

17.52.200 Accessory Dwelling Units

A. Purpose. The purpose of this chapter is to provide regulations and criteria for the establishment and location of accessory dwelling units in compliance with Government Code Section 65852.2.

B. Locations Permitted. Accessory dwelling units and junior accessory dwelling units are allowed in districts zoned to allow single-family or multifamily uses, subject to the permit requirements of applicable zone districts and compliance with the development standards of this chapter.

C. Permit Required. An accessory dwelling unit or junior accessory dwelling unit may be attached to or detached from an existing or proposed single-family or multifamily dwelling upon the issuance of a permit in accordance with this chapter. An attached accessory dwelling unit may also be attached to or placed within garages, storage areas, or an accessory structure. The Director shall approve a permit for an accessory dwelling unit and/or junior accessory dwelling unit meeting the development standards of this chapter and consistent with Section 65852.2 of the Government Code.

1. Processing of Permit. A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, in accordance with Section 65901 or 65906 of the Government Code and all local ordinance provisions regulating the issuance of variances or special-use permits, as follows.
 - a. On Lots that allow Single-Family Dwellings.
 - i. An attached accessory dwelling unit or junior accessory dwelling unit shall be allowed subject to the following:
 - a. The accessory dwelling unit or junior accessory dwelling unit is within the

enclosed, conditioned space of a proposed or existing single-family dwelling; or

- b. The accessory dwelling unit or junior accessory dwelling unit is within an existing accessory structure.
 - c. May include an expansion of the primary residence of not more than 150 square feet beyond the current physical dimensions of the existing accessory structure solely to accommodate ingress and egress.
 - d. The unit has exterior access from the proposed or existing single-family dwelling.
- ii. A detached, new construction, accessory dwelling unit on a lot with a proposed or existing single-family dwelling. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings (see Government Code Section 65852.2(e)(1)(A) and (B)).
 - iii. The accessory dwelling unit may be combined with a

required if the owner is a governmental agency, land trust, housing organization, or other 501(c)(3) organization.

2. A junior accessory dwelling unit may not be detached from the proposed or existing primary residence.
3. A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing primary residence.
4. A junior accessory dwelling unit shall include an efficiency kitchen, which shall include:
 - a. A cooking facility with appliances; and
 - b. A food preparation counter and storage cabinets that are of useable size.
5. Parking shall not be required as a condition to permit a junior accessory dwelling unit.
6. No subdivision of this County Code of Ordinances shall be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if a junior accessory dwelling unit complies with applicable development standards.
7. Prior to the issuance of a building permit for a junior accessory dwelling unit, the owner of the lot or parcel on which it is to be constructed shall record a deed restriction in a form satisfactory to the County attorney that includes the following:
 - a. A prohibition of the sale of the junior accessory dwelling unit separately from the sale of the primary residence, including a statement that the deed restriction may be enforced against future purchasers; and
 - b. A restriction on the size and attributes of the junior accessory dwelling unit that conforms with Section 65852.2 of the Government Code that regulates accessory dwelling units.

E. Development Standards. The following development standards shall apply to all accessory dwelling units.

~~4.—The living area of a detached accessory dwelling unit shall not exceed 1,200 square feet, which does not include any square footage designated as a garage. The living area includes all conditioned and unconditioned space in the detached accessory dwelling unit. Buildup/underfloor space areas shall not have any improved floor area. Buildup/underfloor areas shall be limited to one light and one plug and may be used as space for equipment serving the ADU. All accessory dwelling units shall be limited to one attached garage, which shall be limited to 50% of the ADU conditioned/unconditioned floor area. The living area of a detached accessory dwelling unit shall not exceed 1,200 square feet. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary residence's living area, with a maximum increase in floor area of 1,200 feet.~~

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An accessory dwelling unit shall not exceed 16 feet in height and shall be set back at least four feet from side and rear property lines.

~~3.2.~~

No setback shall be required for an existing living area, garage, or other accessory structure that is converted to an accessory dwelling unit (or portion of accessory dwelling unit) with the same dimensions as the existing structure, and a setback of five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

~~4.3.~~

Except as otherwise provided in this chapter, the accessory dwelling unit shall not increase an existing or create a new encroachment upon any required front, side, or rear yard space, increase building height or coverage beyond the standards

prescribed for the district in which it is located, or decrease the distance between structures that is required.

~~5-4.~~ No passageway or entrance within view of a street shall be required in conjunction with the construction of an accessory dwelling unit.

~~6-5.~~ An accessory dwelling unit shall include at least one bathroom, one kitchen, and one living/dining room.

~~7-6.~~ Septic Systems

a. Where a septic system is used for the proposed ADU, approval by the ~~local health officer~~ Environmental Health Director will be required, as allowed by Government Code Section 65852.2(a)(1)(D)(ix).

b. A ~~percolation soil mantle test completed within the last five years shall also~~ may be required, as required by County Code of Ordinances Chapters 13.08 and 13.04, and as allowed by Government Code Section 65852.2(e)(5). ~~or, if the percolation test has been recertified, within the last 10 years, as allowed by Government Code Section 65852.2(e)(5).~~

~~8-7.~~ Fees

a. Notwithstanding any provision to the contrary contained in this code (or in any code adopted by reference in this code), an accessory dwelling unit may be connected to ~~a district~~ the county sewerage system through a side sewer shared with the existing residence on the site, or it may have its own side sewer. In either case, the connection of the accessory dwelling unit to the ~~county-district~~ sewerage system is subject to the requirements of this Chapter 17.36, including obtaining applicable permits, paying connection charges (where applicable), and paying user

charges. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges for utilities, including water, sewer, and other utilities as defined, unless the accessory dwelling unit was constructed with a new single-family dwelling. Separate metering of utilities is not required for ~~attached~~ accessory dwelling units unless they are constructed with a new primary dwelling but is required for detached accessory dwelling units.

b. Fees will be charged for the construction of accessory dwelling units in accordance with Title 3 of the Tuolumne County Code of Ordinances and state law. The County, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Impact fees include school fees. School districts are authorized but do not have to levy impact fees for ADUs greater than 500 square feet pursuant to Section 17620 of the Education Code. ADUs less than 500 square feet are not subject to school impact fees. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

c. A connection fee shall not be collected for water, sewer, power, or other utility for a junior accessory dwelling unit.

~~9-8.~~ Fire sprinklers are not required for accessory dwelling units if they are not required by the building code for

the ~~existing or~~ proposed single-family or multifamily residence. Fire sprinklers would not be required for the existing primary structure unless triggered by some other building code or fire code requirement.

- a. For purposes of fire or life-protection regulations, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

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n accessory dwelling unit may be rented, but it shall not be offered for sale apart from the principal unit, nor shall the lot or parcel be subdivided to create a separate building site unless approved pursuant to the subdivision ordinance of this County. No accessory dwelling unit may be offered for rental terms of less than 30 days.

- a. Notwithstanding Section 17.36.050.I, the County may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all the following apply:
 - i. The property was built or developed by a qualified nonprofit corporation.
 - ii. There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit that satisfies all the requirements of paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
 - iii. The property is held pursuant to a recorded tenancy in

common agreement that includes all the following provisions:

- a. The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.
- b. A repurchase option that requires the qualified buyer first offer the qualified nonprofit corporation the opportunity to buy the property if the buyer desires to sell or convey the property.
- c. A requirement that the qualified buyer occupy the property as the buyer's principal residence.
- d. Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to qualified buyer.
- iv. A grant deed naming the grantor and grantee and describing the

property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

- v. Notwithstanding any provisions in Section 17.36.050 of this code, if requested by a utility providing service to the primary residence, the accessory dwelling unit shall have a separate water, sewer, or electrical connection to that utility.

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except as otherwise provided in this chapter, accessory dwelling units shall comply with all uniform building codes adopted, and all other applicable laws, rules, and regulations. An accessory dwelling unit may consist of manufactured housing if such housing is permitted in the district in which it is proposed to be located and meets the standards for such housing.

a. Parking

- i. ~~Required p~~ ~~provided~~ Parking shall not exceed one space per unit or per bedroom, whichever is less. Such additional space may be a tandem space in a driveway or offstreet within setback areas provided in locations approved by the County. Tandem

parking and the location of offstreet parking within setback areas shall be approved by the County unless specific findings can be and are made that parking in setback areas or tandem parking is not feasible based on specific site or regional topographical or fire and life safety conditions.

- ii. If a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or is converted to an accessory dwelling unit, those offstreet parking spaces are not required to be replaced.
- iii. No additional offstreet parking spaces shall be required for accessory dwelling units in locations meeting the following criteria:
 - a. The unit is located within one-half mile walking distance of public transit.
 - b. The unit is located within a historic district.
 - c. The accessory dwelling unit is part of a proposed or existing primary residence or

- accessory structure.
- d. On-street parking permits are required but not available to the occupant of the accessory dwelling unit.
- e. There is a car-share vehicle located within one block of the accessory dwelling unit.

F. Other Provisions.

1. This section shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
2. No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under Chapter 17.36.
3. Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

G. Code Enforcement. The code enforcement officer may ~~from time to time~~ conduct a review of accessory dwelling units within the county. The code enforcement officer or designee may enforce all provisions of this code and provisions of state law pertaining to the development, occupation, and maintenance of residential properties and accessory dwelling units, pursuant to the following provisions:

1. A code enforcement officer may report:

- a. A change in ownership of the lot or parcel of land on which the residential units are situated.
 - b. A change in the occupancy of the residential units that is not in compliance with this section.
2. A code enforcement officer may issue to an owner of an accessory dwelling unit a notice to correct a violation of any provision of any building standard or any failure to comply with this section. The code enforcement officer shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to the following findings:
 - a. The accessory dwelling unit was built before January 1, 2020
 - b. The accessory dwelling unit was built on or after January 1, 2020; however, at the time the unit was built, the County had a noncompliant accessory dwelling unit ordinance, but the unit is compliant at the time the request is made.
 3. The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in Section 17.36.070, may submit an application to the County requesting that enforcement of the violation be delayed for up to five years on the basis that correcting the violation is not necessary to protect health and safety.
 - a. The County shall grant an application described in Section 17.36.070.C if it is determined that correcting the violation is not necessary to protect health and safety. In making this determination, the zoning administrator shall consult with the code enforcement officer, building official, and/or the State Fire Marshal or designee

pursuant to Section 13146 of the Health and Safety Code.

- b. The County shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the County before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to Section 17.36.070.C.1. If upon such review it appears that in a particular case a violation of the provisions of this chapter has occurred, the code enforcement officer may take such action as deemed necessary by the

county attorney to correct any violation.

- H. Compliance with State Law. This section is intended to comply with the requirements of Section 65852.2 of the Government Code and any amendments thereto. All accessory and junior accessory dwelling units approved by this section are deemed to not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and accessory and junior accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designations for the lot.