

Chapter 18.78

ACCESSORY DWELLING UNIT REGULATIONS

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18.78.010 Purpose.

The purpose and objective of this chapter is to contribute needed housing to the community housing stock and establish reasonable standards for the development of accessory dwelling units and junior accessory dwelling units on all lots that already contain one legally created residential unit, consistent with Government Code Section 66310 and following. For purposes of this chapter, an accessory dwelling unit is referred to as an "ADU", and a junior accessory dwelling unit is referred to as a "JADU."

18.78.020 Applicable zoning districts.

The provisions of this chapter shall be known as the "accessory dwelling unit regulations" and shall apply to all lots zoned to allow residential uses that include an existing or proposed single-family dwelling. ADUs and JADUs may exceed the allowable density for the lot upon which the ADU or JADU is located, and are considered a residential use that is consistent with the existing General Plan and Zoning designation for the lot. An ADU or JADU that contains less than 500 square feet of interior livable space shall not increase assessable space. Except as authorized within the portions of existing multi-family dwelling structures, no more than one ADU and one JADU shall be placed on the same lot or parcel. A homeowner shall be allowed to create "any of the following": one converted or attached ADU; one detached, new construction ADU; and one JADU.

18.78.030 Accessory dwelling unit development standards.

The following standards shall apply to the establishment of ADUs:

- A. ADUs within Existing Space. An ADU within an existing space including the primary buildings, attached or detached garage or other accessory buildings shall be permitted ministerially with a building permit regardless of all other standards within the section if complying with:
 - 1. Building and safety codes;
 - 2. Independent exterior access; and
 - 3. Side and rear setbacks sufficient for fire and safety.

B. Accessory dwelling units are required to comply with the following:

1. The ADU may be rented separate from the primary residence for a minimum of 30 days, but may not be sold or otherwise conveyed separate from the primary residence unless the lot is subdivided pursuant to all applicable laws and local ordinances.
2. The lot is required to be zoned to allow residential uses that include an existing or proposed dwelling.
3. The ADU shall be located on the same lot as the existing dwelling.
4. If there is an existing or proposed primary dwelling, the floor space of an attached ADU shall not exceed fifty percent of the proposed or existing primary dwelling living area or 1,200 square feet, whichever is less.
5. The total area of floor space for a detached ADU shall not exceed 1,200 square feet.
6. A passageway shall not be required in conjunction with the construction of an ADU.
7. No setback shall be required for an existing garage that is converted to an accessory dwelling, and a setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage.
8. An ADU shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.
9. If an ADU is detached, a setback of no more than four feet from the side and rear lot lines shall be required.
10. If an ADU is detached, a five-foot separation between the primary residence and the secondary residence is required.
11. ADUs shall not be considered when calculating the maximum lot coverage allowed.
12. One additional vehicle parking space shall be required per ADU, except in any of the following instances:
 - a. The accessory dwelling unit is located within one-half mile walking distance of public transit.

- b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - c. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - e. When there is a car share vehicle located within one block of the accessory dwelling unit.
13. When a garage or carport structure is demolished in conjunction with the construction of an accessory dwelling unit, no parking replacement spaces shall be required. Any other required on-site parking spaces shall be maintained for the principal unit, and may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces.
14. The City shall not require the applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory buildings.
15. The height of a one-story detached ADU shall not exceed 16 feet, and a detached two-story ADU shall not exceed 25 feet.
16. Mobile homes do not meet the requirements of an ADU. A manufactured home is permitted as a detached ADU.
17. The ADU shall be constructed in accordance with provisions of the latest adopted editions of the building codes.
18. Owner occupancy shall not be required for any ADU.
- i. The rental or leasing of a separate interest ADU in a common interest development shall be allowed, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, and without regard to the date of the governing documents.
19. The ADU shall not be offered for sale apart from the principal unit, except when it meets the qualifications listed under Government Code Section 66341.
20. A certificate of occupancy for an accessory dwelling unit shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling, except when the ADU is constructed when City of Wheatland is subject to a proclamation of a state of emergency made

by the Governor, even if the primary dwelling has not yet been issued a certificate of occupancy, if both of the following requirements are met, even if the primary dwelling unit has not yet been issued a certificate of occupancy:

- i. The primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation issued by the Governor.
- ii. The accessory dwelling unit has been issued construction permits and has passed all required inspections.

18.78.040 Junior accessory dwelling unit criteria.

The following criteria shall apply to the establishment of JADUs:

- A. A JADU shall be contained entirely within an existing single-family structure.
- B. A JADU shall be located within the walls of an existing or proposed single-family residence.
- C. A JADU shall include its own discrete entrance, separate from the main entrance to the structure. A permitted JADU may include an interior entry to the main living area, and may include a second interior doorway for sound attenuation.
- D. The JADU shall include an efficiency kitchen, which shall include all of the following: sink, cooking appliance, food preparation counter, refrigerator, and storage cabinets that are of reasonable size in relation to the size of JADU.
- E. JADUs have no parking requirement.
- F. The JADU shall not be offered for sale apart from the principal unit. A deed restriction, which shall run with the land, shall be filed with the City and shall include both of the following:
 1. A prohibition on the sale of the JADU separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers; and
 2. A restriction on the size and attributes of the JADU that conforms with this section.
- G. For the purposes of any fire or life protection ordinance or regulation, JADUs shall not be considered a separate or new dwelling unit. Accordingly, JADUs

shall not be required to provide fire sprinklers if they are not required for the primary residence.

- H. For the purposes of providing service for water, sewer, or power, including a connection fee, a JADU shall not be considered a separate or new dwelling unit.
- I. A JADU created under this chapter shall be maintained with the provisions of this chapter and shall not be destroyed or otherwise converted to any other use (including reverting to a portion of the primary residence) except with approval of the Community Development Director. In considering such requests, the Community Development Director shall consider the length of time such permit has been in force, the conditions of approval, the exceptions granted for the permit, and the impact on the City's affordable housing supply. As a condition of termination, the Community Development Director shall require the owner to make modifications to the property to: (1) comply with current building code requirements and (2) comply with current development standards in effect at the time of the request to terminate the use of the JADU.
- J. If a JADU has shared sanitation facilities with the existing single-family residence, owner-occupancy in the single-family residence is required. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy is not required if the JADU has separate sanitation facilities, or if the owner is another governmental agency, land trust, or housing organization.
- K. The rental of JADUs shall be for a term longer than 30 days.

18.78.050 Permitting requirements.

ADUs and JADUs shall be permitted ministerially, in compliance with this chapter, within 60 days of a completed application. The building official shall determine whether an application for an ADU or JADU is complete and provide written notice of the determination not later than 15 business days after the permitting agency received the application. If the building official determines an application is incomplete, the building official shall provide the applicant with a list of incomplete items and a description of how the application can be made complete in the written notice. The applicant shall be authorized to cure and address the application, as specified, if it is determined that an application is incomplete. An application for the creation of an ADU or JADU shall be deemed approved if the building official has not approved or determined the application is incomplete within 60 days. The building official shall issue a building permit to establish an ADU or JADU in compliance with this chapter if all applicable requirements above are met. The Community Development Director may approve an ADU or JADU that is not in compliance with the above requirements as set forth in the review process below. Homeowners' associations (HOAs), as a third party, shall not influence the approval of an application to create an ADU. No other local ordinance, policy, or regulation shall be the basis for the delay or denial of an ADU or JADU building permit or a use permit under this ordinance.

The building official shall not deny a permit for an unpermitted ADU or JADU that was constructed before January 1, 2020, for building code violations, unless the City of Wheatland makes a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building substandard.

The building official shall be required to, upon application and approval, delay enforcement against a qualifying substandard ADU for five years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the City.

18.78.060 Accessory dwelling units not complying with development standards.

An ADU or JADU that does not comply with the applicable standards listed in this article may be permitted with a site plan review permit at the discretion of the Community Development Director subject to the findings listed in the section below.

Findings.

1. The project would not be detrimental to the public health and safety.
2. That the project will have no adverse effect upon other properties including unreasonable privacy impacts.
3. That the project is consistent with the objectives and policies of the general plan and that granting the waiver will meet the purposes of this chapter.

To the discretion of the Community Development Director, Planning Commission approval of the site plan review permit may be required for an ADU or JADU that does not comply with the applicable standards listed in this article.

A. Section 18.06.010 of the Wheatland Municipal Code is amended to read as follows:

“Accessory dwelling unit” means an attached or detached dwelling unit which provides complete independent living facilities for one or more persons, with permanent provisions for living, sleeping, eating, cooking, and sanitation sited on the same parcel as the primary dwelling unit.

“Junior accessory dwelling unit” means a unit that is contained entirely within an existing single-family structure and that is no more than 500 square feet of livable space. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.

“Family” means one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

“Livable Space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

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

B. Section 18.60.010 of the Wheatland Municipal Code is amended to read as follows:

18.60.010 Accessory buildings.

A. In any residential zone district, accessory buildings are permitted, subject to all of the following:

1. Accessory buildings include any buildings that are customarily incidental to a residence and garage including greenhouse, storage shed, studio, pool-house, workshop, detached deck and patio and similar structure that is over 18 inches in height. Buildings with less than 120 square feet of roof area that are less than eight feet in height, are not subject to this section.
2. The number of accessory buildings on any individual lot shall be limited to three.
3. The combined floor area of accessory buildings on any individual lot shall not exceed 1,200 square feet of floor area.
4. The maximum height of any accessory building is 1846 feet for a detached ADU on a lot with an existing or proposed single family dwelling unit. An additional two feet in height shall also be allowed to accommodate a roof pitch on the detached ADU that is aligned with the roof pitch of the primary dwelling unit. A maximum height of 25 feet or the height limitation established in the City of Wheatland zoning ordinance that applies to the primary dwelling, whichever is lower, shall be allowed for an ADU that is attached to a primary dwelling.
5. Any accessory building shall have a minimum four-foot separation between the primary residence and/or any other accessory building. Any accessory building shall have a minimum setback four feet from the side and rear lot lines.
6. Accessory buildings shall not be considered when calculating the maximum lot coverage allowed.
7. Accessory buildings that differ from the standards provided above may be approved with a site plan review permit, provided the Community Development Director makes the findings required by Section 18.78.060 of the Wheatland Municipal Code.

B. Accessory buildings may not encroach on any recorded easement.

C. Garden shelters, greenhouses, storage shelters and covered patios are permitted as accessory buildings and need not meet the requirements for Accessory Dwelling Units if they are not proposed to be used for living quarters.