

## **Part 2: ACCESSORY DWELLING UNITS**

### **24.16.100 PURPOSE.**

The ordinance codified in this part provides for accessory dwelling units in certain areas and on lots developed or proposed to be developed with single- or multifamily dwellings. Such accessory dwellings are allowed because they can contribute needed housing to the community's housing stock. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled and others within existing neighborhoods, and homeowners who create accessory dwelling units may benefit from added income and an increased sense of security.

In addition the ordinance codified in this part provides a mechanism to grant legal status to existing illegally constructed accessory dwelling units in single-family neighborhoods. By encouraging legalization, safe dwellings may be added to the city's existing housing supply.

Thus it is found that accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities throughout the city of Santa Cruz. To ensure that accessory dwelling units will conform to General Plan policy the following regulations are established.

### **24.16.120 LOCATIONS PERMITTED.**

Accessory dwelling units are permitted on lots of any size in conjunction with a proposed or existing residential use in any zone that allows residential uses.

### **24.16.125 DEFINITIONS.**

The following definitions shall apply to accessory dwelling units throughout the municipal code:

"Conversion accessory dwelling unit" shall mean any accessory dwelling unit created primarily by the conversion of any permitted, entitled, or legal nonconforming structure, or portion of such a structure. On property developed with multifamily structures only areas that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, shall be eligible to become conversion accessory dwelling units. Consistent with zoning standards, conversion accessory dwelling units shall be permitted to expand the existing footprint of the structure by up to one hundred fifty square feet, and the existing height by up to two feet, and must be in conformance with all requirements of Section 24.16.142.

"New construction accessory dwelling unit" shall mean any accessory dwelling unit that includes new construction and which does not meet the definition and requirements for a conversion accessory dwelling unit.

## **24.16.130 PERMIT PROCEDURES.**

1. Accessory dwelling units shall be principally permitted uses within the zoning districts specified in Section 24.16.120 and subject to the development standards in Section 24.16.140 et seq.
2. Accessory dwelling units on substandard lots shall not be required to obtain a design permit unless they are associated with the construction of a new single-family dwelling per Section 24.08.400 et seq.
3. An accessory dwelling unit replacing a detached garage shall receive review and issuance of a demolition permit concurrently with the review and issuance of the permit for the accessory dwelling unit.
4. City shall issue a ministerial building permit for an accessory dwelling unit or junior accessory dwelling unit without discretionary review or a hearing, consistent with the provisions of this chapter and state law, within sixty days of submittal of a complete building permit application, unless provided otherwise. The sixty-day review period shall not apply when:
  - a. Additional administrative or discretionary review is required under applicable provisions of the Santa Cruz Municipal Code or otherwise allowed by state law.
    - i. Applications to construct accessory dwelling units shall be subject only to ministerial permitting processes to the extent necessary to allow construction of an accessory dwelling unit conforming to the size limits stated in Section 24.16.140(3). Applications that propose to locate an accessory dwelling unit on a parcel or portion of a parcel triggering additional administrative or discretionary review shall only be relieved of the requirement for those reviews when no alternative site plan or project proposal can be created which would allow the creation of an up to eight-hundred-square-foot accessory dwelling unit that would not trigger additional reviews;
  - b. If the permit application to create an accessory dwelling unit or junior accessory dwelling unit is submitted with a permit application to create a new single-family or multi-family dwelling on the same lot or parcel; or
  - c. When the applicant seeks a delay, in which case the sixty-day time period shall be tolled for the period of the delay.

5. Construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, except as specified under state law. Construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing single-family or multifamily dwelling.

6. The City shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions, building code violations, or unpermitted structures unless they present a threat to public health and safety and are affected by the construction of the accessory dwelling unit.

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

8. Applications to construct accessory dwelling units on properties that are designated as historic resources by the city, the state of California, or by the National Register of Historic Places shall show substantial compliance with the guidelines of the Secretary of the Interior for development on such properties.

9. Applications to construct accessory dwelling units on properties that are subject to the Citywide Creeks and Wetlands Plan shall demonstrate compliance with the requirements established in that plan for such properties, as implemented by Section 24.08.2100 et seq.

10. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant in accordance with the 60-day time period set forth in Section 24.16.130 (4) above.

#### **24.16.140 DEVELOPMENT STANDARDS.**

All accessory dwelling units, both new construction and conversion, must conform to the following requirements:

1. Number of Accessory Dwelling Units per Parcel.

a. For parcels zoned for and including a proposed or existing single-family home: One accessory dwelling unit shall be allowed for each parcel. Each parcel may also

include a junior accessory dwelling unit conforming to the standards set forth in Section 24.16.170.

b. For parcels developed with an existing multifamily structure(s): Two new construction and at least one conversion accessory dwelling unit shall be allowed on each parcel. Up to twenty-five percent of the number of existing dwellings in the structure may be added as conversion accessory dwelling units. When the twenty-five percent limit results in a fraction of a unit, the total number of accessory dwelling units that may be added shall be determined by rounding the fraction up to the next whole number.

i. For the purposes of this section, multifamily structures are those that contain more than one dwelling unit, including but not limited to duplexes, triplexes, apartment buildings, and condominium buildings.

2. Parking. No off-street parking shall be required for any accessory dwelling unit outside of the Coastal Zone. Any parking spaces, covered or uncovered, removed in order to create an accessory dwelling unit shall not be required to be replaced outside the Coastal Zone. For properties within the Coastal Zone, parking requirements are contained in Section 24.12.240(1)(w).

3. Unit Size.

a. The floor area for new construction detached accessory dwelling units shall not exceed ten percent of the net lot area or eight hundred fifty square feet for a studio or one-bedroom ADU, or one thousand square feet for an ADU with more than one bedroom, whichever is greater, and no detached new construction ADU shall exceed a maximum of one thousand two hundred square feet of habitable area.

b. The floor area for new construction accessory dwelling units attached to the principal residential use on the property shall not exceed fifty percent of the existing habitable floor area of the principal residential use on the property, or eight hundred fifty square feet for a studio or one-bedroom ADU, or one thousand square feet for an ADU with more than one bedroom, whichever is greater.

c. The floor area for conversion accessory dwelling units shall not be limited, subject to compliance with Section 24.16.142.

d. Accessory units that utilize alternative green construction methods that cause the exterior wall thickness to be greater than normal shall be accommodated by calculating the unit square footage size in a manner that accounts for the difference

between the square footage of the proposed structure and the square footage of a traditional frame house.

e. Stairways which provide access to accessory dwelling units do not count toward the floor area of an accessory dwelling unit when the stairs are not part of the conditioned space, the stairs do not include any other rooms or room-like areas that would function as habitable floor area for the ADU, and there is a fire-rated entry door at the top of the stairs at the entrance to the accessory dwelling unit.

4. Existing Development on Lot. One of the following conditions must be present in order to approve an application to create an accessory dwelling unit:

a. One or more single-family dwellings exists on the lot or will be constructed in conjunction with the accessory dwelling unit;

b. The lot contains an existing multifamily structure, as defined in subsection (1)(b)(i), or a multifamily structure that will be constructed concurrently and in conjunction with the accessory dwelling unit.

5. Rear Yard Lot Coverage. In no case shall any accessory dwelling unit be limited in size based on rear yard lot coverage requirements contained in Section 24.12.140(5). In the application of Section 24.12.140(5), accessory dwelling units shall count toward the limit on allowable coverage by other accessory structures.

6. Nonconforming Setbacks. The following standards apply to accessory dwelling units located outside the standard side and rear yard setbacks for the zone district in which they are proposed:

a. The entrance to the accessory dwelling unit shall face the interior of the lot unless the accessory dwelling unit is directly accessible from an alley, a public street, or the Monterey Bay Sanctuary Scenic Trail.

b. Windows which face an adjoining residential property shall be designed to obscure views of neighboring yards by ADU occupants, including transom windows, translucent glass, or other methods; alternatively, fencing or landscaping shall be required to provide screening.

7. Alley or Rail Trail Orientation. When an accessory dwelling unit is adjacent to an alley or the Monterey Bay Sanctuary Scenic Trail, the accessory dwelling unit is encouraged to be oriented toward the alley or trail with the front access door and windows facing the alley. Parking provided off the alley shall maintain a twenty-four-foot back-out which includes the

alley. Fences shall be three feet, six inches tall along the alley. However, higher fencing up to eight feet can be considered in unusual design circumstances, subject to review and approval of the zoning administrator.

8. Occupancy.

a. For accessory dwelling units permitted between January 1, 2020, and January 1, 2025, owner occupancy shall not be required and no land use agreement requiring owner occupancy shall be recorded or enforced on properties containing these units.

b. For accessory dwelling units permitted on or before December 31, 2019, or on or after January 1, 2025, the property owner or an adult member of the property owner's immediate family, limited to the property owner's spouse, adult children, parents, or siblings, and subject to verification by the city, must occupy either the primary or accessory dwelling as his or her principal place of residence except under circumstances as established by resolution by the city council that may allow the property owner or the executor or trustee of the property owner's estate to apply to the city council for approval of a temporary change in use allowing both units to be rented for a period of no more than two years with a possible extension of one year by the planning director if circumstances warrant. Upon the expiration of the rental period, the property owner and/or the property owner's immediate family member, as specified above, shall reoccupy the property, or the property owner shall cease renting one of the units, or shall demolish the accessory dwelling unit, or shall sell the property to a buyer who will reside on the property. A fee to cover the costs of processing such a request shall be in an amount established by resolution by the city council.

c. For purposes of this chapter, the property owner is the majority owner of the property as shown in the most recent Santa Cruz County assessor's roll.

d. If there is more than one property owner of record, the owner with the majority interest in the property shall be deemed the property owner for purposes of this chapter. Any property owner of record holding an equal share interest in the property may be deemed the majority property owner if no other property owner owns a greater interest. (For example, if the property is owned by two people, each with a fifty percent interest, either of the two owners may be deemed the property owner for purposes of the owner occupancy requirement. If three people own the property, each with a thirty-three and one-third percent interest, any one of the three may be deemed the property owner for purposes of the owner occupancy requirement.)

e. Notwithstanding subsection (8)(a), the community development director, in consultation with the city manager and city attorney, shall be authorized to promulgate regulations intended to legalize accessory dwelling units which are nonconforming solely by virtue of the fact that the property owner has failed to comply with subsection (8)(b)'s owner occupancy requirement, including but not limited to regulations providing for the amortization of the nonconformity by specifying a period of time within which the absentee owner must either establish occupancy or discontinue the accessory dwelling unit use of the property, or alternatively sell the property, and regulations providing for the recordation of land use agreements specifying the terms of amortization.

f. Accessory dwelling unit properties shall be used for long-term residential purposes, for rentals of terms longer than 30 days. Accessory dwelling unit properties may neither be used on a transient occupancy basis nor for short-term/vacation rental purposes. Within condominium or townhouse properties that contain an accessory dwelling unit associated with a specific individual unit and not the larger common condominium or townhouse complex, neither the accessory dwelling unit nor the associated condominium or townhouse unit shall be used as a short-term rental.

i. Exception. A legal accessory dwelling unit property that had legal status prior to November 10, 2015, and was in use as a short-term/vacation rental prior to that date, and for which the owner remits transient occupancy tax in compliance with Chapter 3.28 in full in a timely manner for the use of the property as short-term/vacation rental purposes, may continue the use. The owner must meet the owner occupancy requirement of this code.

9. Connections Between Units. At the discretion of the planning director, accessory dwelling units may be permitted to create direct access between units, or common access to a shared garage, laundry room, or storage area; provided, that each unit meets the definition of dwelling unit found in Section 24.22.320.

10. Building Code Requirements. The accessory dwelling unit shall meet the requirements of the California Building Standards Code, including the alternative means and methods section as prescribed therein.

11. Municipal Code Requirements. All accessory dwelling units shall meet the objective design standards set forth in this Code, including landscape and tree removal and/or replacement requirements, which may require discretionary review.

12. Large Home Design Permit. The square footage of an accessory dwelling unit shall not be counted with the square footage of the single-family home in determining whether a large home design permit is required.

## **24.16.141 NEW CONSTRUCTION ACCESSORY DWELLING UNIT DEVELOPMENT STANDARDS.**

### 1. Setbacks for New Construction Detached Accessory Dwelling Units.

a. The side yard and rear yard setbacks for a new construction detached single-story accessory dwelling unit shall not be less than three feet and the distance between buildings on the same lot must be a minimum of six feet.

b. Any portion of a new construction accessory dwelling unit that is over sixteen feet in height shall provide side setbacks of at least four feet and rear setbacks of at least four feet.

c. If any portion of a new construction accessory dwelling unit is located in front of the principal structure, then the front yard setbacks shall be the same as those required for single-family homes in the zoning district. A smaller front setback shall be granted only if needed to accommodate an accessory dwelling unit of up to 800 square feet. In this case, the front setback and the clear corner triangle area (as defined in Section 24.22.202) shall be maximized while maintaining required separation between structures.

2. Setbacks for New Construction Attached Accessory Dwelling Units. New construction attached accessory dwelling units shall provide a side [and rear] setback of at least four feet and meet the same front setback required for the principal structure, either the single-family dwelling or the multi-family structure, by the zoning district, except that any requirement for an additional setback based on height over fifteen feet shall not apply to the portion of the structure that contains the accessory dwelling unit. A smaller front setback shall be granted only if needed to accommodate an accessory dwelling unit of up to 800 square feet, and the front setback and the clear corner triangle area (as defined in Section 24.22.202) shall be maximized while still accommodating an accessory dwelling unit of up to 800 square feet.

### 3. Building Height and Stories.



- a. A detached new construction accessory dwelling unit shall meet one of the following standards, with height measured to the roof peak:
  - i. Any accessory dwelling unit that is built within four feet of a side and rear property line shall be subject to a height limit of sixteen feet.
  - iii. Any other accessory dwelling unit shall be subject to a height limit of twenty-two feet.
- b. Any two-story detached new construction accessory dwelling unit shall place access stairs, decks, entry doors, and windows toward the interior of the lot, an alley, road, or the Monterey Bay Sanctuary Scenic Trail, if applicable. Second-story windows shall be oriented to obscure views of neighboring yards by accessory dwelling unit occupants by using transom windows, translucent glass, or other methods. These requirements do not apply to accessory dwelling units that conform to the setbacks required for the primary structure on the parcel.
- c. An attached new construction accessory dwelling unit may occupy any level of the principal single-family dwelling and must comply with the height standard established for single-family homes in the zone district except as noted in subsection [(2) above relating to multifamily structures].
- d. If the design of the principal structure has special roof features that should be matched on the detached accessory dwelling unit to enhance design compatibility, the maximum allowed building height of the accessory dwelling unit may be exceeded in order to include such similar special roof features, subject to review and approval of the zoning administrator as part of the review of the building permit application.

4. Substandard Lots. When a new construction accessory dwelling unit is proposed on a substandard residential lot, as defined in Section 24.22.520, the following design standards shall apply, but shall not serve to limit the accessory dwelling unit to a size of less than eight hundred square feet:

- a. The maximum allowable lot coverage for all structures shall be forty-five percent. Lot coverage shall include the footprints of the first floor, garage (attached and detached), decks and porches (greater than thirty inches in height and not cantilevered), and any second-story cantilevered projection (enclosed or open) beyond two and one-half feet. Decks under thirty inches in height or fully cantilevered with no vertical support posts do not count toward lot coverage for this purpose.

Second-story enclosed cantilevered areas that project less than thirty inches from the building wall do not count toward lot coverage. For such areas that project more than thirty inches from the building wall, only the floor area that projects more than thirty inches shall be counted as lot coverage. Lot coverage requirements must permit an accessory dwelling unit up to 800 square feet.

b. The floor area for all second stories shall not exceed fifty percent of the first floor area for all structures, except in cases where the first floor area of the structure to which a second story is being added constitutes thirty percent or less of the net lot area.

5. Large Home Design Permit. Accessory dwelling units, both attached and detached, conversion and new construction, shall not contribute to the need for a large home design permit and, consistent with Section 24.16.130, shall be subject only to ministerial review. The city reserves the right to delay action on an application to build an accessory dwelling unit until such time as the permits for the primary residential use on the parcel have been approved.

## **24.16.142 CONVERSION ACCESSORY DWELLING UNIT DEVELOPMENT STANDARDS.**

1. Setbacks and Lot Coverage. Conversion accessory dwelling units shall be permitted to maintain the existing setbacks and lot coverage of the structure to be converted or reconstructed, regardless of their conformance to current zoning standards.

2. Reconstruction. Structures to be converted may either be converted utilizing the existing structural components of the building, or reconstructed within the existing three-dimensional physical space occupied by the structure.

3. Additions and Expansions. An accessory dwelling unit shall be considered a conversion accessory dwelling unit when the proposed dwelling unit is created primarily within an existing or reconstructed structure.

a. Expansions of floor space up to one hundred fifty square feet shall be permitted, and these expansions shall comply with the development standards that apply to new construction accessory dwelling units as stated in Section 24.16.141, and shall not enlarge the accessory dwelling unit beyond one thousand two hundred square feet, unless necessary to accommodate ingress and egress to the accessory dwelling unit.

- b. Expansions of height up to two feet in additional height shall be permitted, and these expansions shall comply with the height limits set for new construction accessory dwelling units in Section 24.16.141.
- c. Any expansion in excess of the above thresholds will trigger review as a new construction accessory dwelling unit, including assessment of any required fees.

### **24.16.150 DEED RESTRICTIONS.**

Before obtaining a building permit for an accessory dwelling unit or junior accessory dwelling unit the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:

1. The accessory dwelling unit or junior accessory dwelling unit shall not be sold separately.
2. The unit is restricted to the approved size.
3. The use of the accessory dwelling unit or junior accessory dwelling unit shall be in effect only so long as the property is in compliance with the ordinance as codified and the land use agreement recorded on the property, including any requirements regarding occupancy.
4. The above declarations are binding upon any successor in ownership of the property; lack of compliance shall be cause for code enforcement.
5. The deed restrictions shall lapse upon removal of the accessory dwelling unit or junior accessory dwelling unit.
6. For properties with accessory dwelling units and/or junior accessory dwelling units that are located in a permit parking program district, the primary residence and the accessory dwelling unit combined shall qualify only for the number of residential parking permits that would have been available to the primary residence. No additional permits will be granted for the accessory dwelling unit. The property owner shall offer the tenant of an accessory dwelling unit a residential parking permit if requested by the tenant.
7. For properties developed with single-family homes, neither the accessory dwelling unit, the junior accessory dwelling unit, nor the primary unit shall be used as a short-term rental. On properties zoned for and developed with multifamily structures, the accessory dwelling unit shall not be used as a short-term or vacation rental. In units within condominium or townhouse properties that contain an accessory dwelling unit associated with a specific individual unit and not the larger common condominium or townhouse complex, neither

the accessory dwelling unit nor the associated condominium or townhouse unit shall be used as a short-term rental.

### **24.16.160 ZONING INCENTIVES.**

The following incentives are to encourage construction of accessory dwelling units:

1. **Affordability Requirements for Fee Waivers.** Accessory dwelling units proposed to be rented at affordable rents, as established by the city, may have development fees waived per Part 4 of this chapter. Existing dwelling units shall be relieved of the affordability requirement upon payment of fees in the amount previously waived plus the difference between that amount and the fees in effect at the time of repayment.
2. **Covered Parking.** The covered parking requirement for the principal single-family dwelling shall not apply if an accessory dwelling unit is provided. However, no plumbing fixtures may be installed in any remaining existing garage or newly constructed garage on a property that has an accessory dwelling unit without approval of the zoning administrator.
3. **Front or Exterior Yard Parking.** Three parking spaces may be provided in the front or exterior yard setback under this incentive with the parking design subject to approval of the zoning administrator. The maximum impervious surfaces devoted to the parking area shall be no greater than the existing driveway surfaces at time of application. Not more than fifty percent of the front yard width shall be allowed to be parking area.
4. **Tandem Parking.** For a parcel with a permitted accessory dwelling unit, required parking spaces for the principal single-family dwelling and the accessory dwelling unit may be provided in tandem on a driveway. A tandem arrangement consists of one car behind the other. No more than three total cars in tandem may be counted towards meeting the parking requirement.

### **24.16.170 JUNIOR ACCESSORY DWELLING UNITS.**

1. Notwithstanding any other regulation or definition of this code, a junior accessory dwelling unit shall be permitted on parcels in zones where single-family dwellings are an allowed use and where single-family structures exist or are proposed on the site, and where the owner of the property occupies the property as their primary place of residence.
2. For the purposes of this section, "junior accessory dwelling unit" shall have the same meaning as defined in Section 65852.22 of the California Government Code.

3. Junior accessory dwelling units must be attached to a single-family dwelling, may be created in any part of an existing or proposed single-family dwelling, and may be created in an addition to a single-family dwelling.
4. Junior accessory dwelling units may be no larger than five hundred square feet in size.
5. Junior accessory dwelling units shall contain, at a minimum, the following features:
  - a. An exterior entrance separate from that of the primary home.
  - b. A cooking facility with appliances.
  - c. A food preparation counter and storage cabinets of reasonable size in relation to the size of the junior accessory dwelling unit.
6. Junior accessory dwelling units may include separate sanitation facilities, or may share sanitation facilities with the primary dwelling. Where sanitation facilities are shared with the primary dwelling, the junior accessory dwelling unit shall have access to the primary dwelling through internal circulation and shall not be required to exit the structure in order to reach the entrance to the primary dwelling.
7. Junior accessory dwelling units that contain all the required features of a dwelling unit will not be required to maintain an interior connection between the junior accessory dwelling unit and the primary dwelling. Junior accessory dwelling units that do not contain all the required features of a dwelling unit will be required to maintain an interior connection between the junior accessory dwelling unit and the primary dwelling unit.
8. A deed restriction pursuant to Section 24.16.150 shall be required and recorded on the parcel.