



Accessory Dwelling Unit Information Packet

November 2023

This packet contains an overview of Accessory Dwelling Unit (ADU) requirements and permit procedures. Please also refer to State Housing and Community Development Department website for more resources at <https://www.hcd.ca.gov/policy-and-research/accessory-dwelling-units>. Accessory Dwelling Units provide “*complete independent living facilities for sleeping, eating, and sanitation and must be considered an efficiency unit*”, as defined by section 17958.1 of the California Health and Safety Code. ADUs are either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses. ADUs are also accessory structures detached from the proposed or existing primary dwelling and located on the same lot as a primary single-family or multi-family dwelling. There are three types of ADUs.

1. **Attached ADU.** The ADU is attached to the primary dwelling as an addition to the building. The ADU may be new construction or a conversion of existing space.
2. **Detached ADU.** The ADU is within an accessory building detached from the primary dwelling. The accessory building may be new construction or a conversion of an existing accessory structure.
3. **Junior ADU (“JADU”).** A unit that is no more than 500 square feet in size and contained entirely within a proposed or existing single-family residence with its own separate entrance and sanitation facility or shared sanitation facility with the existing or proposed single-family building.

REVIEW PROCESS

The following review process is required to permit ADUs.

1. In the Coastal Zone, Coastal Commission approval is required. As a first step, you submit a City application online [for an in-concept at this link](#). Following approval, you submit an application to the Coastal Commission. Coastal Commission approval is required before City permits may be pursued further. If the property isn't in the coastal zone, skip this step.
2. In conjunction with step 1, obtain approval of your Homeowner's Association if your property has an association. If not, skip this step.
3. Apply for a City ADU prescreen on the [City's website at this link](#). This must be completed before a building permit must be processed. Evidence of Coastal Commission and HOA approval is required for this step.
4. Apply and go through the process for building and grading permits by submitting electronically online.

ATTACHMENTS

1. Streamlined Types of ADUs (pg. 2)
2. Summary Table of Zoning Requirements (pg. 3)
3. Frequently Asked Questions (pg. 5)
4. Address exhibit template (pg. 6)
5. Deed restriction templates: ADU and JADU (pgs. 7-12)
6. [Zoning Code Section 17.28.270](#), ADU Zoning Standards (pg. 13)

Streamlined Types of ADUs

Accessory Dwelling Units (ADUs) that meet criteria for the four categories below have less requirements. ADU proposals that do not fit within one of the four categories of ADUs below must comply with additional requirements in Municipal Code Section 17.28.270, Accessory Dwelling Units, summarized on the next page and [available online at this link](#).

- (1) **Converted on Single-family Lot:** One ADU as described below and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - i. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus an allowed 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - ii. Has exterior access that is independent of that for the single-family dwelling; and
 - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

- (2) **Limited Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot), if the detached ADU satisfies each of the following limitations:
 - i. The side- and rear-yard setbacks are at least four feet.
 - ii. The total floor area is 800 square feet or smaller.
 - iii. The peak height above existing grade does not exceed the applicable height limit described in the table of *Attachment 2* of this ADU Packet.

- (3) **Converted on Multifamily Lot:** One or more ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multi-family dwelling, up to a quantity equal to 25 percent of the existing multi-family dwelling units.

- (4) **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing or proposed multi-family dwelling if each detached ADU satisfies both of the following limitations:
 - i. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - ii. The peak height above existing grade does not exceed the applicable height limit.

ATTACHMENT 2

	Detached or Attached ADU	ADU created from existing space
Permitted Locations	<ul style="list-style-type: none"> Permitted on lots with a single-family or multifamily residential uses. Additionally, an ADU that is on, or within, six hundred (600) feet of a residential historic structure must be located so as to not be visible from any public right-of-way. 	
Maximum Size	<p>*No development standards will require an ADU to be less than 800 sq. ft.</p> <p>Detached ADU –</p> <ul style="list-style-type: none"> Studio/One-bedroom: 850 sf Two bedroom: 1,000 sf <p>Attached ADU – whichever is more restrictive:</p> <ul style="list-style-type: none"> 50% of existing living area, or Studio/One-bedroom: 850 sf Two bedroom: 1,000 sf 	<ul style="list-style-type: none"> No size limit for ADUs converted from existing space ADUs converted in multi-family buildings must be within portions of existing non-livable space (i.e. storage rooms, boiler rooms, passageways, attics, basements, garages, etc.) <p>Junior ADU (single-family residence only) – 500 sf</p>
Lot Coverage:	No ADU greater than 800 sf may cause the total lot coverage to exceed 50%	
Setbacks	<p><u>Front</u> – 20 feet and no closer to the front property line than the living area of the primary dwelling.</p> <p><u>Side</u> – 4 feet¹</p> <p><u>Rear</u> – 4 feet¹</p> <p><u>Street side-yard</u> – By zone</p> <p><u>From Primary Building</u> – 5 feet measured from closest point (i.e. eave)</p>	No additional setbacks required. Must meet fire safety requirements.
Height	<p><u>Attached ADU</u>: Determined by underlying zone and not to exceed 25 feet.</p> <p><u>Detached ADU</u>: 16 feet or 18 feet if located .5 miles from transit stop, and an additional 2 feet if necessary to align roof with pitch of primary dwelling</p>	N/A
Parking	<p>None required if:</p> <ol style="list-style-type: none"> ADU is within ½ mile walking distance of public transit (i.e. bus, rail, and Lyft SC Ride stops). ADU is within an architecturally and historically significant historic district. On-street parking permits are required but not offered. There is a car share vehicle located within 1 block of ADU. 	None required if ADU is part of the proposed or existing primary residence or an accessory structure.
Bathroom	Separate facilities required.	A Junior ADU may have separate facilities or share facilities with the primary residence.
Separate Entrance	Required	
Quantity	<p><u>Residential or Mixed Use zoned lot with a single-family dwelling unit</u>: 1 Junior ADU plus 1 Detached or Attached ADU</p> <p><u>Multi-family lot</u>: When existing non-living space within a multifamily residence is converted to an ADU, up to 25% the number of existing units is allowed, without prohibiting a minimum of 1 ADU per building. Up to 2 ADUs may be detached.</p>	

¹ Construction of new units must meet fire safety requirements for setbacks less than 5 feet.

Regulations that apply to all ADUs

- **Permits Required:** Building Permit. See the Building Permit Application for submittal requirements.
- **Fire Sprinklers:** Required if required for the primary residence. Consistent with the Building Code, fire sprinklers may be required if new or reconstructed setbacks are less than 5 feet.
- **Ownership:** Any ADU/JADU(s) may not be sold or otherwise conveyed separately from the primary residence. This is conveyed in the deed restriction required prior to building permit issuance.
- **Owner Occupancy:** Not required for ADUs created between January 1, 2020, and January 1, 2025, unless a Junior ADU is on the property, then the owner must live in the primary residence or the Junior ADU.
- **Deed Restriction:** A deed restriction must be recorded against the title of the property in the County Recorder's office. The deed restriction ensures ADUs are rented no less than 30 days and cannot be sold separately from the primary residence.
- **Rental Terms:** Any ADU/JADU(s) shall be rented for terms of 30 days or longer.
- **Minimum Unit Size:** That square footage that would qualify the space as an efficiency unit pursuant to current codes. Unless modified by local ordinance pursuant to Health and Safety Code Section 17958.1, efficiency dwelling units shall comply with the following:
 - Shall have a living area of not less than 220 sf of floor area, which the area shall be measured from the inside perimeter of the exterior walls of the unit and shall include closets, bathrooms, kitchen, living, and sleeping areas. An additional 100 sf of floor area shall be provided for each occupant of such unit in excess of two.
 - Shall be provided with a separate closet.
 - Shall be provided with a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to building code shall be provided.
 - The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower, unless JADU is proposed and, therefore, only access to shared bathroom and sanitary facility is required.
- **Correction of nonconforming zoning conditions:** Not required.
- **Impact Fees:** Some impact fees may not be required for ADUs less than 750 sf. Please contact the Building Division for more information.
- **Connection/Utility Fees:** Not required unless ADU is detached or ADU/JADU is proposed with a new residence wherein separate utility connection and applicable fees are required.
- **Review Time Limits:** 60 days when a complete application is submitted.
 - If the ADU/JADU(s) is proposed with an application for a new single-family or multifamily residence, the City may wait to act on the ADU/JADU(s) request until the City has acted on the application for a new single-family or multifamily residence.
 - If the applicant requests a delay, the 60-day timeframe shall be tolled for the period of the requested delay.

Frequently Asked Questions

ATTACHMENT 3

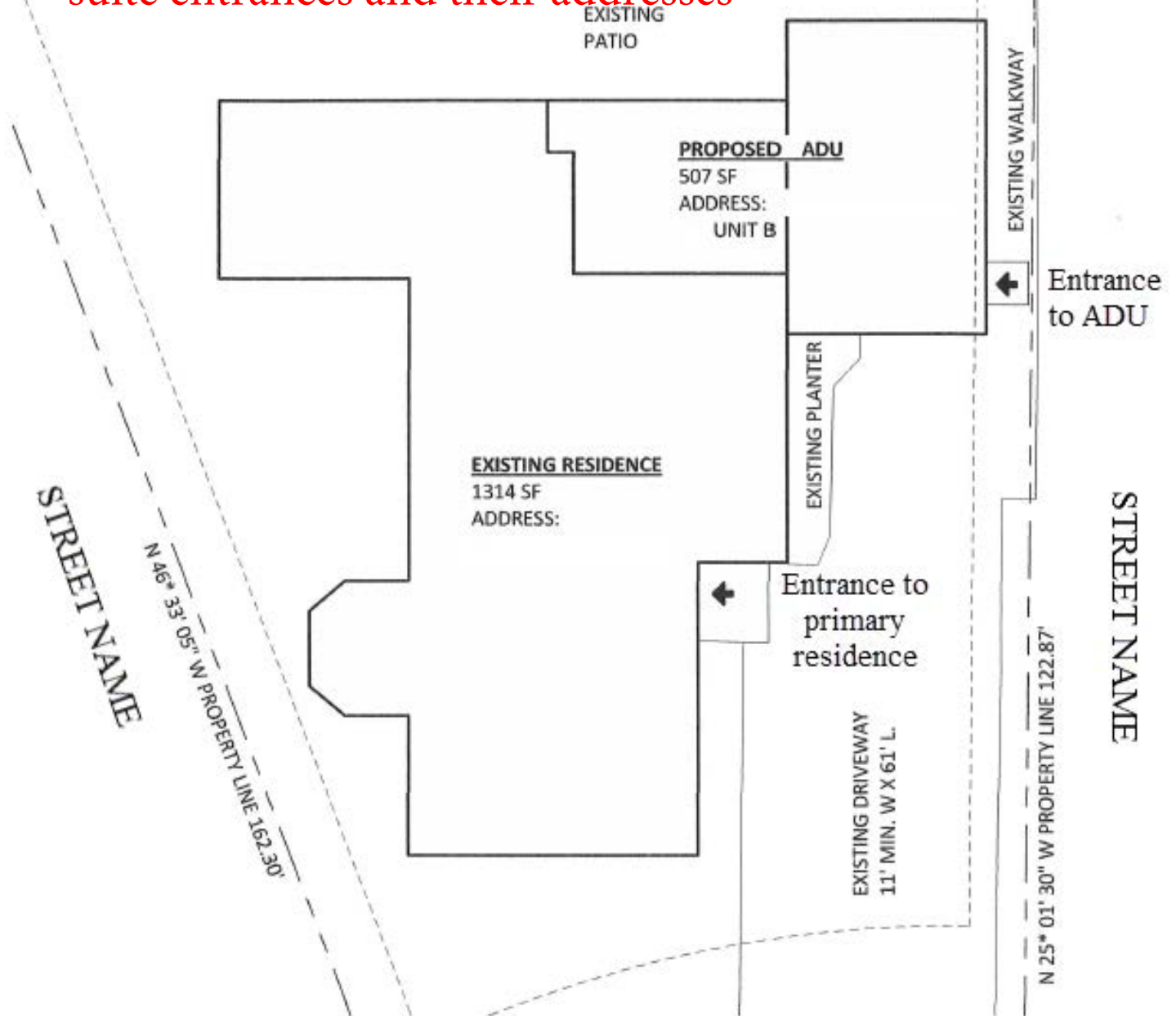
Frequently Asked Questions	
Is Coastal Commission approval required?	Yes, if an ADU is proposed in the Coastal Zone. In this instance, the first step is to submit a City application for an in-concept review using the City's website.
Is Homeowners' Association approval required?	Yes, if a property is part of a Homeowners' Association, you need HOA approval for City permits.
Can I construct an ADU above my garage?	Yes. If the ADU is not a conversion of existing space, the proposal must meet setbacks, height, design, and all other requirements. Note that new construction, <u>detached</u> ADUs are limited in height. A conversion of existing space above a garage is permitted regardless of the location and size.
Can I convert my garage and add space above, too?	Yes. The proposal must meet setbacks, height, design, and all other requirements. Common limiting requirements are the 20' front setback and no closer to the front property line than the living area of the primary dwelling.
Can I construct space above my in-bank garage that is 5 feet from the property line?	Yes. Any new construction must meet height, design, and setback requirements, including front setbacks.
Do I have to live on property?	For permits issued between January 1, 2020 and January 1, 2025, owners are not required to reside on the property, unless the proposal involves a JADU, then the owner is required to reside in the JADU or primary dwelling unit.
Can I Airbnb my ADU?	No, short-term rentals such as Airbnb are not allowed with the creation of ADUs.
Can I construct a new house and an ADU at the same time?	Yes. However, a detached ADU requires a separate building permit.
Will my property taxes increase if I build an ADU?	Yes. Under Proposition 13 the County Assessor will appraise the new construction at fair market value.
How long does it take to get a permit?	The typical review period before a permit may be issued is 4-8 weeks.
Can I legalize an unpermitted ADU?	Yes, if it can be made to satisfy all current requirements.
If I convert my garage to an ADU do I need to replace the parking?	No. Replacement parking is not required. Demolition of any portion of an existing garage for the construction of an ADU/JADU will not require the applicant to replace parking.
What if my legal-nonconforming accessory building does not meet local development standards? Can I convert my legal non-conforming accessory building to an ADU?	Yes, State law allows an existing, legal non-conforming accessory building to be converted into an ADU. State law also allows an expansion of up to 150 square feet for ingress and egress, beyond the existing footprint of that converted accessory building.

ADDRESS EXHIBIT TEMPLATE

EXAMPLE OF FORMAT

CUSTOMIZE TO FIT PROJECT

Provide site plan, identify all unit/
suite entrances and their addresses



① ADDRESS EXHIBIT
3/32" = 1'-0"

ADDRESS

Project #: PLN XX-XXX

Type of ADU

Name

Address

Phone: (xxx) xxx-xxxx

Email:

Requirements

A copy of the enclosed deed restriction must be recorded by the County of Orange Clerk-Recorder (“Clerk-Recorder”), and submitted to the City of San Clemente Planning Division, before a building permit may be issued (not prior to the submittal of a building permit application). The deed restriction is “recorded” when an original “wet signed” paper copy is notarized and a Clerk-Recorder stamp is the header of page 1, similar to the example stamp below. For the Clerk-Recorder’s hours and locations, [click the link here.](#)



Deed Restriction Document(s)

Two copies of the Deed Restriction are enclosed in this packet: one for Accessory Dwelling Units (ADUs) and one for Junior Accessory Dwelling Units (JADUs). When both an ADU and JADU are proposed, both copies are required.

Submittal

After the document recorded, please send an electronic PDF copy of the document to the planner that reviews your building permit application. If you don’t have the planner’s contact information, please email the document to planning@san-clemente.org and reference your address and the building permit application number (e.g. B21-0001).

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of San Clemente
910 Calle Negocio
San Clemente, CA 92673
Attn: City Clerk

EXEMPT FROM RECORDING FEES PER GOVT. CODE 27383

ACCESSORY DWELLING UNIT DEED RESTRICTION

This Deed Restriction is executed as of this ____ day, ____ month, 20__ year, of by _____ [Name or Names of Declarant(s)] (collectively, “Declarant”) and will be effective as of the date of its recording in the Records of Orange County, California. This Deed Restriction is made with reference to the following facts:

RECITALS

A. Declarant is the owner of that certain real property located at _____ [Address], San Clemente, California in Orange County also described as Assessor Parcel Number [APN Number] _____ (“Property”), which includes residential use on a residential or mixed-use zoned lot that meets qualifying criteria under the California Government Code Section 65852.2 and 65852.22 (“State laws”) for granting of rights to construct an Accessory Dwelling Unit (“ADU”), such as a single-family residence, multi-family residence, or residential unit in a mixed-use zone.

B. Declarant applied for approval by the City of San Clemente (“City”) of construction of an ADU on the Property as provided by California State laws.

C. The City has approved the application for the ADU, subject to recordation of a deed restriction against the Property setting forth certain restrictions described in State laws AB-68 and AB-881.

D. Declarant desires by this Deed Restriction to comply with the City’s conditions of approval and to bind the Property as set forth in this Deed Restriction, which will run with the Property and be binding upon it and upon all future owners thereof.

OPERATIVE PROVISIONS

1. Separate Ownership. The ADU may not be sold, mortgaged, or transferred separately from Primary Residence.

2. Rental. The ADU may be rented, but may not be rented on a short-term basis (29 consecutive day period or less).

3. Access. The ADU shall have independent exterior access separate from the Primary Dwelling.

4. Other Requirements. The ADU shall comply all other applicable requirements set forth in California State law. or the San Clemente Municipal Code as amended to comply with State laws.

5. Modification. This Deed Restriction may not be modified or terminated without the prior written consent of the City's Community Development Director.

6. Runs with the Land. This Deed Restriction is intended to run with the Property and be binding upon all future owners thereof.

Executed by the Declarant as of the date set forth above.

Declarant:

[Name of Declarant]

[Name of Declarant]

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of San Clemente
910 Calle Negocio
San Clemente, CA 92673
Attn: City Clerk

EXEMPT FROM RECORDING FEES PER GOVT. CODE 27383

JUNIOR ACCESSORY DWELLING UNIT DEED RESTRICTION

This Deed Restriction is executed as of this _____ day, _____ month, 20____ year, of by _____ [Name or Names of Declarant(s)] (collectively, “Declarant”) and will be effective as of the date of its recording in the Records of Orange County, California. This Deed Restriction is made with reference to the following facts:

RECITALS

A. Declarant is the owner of that certain real property located at _____ [Address], San Clemente, California in Orange County also described as Assessor Parcel Number [APN Number] _____ (“Property”), which includes residential use on a residential or mixed-use zoned lot that meets qualifying criteria under the California Government Code Section 65852.2 and 65852.22 (“State laws”) for granting of rights to construct a Junior Accessory Dwelling Unit (“JADU”), such as a single-family residence, multi-family residence, or residential unit in a mixed-use zone.

B. Declarant applied for approval by the City of San Clemente (“City”) of construction of a JADU on the Property as provided by California State laws.

C. The City has approved the application for the JADU, subject to recordation of a deed restriction against the Property setting forth certain restrictions described in State laws AB-68 and AB-881.

D. Declarant desires by this Deed Restriction to comply with the City’s conditions of approval and to bind the Property as set forth in this Deed Restriction, which will run with the Property and be binding upon it and upon all future owners thereof.

OPERATIVE PROVISIONS

1. Separate Ownership. The JADU may not be sold, mortgaged, or transferred separately from Primary Residence.

2. Rental. The JADU may be rented, but may not be rented on a short-term basis (29 consecutive day period or less). Owner-occupancy.

3. Owner-occupancy. As required by California State law and the San Clemente Municipal Code, a natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence.

4. Access. The JADU shall have independent exterior access separate from the Primary Dwelling.

5. Other Requirements. The JADU shall comply all other applicable requirements set forth in California State law or the San Clemente Municipal Code as amended to comply with State laws.

6. Modification. This Deed Restriction may not be modified or terminated without the prior written consent of the City's Community Development Director.

7. Runs with the Land. This Deed Restriction is intended to run with the Property and be binding upon all future owners thereof.

Executed by the Declarant as of the date set forth above.

Declarant:

[Name of Declarant]

[Name of Declarant]

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

17.28.270 Accessory Dwelling Units

- A. **Purpose and Intent.** The purpose and intent of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) within the City. The regulations in this section are intended to comply with California Government Code §§ 65852.2 and 65852.22, as they may be amended.
- B. **Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
1. Deemed to be inconsistent with the City's general plan and zoning designation for the lot on which the ADU or JADU is located.
 2. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 3. Considered in the application of any local ordinance, policy, or program to limit residential growth.
 4. Required to correct a nonconforming zoning condition, as defined in subsection C.7 below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- C. **Definitions.** As used in this section, terms are defined as follows:
1. "Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:
 - a. An efficiency unit, as defined by California Health and Safety Code § 17958.1; and
 - b. A manufactured home, as defined by California Health and Safety Code § 18007.
 2. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 3. "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated.
 4. "Efficiency kitchen" means a kitchen that includes all of the following:
 - a. A cooking facility with appliances.
 - b. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
 5. "Junior accessory dwelling unit" or "JADU" means a residential unit that satisfies all of the following:
 - a. It is no more than 500 square feet in size.

- b. It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - c. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - d. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
 - e. It includes an efficiency kitchen, as defined in subsection C.4 above.
6. "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.
 7. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
 8. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
 9. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
 10. "Public transit" means a location, including, but not limited to, a bus stop or train station or SC Rides, 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.
 11. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

D. Permit Procedures. The following approvals apply to ADUs and JADUs under this section:

1. **Building-Permit Only.** If an ADU or JADU complies with each of the general requirements in subsection E below, it is allowed with only a building permit in the following scenarios:
 - a. **Converted on Single-family Lot:** One ADU as described in this subsection D.1.a and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - i. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - ii. Has exterior access that is independent of that for the single-family dwelling; and

- iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes; and
 - iv. The JADU complies with the requirements of Government Code Section 65852.22.
 - b. **Limited Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection D.1.a above), if the detached ADU satisfies each of the following limitations:
 - i. The side- and rear-yard setbacks are at least four feet.
 - ii. The total floor area is 800 square feet or smaller.
 - iii. The peak height above grade does not exceed the applicable height limit in subsection E.2 below.
 - c. **Converted on Multifamily Lot:** One or more ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection D.1.c, at least one converted ADU is allowed within an existing multi-family dwelling, up to a quantity equal to 25 percent of the existing multi-family dwelling units.
 - d. **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing or proposed multi-family dwelling if each detached ADU satisfies both of the following limitations:
 - i. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - ii. The peak height above grade does not exceed the applicable height limit provided in subsection E.2 below.
- 2. **ADUs that Require an ADU Permit.**
 - a. Except as allowed under subsection D.1 above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections E and F below.
 - b. The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ADU permit processing fee is determined the Planning Division and approve by the City Council by resolution.
- 3. **Application Process and Timing.**
 - a. An ADU permit application is considered ministerially, without any discretionary review or a hearing.

- b. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City has not approved or denied the completed application within 60 days, the application is deemed approved unless either:
 - i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - ii. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
 - c. 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 the 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 within the 60-day time period established by subsection D.3.b above.
 - d. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.
4. **Impact and Utility Fees.** The following requirements apply to all ADUs and JADUs that are approved under subsections D.1 or D.2 above.
- a. **Impact Fees.**
 - i. No impact fee is required for an ADU that is less than 750 square feet in size. For purposes of this subsection D.4.a, "impact fee" means a "fee" under the Mitigation Fee Act (Government Code § 66000(b)) and a fee under the Quimby Act (Government Code § 66477). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
 - ii. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)

b. Utility Fees.

- i. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
- ii. Except as described in subsection D.4.b.i, converted ADUs on a single-family lot that are created under subsection D.1.a above are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.
- iii. Except as described in subsection D.4.b.i, all ADUs that are not covered by subsection D.4.b.ii require a new, separate utility connection directly between the ADU and the utility.
 - (a) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - (b) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

E. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that approved under subsections D.1 and D.2 above:

1. Zoning.

- a. An ADU or JADU subject only to a building permit under subsection D.1 above may be created on a lot in a residential or mixed-use zone.
- b. An ADU subject to an ADU permit under subsection D.2 above may be created on a lot that is zoned to allow single-family dwelling residential use or multi-family dwelling residential use.

2. Height.

- a. Except as otherwise provided by subsections E.2.b and E.2.c below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.
- b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

- c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection E.2.d may not exceed two stories.
 - e. For purposes of this subsection E.2, height is measured above existing legal grade to the peak of the structure.
3. **Fire Sprinklers.**
- a. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - b. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
4. **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
5. **No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot), or from the lot and all of the dwellings (in the case of a multi-family lot).
6. **Septic System.** If the ADU or JADU will connect to an onsite waste-water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
7. **Owner Occupancy.**
- a. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - b. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
 - c. As required by applicable law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement in this subsection E.7.c does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

8. **Deed Restriction.** Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Planning Division. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
- a. Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
 - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The deed restriction runs with the land and may be enforced against future property owners.
 - d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Planning Division, providing evidence that the ADU or JADU has in fact been eliminated. The Planning Division may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Planning Division's determination consistent with other provisions of this code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with all applicable legal requirements, including those of the Zoning Code.
 - e. The deed restriction is enforceable by the Planning Division for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
9. **Building & Safety.**
- a. **Must comply with building code.** Subject to subsection E.9.b below, all ADUs and JADUs must comply with all local building code requirements.
 - b. **No change in occupancy.** Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection E.9.b

prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

F. **Development Standards for ADUs that Require an ADU Permit.** The following requirements apply only to ADUs that require an ADU permit under subsection D.2 above.

1. **Passageway.** No passageway is required for an ADU.
2. **Parking.**
 - a. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking.
 - b. No Replacement. When a garage, carport, or other covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required be replaced.
 - c. Exceptions. No parking under subsection F.2.a is required in the following situations:
 - i. The ADU is located within one-half mile walking distance of public transit stops, as defined in subsection C.10 above.
 - ii. The ADU is located within an architecturally and historically significant historic district.
 - iii. The ADU is part of the proposed or existing primary residence or an accessory structure under subsection D.1.a above.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.
 - v. When there is a city-sanctioned, posted car-share pick-up or drop-off location within one block of the ADU.
 - vi. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections F.2.c.i through F.2.c.v above.
3. **Setbacks.** An ADU that is subject to this subsection F must conform to:
 - a. A 20-foot of the front-yard setback. In addition, the ADU may not be closer than the living area of the primary dwelling to the front property line. This subsection F.3.a is subject to subsection F.4.c below
 - b. Four-foot side- and rear-yard setbacks.
 - c. A detached ADU must be a minimum of five feet from the primary building, measured from the closest point of the ADU (whether wall, balcony, eave, etc.) to the closest point of the primary dwelling.

- d. No setback if the ADU is constructed in the same location and to the same dimensions as an existing accessory building.
4. **Maximum Size.**
- a. The maximum size of an attached or detached ADU subject to this subsection F is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
 - b. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
 - c. Application of other development standards in this subsection F, such as lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection F.4.b, a front setback, or lot coverage limit may require the ADU to be less than 800 square feet.
5. **Lot Coverage.** No ADU subject to this subsection F may cause the total lot coverage of the lot to exceed 50 percent lot coverage, subject to F.4.c above.
6. **Driveway Access.** The ADU and primary dwelling must use the same driveway to access the street, unless otherwise required for fire apparatus access as determined by the fire authority.
7. **Architecture Review.**
- a. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design of those of the primary dwelling.
 - b. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - c. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
 - d. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
 - e. The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of seven feet.
 - f. Fencing, landscaping, privacy glass, or clerestory windows may be used to provide screening and prevent a direct line of sight to contiguous residential property.
8. **Historic Protections.** An ADU that is on real property that is on or within 600 feet of real property that is listed in the California Register of Historic Resources must be located so as to not be visible from any public right-of-way.

G. Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

1. **Generally.** The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
2. **Unpermitted ADUs constructed before 2018.**
 - a. **Permit to Legalize.** As required by state law, the City may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:
 - i. The ADU violates applicable building standards, or
 - ii. The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance (section 17.28.270).
 - b. **Exceptions.**
 - i. Notwithstanding subsection G.2.a above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the City makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.
 - ii. Subsection G.2.a above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

H. Nonconforming ADUs and JADUs and Discretionary Approval. Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections A through G of this section may be allowed by the City with an Architectural Permit, in accordance with the other provisions of this title.