

CURRENT ORDINANCE
Chapter 29 - ZONING REGULATIONS
ARTICLE I. - IN GENERAL
DIVISION 7. ACCESSORY DWELLING UNITS

DIVISION 7. ACCESSORY DWELLING UNITS¹

Sec. 29.10.305. Intent and authority.

This division is adopted to comply with amendments to Government Code §§ 65852.2 and 65852.22 which mandate that applications for accessory dwelling units be considered ministerially without a public hearing; and sets Town standards for the development of accessory dwelling units in order to increase the supply of affordable housing in a manner that is compatible with existing neighborhoods.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

Sec. 29.10.310. Definitions.

Accessory dwelling unit. An accessory dwelling unit is a detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as a proposed or existing primary dwelling. An accessory dwelling unit also includes efficiency units and manufactured homes.

- (1) A detached accessory dwelling unit is physically separate from a primary dwelling.
- (2) An attached accessory dwelling unit is contained within the space of and/or physically attached to a proposed or existing primary dwelling.

Efficiency unit. As defined by Section 17958.1 of the Health and Safety Code.

Junior accessory dwelling unit. A junior accessory dwelling unit is a dwelling unit that does not exceed a floor area of five hundred (500) square feet and is contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit. It 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. If the junior accessory dwelling unit is contained within the proposed or existing space of a primary dwelling, it may include separate sanitation facilities, or it may share sanitation facilities with the primary dwelling. If the junior accessory dwelling unit is contained within the proposed or existing space of a detached accessory dwelling unit, it shall include separate sanitation facilities.

Manufactured home. As defined by Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling units. A nonconforming accessory dwelling unit is an accessory dwelling unit that exists under the following circumstances:

- (1) A unit which was created or converted lawfully but which due to a zone change or an amendment to the zoning ordinance, has become nonconforming.
- (2) A unit which was created lawfully while within the County, but which upon annexation to the Town, became nonconforming.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

¹Editor's note(s)—Ord. No. 2270, § I, adopted Feb. 6, 2018, repealed the former Div. 7, §§ 29.10.305—29.10.335 and enacted new Div. 7, §§ 29.10.305 through 29.10.330. Former §§ 29.10.305—29.10.335. The former Div. 7 pertained to second dwelling units and derived from Ord. No. 2115, § I, 9-15-03.

Sec. 29.10.315. Reserved.

Sec. 29.10.320. New accessory dwelling units.

- (a) *Incentive program.* Any accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A deed restriction shall be recorded specifying that the accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling.

- (b) *Design and development standards.*

- (1) *Number.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.

Not more than a number equal to twenty-five (25) percent of the existing multi-family dwelling units rounded-up to the next whole number, within the portions of an existing multi-family dwelling not used as livable space, and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling.

- (2) *Permitted zones.* Accessory dwelling units are allowed on lots in the R-1, R-D, R-M, R-1D, RMH, HR, and RC zones, or include an existing primary dwelling.

- (3) *Setbacks.*

No accessory dwelling unit may be constructed in front of a primary dwelling that is a historic resource.

No detached accessory dwelling unit may be placed in front of the primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones.

Accessory dwelling units shall comply with the following minimum setbacks:

- a. Front setbacks of the zone for a primary dwelling.
- b. Rear and side setbacks of four (4) feet in the R-1, R-D, R-M, RMH, and R-1D zones.
- c. Setbacks from any other structure located on the same lot of five (5) feet.
- d. Setbacks for a primary dwelling and located within the Least Restrictive Development Area (LRDA), in the HR and RC zones.

- (4) *Height.* Accessory dwelling units shall not exceed one (1) story and shall not exceed sixteen (16) feet in height, unless the accessory dwelling unit is contained within the existing second story space of a primary dwelling or accessory structure; added to an existing second story of a primary dwelling that is not a historic resource; or added directly above an existing one-story accessory structure on a property with an existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones.

- (5) *Maximum unit size and maximum number of bedrooms.* The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet. The maximum number of bedrooms is two (2).

Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (450) square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

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- (6) *Floor area ratio (FAR) standards.* All accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages; except, notwithstanding the FAR standards in this subsection, an accessory dwelling unit that does not exceed a floor area of eight hundred (800) square feet shall be permitted.
- (7) *Lot coverage.* Accessory dwelling units must comply with lot coverage maximums for the zone; except, notwithstanding the lot coverage standards in this subsection, an accessory dwelling unit that does not exceed a floor area of eight hundred (800) square feet shall be permitted.
- (8) *Parking.* One (1) accessory dwelling unit parking space per unit or bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling. These spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking. In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary dwelling shall be provided prior to the issuance of a building permit or final inspection, for a new accessory dwelling unit. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling shall not be required to be replaced.
- a. *Exceptions.* No parking space shall be required if the accessory dwelling unit meets any of the following criteria:
1. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop.
 2. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 3. The accessory dwelling unit or junior accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or accessory structure.
 4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one (1) block of the accessory dwelling unit.
 6. When the Director finds that the lot does not have adequate area to provide parking.
- (9) *Design, form, materials, and color.* The design, form, roof pitch, materials, and color of a new accessory dwelling unit shall be compatible with the primary dwelling and the neighborhood. Entrances serving the accessory dwelling unit shall not be constructed on any elevation facing a public street. Accessory dwelling units shall retain the residential appearance of the property. Detached junior accessory dwelling units shall be
- (10) *Town codes and ordinances.* All accessory dwelling units shall comply with all the provisions of this chapter and other applicable Town codes.
- (11) *Building codes.* The accessory dwelling unit shall comply with applicable building, health and fire codes. The accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the primary dwelling.
- (12) *Denial.* An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:
- a. Adverse impacts on health, safety, and/or welfare of the public.

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- (13) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or accessory structure. The following provisions shall apply:
- a. The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.
 - b. The accessory dwelling unit shall have separate entrance from the primary dwelling.
 - c. The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.
 - d. No parking spaces shall be required for the accessory dwelling unit.
 - e. An expansion of one hundred fifty (150) square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.
 - f. When an existing structure is non-conforming as to setback standards and converted to an accessory dwelling unit, any expansion of that structure may not be nearer to a property line than the existing building in accordance with section 29.10.245.
- (14) *Rentals longer than 30 days.* Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.
- (15) *Maximum number of dogs, cats, or litters.* All accessory dwelling units shall comply with Section 4.40.010 of the Town code.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

Sec. 29.10.325 Nonconforming units.

- (a) *Permits.* The owner of a nonconforming accessory dwelling unit must obtain an accessory dwelling unit permit. Any application received after December 31, 1987, shall be subject to an application fee and may be subject to a civil penalty pursuant to Section 29.20.960(4).

Where an application has been submitted for a nonconforming accessory dwelling unit permit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an existing unlawful accessory dwelling unit pursuant to section 29.10.315 and subject to its regulations.

- (b) *Units existing at time of annexation.* Upon annexation a lawful accessory dwelling unit shall become nonconforming and the owner must either apply for an accessory dwelling unit permit within one (1) year of the date of annexation, or the unit shall be determined to be an unlawful accessory dwelling unit pursuant to section 29.10.315.
- (c) *Number.* A maximum of two (2) nonconforming accessory dwelling units are allowed on a single lot. All other accessory dwelling units on the property must be abated.
- (d) *Housing code.* Nonconforming accessory dwelling units shall comply with the Town's housing code as follows:
- (1) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (b) shall be required to comply with the Town housing code.
 - (2) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (c) shall be required to comply with the Town housing code and all improvements shall be completed within one (1) year from the date of application.

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- (3) Where a timely application under subsection (b) or subsection (c) has been filed, and approved, an extension from the compliance date of up to six (6) months may be granted by the Community Development Department for good cause shown. Any extension request for longer than six (6) months may be granted by the Planning Commission upon finding that a hardship exists.
- (4) Remodeling and reconstruction: Remodeling and reconstruction of nonconforming accessory dwelling units shall be as follows:
- a. Where a timely application under subsection (a) or subsection (b) has been filed and approved, an accessory dwelling unit may be remodeled providing the building height and floor area do not exceed that which is allowed for a new accessory dwelling unit.
 - b. Community Development Director approval is required for the remodeling or reconstruction of an accessory dwelling unit in the case of destruction. The proposed construction shall be designed so as to architecturally harmonize with the surrounding structures so long as the construction does not increase the height or size of the unit. The factors to be considered when reviewing the design of such proposed construction include:
 1. Building height.
 2. Building materials and compatibility.
 3. Colors and materials.
 4. Setback conformity.
 5. Floor area ratio.

(Ord. No. 2270, § I, 2-6-18)

Sec. 29.10.330. Elimination and/or demolition of existing accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to section 29.10.09030.

(Ord. No. 2270, § I, 2-6-18)

Sec. 29.10.335. Expansion of existing or nonconforming accessory dwelling units.

For the purposes of this section only, expansion of an accessory dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet. Requests for expansion of any nonconforming accessory dwelling unit shall be subject to the same requirements as a new accessory dwelling unit.

(Ord. No. 2270, § I, 2-6-18)

Secs. 29.10.340—29.10.400. Reserved.

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