobstructed clear to the sky and extends from a street to one (1) entrance of an accessory dwelling unit.

"Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

"Tandem parking" as defined in Government Code Section 65852.2, as amended, means that two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one (1) another.

(Ord. No. 1115, § 14, 2-28-2017; Ord. No. 1119, § 9, 12-12-2017; Ord. No. 1142, § 3(Exh. 1), 11-26-2019; Ord. No. 1143, § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

## ***Article 2. Standards for Accessory Dwelling Units<sup>2</sup>***

### **10-6.201 Permit required.**

The Town shall ministerially approve an application for a building permit to create any attached or detached accessory dwelling unit that meets the development requirements set forth in this chapter.

- (a) One (1) accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if the accessory dwelling unit or junior accessory dwelling unit 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 one hundred fifty (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) One detached, new construction, accessory dwelling unit up to eight hundred (800) square feet of floor area and up to sixteen (16) feet tall that does not exceed four-foot side and rear yard setbacks for a lot

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<sup>2</sup>Editor's note(s)—Ord. No. 1143, § 2(Exh. 1), adopted December 10, 2019, amended art. 2 in its entirety to read as herein set out. Former art. 2, §§ 10-6.201—10-6.207, pertained to similar subject matter, and derived from Ord. No. 1115, § 14, 2-28-2017; Ord. No. 1119, § 10, 12-12-2017; Ord. No. 1142, § 3(Exh. 1), 11-26-2019)

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with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in [Section] 10-6.201(a).

- (c) (i) Multiple accessory dwelling units 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. (ii) The Town shall allow at least one (1) accessory dwelling unit within an existing multifamily dwelling up to limits established in California Government Code Section 65852.2(e)(1)(C)(ii), as amended by the legislature or as interpreted by the State Department of Housing and Community Development.
- (d) Not more than two (2) accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of sixteen (16) feet and four-foot rear yard and side setbacks.

(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

### **10-6.202 Number of accessory dwelling units allowed.**

- (a) One (1) attached or detached accessory dwelling unit or one (1) junior accessory dwelling unit is allowed per lot with a proposed or existing single-family dwelling. Alternatively, a lot with a proposed or existing single-family dwelling can have one (1) detached accessory dwelling unit and one (1) junior accessory dwelling unit.
- (b) Sites developed with a Multifamily Dwelling may have up to two (2) detached accessory dwelling units. Sites developed with a Multifamily Dwelling may also have at least one (1) accessory dwelling unit and up to twenty-five (25%) percent of the number of existing permitted Multifamily Dwelling units, rounded down to the nearest whole number, 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 will comply with state building standards for dwellings. For example, an existing ten (10) unit Multifamily Dwelling can convert existing non-living space into two (2) accessory dwelling units and construct two (2) detached accessory dwelling units.

( Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

### **10-6.203 Parking.**

Parking for accessory dwelling units on single-family or Multifamily Dwelling sites shall be provided in compliance with the following provisions:

- (a) Except as provided in subsection (b), one (1) permanently surfaced parking space shall be provided for each attached or detached accessory dwelling unit in accordance with Sections 10.3.507, 10-3.508 and 10-3.511 of this Code. Said parking space may be Tandem parking and within any of the setback areas, provided however that any such parking space within a public right-of-way must be approved by the Public Works Director to ensure that such parking location does not constitute a potential fire or life safety hazard.
- (b) No parking shall be required for an accessory dwelling unit in any of the following instances:
  - (1) The accessory dwelling unit is located within one-half (1/2) mile walking distance of Public Transit.
  - (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
  - (3) The accessory dwelling unit is part of the proposed or existing primary residence (including an attached garage) or an accessory structure.

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- (c) Demolition of existing covered parking and conversion of existing parking spaces to uses other than vehicle parking. See requirements at Article 5 Parking and Loading Regulations, Section 10-3.504(b)(3).

(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020

Editor's note(s)—Formerly § 10-6.202.

### **10-6.204 Height, location, and setbacks.**

Accessory dwelling units shall either be attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling. Accessory dwelling units shall satisfy the required building height and setback standards applicable to a primary dwelling unit as specified by the zoning district in which the lot is located except that:

- (a) A newly constructed detached accessory dwelling unit shall be a maximum of sixteen (16) feet in height, measured to the predevelopment ground elevations. Accessory dwelling units newly constructed in Special Flood Hazard Areas on the adopted Town Flood Insurance Rate Map may be up to fourteen (14) feet in height, measured from the Base Flood Elevation plus one (1) foot of freeboard, or sixteen (16) feet in height, whichever is taller.
- (b) No setback or height limit shall be required for the following as long as the existing building envelope remains unchanged (except additions allowed to detached structures for ingress and egress in Section 10-6.206):
  - (1) An existing living area that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit; or
  - (2) An accessory structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit; or
  - (3) A structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
- (c) The Town shall require a setback of no more than four (4) feet for a new accessory dwelling unit that does not fall under Subsection (b).

(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019); Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

Editor's note(s)—Formerly § 10-6.203.

### **10-6.205 Lot coverage, floor area ratio, and density.**

For the purposes of determining maximum lot coverage and floor area ratio requirements, residential second unit square footage shall be calculated as a part of the primary living unit, and subject to the limitations provided in this Title. The Town shall not apply limits on lot coverage and floor area ratio for either attached or detached dwellings that does not permit at least an eight hundred (800) square foot accessory dwelling unit that is at least sixteen (16) feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other development standards.

Pursuant to state law, an accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.



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(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020

Editor's note(s)—Formerly § 10-6.204.

#### **10-6.206 Minimum and maximum size.**

The minimum size of an accessory dwelling unit shall be the minimum necessary to comply with all adopted and applicable building codes and shall not exceed eight hundred fifty (850) square feet in floor area or one thousand (1,000) square feet for an accessory dwelling unit that provides more than one (1) bedroom. If there is an existing primary single-family dwelling over one thousand six hundred (1,600) square feet, the total floor area of an attached accessory dwelling unit shall not exceed fifty (50%) percent of the existing primary dwelling unit.

An accessory dwelling unit created within the existing space of a detached accessory structure may be expanded in compliance with all applicable regulations. The Town shall allow an existing detached accessory structure to be expanded up to one hundred fifty (150) square feet if necessary to accommodate ingress and egress.

(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020

Editor's note(s)—Formerly § 10-6.205.

#### **10-6.207 Architectural design standards.**

No heritage tree (as defined in Title 4, Chapter 13) shall be removed in conjunction with the construction of an accessory dwelling unit until a building permit has been issued for the accessory dwelling unit..

The following standards apply to newly constructed accessory dwelling units located within required side and rear setbacks for the district in which the unit is located under Development Standards Table 4A and not conversions of existing structures:

- (a) The entrance to the accessory dwelling unit shall minimize noise and privacy impacts for neighbors by facing the entrance towards the interior of the lot and/or away from neighboring development, unless the accessory dwelling unit is directly accessible from an alley, public path, or public street.
- (b) Wall heights shall be limited to a maximum height of eight (8) feet on the interior and eleven and one half (11.5) feet on the exterior. Planning Department Staff shall develop written standards that illustrate how wall height will be measured for various roof forms.

(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020

Editor's note(s)—Formerly § 10-6.206.

#### **10-6.208 Exceptions to standards.**

Exceptions to Sections 10-6.201 through 10-6.207 may be permitted subject to approval of a conditional use permit in accordance with Article 13 of this title. However, the total area of floor space for a detached accessory dwelling unit shall not exceed twelve hundred (1,200) square feet. The following design standards apply to units requesting a conditional use permit for an exception or design review:

- (a) Accessory dwelling unit construction shall be of complimentary materials, colors, and style as the exterior of the primary living unit including roof, eaves, windows, accents, and doors.

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- (b) New construction accessory dwelling units at or above one hundred fifty (150) mean sea level shall provide screening from off-site views unless not possible under Ross Valley Fire Department Vegetation Management Plan requirements. Screening may include landscaping and/or natural forms.
  - (c) Landscaping shall be included to screen mechanical and structural elements of the accessory dwelling unit from off-site views, including, but not limited to, foundations, retaining walls, condensers, and transformers, provided that nothing in this provision shall require the accessory dwelling unit to be screened completely from view or require any screening that would conflict with Ross Valley Fire Department Vegetation Management Plan requirements.

(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

Editor's note(s)—Formerly § 10-6.207.

### **10-6.209 General requirements and restrictions.**

The following requirements and restrictions apply to accessory dwelling units:

- (a) All accessory dwelling units shall satisfy all Title 9 Building Regulations and any objective standards and objective requirements in the Town Municipal Code and adopted Town Council resolutions including, but not limited to Title 6, Chapter 8, Urban Runoff Pollution Prevention and Title 7, Chapter 12, Watercourses.
- (b) The unit shall not be intended for sale separate from the primary residence (including creation of a stock cooperative or similar common interest ownership arrangement) and may be rented. Rental of accessory dwelling units approved after January 1, 2020, shall be for a term longer than thirty (30) days.
- (c) For sites within a Flood Hazard Area on the adopted Federal Emergency Management Agency Flood Insurance Rate Map, the finished floor of any new or legalized accessory dwelling unit shall be elevated at least one (1) foot above the Base Flood Elevation as "new construction" under Title 7, Chapter 11, Protection of Flood Hazard Areas, even if the project would not be considered a "substantial improvement." The applicant shall submit an Elevation Certificate based on construction drawings with the building permit plans and a final Elevation Certificate shall be required prior to project final.
- (d) An accessory dwelling unit shall include separate exterior access from the primary dwelling unit and may include an interior connection. A passageway from the accessory dwelling unit to a public street may be created, but shall not be required by the Town.
- (e) The Building Department and Ross Valley Fire Department shall confirm that side and rear setbacks are sufficient for fire and safety.
- (f) The Town shall not require the correction of any nonconforming zoning condition as a condition of approval for an accessory dwelling unit.
- (g) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
- (h) The Town shall not impose any impact fee upon the development of an accessory dwelling unit less than seven hundred fifty (750) square feet. Any impact fees charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(Ord. No. 1143 , § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

Editor's note(s)—Formerly § 10-6.208.

### ***Article 3. Junior Accessory Dwelling Units<sup>3</sup>***

#### **10-6.301 Purpose.**

The purpose of this article is to allow the creation of junior accessory dwelling units on lots zoned for single-family residences in accordance with California Government Code Section 65852.22, as amended from time to time.

( Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

#### **10-6.302 Requirements for junior accessory dwelling units.**

The following requirements and restrictions apply to junior accessory dwelling units:

- (a) Limit of one (1) junior accessory dwelling unit per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
- (b) Must be contained entirely within the walls of the proposed or existing single-family residence, including within an attached garage but excluding detached structures.
- (c) Size must be five hundred (500) square feet or smaller, measured to interior walls.
- (d) Shall include:
  - (1) An efficiency kitchen, which shall include 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 junior accessory dwelling unit.
  - (2) A separate entrance from the main entrance to the proposed or existing single-family residence; and
  - (3) Sanitation facilities, which may be separate or shared with the existing structure.
- (e) Owner-occupancy is required in the single-family residence in which the Junior Accessory Dwelling Unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created Junior Accessory Dwelling Unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

( Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

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<sup>3</sup>Editor's note(s)—Ord. No. 1149 § 2(Exh. 1), adopted September 8, 2020, added provisions for Article 3, §§ 10-6.301—10-6.305, pertaining to junior accessory dwelling units, to read as herein set out. Former Article 3, §§ 10-6.301—10-6.303, pertained to administration and enforcement, and has been renumbered to Article 4, §§ 10-6.401—10-6.403, as herein set out.

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### **10-6.303 Deed restriction required.**

A deed restriction shall be recorded prior to issuance of the building permit that restricts use of the junior accessory dwelling unit size and attributes that conforms with this article.

( Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

### **10-6.304 Parking.**

No parking shall be required for the junior accessory dwelling unit as a condition of granting the permit. If a junior accessory dwelling unit is created within an attached garage, the Town can require existing garage parking to be replaced pursuant to Section 10-3.504.

( Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

### **10-6.305 Application of fire or life protection regulations.**

For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. The Town may apply requirements relating to fire and life protection within a single-family residence that contains a junior accessory dwelling unit that apply uniformly to all single-family residences within the zone, regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

( Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

## ***Article 4. Administration and Enforcement<sup>4</sup>***

### **10-6.401 Administration.**

Any person proposing to create or construct an accessory dwelling unit or junior accessory dwelling unit that complies with Sections 10-6.201 through 10-6.206 and 10-6.208, or has received an exception with a use permit, shall submit a building permit application to the Building Department with a site plan, elevations, color and materials samples, and any other information deemed necessary to administer this chapter, even if no construction is proposed. The Town shall consider the building permit application ministerially, without discretionary review or a hearing. The Town shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within sixty (60) days from the date the Town receives a complete application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the Town may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the Town acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the (sixty) 60-day time period shall be tolled for the period of the delay.

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<sup>4</sup>Editor's note(s)—Previously, Ord. No. 1087, adopted Apr. 9, 2013, deleted Art. 4, § 10-6.401, which pertained to second unit rent limitation and derived from Ord. 1033, § 1, eff. June 24, 2003.

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The Town Council may authorize by resolution a fee for conditional use permits and the ministerial review of accessory dwelling units.

(Ord. No. 1115, § 14, 2-28-2017; Ord. No. 1142, § 3(Exh. 1), 11-26-2019; Ord. No. 1143, § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

#### **10-6.402 Prior conditions not applicable.**

This chapter supersedes any Town conditions on existing accessory dwelling units that comply with Sections 10-6.201 through 10-6.205 and 10-6.207, including owner occupancy or rent control, that were imposed as conditions of approval on accessory dwelling units that the Town approved prior to the effective date of this chapter if the conditions would not apply under current regulations. The Planning Director is authorized to void recorded deed restrictions for accessory dwelling units that comply with this chapter at the request of a property owner.

(Ord. No. 1115, § 14, 2-28-2017; Ord. No. 1142, § 3(Exh. 1), 11-26-2019; Ord. No. 1143, § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

#### **10-6.403 Requirements for actions to eliminate ADU entrance or permanent provisions for eating, cooking, and sanitation.**

It is the Town's intent to preserve accessory dwelling units and discourage the conversion of accessory dwelling units for the use of the primary dwelling. To this end, the following are requirements that apply when taking actions that remove elements of an accessory dwelling unit.

- (a) A building permit shall be required to remove the separate entrance or permanent provisions for eating, cooking, and sanitation in an accessory dwelling unit.
- (b) No building permit shall be issued to remove permanent provisions for eating, cooking, and sanitation or the separate entrance for an accessory dwelling unit created by converting or demolishing a garage, carport, or covered parking structure in conjunction with the construction of an accessory dwelling unit unless either: 1) the project includes restoring the garage for vehicle parking prior to the first inspection on the permit; or 2) the site has the required number of on-site parking spaces as required by the Parking Standards Table, referred to as Table 5A, of the San Anselmo Municipal Code and the spaces comply with all provisions for setbacks, siting, configuration and size.
- (c) No building permit shall be issued to remove permanent provisions for eating, cooking, and sanitation or the separate entrance for an accessory dwelling unit created with an exception to lot coverage and/or floor area ratio unless the project removes the additional lot coverage and/or floor area granted for the accessory dwelling unit prior to issuance of the permit or a variance is approved.
- (d) No building permit shall be issued to remove permanent provisions for eating, cooking, and sanitation or the separate entrance for an accessory dwelling unit created with side or rear yard setbacks that are less than required under the development standards Table 4A unless the project includes removing the area for the accessory dwelling unit where the setback or a variance was approved.

(Ord. No. 1142, § 3(Exh. 1), 11-26-2019; Ord. No. 1143, § 2(Exh. 1), 12-10-2019; Ord. No. 1149 § 2(Exh. 1), 9-8-2020)

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## 16-52.100 Accessory dwelling unit.

This purpose of this chapter is to provide for the creation of accessory dwelling units ("unit") and junior accessory dwelling units in a manner consistent with state law. The purpose for the Town of Tiburon is to expand the opportunity to provide a variety of housing opportunities, while still preserving the character of the town.

### A. Definitions.

1. "Accessory dwelling unit" ("ADU") shall mean 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 dwelling. It shall include permanent provision for living sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is or will be situated
2. "Junior accessory dwelling unit" ("JADU") shall mean a unit that is no more than five hundred square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure. A junior accessory dwelling unit must include an efficiency kitchen with a sink, cooking facility with appliances that do not require electrical service greater than one hundred twenty volts, and a food preparation area that is of reasonable size in relation to the size of the unit. The junior accessory dwelling unit must include a separate entrance from the main entrance to the structure. The junior accessory dwelling unit may include an interior entrance connecting the junior accessory dwelling unit and the primary dwelling unit. The interior entrance may include a second interior doorway for sound attenuation.
3. "Internal accessory dwelling unit" means an accessory dwelling unit that is contained within the existing space of a single-family residence or accessory structure, has independent exterior access, and does not add any floor area to an existing structure.
4. "Attached accessory dwelling unit" means an accessory dwelling unit that shares a common wall with the primary dwelling unit on the lot, either by being constructed as a physical expansion (i.e., addition) of the primary dwelling unit, conversion of an existing garage attached to the primary dwelling, or installation of a new basement underneath an existing primary dwelling unit.
5. "Detached accessory dwelling unit" means an accessory dwelling unit that is constructed as a separate structure from the primary dwelling unit on the lot or is created by the conversion (full or partial) of an existing detached accessory building into an accessory dwelling unit.

### B. Accessory dwelling units.

- B. 1. Administration. This section provides for the establishment and reasonable regulation of accessory dwelling units in order to encourage housing opportunities for all segments of the population while ensuring the public health safety and welfare of the town.
  1. Application and fee. Applications for an accessory dwelling unit shall be processed ministerially and shall be accompanied by the appropriate fee. Accessory dwelling unit shall be permitted through issuance of a building permit.
  2. Accessory dwelling units and junior accessory dwelling units are permitted on lots zoned to allow single-family or multi family dwelling residential use.
  3. Director of community development as review authority. Building permit applications for accessory dwelling units shall be acted upon by the director ministerially without discretionary review or a public hearing. The permit shall be reviewed and approved through the building division. The building permit application shall be acted upon within

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sixty days from receipt of a completed application and if not acted upon within that timeline the application shall be deemed approved. If the applicant requests a delay, the sixty-day time period shall be tolled for the period of the delay. A courtesy notice shall be provided to owners of property within one hundred feet of the subject property, as set forth on equalized county tax assessment rolls, at least ten days prior to a decision by the director.

4. Approved existing accessory dwelling units remain valid. Any secondary dwelling unit legally established with an approved conditional use permit prior to July 1, 2003, and in continued existence shall be deemed a legal, conforming dwelling unit. Secondary dwelling units established by any such conditional use permit shall continue to comply with all conditions of original permit approval, and with building code for secondary dwelling units in effect at the time of permit approval. The town shall not require the correction of any nonconforming zoning condition as a condition of approval for an accessory dwelling unit.
5. Expiration. Accessory dwelling unit permits issued in compliance with this section shall expire and become null and void eighteen months after building permit issuance unless a certificate of occupancy has been issued by the building division or extension of the existing building have been granted through the building division.
6. Periodic update. The director shall maintain a record of all legal accessory dwelling units and all legal secondary dwelling units and shall review and update the record every two years.
7. Violations considered an infraction. Violations of this section shall be punished as infractions or by administrative citation, in the discretion of the director and shall be subject to the provisions of section 16-56.030 (violations and penalties) and/or chapter 31 (enforcement of code).
8. Administrative review. The decision of the director granting or denying an accessory dwelling unit permit is a ministerial decision as required by state law, and not subject to a public hearing.
9. Density. Pursuant to California Government Code Section 68552.2, no accessory dwelling unit approved under these provisions shall be considered in calculating the density of the lot allowed by the land use designation contained in the land use element of the Tiburon General Plan, and accessory dwelling units are deemed a residential use that is consistent with the existing general plan and zoning for the lot.

B. 2 Development standards.

1. Rental. The accessory dwelling unit may be rented separate from the primary unit but may not be rented for a period of less than thirty consecutive days or used as a vacation rental. The accessory dwelling unit may not be sold separately from the primary unit.
2. Location on lot. The accessory dwelling unit shall be either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling. If detached, the accessory dwelling unit shall be separated from the primary unit and any detached accessory building by a minimum of six feet, or as may otherwise be required by the building code.
3. Guaranteed allowance. All standards related to size, limits on lot coverage, floor area ratio, open space and/or minimum lot size that apply to an accessory dwelling unit shall not prohibit an accessory dwelling unit measuring eight hundred square feet of floor area or

less, a height of sixteen feet or less, and four-foot side and rear yard setbacks, provided the accessory dwelling unit complies with all other applicable standards. For an accessory dwelling unit that exceeds these standards, the architectural compatibility objective design standards outlined in the subsequent sections shall be applied.

4. Size-Attached ADUs. The total floor area of an attached accessory dwelling unit shall be as follows:

**Table 1: Attached ADU Floor Area**

ADU Type	ADU Floor Area
One bedroom or less	The total area of floor space shall not exceed 850 sq. ft.  For lots greater than 10,000 sq. ft, the total floor space shall not exceed 1,000 sq. ft.
More than one bedroom	The total area of floor space shall not exceed 1,000 sq. ft.
	In no case may the total floor area of an attached ADU exceed 50% of an existing primary dwelling

5. Size-Detached ADUs. The total floor area of detached accessory dwelling units shall be as follows:

**Table 2: Detached ADU Floor Area**

ADU Type	ADU Floor Area
One bedroom or less	The total area of floor space shall not exceed 850 sq. ft.  For lots greater than 10,000 sq. ft, the total floor space shall not exceed 1,000 sq. ft.
More than one bedroom	The total area of floor space shall not exceed 1,000 sq. ft.

6. For accessory dwelling units which exceed the maximum size limitations set forth in Table 1 or Table 2, site plan and architectural review will be required as well as a building permit, if approved. As part of this review, the ADU shall comply with all regulations set forth within the land use designation.

7. Setback. Minimum setbacks of accessory dwelling units shall be as follows:

**Table 3. Minimum Property Line Setback**

Property Line	ADU Type	
	Attached and Detached	Internal
Front	Same as applicable zone to the primary dwelling unit. In the case of an ADU within a Precise Plan Area or Residential Planned Development Area where no front setback is prescribed, the front setback shall be 30 feet	None required



Side/Rear	4 ft.*	
*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 Accessory Dwelling Unit or to a portion of an Accessory Dwelling Unit.		

8. Side yard setback and height will be verified by a licensed surveyor.
9. Setback exceptions. No Setback shall be required for a lawfully constructed garage in existence prior to January 1, 2017 that is converted in whole or part to an accessory dwelling unit.
10. Height. One story accessory dwelling units shall have a height limit of sixteen feet or no taller than the primary residence at the area of attachment and in no case greater than thirty feet. Accessory dwelling units may be two stories and no greater in height than thirty feet.
11. Historic structures. No demolition of a historic building (Local, State, or Federal Listing) is allowed as part of the construction of an accessory dwelling unit.
12. Parking.
  - a. One off-street parking space per accessory dwelling unit shall be required, unless parking exceptions as set forth in section (B)13 of this section apply.
  - b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, those off-street parking spaces need not be replaced. These spaces may be provided as tandem parking on a driveway.
13. Parking exceptions. No parking shall be required of an accessory dwelling unit in any of the following instances:
  - a. The accessory dwelling unit is located within one-half mile walking distance of public transit, as measured along path of travel.
  - b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
  - c. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure, including the conversion of existing garage or carport.
  - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  - e. When there is a car share vehicle located within one block of the accessory dwelling unit. "Car share vehicle" shall mean a fixed location identified in a map available to the general public where at least one automobile is available daily for immediate use by the general public or members of a car share service, which vehicle may be reserved for use and accessed at any time through an automated application, kiosk, or other method not requiring a live attendant. This term shall not include vehicles returned to locations other than fixed locations where automobiles are not routinely available for immediate use.

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14. Fire sprinklers. Fire sprinklers are not required in an Accessory Dwelling Unit if they are not required of the primary dwelling unit. Fire safety equipment such as smoke detectors may be required.
15. Architectural compatibility. The accessory dwelling unit shall comply with the following objective architectural standards.
- a. Color and materials. The color and materials of the accessory dwelling unit shall match the primary unit.
  - b. Lighting. Lighting shall be shielded and/or directed such that it does not produce glare visible from off-site or illuminate adjacent or nearby property.
  - c. The accessory dwelling unit shall be located at least ten feet from the top of any creek bank that exists on the lot of the proposed accessory dwelling unit. The top of creek bank shall be defined by a licensed civil engineer.
  - d. The accessory dwelling unit shall have a permanent full kitchen with a sink, refrigerator, and stove/oven. Only one kitchen is allowed per accessory dwelling unit.
  - e. No exterior lights are allowed except two shielded downward pointing lights at the entry to the accessory dwelling unit.
  - f. No windows facing the rear and side property lines are allowed when located less than six feet from the rear or side property line.
  - g. No entryways are allowed within ten feet of a side or rear property line.
  - h. The accessory dwelling unit is not allowed on any open space easement. A title report shall be provided to identify all open-space easements.
  - i. The accessory dwelling unit shall not have any reflective roof or building material.
  - j. The roof color of the accessory dwelling unit shall use similar roof materials and color as the primary dwelling unit.
  - k. No vents, flues, or appurtenances shall exceed the height limit.
  - l. No signs are allowed on accessory dwelling unit except an address sign.
  - m. No portico, trellis or other roof is allowed as part of the accessory dwelling unit. A 5x5 foot entryway roof is allowed but must be at least ten feet from any property line.
  - n. All building code requirements, including Appendix Q of the 2019 Residential Code (Tiny Houses) shall apply to all accessory dwelling units.
  - o. The accessory dwelling unit shall not include any other item that would require discretionary approval, including but not limited to an exterior shower, exterior sink, pool, BBQ, spa, fence, and/or piping stub outs to the exterior.
  - p. Two trees shall be planted at each proposed window of the accessory dwelling unit facing a neighboring property where such trees are consistent with the Fire Code.
16. Any protected tree to be removed as part of a new accessory dwelling unit shall require a tree removal permit.

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17. Fire district regulations. The accessory dwelling unit shall comply with all applicable fire district regulations, subject to provisions and limitations set forth in Government Code Section 65852.2.
  18. Sanitary service. Adequate sanitary service capacity for the additional increment of effluent resulting from the accessory dwelling unit shall be available. If the lot is connected to the public sewer system, the applicant shall submit a letter from the appropriate sanitary district to that effect. If the lot is not connected to the public sewer system, the applicant shall submit a letter from the County of Marin Environmental Health Department confirming that the individual or alternative sewage disposal system serving the lot has adequate capacity to accommodate the proposed accessory dwelling unit.
  19. Separate utility connection. New and separate utility connections shall be required directly between the accessory dwelling unit and the utility. Consistent with Government Code section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service,
  20. Premises identification. Any town-assigned street address number for the accessory dwelling unit shall be plainly visible and legible from the street fronting the property as required by the applicable building code.
  21. Exterior access and passageways.
    - a. Internal dwelling units. Internal accessory dwelling units shall have independent exterior access separate from the primary dwelling.
    - b. Attached accessory dwelling units. Independent exterior access separate from the primary dwelling is required. No internal connection is permitted for attached accessory dwelling units. Exterior access may not encroach into required setbacks.
    - c. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

C. Junior accessory dwelling units.

C. 1. Administration. This section provides for the establishment and reasonable regulation of junior accessory dwelling units in order to encourage housing opportunities for all segments of the population while ensuring the public health, safety, and welfare.

1. Building permit required. No junior accessory dwelling unit shall be established or used unless a building permit has been issued by the town.
2. Director of community development as review authority. Applications for junior accessory dwelling unit permits shall be acted upon by the director without discretionary review or a public hearing. The director shall act on the application within sixty days from receipt of a completed application if there is an existing single-family or multifamily dwelling on the lot. If the application is submitted with a permit application to create a new single-family dwelling on the lot, the director may delay acting on the application for the accessory dwelling unit until the town acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit shall be considered

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without discretionary review or hearing. If the applicant requests a delay, the sixty-day time period shall be tolled for the period of the delay.

3. Grant of junior accessory dwelling unit permit. In order to grant a junior accessory dwelling unit permit, the director shall find that the junior accessory dwelling unit would comply with the standards set forth in subsection C.(2) of this section.
4. Building permits. A building permit and a certificate of occupancy shall be required in conjunction with the installation of a junior accessory dwelling unit. Any repair, rehabilitation, or other work associated with the installation of the junior accessory dwelling unit shall also obtain building permits where required by law.
5. Expiration. Junior accessory dwelling unit permits issued in compliance with this section shall expire and become null and void eighteen months after building permit issuance unless a certificate of occupancy has been issued by the building division or extension of the existing building have been granted through the building division.
6. Periodic update. The director shall maintain a record of all authorized junior accessory dwelling units and shall review and update the record every two years. At the review, the owner of record shall verify in writing under penalty of perjury that the junior accessory dwelling unit is in compliance with the standards for junior accessory dwelling units and with all operating requirements of the permit as set forth in applicable ordinances and regulations.

C. 2. Development standards.

1. Maximum size. Junior accessory dwelling units shall be no greater than five hundred square feet in size and contained entirely within a single-family residence.
2. Owner occupancy. One of the dwelling units on the site (either the primary unit or the junior accessory dwelling unit) shall be owner-occupied. For purposes of this standard, "owner" is defined as a person or entity with a majority (i.e., fifty-one percent or greater) interest in the property. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.
3. Junior accessory dwelling units shall not be sold separately. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
4. Rental. The junior accessory dwelling unit may be rented separate from the primary unit but may not be rented for a period of less than thirty consecutive days or used as a vacation rental. The junior accessory dwelling unit may not be sold separately from the primary unit.
5. Location. No more than one junior accessory dwelling unit is permitted on a residential lot within an existing single-family structure. No setbacks apply to internal/junior accessory dwelling units.
6. Size. Maximum floor area allowed is five hundred square feet.
7. Architectural compatibility. The junior accessory dwelling unit shall comply with the following objective design standards:
  - a. All building code requirements, including Appendix Q of the 2019 Residential Code (Tiny Houses) shall apply to all junior accessory dwelling units.

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- b. The junior accessory dwelling unit shall have a permanent efficiency kitchen as defined in A(2). Only one kitchen is allowed per junior accessory dwelling unit.
    - c. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.
    - d. No portico, trellis or other roof is allowed as part of the junior accessory dwelling unit.
    - e. The junior accessory dwelling unit shall not include any other item that would require discretionary approval, including but not limited to an exterior shower, exterior sink, pool, BBQ, spa, fence, and/or piping stub outs to the exterior.
    - f. No signs are allowed on junior accessory dwelling unit except an address sign.
  - 8. Fire sprinklers. Fire sprinklers are not required in a junior accessory dwelling unit if they are not required of the primary dwelling unit. Fire safety equipment such as smoke detectors may be required.
  - 9. Exterior access and passageways. Junior accessory dwelling units shall have independent exterior access separate from the primary dwelling.
  - D. Accessory dwelling units subject to limited standards. The city shall ministerially approve an application for a building permit within a residential or mixed-use district to create the following types of accessory dwelling units. The city shall only permit one type of the following accessory dwelling units per lot. For each type of accessory dwelling unit, the city shall require compliance only with the development standards in this subsection. Standards provided above in subsections (B) and (C) do not apply to the following types of accessory dwelling units:
    - 1. Internal accessory dwelling units. One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
      - a. The accessory dwelling unit or junior accessory dwelling unit, as such use is classified in BMC 17.16.080, 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 one hundred fifty 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 junior accessory dwelling unit complies with the requirements of California Government Code Section 65852.22.
    - 2. Detached accessory dwelling units. One detached, new construction, accessory dwelling unit for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described previously in subsection (C), or an internal accessory dwelling units described in this section. The detached accessory dwelling unit must comply with the following:
      - a. Maximum floor area: Eight hundred square feet.
      - b. Maximum height: Sixteen feet.
      - c. Minimum rear and side setbacks: four feet.

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3. Non-livable multifamily space. Multiple accessory dwelling units 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, subject to the following:
    - a. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to maximum of twenty-five percent of the existing multifamily dwelling units; and
    - b. Each accessory dwelling unit shall comply with building code standards for dwellings.
  4. Detached accessory dwelling units on multifamily lots. In the event an accessory dwelling unit is proposed on a lot that has an existing multifamily dwelling but is detached from that multifamily dwelling, no more than two accessory dwelling units are permitted. The accessory dwelling units, are subject to the following:
    - a. Maximum height: Sixteen feet.
    - b. Minimum rear and side setbacks: four feet.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010; Ord. No. 541 N.S., § 2(X), 8-15-2012; Ord. No. 568 N.S., § 2(C), 2-1-2017; Ord. No. 587 N.S., §§ 2, 3(Exh. A), 2-19-2020; Ord. No. 594 N.S., § 3, 2-16-2022)