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## Chapter 17.74

## ACCESSORY DWELLING UNITS

**17.74.010 Purpose.**
A. This chapter establishes standards for the location and construction of accessory dwelling units (ADUs) consistent with Government Code Sections 66310 through 66342. These standards are intended to allow accessory dwelling units as a form of affordable housing in Capitola while maintaining the character and quality of life of residential neighborhoods.

B. It is the city's intent for this chapter to be consistent with state law as it is amended from time to time. In case of conflict between this chapter and state law, state law governs unless local variation is permitted. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

**17.74.020 Definitions.**
Terms used in this chapter are defined as follows. If a definition below conflicts with a definition in Chapter 17.160 (Glossary), the definition below controls.

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

B. "Attached accessory dwelling unit" means an accessory dwelling unit that:

1. Shares at least one common wall with the primary dwelling unit; and

2. Is not fully contained within the existing space of the primary dwelling unit.

C. "Detached accessory dwelling unit" means an accessory dwelling unit that does not share a common wall with the primary dwelling unit and is not an internal accessory dwelling unit.

D. "Internal accessory dwelling unit" means an accessory dwelling unit that is fully contained within the existing space of the primary dwelling unit or an accessory structure.

E. "Junior accessory dwelling unit" means an accessory dwelling unit no more than five hundred square feet of interior livable space in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. For purposes of this definition, attached garages and other enclosed uses within the residence are considered a part of a single-family residence.

F. "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

G~~F~~. "Multifamily dwelling" means a structure on a single lot with two or more attached dwelling units.

~~F~~H. "Two-story attached accessory dwelling unit" means an attached accessory dwelling unit that is configured as either:

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1. Two stories of living space attached to an existing primary dwelling unit; or

2. Second-story living space above a ground-floor garage or living space in an existing primary dwelling unit.

IG. "Two-story detached accessory dwelling unit" means a detached accessory dwelling unit that is configured as either:

1. Two stories of living space in a single accessory dwelling unit; or

2. Second-story living space above a ground-floor garage or other accessory structure. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

**17.74.030 Permitting process.**

A. When Consistent with Standards.

1. Ministerial Approval.

a. Except when a design permit is specifically required by this chapter, an accessory dwelling unit that complies with all standards in this chapter shall be approved ministerially with an administrative permit. No discretionary review or public hearing is required.

b.- A building permit application may be submitted concurrently with the administrative permit application.

2. Time Period for City Action.

a. The city shall determine whether an application to create or serve an accessory dwelling unit is complete and provide written notice of this determination to the applicant not later than 15 business days after receiving the application.

b. If the city determines an application is incomplete, the city shall provide the applicant with a list of incomplete items and a description of how the application can be made complete. The list and description shall be provided with the written notice required by Paragraph (a) above.

c. After receiving a notice that the application was incomplete, an applicant may submit to the city additional application materials to cure and address the items that are deemed to be incomplete by the city.

d. In the review of additional application materials submitted pursuant to Paragraph (c) above, the city shall not require the application to include an item that was not included in the list required by paragraph (b) above.

e. If an applicant submits additional application materials pursuant to Paragraph (cd) above, the city shall determine whether the additional materials remedied all incomplete items listed in the determination issued pursuant to Subsection (b) above. The city shall provide written notice of this determination to the applicant not later than 15 business days after receiving the additional materials.

f. If the city does not make a timely determination as required by this subsection, the application shall be deemed to be complete.

g2. If an existing single-family or multifamily dwelling exists on the parcel upon which an accessory dwelling unit is proposed, the city shall either approve or deny an application to create an accessory dwelling unit within sixty days from the date the city receives a completed application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay.

h4. If the accessory dwelling unit application is submitted with a permit application to create a new single-family or multifamily dwelling on the parcel, the city may delay approving or denying the accessory dwelling unit application until the city approves or denies the permit application for the new single-family

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or multifamily dwelling. The accessory dwelling unit shall be considered without discretionary review or hearing.

i. If the city has not approved or denied the completed application within 60 days, the application shall be deemed approved.

3. Comments for Denied Applications.

a~~3~~. If the city denies an application for an accessory dwelling unit, the city shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

b. Written comments required by Paragraph (a) above shall be provided to the applicant not later than 15 business days after the city denies the application.

c. If the city determines an application is incomplete or denies the application, the applicant may appeal the decision to the Planning Commission and may appeal the Planning Commission decision to the City Council. The city shall make a final decision on the appeal not later than 60 business days after receiving the applicant's written appeal.

4~~5~~. Garage Demolition.

a. A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit shall be reviewed with the application for the accessory dwelling unit and issued at the same time.

b. The applicant shall not be otherwise required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

B. Two-Story Units.

1. Planning commission approval of a design permit is required for a two-story accessory dwelling unit (attached or detached) with a height greater than the maximum permitted one-story accessory dwelling unit heights in Table 17.74-1.

2. To approve the design permit, the planning commission must make the findings in Section 17.74.110. A two-story accessory dwelling unit must comply with the standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) unless the planning commission allows a deviation through the design permit process.

C. When Deviating from Standards. An accessory unit that deviates from any standard in Section 17.74.080 (Development standards) or 17.74.090 (Objective design standards) may be allowed with planning commission approval of a design permit. See Section 17.74.100 (Deviation from standards).

D. When Dependent on Separate Construction. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building which is not a part of the accessory dwelling unit ("separate construction") and is not proposed as part of a permit application to create a new single-family dwelling on the parcel, the city shall either:

1. Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or

2. Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures as the separate construction.

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E. Within Coastal Zone.

1. A proposed accessory dwelling unit that is located in the coastal zone may require a coastal development permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in Section 17.44.130 (Findings for approval).

2. The City may issue a CDP waiver pursuant to Section 17.44.090 (De minimis waiver of a CDP) for a proposed accessory dwelling unit in the coastal zone. The City may issue a CDP waiver for an accessory dwelling unit both within and outside of locations where City decisions are appealable to the Coastal Commission. To be eligible for a CDP waiver, the proposed accessory dwelling unit must comply with all of the following:

a. The accessory dwelling unit complies with all standards in this chapter and may be approved with no public hearing required. b. The accessory dwelling is not located:

i. In an area subject to coastal hazards as defined by Section 17.44.040(F);

ii. Within 200 feet of a cliff edge; or

iii In an environmentally sensitive habitat area (ESHA) as defined by Section 17.44.040(J), including categorical ESHA areas identified in Section 17.64.020 (Applicability).

c. The accessory dwelling unit would not negatively impact coastal resources, public access, or views consistent with the City's certified Local Coastal Program.

3. A CDP waiver for an accessory dwelling unit shall comply with all requirements in Section 17.44.090 that apply to other types of development with the exception that the City may issue a CDP waiver for an accessory dwelling unit both within and outside of locations where City decisions are appealable to the Coastal Commission.

4. Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code), except that:

a. A public hearing for a CDP application for an accessory dwelling unit is not required as provided in Section 17.74.030(A)(1); and

b. The City may issue a CDP waiver for an accessory dwelling unit as provided in Section 17.74.030(E)(2)

F. Historic Resources.

1. A proposed accessory dwelling unit is subject to the requirements in Chapter 17.84 (Historic Preservation) if all of the following apply:

a. The property is in the coastal zone;

b. The accessory dwelling unit requires a design permit; and

c. The property contains a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of historic resources).

2. Compliance with Chapter 17.84 is not required for accessory dwelling unit applications that do not meet all criteria in Paragraph 1 above.

G. Correction of Violations. The city shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that

do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

H. Unpermitted Accessory Dwelling Units. The following provisions apply to a building permit application for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020.

1. The city shall not deny a building permit due to the accessory dwelling unit or junior accessory dwelling's violation of building standards or its noncompliance with this section unless the building official or their designee deems the unit substandard pursuant to Section 17920.3 of the Health and Safety Code.

2. The city shall provide the applicant a checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem the unit substandard.

3. Prior to submission of a building permit application, the city shall inform the homeowner that they may obtain a confidential third-party code inspection from a licensed contractor to determine the unit's existing condition or potential scope of building improvements before submitting a permit application.

4. A homeowner applying for a building permit is not required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code.

5. Upon receiving a building permit application, the building inspector may inspect the unit for compliance with health and safety standards and provide recommendations to comply with the standards necessary to obtain a building permit. If the building inspector finds noncompliance with health and safety standards, the city shall not penalize the applicant and shall approve necessary permits to correct noncompliance with health and safety standards.

~~1. Except as provided in subsection (H)(2) of this section, the city shall not deny a permit for an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020, due to either of the following:~~

~~a. The accessory dwelling unit or junior accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.~~

~~b. The accessory dwelling unit or junior accessory dwelling unit does not comply with Government Code Sections 66314 through 66332 or this chapter.~~

~~2. The city may deny a permit for an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020, if the city makes a finding that correcting the violation is necessary to comply with the standards specified in Section 17920.3 of the Health and Safety Code.~~

~~3. This subsection shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)~~

**17.74.040 General requirements.**

The following requirements apply to all accessory dwelling units:

A. Where Allowed. An accessory dwelling unit is permitted:

1. In any zoning district where single-family or multifamily dwellings are a permitted use; and

2. On any parcel with an existing or proposed single-family or multifamily dwelling.

B. Maximum Number per Parcel. Not more than one accessory dwelling unit is allowed per parcel except as allowed by Sections 17.74.050 (Units subject to limited standards).

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C. Residential Mixed Use. If an existing or proposed dwelling unit is on a parcel with a nonresidential use, the dwelling unit is considered a single-family dwelling for the purpose of determining the applicable requirements in this chapter. If two or more existing or proposed attached dwelling units are on a parcel with a nonresidential use, the dwelling units are considered a multifamily dwelling.

D. Utility Connections. Utility connection requirements shall be subject to state law and the serving utility district. Establishing an accessory dwelling unit in conformance with this chapter does not require placing existing overhead utility lines underground.

E. Fire Sprinklers. The city shall not require accessory dwelling units to provide fire sprinklers if sprinklers are not required for the primary residence. Establishing an accessory dwelling unit does not require installing fire sprinklers in the existing primary dwelling.

F. Vacation Rentals Prohibited. Accessory dwelling units may not be used for vacation rentals as defined in Chapter 17.160 (Glossary), and notwithstanding any other provision to the contrary, rental of an accessory dwelling unit shall be for a term longer than 30 days.

G. Separate Sale from Primary Dwelling. An accessory dwelling unit shall not be sold or conveyed separately from the primary dwelling except as provided in Government Code Section 66341.

H. Guaranteed Allowance.

1. Maximum building coverage, floor area ratio, front setbacks, private open space standards in Section 17.74.080 (Development standards) and privacy impact standards in 17.74.090.B (Privacy Impacts) shall not prohibit an accessory dwelling unit with up to eight hundred square feet of ~~floor area~~interior livable space, and four-foot side and rear yard setbacks, provided the accessory dwelling unit complies with all other applicable standards. The guaranteed allowance of eight hundred square feet of floor area is in addition to the maximum floor area of a property.

2. An accessory dwelling unit may deviate from a building coverage, floor area ratio, front setbacks, or private open space standard no more than the minimum necessary to allow for eight hundred square feet of floor area.

I. Converting and Replacing Existing Structures.

1. An internal accessory dwelling unit may be constructed regardless of whether it conforms to the current zoning requirement for building separation or setbacks.

2. If an existing structure is demolished and replaced with an accessory dwelling unit, an accessory dwelling unit may be constructed in the same location and to the same dimensions as the demolished structure.

3. If any portion of an existing structure crosses a property line (excluding attached dwelling units bisected by a property line along the common wall), the structure may not be converted to or replaced with an accessory dwelling unit. For an existing structure within four feet of a property line, the applicant must submit a survey demonstrating that the structure does not cross the property line.

J. Manufactured Homes and Mobile Units.

1. A manufactured home, as defined in California Health and Safety Code Section 18007, is allowed as an accessory dwelling unit. Pursuant to California Health and Safety Code Section 18007, as may be amended from time to time, a manufactured home must:

a. Be built on a permanent chassis;

b. Be designed for use as a single-family dwelling with or without a foundation when connected to the required utilities; and

c. Include the plumbing, heating, air conditioning, and electrical systems contained within the home.

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2. Vehicles and trailers, with or without wheels, which do not meet the definition of a manufactured home, are prohibited as accessory dwelling units.

3. A prefabricated or modular home is allowed as an accessory dwelling unit.

K. Junior Accessory Dwelling Units.

1. General. Junior accessory dwelling units shall ~~comply with all~~be subject to the same standards and permitting ~~requirements~~procedures as accessory dwelling units described in this chapter unless otherwise indicated.

2. Occupancy.

a. If the JADU has shared sanitation facilities with the existing structure, ~~t~~The property owner must occupy either the primary dwelling unit or the junior accessory dwelling unit on the property

b. Owner-occupancy is not required if the JADU has separate sanitation facilities or ~~unless~~ if the property is owned by a governmental agency, land trust, or housing organization~~, in which case owner occupancy is not required~~.

3. Sanitation Facilities.

a. A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the primary dwelling.

b. If a junior accessory dwelling unit does not include a separate bathroom, the junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

4. Kitchen. A junior accessory dwelling unit must include, at a minimum:

a. A cooking facility with appliances; and

b. At least three linear feet of food preparation counter space and three linear feet of cabinet space.

L. 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 16.78 of this code; and (2) an SB 9 residential development with two units on each lot has been approved for construction pursuant to Chapter 17.75 of this code. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1052 § 4, 2022; Ord. 1043 § 2 (Att. 2), 2020)

**17.74.050 Units subject to limited standards.**

The city shall ministerially approve an application for a building permit within a residential or mixed use zoning district to create any of the following types of accessory dwelling units. For each type of accessory dwelling unit, the city shall require compliance only with the development standards in this subsection. Standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) do not apply to these types of accessory dwelling units. Accessory dwelling units subject to limited standards may be combined on a single parcel as allowed by the site and lot conditions.

A. Internal Accessory Dwelling Units. One internal accessory dwelling unit and one junior accessory dwelling unit per parcel with a proposed or existing single-family dwelling if all of the following apply:

1. The internal 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 square feet beyond the same physical dimensions as the existing

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accessory structure. An expansion beyond the physical dimensions of the second story of an existing accessory structure shall be limited to accommodating ingress and egress.

2. The unit 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 junior accessory dwelling unit complies with Government Code Sections 66333 through 66339.

B. Detached Accessory Dwelling Units Eight Hundred Square Feet or Less. One detached accessory dwelling unit for a parcel with a proposed or existing single-family dwelling. ~~The detached accessory dwelling unit may be combined with a junior accessory dwelling unit described in subsection A of this section (Internal Accessory Dwelling Units).~~ The accessory dwelling unit must comply with the following:

1. Minimum rear and side setbacks: four feet.

2. Maximum floor area: eight hundred square feet of livable space.

3. Maximum height: sixteen feet or as allowed by Government Code Section 66321(b)(4).

C. Nonlivable Multifamily Space. One or more internal 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:

1. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to a maximum of twenty-five percent of the existing multifamily dwelling units; and

2. Each unit shall comply with state building standards for dwellings.

D. Detached Accessory Dwelling Units on Multifamily Parcels.

1. Up to two detached accessory dwelling units are allowed on a lot with a proposed multifamily dwelling. On a lot with an existing multifamily dwelling, up to eight detached accessory dwelling units are allowed, not to exceed the number of existing units on the lot. The accessory dwelling units must comply with the following:

a. Maximum height: sixteen feet or as allowed by Government Code Section 66321(b)(4).

b. Minimum rear and side setbacks: four feet.

2. If the existing multifamily dwelling has a rear or side setback of less than four feet, the city shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subsection. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

**17.74.060 Units subject to full review standards.**

The city shall ministerially approve an application for a building permit to create the following types of accessory dwelling units:

A. Attached Accessory Dwelling Units. An attached accessory dwelling unit in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) with a height eligible for ministerial approval as specified in Table 17.74-1.

B. Detached Accessory Dwelling Units Between Eight Hundred and One Thousand Two Hundred Square Feet. A detached accessory dwelling unit with a floor area between eight hundred and one thousand two hundred square feet in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) with a height eligible for ministerial approval as specified in Table 17.74-1. (Ord. 1043 § 2 (Att. 2), 2020)

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**17.74.070 Units requiring a design permit.**
The following types of accessory dwelling units require planning commission approval of a design permit:

A. Accessory Dwelling Units – Additional Height Allowance. A detached accessory dwelling unit in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) with a height that requires design review as specified in Table 17.74-1.

B. Accessory Dwelling Units Deviating from Standards. Any accessory dwelling unit that deviates from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards), except for accessory dwelling units approved pursuant to Section 17.74.050 (Units subject to limited standards). (Ord. 1043 § 2 (Att. 2), 2020)

**17.74.080 Development standards.**
The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (Units subject to limited standards).

A. General. Table 17.74-1 shows development standards that apply to accessory dwelling units.

**Table 17.74-1: Development Standards**

| ADU Type/Location | Standard |
|---|---|
| **Unit Size, Maximum** [1] | |
| Attached ADU, one bedroom or less | 50 percent of the existing primary dwelling or 850 sq. ft., whichever is greater |
| Attached ADU, more than one bedroom | 50 percent of the existing primary dwelling or 1,000 sq. ft., whichever is greater |
| Detached ADU | 1,200 sq. ft. |
| Internal ADU | No maximum |
| Junior ADU | 500 sq. ft. |
| **Floor Area Ratio, Maximum** [2~~1~~] | As required by zoning district [3~~2~~] |
| **Setbacks, Minimum** [4~~3~~,5~~4~~] | |
| Front | Same as primary dwelling [6~~5~~] |
| Interior Side, 1st and 2nd Story | 4 ft. |
| Exterior Side, 1st and 2nd Story | 4 ft. |
| Rear, 1st and 2nd Story | 4 ft. |
| **Building Coverage, Maximum** | |
| R-M zoning district | 40% [3~~2~~] |
| All other zoning districts | No maximum |
| **Height, Maximum** [4~~3~~] | |
| Attached ADU | 25 ft. or maximum permitted in zoning district, whichever is less |
| Detached ADU – Ministerial Approval | 16 ft. [9~~8~~] [10~~9~~] |
| Detached ADU – With Design Permit | 22 ft. |

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| ADU Type/Location | Standard |
|---|---|
| **Private Open Space, Minimum** [87] | 48 sq. ft. [32] |

Notes:
[1] Calculated as interior livable space.
[21] Calculated as the total floor area ratio on the site, including both the primary dwelling and accessory dwelling unit. An applicant may request simultaneous approval of a new internal accessory dwelling unit and an addition to the primary residence as part of a single application.
[32] Standard may not prohibit an accessory dwelling unit with at least eight hundred square feet of floor area. See Section 17.74.040(H) (Guaranteed Allowance).
[43] Setback and height standards apply only to attached and detached accessory dwelling units. Standards do not apply to internal or junior accessory dwelling units.
[54] See also Section 17.74.040(I) (Converting and Replacing Existing Structures) for setback exceptions that apply to an accessory dwelling unit created by converting or replacing an existing structure.
[65] See also subsection B of this section (Front Setbacks) and Section 17.74.040.H.
[76] A two-story detached accessory dwelling unit greater than sixteen feet in height requires a design permit.
[87] Private open space may include screened terraces, decks, balconies, and other similar areas.
[98] A maximum height of 18 feet is allowed for a detached accessory dwelling unit on a lot with an existing or proposed single family dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional 2 feet in height is allowed to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.
[109] A maximum height of 18 feet is allowed for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

B. Front Setbacks.

1. Any increased front setback requirement that applies to a garage associated with a primary dwelling unit also applies to a garage that serves an accessory dwelling unit, except that increased front setback requirements do not apply to an accessory dwelling unit created by converting or replacing an existing structure.

2. In the R-1 zoning district, front setback exceptions in Riverview Terrace and on Wharf Road as allowed in Section 17.16.030(B) apply to accessory dwelling units.

3. In the mixed use zoning districts, minimum front setbacks in Chapter 17.20 (Mixed Use Zoning Districts) apply to accessory dwelling units. Maximum setbacks or build-to requirements do not apply.

C. Parking.

1. All Areas. The following parking provisions apply to accessory dwelling units in all areas in Capitola:

a. Required Parking in Addition to Primary Residence. Parking spaces required for an accessory dwelling unit are in addition to parking required for the primary residence.

b. Tandem Spaces. Required off-street parking may be provided as tandem parking on an existing driveway.

c. Within Setback Areas.

i. Required off-street parking may be located within minimum required setback areas from front, side, and rear property lines.

ii. A parking space in a required front setback area shall be a “ribbon” or “Hollywood” design with two parallel strips of pavement. The paving strips shall be no wider than two and one-half feet each and shall utilize permeable paving such as porous concrete/asphalt, open-jointed pavers, and turf grids. Unpaved areas between the strips shall be landscaped with turf or low-growing ground cover.

d. Alley-Accessed Parking. Parking accessed from an alley shall maintain a twenty-four-foot back-out area, which may include the alley.

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2. Outside of Coastal Zone or in Cliffwood Heights. The following parking provisions apply only to accessory dwelling units outside of the coastal zone and in the Cliffwood Heights neighborhood as shown in Figure 17.74-1.

a. No additional parking is required for an internal or junior accessory dwelling unit. The floor area of an internal or junior accessory dwelling unit shall not be included in the parking calculation for the primary residence.

b. One off-street parking space is required for an attached or detached accessory dwelling unit, except as provided in subsection (C)(2)(c) of this section.

c. No off-street parking is required for an accessory dwelling unit in the following cases:

i. The accessory dwelling unit is located within one-half mile walking distance of public transit, as defined in Government Code Section 66313(m).

ii. The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the city council.

iii. The accessory dwelling unit 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 accessory dwelling unit.

v. When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.

vi. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed above.

d. When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are not required for the demolished or converted parking structure.

3. Within Coastal Zone and Outside Cliffwood Heights. The following parking provisions apply only to accessory dwelling units in the coastal zone and outside of the Cliffwood Heights neighborhood as shown in Figure 17.74-1 in accordance with the city's adopted local coastal program.

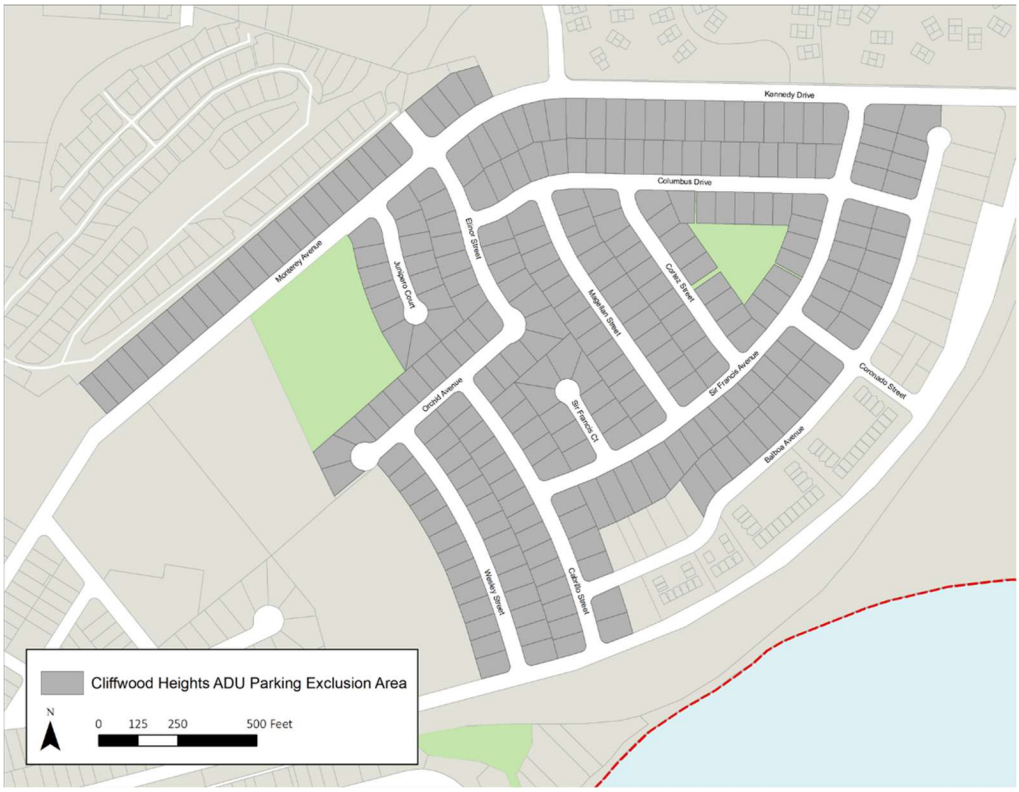
a. One off-street parking space is required for any type of accessory dwelling unit except as provided in subsection (C)(3)(b) of this section.

b. Where the primary residence is served by three or more existing off-street parking spaces, including spaces in a tandem configuration, no off-street parking is required for the accessory dwelling unit.

c. 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, replacement parking stalls are required for the demolished or converted parking structure. Replacement parking space(s) may be covered or uncovered. Replacement parking does not satisfy the one off-street parking requirement for the accessory dwelling unit in subsection (C)(3)(a) of this section.

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**Figure 17.74-1: Cliffwood Heights ADU Parking Exclusion Area**




(Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

**17.74.090 Objective design standards.**

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (Units subject to limited standards).

A. Entrance Orientation – Detached ADU. The primary entrance to a detached accessory dwelling unit shall face the front or interior of the parcel unless the accessory dwelling unit is directly accessible from an alley or a public street.

B. Privacy Impacts. To minimize privacy impacts on adjacent properties, the following requirements apply to walls with windows within eight feet of an interior side or rear property line abutting a residential use:

1. For a single-story wall or the first story of a two-story wall, privacy impacts shall be minimized by either:

   a. A six-foot solid fence on the property line; or

   b. Clerestory or opaque windows for all windows facing the adjacent property.

2. For a second-story wall, all windows facing the adjacent property shall be clerestory or opaque.

C. Second-Story Decks and Balconies. Second-story decks and balconies proposed as part of an accessory dwelling unit that requires a design permit shall be located and designed to minimize privacy impacts on adjacent residential properties, as determined by the planning commission through the design permit approval process.

D. Architectural Details. Table 17.74-2 shows architectural detail standards for accessory dwelling units.

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**Table 17.74-2: Architectural Detail Standards**

| | Non-historic property in the coastal zones and all properties outside the coastal zone [1] | | Historic property in the coastal zone [1] | |
|---|---|---|---|---|
| | **Attached ADU** | **Detached ADU** | **Attached ADU** | **Detached ADU** |
| Primary Exterior Materials [2] | Same as primary dwelling [3] | No requirement | Same as primary dwelling; or horizontal wood, fiber cement, or board and batten siding or shingles [3] | Horizontal wood, fiber cement, or board and batten siding, or shingles [4] |
| Window and Door Materials | No requirement | | Wood, composite, pre-finished metal with a nonreflective finish | |
| Window Proportions | No requirement | | Windows must be taller than they are wide or match the proportions of the primary dwelling window [5] | |
| Window Pane Divisions | No requirement | | True or simulated divided lights | |
| Roof Material | Same as primary dwelling [3] | No requirement | Same as primary dwelling [3] | Same as primary dwelling; or architectural composition shingles, clay tile, slate, or nonreflective standing seam metal [3] |
| Roof Pitch | No requirement | 4:12 or greater [6] | No requirement | 4:12 or greater [6] |
| Exterior Preservation | No requirement | No requirement | See 17.74.090.E.1 | No requirement |

Notes:
[1] "Historic property" means a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of historic resources).
[2] Standard does not apply to secondary and accent materials.
[3] "Same as primary dwelling" means the type of material must be the same as the primary dwelling. The size, shape, dimensions, and configuration of individual pieces or elements of the material may differ from the primary dwelling.
[4] If primary dwelling is predominantly stucco, stucco is allowed for the accessory dwelling unit.
[5] Bathroom windows may be horizontally oriented.
[6] If the primary dwelling has a roof pitch shallower than 4:12, the accessory dwelling unit roof pitch may match the primary dwelling.

E. Building Additions to Historic Structures. The following standards apply in the coastal zone to an ADU attached to a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of historic resources).

1. The attached ADU may not obscure, damage, or destroy the exterior of a historic structure on its historically significant building face(s), including associated roofline(s).
2. Historically significant building face means any character-defining building elevation which abuts a street or public access easement. A structure may have more than one historically significant face.
3. Preservation requirements extend to all associated elements of a character-defining building face including, but not limited to, porches, windows, doors, trim, and cladding.

**17.74.100 Deviation from standards.**
A. When Allowed. The planning commission may approve an accessory dwelling unit that deviates from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards).

B. Permit Required. Deviations allowed under this section require planning commission approval of a design permit. A variance is not required. To approve the design permit, the planning commission must make the findings in Section 17.74.110 (Findings). (Ord. 1043 § 2 (Att. 2), 2020)

**17.74.110 Findings.**
A. When Required. The planning commission must make the findings in this section to approve a design permit for:

# EXHIBIT B

1. Detached accessory dwelling units with a height that requires design review as specified in Table 17.74-1.; and

2. Accessory dwelling units that deviate from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards), except for accessory dwelling units approved pursuant to Section 17.74.050 (Units subject to limited standards).

B. Findings. To approve the design permit, the planning commission shall find that:

1. The exterior design of the accessory dwelling unit is compatible with the primary dwelling on the parcel through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.

2. The exterior design is in harmony with, and maintains the scale of, the neighborhood.

3. The accessory dwelling unit will not create excessive noise, traffic, or parking congestion.

4. The accessory dwelling unit has or will have access to adequate water and sewer service as determined by the applicable service provider.

5. Adequate open space and landscaping have been provided that are usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provide for privacy and screening of adjacent properties.

6. The location and design of the accessory dwelling unit maintain a compatible relationship to adjacent properties and do not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.

7. The accessory dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory dwelling unit complements the design of the primary residence and does not visually dominate it or the surrounding properties.

8. The site plan is consistent with physical development policies of the general plan, any area plan or specific plan, or other city policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the local coastal plan. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.

9. The project would not impair public views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.

10. The project deviation (if applicable) is necessary due to special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. (Ord. 1043 § 2 (Att. 2), 2020)

**17.74.120 Deed restrictions.**

A. Prior to issuing a certificate of occupancy for a junior accessory dwelling unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:

1. The junior accessory dwelling unit may not be used for vacation rentals as defined in Chapter 17.160 (Glossary).

2. The junior accessory dwelling unit may not be sold separately from the primary dwelling.

3. Restrictions on size, owner occupancy requirement, and attributes in conformance with this chapter.

# EXHIBIT B

B. The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the city's approval of the junior accessory dwelling unit.

C. The deed restriction shall lapse upon removal of the junior accessory dwelling unit. (Ord. 1043 § 2 (Att. 2), 2020)

**17.74.130 Incentives.**

A. Fee Waivers for Affordable Units.

1. The city may waive development fees for accessory dwelling units that will be rented at levels affordable to low- or very low-income households.

2. Applicants of affordable accessory dwelling units shall record a deed restriction limiting the rent to low- or very low-income levels prior to issuance of a building permit.

3. Landlords of accessory dwelling units shall be relieved of any affordability condition upon payment of fees in the amount previously waived as a result of affordability requirements, subject to an annual Consumer Price Index increase commencing with the date of application for building permit.

B. Historic Properties. The planning commission may allow exceptions to design and development standards for accessory dwelling units proposed on a property that contains a historic resource as defined in Chapter 17.84 (Historic Preservation). To allow such an exception, the planning commission shall approve a design permit and find that the exception is necessary to preserve the architectural character of the primary residence. (Ord. 1043 § 2 (Att. 2), 2020)