

LOS GATOS TOWN CODE
Chapter 29 - ZONING REGULATIONS
ARTICLE I. - IN GENERAL
DIVISION 7. ACCESSORY DWELLING UNITS

DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This Division is adopted to comply with amendments to Government Code Sections 66310 through 66342, §§ 65852.2, 65852.22, 65852.23, and 65852.26, 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.

Sec. 29.10.310. Definitions.

The following words, terms, and phrases, when used in these accessory dwelling unit regulations, shall have the meanings ascribed to them in this section:

Accessory dwelling unit means a detached, ~~or attached, or conversion~~ residential dwelling unit that is located on the same parcel as a proposed or existing ~~primary single-family or multi-family~~ dwelling. It shall provide complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking, and sanitation. 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.~~
- (2) An attached accessory dwelling unit is:
 - a. Constructed as a physical expansion (i.e., addition) of an existing primary dwelling unit, including construction of a new basement underneath a primary dwelling unit to accommodate an accessory dwelling unit; or
 - b. Constructed as part of a proposed primary dwelling unit;
- (3) A conversion accessory dwelling unit is:
 - a. Contained within the existing space of a primary dwelling unit, including within its living area, basement, or attached garage;
 - b. Created from non-livable space of a multi-family dwelling; or
 - c. Contained within the existing space of an accessory building or structure as defined by Town Code Section 29.10.020.

By-right accessory dwelling unit means an accessory dwelling unit and/or junior accessory dwelling unit that complies with California Government Code Section 66323, which allows for a streamlined approval process exempt from some Town development standards.

Conversion means modification of existing floor area/interior space for the purpose of converting to an accessory dwelling unit or junior accessory dwelling unit.

Efficiency kitchen means a limited kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling

unit. Examples of cooking appliances that may be used are: microwave ovens; hot plates; and similar appliances intended for use on top of a countertop. Refrigerator size is not limited.

Efficiency unit has the meaning set forth in Section 17958.1 of the Health and Safety Code.

High-quality transit corridor has the meaning set forth in Section 21155 of the Public Resources Code.

Hillside Area means all properties located within the Hillside Area Map of the Town's Hillside Development Standards and Guidelines.

Junior accessory dwelling unit means a dwelling unit that does not exceed an interior livable space ~~floor area~~ of five hundred (500) square feet and is entirely contained within the space of a proposed or existing single-family residence. For the purposes of this definition, enclosed spaces within the single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Kitchen means a cooking facility that includes a permanently installed cooking appliance, sink, refrigerator, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.

~~Legal nonconforming zoning condition means a physical improvement on a property that was lawful when it was constructed but does not conform with current zoning standards.~~

Livable space means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, and sanitation. Examples of livable space include but are not limited to bedrooms, bathrooms, kitchens, laundry rooms, closets, and interior stairs.

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.

Major transit stop has the meaning set forth in Section 21155 of the Public Resources Code.

Manufactured home has the meaning set forth in Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling unit means a unit that exists under the following circumstances:

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

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

Objective ~~design~~ standards means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

Passageway means a pathway that is unobstructed, clear to the sky, and extends from a street to one (1) entrance of the accessory dwelling unit and/or junior accessory dwelling unit.

Permitting agency means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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, ~~such as 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 means that two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Town-standard accessory dwelling unit means an accessory dwelling unit that complies with Town development standards as permitted under California Government Code Sections 66314 through 66322.

Unpermitted accessory dwelling unit means a dwelling unit that was created through the construction of a new structure or expansion of an existing structure without the benefit of a Building Permit (at a time when a Building Permit was required) and that cannot be otherwise legalized because it does not comply with development standards provided in this Chapter.

Sec. 29.10.315. Review process.

- (a) Development of an accessory dwelling unit and/or junior accessory dwelling unit consistent with this division shall be reviewed ministerially as a Building Permit ~~and be subject to the following: and the Town shall take final action within sixty (60) days of submittal of a complete application.~~
- ~~(1) When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.~~
- ~~(2) The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling.~~
- (1) *Application review.* Upon receipt of an application to create or serve an accessory dwelling unit, the Town shall determine whether the application is complete and provide written notice of this determination to the applicant not later than fifteen (15) business days after receiving the application. If the Town determines the application is incomplete, the applicant may cure and address the items that are deemed to be incomplete by the permitting agency. When reviewing a revised application submitted to address the identified incomplete determination, the permitting agency shall not require the application to include an item that was not included in the list of incomplete items provided in the written determination. Upon receipt of a revised application, the Town shall determine whether the application is complete and provide written notice of this determination to the applicant not later than 15 business days after receiving the application. If a permitting agency does not make a timely determination as required by this paragraph, the application or resubmitted application shall be deemed to be complete for the purposes of this section. If a permit application is determined to be incomplete or is denied, the determination may be appealed to the Planning Commission within ten (10) days of the decision pursuant to Town Code Section 29.20.255. The appeal shall be subject to the procedures contained in Town Code Sections 29.20.260 and 29.20.265. The Planning Commission shall provide a final determination no later than 60 business days after receipt of the applicant's written appeal.
- (2) *Final action.* The Town shall take final action within sixty (60) days of receiving a complete application. When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.
-

(3) *Certificate of occupancy.* The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling, unless the conditions of California Government Code Section 66328 are met.

(4) *Demolition.* 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) *Notification.* The Town shall not require, and the applicant shall not be otherwise required to provide written notice or post a placard for construction of an accessory dwelling unit and/or junior accessory dwelling unit. No noticing shall be required 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.
- (c) *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:
- (1) Adverse impacts on health, safety, and/or welfare of the public.
- (d) *Appeals.* Accessory dwelling units and junior accessory dwelling units that are consistent with this division are ministerial and are not subject to an appeal.

Sec. 29.10.320. General requirements and restrictions.

The following requirements and restrictions apply to Town-standard accessory dwelling units, by-right accessory dwelling units, and junior accessory dwelling units.

- (a) *Incentive program.* Any accessory dwelling unit or junior 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 or junior 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) *Parcel requirements.* An accessory dwelling unit and/or junior accessory dwelling unit may only be created on parcels satisfying all the following general requirements:
- (1) *Permitted zones.* A parcel zoned to allow single-family **two-family** or multi-family residential use; and-
- (2) *Dwelling unit.* A parcel that includes a proposed or existing primary dwelling.
- ~~(c) *Number.* Accessory dwelling units and/or a junior accessory dwelling unit may be permitted on a residential parcel as follows:~~
- ~~(1) *Single family development.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing single family dwelling, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.~~
- ~~(2) *Multi-family development.* 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 (such as storage rooms, boiler rooms, passageways, attics, basements, or garages), and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling.~~
- ~~(d) *Floor area ratio (FAR) standards.*~~
- ~~(1) *Accessory dwelling units.* Accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages. Exception: Up to~~
-

~~eight hundred (800) square feet of gross floor area of an accessory dwelling unit shall be exempt from the applicable FAR standards. This subsection does not apply to junior accessory dwelling units.~~

~~(2) Junior accessory dwelling units. Junior accessory dwelling units are subject to the floor area ratio standards for all structures, excluding garages.~~

(ce) *Lot coverage.* ~~All A~~ accessory dwelling units and junior accessory dwelling units are exempt from the lot coverage standards applicable to the zone and the accessory structure lot coverage limitations included in Section 29.40.015 (A)(5).

(d) *Height.* Accessory dwelling units shall be subject to the height requirements below:

- ~~(1) A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.~~
- ~~(2) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half (½) mile walking distance of a major transit stop or a high-quality transit corridor. An additional two (2) feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.~~
- ~~(3) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.~~
- ~~(4) A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.~~
- ~~(5) Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.~~

(e) *Stories.* Accessory dwelling units and junior accessory dwelling units shall be contained within one (1) story.

(f) *Entrances.* Attached accessory dwelling units, conversion accessory dwelling units, and junior accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit, **conversion accessory dwelling units**, or junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit, **conversion accessory dwelling units**, or junior accessory dwelling unit to a public street may be created but shall not be required by the Town.

(g) *Interior connection.* An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.

(h) *Balconies and Decks.* New balconies, rooftop terraces, and second-story decks are prohibited.

(i) *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 the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:

- ~~(1) The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.~~
 - ~~(2) The accessory dwelling unit shall have a separate entrance from the primary dwelling.~~
 - ~~(3) The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.~~
 - ~~(4) 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.~~
-

(5) When an existing structure is nonconforming 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.

(f) *Parking.* One (1) parking space per accessory dwelling unit **or per 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.

(1) *Exceptions.* No parking space shall be required under any of the following conditions:

- a. No additional parking shall be required for a junior accessory dwelling unit.
- b. The accessory dwelling unit is located within one-half (½) mile walking distance of public transit.
- c. The accessory dwelling unit is located within an architecturally and historically significant historic district.
- d. The accessory dwelling unit is contained within the proposed or existing space of, or constructed in substantially the same location and manner as, an existing primary dwelling or accessory structure.
- e. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- f. When there is a car share vehicle (as defined by the California Vehicle Code) located within one (1) block of the accessory dwelling unit.
- g. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or multi-family dwelling on the same lot.
- h. 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.
- i. When the Director finds that the lot does not have adequate area to provide parking.

~~(g) *Design standards.* The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that an accessory dwelling unit and/or junior accessory dwelling unit are compatible with the primary dwelling and the neighborhood. The following objective design standards apply to the construction of an accessory dwelling unit and/or junior accessory dwelling unit:~~

~~(1) *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.~~

~~(2) *Front porch.* If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty five (25) percent of the linear width of the front elevation.~~

~~(3) *Windows.* All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.~~

~~(4) *Balconies and Decks.* Balconies, rooftop terraces, and second-story decks are prohibited for all accessory dwelling units and junior accessory dwelling units.~~

~~(5) Outside stairways. Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street. This standard shall not preclude construction of an eight hundred (800) square foot accessory dwelling unit.~~

~~(6) Detached and/or attached accessory dwelling units. A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling. An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.~~

~~(7) Attached garage conversion. An existing attached garage that is converted to an accessory dwelling unit and/or junior accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.~~

~~(8) Detached garage conversion. An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.~~

(k) Grading.

(1) ~~To the extent~~As required by Chapter 12, Article II and Section 29.10.09045 (b) of the Town Code, the grading activities shall not exceed 50 cubic yards, cut plus fill, unless exempted per set forth in subsection (2) below or unless first receiving approval of a may require a Grading Permit, but will not require discretionary review of an Architecture and Site Application.

(2) Grading exemptions: ~~activities associated with the construction of an accessory dwelling unit and/or junior accessory dwelling unit shall not exceed fifty (50) cubic yards, cut plus fill, except:~~

a. Light wells that do not exceed the minimum required by the Building Code; ~~shall not count as grading activity for the purpose of this section.~~

ii. Grading activities required to provide the minimum driveway and fire access as required by the Santa Clara County Fire Department; and

b. Excavation within the footprint of a proposed accessory dwelling unit and/or junior accessory dwelling unit.~~shall not count as grading activity for the purpose of this section.~~

Note that these exemptions are only for the discretionary approval requirement listed in Town Code Section 29.10.09045 (b) and not the Grading Permit requirement at building permit submittal per Town Code Chapter 12, Article II.

(l) Cut and fill. Construction of an accessory dwelling unit and/or a junior accessory dwelling unit shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units) below:

Table 1-1. Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units		
Site Element	Cut*	Fill*
Accessory dwelling unit/junior accessory dwelling unit	4 feet	3 feet
Driveways**	4 feet	3 feet
Other (decks, yards)*	4 feet	3 feet
* Combined depths of cut plus fill for an accessory dwelling unit or junior accessory dwelling unit shall be limited to six (6) feet.		

** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.
--

- (m) *Retaining walls.* Retaining walls shall not exceed five (5) feet in height and shall not run in a continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five (5) foot landscape buffer adjacent to the street.
 - (n) *Light reflectivity value.* Exterior materials for accessory dwelling units and/or junior accessory dwelling units in the Hillside ~~Overlay-Area~~ shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines.
 - (o) *Landscaping.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO).
 - (p) *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill onto neighboring parcels consistent with Section 29.10.09015 of the Town Code.
 - (q) *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article I, Division 2, "Tree Protection," of the Town Code.
 - (r) *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer.
 - (s) *Conveyance.* Except as provided in CA Government Code Section ~~6634165852.26~~, an accessory dwelling unit may be rented separate from the primary dwelling but may not be sold or otherwise conveyed separate from the primary dwelling.
 - (t) *Town codes and ordinances.* All accessory dwelling units and junior accessory dwelling units shall comply with all the provisions of this Chapter and other applicable Town Codes.
 - (u) *Building codes.* All accessory dwelling units and junior accessory dwelling units shall comply with applicable building, health, and fire codes, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the Building Official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety.
 - (v) *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.
 - (w) *Maximum number of dogs, cats, or litters.* All accessory dwelling units shall comply with Section 4.40.010 of the Town Code.
 - (x) *Density.* Accessory dwelling units that conform to California Government Code Section 66314 shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing General Plan and zoning designation for the lot.
 - (y) *Fire sprinklers.* The installation of fire sprinklers shall not be required in an accessory dwelling unit or a junior accessory dwelling unit if sprinklers are not required for the primary residence. The construction of an accessory dwelling unit or junior accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling or existing multi-family dwelling.
-

Sec. 29.10.325. Town-standard Accessory dwelling unit development standards requirements.

An accessory dwelling unit must comply with the following objective development standards:

As provided in California Government Code Sections 66314, the following are the Town development requirements for a Town-standard accessory dwelling unit.

(a) Location.

- (1) No ~~detached~~ Town-standard accessory dwelling unit may be constructed in front of the primary dwelling except in the HR and RC zones.
- (2) No Town-standard accessory dwelling unit may be constructed in front of a primary dwelling or added to an existing second story of a primary dwelling that is any of the following:
 - a. A Historic Structure, as defined in section 29.10.020 of the Zoning Code;
 - b. Listed in the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone;" or
 - c. Listed in the California Register of Historical Resources.

(b) Development requirements. Construction of a Town-standard accessory dwelling unit shall be subject to the development requirements specified by Table 1-2 (Town-standard Accessory Dwelling Units Development Requirements) below:

Table 1-2. Town-standard Accessory Dwelling Units Development Requirements			
	<u>Conversion ADU⁽¹⁾</u>	<u>New construction detached ADU</u>	<u>Attached ADU</u>
<u>Maximum Number</u>	<u>One (1) total</u>		
<u>FAR</u>	<u>Town-standard accessory dwelling units located on a property with a proposed or existing single-family residence are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages. This increase shall not be less than 800 square feet and shall not exceed 1,200 square feet per property. If a property exceeds FAR standards, the increase provided herein is limited to 800 square feet. This increase does not apply to by-right accessory dwelling units or junior accessory dwelling units.</u> <u>Floor area ratio standards do not apply to multi-family residential properties. A Town-standard accessory dwelling unit located on a property with a proposed or existing multi-family residence may be up to 800 square feet.</u>		
<u>Maximum Size Interior livable space</u>	<u>N/A⁽²⁾</u>	<u>Single-family property: 1,200 square feet;</u> <u>Multi-family property: 1,200 square feet</u>	<u>Single-family property: 1,200 square feet⁽⁵⁾</u> <u>Multi-family property: 1,200 square feet⁽⁵⁾</u>
<u>Setbacks⁽³⁾</u>			
<u>Front</u>	<u>N/A</u>	<u>Per the applicable zoning district</u>	<u>Per the applicable zoning district</u>
<u>Rear</u>	<u>Sufficient for fire and safety</u>	<u>4 feet minimum</u>	<u>4 feet minimum</u>

<u>Side (including street-side)</u>	<u>Sufficient for fire and safety</u>	<u>4 feet minimum</u>	<u>4 feet minimum</u>
<u>From any other structure located on the same lot⁽⁴⁾</u>	<u>N/A</u>	<u>5 feet minimum</u>	<u>5 feet minimum</u>
<u>(1) Includes attached garages.</u> <u>(2) Must be located within the converted space of a proposed or existing single-family residence or accessory structure, or within the converted non-livable space of an existing multi-family dwelling.</u> <u>(3) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.</u> <u>(4) Measured from the exterior wall surface and/or supporting posts.</u> <u>(5) May not exceed 50 percent of the size of the primary dwelling.</u>			

- (c) Exceptions. 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.
- (d) Design standards. The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that a Town-standard accessory dwelling unit is compatible with the primary dwelling and the neighborhood. The following objective design standards apply only to Town-standard accessory dwelling units and do not apply to by-right accessory dwelling units:
- (1) Front entryway. A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.
 - (2) Front porch. If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation.
 - (3) Windows. All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.
 - (4) Outside stairways. Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street.
 - (5) Detached and/or attached accessory dwelling units. A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling. An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.
 - (6) Attached garage conversion. An existing attached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.
 - (7) Detached garage conversion. An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.

~~(c) — *Maximum unit size.*~~

~~(1) — The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet.~~

~~(2) — An attached accessory dwelling unit that is not created through conversion of existing space shall not exceed fifty (50) percent of the size of the existing primary dwelling. Exception: Up to eight hundred (800) square feet of gross floor area of an attached accessory dwelling unit shall be exempt from this subsection.~~

~~(3) — 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-ID 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.~~

~~(d) — *Maximum number of bedrooms.* There is no limit on the number of bedrooms in an accessory dwelling unit.~~

~~(e) — *Stories.* Accessory dwelling units shall be contained within one (1) story.~~

~~(f) — *Height.* Accessory dwelling units shall be subject to the height requirements below:~~

~~(1) — A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.~~

~~(2) — A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor. An additional two feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.~~

~~(3) — A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.~~

~~(4) — A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.~~

~~(5) — Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-ID zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.~~

~~(g) — *Entrances.* Attached accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.~~

~~(h) — *Interior connection.* An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.~~

~~(i) — *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 the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:~~

~~(1) — The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.~~

-
- ~~(2) The accessory dwelling unit shall have a separate entrance from the primary dwelling.~~
 - ~~(3) The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.~~
 - ~~(4) 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.~~
 - ~~(5) When an existing structure is nonconforming 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.~~
- ~~(j) *Density.* Accessory dwelling units that conform to California Government Code Section 65852.2 shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing General Plan and zoning designation for the lot.~~
- ~~(k) *Fire sprinklers.* Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.~~
-

Sec. 29.10.327. By-right accessory dwelling unit development requirements.

As provided in California Government Code Sections 66323, the following are the development requirements for by-right accessory dwelling units.

- (a) Development requirements. Construction of a by-right accessory dwelling unit shall be subject to the development requirements specified by Table 1-3 (By-Right Accessory Dwelling Unit Development Requirements) below:

<u>Table 1-3. By-Right Accessory Dwelling Unit Development Requirements</u>					
	<u>Single-Family Properties</u>		<u>Multi-Family Properties</u>		
	<u>Conversion ADU⁽³⁾</u>	<u>New construction detached ADU</u>	<u>Conversion ADU⁽⁴⁾</u>	<u>New construction detached ADU</u>	
				<u>On a lot with existing multi-family dwelling</u>	<u>On a lot with proposed multi-family dwelling</u>
<u>Maximum Number (may be combined)</u>	<u>One (1)</u>	<u>One (1)</u>	<u>One (1), or 25 percent of existing units, whichever is greater</u>	<u>Eight (8), provided the number of ADUs pursuant to this clause does not exceed the number of primary dwelling units.</u>	<u>Two (2)</u>
<u>FAR</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Maximum Size – Interior livable space</u>	<u>N/A⁽²⁾</u>	<u>800 square feet</u>	<u>N/A⁽²⁾</u>	<u>800 square feet</u>	<u>800 square feet</u>
<u>Setbacks⁽¹⁾</u>					
<u>Front</u>	<u>Sufficient for fire and safety</u>	<u>Per the applicable zoning district⁽⁵⁾</u>	<u>Sufficient for fire and safety</u>	<u>Sufficient for fire and safety</u>	<u>Per the applicable zoning district⁽⁵⁾</u>
<u>Side/ Street-Side</u>		<u>4 feet minimum</u>		<u>4 feet minimum</u>	<u>4 feet minimum</u>
<u>Rear</u>		<u>4 feet minimum</u>		<u>4 feet minimum</u>	<u>4 feet minimum</u>
<u>From any other structure located on the same lot⁽⁶⁾</u>	<u>N/A</u>	<u>5 feet minimum</u>	<u>N/A</u>	<u>5 feet minimum</u>	<u>5 feet minimum</u>
(1) <u>Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.</u> (2) <u>Must be located within the converted space of a proposed or existing single-family residence or accessory structure, or within the converted non-livable space of an existing multi-family dwelling. On a single-family property, an existing accessory structure may be expanded by no more than 150 square feet to accommodate ingress and egress.</u> (3) <u>Includes attached garages.</u> (4) <u>Such as storage rooms, boiler rooms, passageways, attics, basements, or garages.</u> (5) <u>Front setback requirements shall not preclude construction of by-right accessory dwelling units.</u> (6) <u>Measured from the exterior wall surface and/or supporting posts.</u>					

- (b) Exceptions. 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.

Sec. 29.10.330. Junior accessory dwelling unit development standards.

- (a) *Location.* A junior accessory dwelling unit shall be constructed entirely within the walls of the proposed or existing single-family residence. For the purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence. Junior accessory dwelling units may not be located within the space of, or attached to, a detached accessory structure of any type.
 - (b) *Setbacks.* A junior accessory dwelling unit shall be subject to the setback requirements of the applicable zoning district for a single-family residence, or the setbacks established by the existing single-family residence within which the junior accessory dwelling unit is located, whichever is less and sufficient for fire safety.
 - (c) *Maximum unit size.* The maximum floor area size of a junior accessory dwelling unit is five hundred (500) square feet of interior livable space. ~~measured from the outer face of exterior walls and the centerline of shared interior walls.~~
 - (d) *Entrances.* A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single-family residence. When separate sanitation facilities are not included within the space of the junior accessory dwelling unit, an interior entry into the main living area of the primary dwelling shall be provided in addition to the separate entrance from the main entrance to the proposed or existing single-family residence. A junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.
 - (e) *Kitchen.* A junior accessory dwelling unit shall contain a kitchen or an efficiency kitchen.
 - (f) *Sanitation facilities.* A junior accessory dwelling unit may include separate sanitation facilities, or it may share sanitation facilities with the single-family residence. If sanitation facilities are not provided within the space of the junior accessory dwelling unit, an interior doorway shall be provided between the junior accessory dwelling unit and the living area of the single-family dwelling.
 - (g) *Owner-occupancy.* If sanitation facilities are not provided within the space of the junior accessory dwelling unit, ~~the~~ the property owner shall reside in the single-family residence in which the junior accessory dwelling unit will be located. The property owner may reside in either the remaining portion of the single-family residence 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.
 - (h) *Deed Restriction.* Prior to Building Permit issuance, the applicant shall record a Deed Restriction in the form prescribed by the Town, which shall run with the land and provide for all the following:
 - (1) 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.
 - (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
 - (3) Owner-occupancy consistent with this section.
 - (i) *Fire or life protection.* 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.
-

Sec. 29.10.335. Unpermitted units.

This section provides a mechanism to legalize unpermitted accessory dwelling in compliance with Government Code Section ~~66311.765852.23~~.

- (a) *Applicability.* This section applies to accessory dwelling units and junior accessory dwelling units that were unlawfully constructed prior to January 1, 20~~20~~¹⁸, and that have not been deemed substandard pursuant to Section 17920.3 of the Health and Safety Code by the building official. The Community Development Director may determine construction date by any credible means warranted, including use of aerial photography, county records, photographs, and signed affidavits.
- (b) *Relief.* The Town shall not deny a permit to legalize an unpermitted accessory dwelling and/or junior accessory dwelling unit solely due to either of the following:
 - (1) The accessory dwelling unit and/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; or
 - (2) The accessory dwelling unit and/or junior accessory dwelling unit does not comply with Government Code Section 66333 through 66339.5.~~65852.2~~; or
 - ~~(3) — The accessory dwelling unit does not comply with this Chapter.~~
- (c) *Approval.* An unpermitted accessory dwelling unit and/or junior accessory dwelling unit may be legalized in compliance with Section 29.10.315 (Review Process).
- (d) *Enforcement.* A property owner who makes known to the Town the existence of an unpermitted accessory dwelling unit and/or junior accessory dwelling unit, but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this Chapter.
- (e) *Exception.* The Town may deny a permit to legalize an unpermitted accessory dwelling unit and/or junior accessory dwelling unit ~~and instead require correction of the violation(s)~~ if the Building Official makes a finding that correcting the violation(s) is necessary to protect the health and safety of the public or occupants of the structure.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

- (a) *Permits.* The owner of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit, as defined in Section 29.10.310, must obtain a permit in compliance with Section 29.10.315 (Review Process).

Where an application has been submitted for a nonconforming accessory dwelling unit and/or junior accessory dwelling unit 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 and/or junior accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an unpermitted accessory dwelling unit pursuant to section 29.10.335 and subject to its regulations.
 - (b) *Units existing at time of annexation.* Upon annexation a lawful accessory dwelling unit and/or junior accessory dwelling unit shall become nonconforming and the owner must either apply for a permit pursuant to Section 29.10.315 (Review Process) within one (1) year of the date of annexation. A property owner who makes known to the Town the existence of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit, but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this chapter.
-

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit and/or junior 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.

Sec. 29.10.355. Nonconforming zoning conditions.

The Town shall not deny an application for a permit to create an accessory dwelling unit and/or junior accessory dwelling unit based on a need for the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the accessory dwelling unit and/or junior accessory dwelling unit.

Sec. 29.10.360. Utilities.

- (a) An accessory dwelling unit may be required to have a new or separate ~~unity-utility~~ connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values.
 - (1) Exceptions: Junior accessory dwelling units, ~~by-right~~ accessory dwelling units within the proposed space of a single-family dwelling, or ~~by-right~~ accessory dwelling units within the existing space of a single-family dwelling or accessory structure are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges, unless the ~~accessory dwelling~~ unit was constructed with a new single-family dwelling.

Sec. 29.10.365. Fees.

- (a) *Connection fees and capacity charges.* An accessory dwelling unit shall not be considered by the Town, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
 - (b) *Impact fees.* An accessory dwelling unit less than seven hundred fifty (750) square feet or a junior accessory dwelling unit is exempt from impact fees imposed by the Town, special district, or water corporation. An accessory dwelling seven hundred fifty (750) square feet or greater is subject to the Traffic Impact Fee requirements of the Town's Traffic Impact Policy (Policy 1-08), as may be amended from time to time. 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. For purposes of this subparagraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of CA Government Code Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
 - (c) For the purposes of this section and Section 17620 of the Education Code, an accessory dwelling unit or junior accessory dwelling unit that contains less than 500 square feet of interior livable space shall, for the purpose of subparagraph (C) of paragraph (1) of subdivision (a) of Section 17620 of the Education Code, be considered other residential construction that does not increase assessable space by 500 square feet.
-

(d) A homeowner applying for a permit for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit constructed before January 1, 2020, shall not be 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 and when the fee is authorized by this Section.

Secs. 29.10.370—29.10.400. Reserved.
