

## Chapter 17.14: Accessory Dwelling Unit (ADU) Ordinance

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### **17.14.010 Purpose and Intent.**

The purpose and intent of this Chapter is as follows:

- A. Purpose. The purpose of this Chapter is to provide regulations for the development of accessory dwelling units through a ministerial process consistent with California Government Code Section 66310 through 66342.
- B. Intent. The regulations in this Chapter are intended to:
  - 1. Implement the provisions of the General Plan Housing Element;
  - 2. Assure compliance with California Government Code Section 66310 through 66342 and other relevant housing legislation;
  - 3. Encourage the development of accessory dwelling units;
  - 4. Streamline and minimize governmental constraints on residential development; and
  - 5. Minimize potential adverse impacts on the public health, safety, and general welfare that may be associated with accessory dwelling units.

### **17.14.020 Acknowledgement.**

The City recognizes the State of California is facing a housing crisis. The City acknowledges accessory dwelling units expand lower cost housing opportunities and are an essential component of the City's and State's housing supply.

### **17.14.030 Applicability.**

The regulations established in this Chapter shall apply to all accessory dwelling units where allowed in compliance with Section 17.14.040 (Where Allowed) of this Chapter and State law. Any construction, establishment, alteration, enlargement, or modification of an accessory dwelling unit shall comply with the

requirements of this Chapter and the California Building Code. An accessory dwelling unit that conforms to the standards of this Chapter shall not be:

- A. Deemed to be inconsistent with the General Plan designation and zone for the parcel on which the accessory dwelling unit is located or proposed;
- B. Deemed to exceed the allowable density for the parcel on which the accessory dwelling unit is located or proposed;
- C. Considered in the application of any City ordinance, policy, or program to limit residential growth; and
- D. Required to correct a nonconforming zoning condition as defined in Chapter 17.04 (Definitions). This does not prevent the City from enforcing compliance with applicable building standards in compliance with Health and Safety Code Section 17980.12.

#### **17.14.040 Where Allowed.**

In compliance with California Government Code Section 66314, accessory dwelling units shall be allowed by-right (ministerially permitted) in any zone which allows residential uses. Specifically, the City's Agriculture zone (A), Open Space zone (OS), Single-family residential zones (R-1-5, R-1-12.5, and R-1-20), and Multi-family residential zones (R-M-2 and R-M-3) shall allow accessory dwelling units by-right.

This Section also applies to mixed-use zoning districts which allow residential and zones which allow residential as a conditionally permitted use. Specifically, the City's Commercial zones (C-N, C-R, C-S, C-MU, and D-MU), Office zones (O-PA and O-C), and Industrial zones (BRP, I-L, and I) shall allow accessory dwelling units by-right.

#### **17.14.050 Permit Requirements and Processing Procedures.**

- A. An application for an accessory dwelling unit that complies with all applicable requirements of this Chapter and California Government Code Section 66310 through 66342 shall be approved ministerially through the Building Permit process. A Building Permit application for an accessory dwelling unit on a parcel with an existing or proposed single-family or multi-family dwelling shall be approved or denied within 60 days of the Building Permit application being deemed complete. The Building Permit applicant may request a delay in the City processing of the Building Permit, which shall result in the suspension of the 60-day time period.
- B. If a permit application for an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multi-family dwelling on the lot, including conditional use permits, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application for the primary single-family or multi-family dwelling, but the application to build the accessory dwelling unit or junior accessory dwelling unit shall be considered ministerially without discretionary review or hearing.

#### **17.14.060 Types of Accessory Dwelling Units.**

An accessory dwelling unit approved under this Chapter may be one of, or a combination of, the following types:

- A. Attached. An accessory dwelling unit that is created in whole or in part from newly constructed space that is attached to the proposed or existing primary dwelling, such as through a shared wall, floor, or ceiling.
- B. Detached. An accessory dwelling unit that is created in whole or in part from newly constructed space that is detached or separated from the proposed or existing primary dwelling, including an existing stand-alone garage converted into an accessory dwelling unit. The detached accessory dwelling unit shall be located on the same parcel as the proposed or existing primary dwelling.
- C. Converted. An accessory dwelling unit that is entirely located within the existing primary dwelling or accessory structure, including but not limited to attached garages, storage areas, or similar uses; or an accessory structure including but not limited to studio, pool house, or other similar structure. See Section 17.14.100 (Standards Applicable to Converted Accessory Dwelling Units) of this Chapter.
- D. Junior Accessory Dwelling Unit. A junior accessory dwelling unit is a unit that meets all the following (see Section 17.14.110 (Standards Applicable to Junior Accessory Dwelling Units) for additional regulations):
  - 1. Shall only be allowed on parcels zoned Single-family Residential (R-1-5, R-1-12.5, or R-1-20) and that include an existing or proposed single-family dwelling.
  - 2. Is entirely located within a proposed or existing primary single-family dwelling or its attached garage.
  - 3. Has independent exterior access from the primary dwelling.
  - 4. Has sanitation facilities that are either shared with or separate from those of the primary dwelling.
  - 5. Includes an efficiency kitchen, which includes a cooking facility with appliances, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

**17.14.070 Types and Number of Units Allowed.**

- A. Single-Family Residential Zones. One of each of the following types of accessory dwelling units are allowed on lots zoned Single-Family Residential:
  - 1. One new construction accessory dwelling unit, attached or detached, as described in Government Code Section 66323(a)(2).
  - 2. One conversion accessory dwelling unit, attached or detached, within the existing or proposed square footage of the primary single-family dwelling or accessory structure, as described in Government Code Section 66323(a)(1).
  - 3. One junior accessory dwelling unit built fully within the existing square footage of the primary single-family dwelling unit as described in Government Code Section 66323(a)(1).
- B. Multi-Family Residential Zones. Accessory dwelling units are allowed in Multi-Family Residential zones and shall comply with all of the following:

1. **Converted Spaces within a Multi-Family Residential Dwelling Structure.** Multiple accessory dwelling units shall be allowed within an existing or proposed multi-family residential dwelling structure and shall comply with all of the following:
  - a. Accessory dwelling units are allowed within any multi-family residential dwelling structure in portions of such structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that any such space converted to an accessory dwelling unit complies with minimum State building standards for residential dwellings.
  - b. The number of accessory dwelling units allowed in converted spaces of multi-family residential dwelling structures is limited to a maximum of 25 percent of the number of multi-family dwellings within the existing or proposed structure (Example: If a multi-family structure has 10 units, a maximum of two accessory dwelling units in converted spaces is allowed.). In no case shall fewer than one accessory dwelling unit be allowed.
2. **Detached Accessory Dwelling Units.** No more than two detached accessory dwelling units on a parcel with an existing or proposed multi-family residential dwelling structure.
- C. **Mixed-Use Zones and Conditional Use.** Accessory dwelling units are allowed by right in mixed use zones and zones where residential uses are allowed as a conditional use. The number and type of accessory dwelling units allowed in these zones shall be in accordance with Section 17.14.070(A) and 17.14.070(B) dependent on the type of existing or proposed residential use on the proposed lot.
- D. **Urban Lot Splits.** Parcels that undergo a lot split in accordance with Government Code Section 65852.21 and 66411.7 are allowed a maximum of two dwelling units per lot. Accessory dwelling units and junior accessory dwelling units shall count towards this two-unit limit.
- E. In no case shall more than four units be allowed on a single lot in any combination of primary dwelling units, accessory dwelling units, and junior accessory dwelling units.

#### **17.14.080 Standards Applicable to All Accessory Dwelling Units.**

The following standards apply to all accessory dwelling units, including junior accessory dwelling units.

- A. **Parcel Size and Width.** No minimum parcel size or parcel width standards shall apply to the construction of an accessory dwelling unit.
- B. **Parcel Coverage.** No parcel coverage standards shall apply to the construction of an accessory dwelling unit.
- C. **Open Space.** An accessory dwelling unit shall comply with the minimum open space requirements of the applicable zoning district, except in the case where the minimum open space requirement would preclude an accessory dwelling unit, one attached or detached accessory dwelling unit with a maximum size of 800 square feet, regardless of the number of bedrooms, shall be allowed and shall comply with the requirements of this Chapter.
- D. **Owner Occupancy.** The property owner is not required to occupy the accessory dwelling unit or primary dwelling located on the parcel.

- E. Separate Access Required. An accessory dwelling unit shall have exterior access that is separate from the exterior access for the primary dwelling.
- F. Fire Sprinklers. Fire sprinklers are required in an accessory dwelling unit if they are required in the primary dwelling per the California Building Code.
- G. Permanent Foundation.
  - 1. All accessory dwelling units shall be permanently attached to a permanent foundation as defined by the California Building Code.
  - 2. The use of a recreational vehicle, commercial coach, trailer, motor home, camper, camping trailer, tiny house on wheels, boat, or other apparatus not designed for permanent human habitation is prohibited from use as an accessory dwelling unit.
- H. Nonconforming Conditions. The correction of nonconforming zoning conditions is not required in order to establish an accessory dwelling unit on a parcel with a primary dwelling.
- I. Illegal Units. This Chapter shall not validate any existing illegal accessory dwelling units or junior accessory dwelling units. The standards and requirements for the conversion of an illegal accessory unit to a legal conforming unit shall be the same as for a new accessory dwelling unit.
- J. Separate Conveyance. Except as provided in Government Code Section 66340 through 66342, an accessory dwelling unit shall not be sold or otherwise conveyed separately from the parcel and the primary dwelling(s).
- K. Rental Term. No accessory dwelling unit shall be rented for a term of less than 30 days.
- L. Impact Fees. No impact fees (including school fees) shall be charged to an accessory dwelling unit that is less than 750 square feet in size. Any impact fee charged to an accessory dwelling unit 750 square feet or larger in size, including accessory dwelling units converting existing space, shall be charged proportionately in relation to the square footage of the primary dwelling.
  - 1. Single Family Residential. For purposes of calculating the fees for an accessory dwelling unit on a lot with a single-family dwelling, the proportionality shall be based on the square footage of the primary dwelling unit (e.g. the floor area of the accessory dwelling unit, divided by the floor area of the primary dwelling unit, times the typical fee amount charged for a new dwelling).

Example impact fee calculation for an accessory dwelling unit on a single-family residential parcel:

Public Facility Impact Fee for Single Family DU	\$692.00
Example Square Footage of Primary Dwelling	1,500
Example Square Footage of ADU	800
Public Facility Impact Fee for ADU	\$369.07
This calculation is for example purposes only, actual impact fees are subject to change based on the City of Visalia Development Fee Schedule and will be calculated at time of permit application.	

2. Multi-Family Residential. For purposes of calculating the fees for an accessory dwelling unit on a lot with a multi-family dwelling, the proportionality shall be based on the average square footage of the units within that multi-family dwelling structure. (e.g. the floor area of the accessory dwelling unit, divided by the average floor area of units, times the typical fee amount charged for a new dwelling unit).
3. Example impact fee calculation for an accessory dwelling unit on a multi-family residential parcel:

Public Facility Impact Fee for Multi Family DU	\$614.00
Example Average Square Footage of Unit in Multi-Family Dwelling	1,000
Example Square Footage of ADU	800
Public Facility Impact Fee for ADU	\$491.20
This calculation is for example purposes only, actual impact fees are subject to change based on the City of Visalia Development Fee Schedule and will be calculated at time of permit application.	

**17.14.090 Additional Standards Applicable to Attached and Detached Accessory Dwelling Units.**

The following standards shall apply only to attached and detached accessory dwelling units.

- A. Unit Size Requirements. Attached and detached accessory dwelling units shall comply with the following unit size requirement:
  1. Attached Units. May not exceed 850 square feet if it has fewer than two bedrooms or 1,200 square feet if it has two or more bedrooms. An attached accessory dwelling unit shall not exceed 50 percent of the floor area of the primary dwelling.
  2. Detached Units. May not exceed 850 square feet if it has fewer than two bedrooms or 1,200 square feet if it has two or more bedrooms.
  3. Unit Type Combinations. A detached, new construction accessory dwelling unit may be combined on the same parcel with one junior accessory dwelling unit. When combined with a junior accessory dwelling unit, the maximum size of the detached accessory dwelling unit is limited to 800 square feet, regardless of the number of bedrooms.
  4. Measurement of Unit Size. Square footage is measured from the exterior walls at the building envelope, excluding any garage area or unenclosed covered porch areas. For the purposes of measurement all attached and/or interior storage areas, mezzanines, lofts, attics (except those less than seven feet in height accessed by a crawlspace and/or other code compliant access), and similar uses shall be counted in the total square footage.
- B. Height. Accessory dwelling units are limited to a maximum height of 16 feet, except as established below:

1. Detached Units Located Adjacent Transit Services. If a detached accessory dwelling is located within a half-mile of a major transit stop or high-quality transit corridor, as defined in Chapter 17.04 (General Provisions and Definitions), the unit is limited to a maximum height of 18 feet, and may be up to two feet taller, for a maximum of 20 feet, if necessary to match the roof pitch of the primary dwelling unit.
  2. Detached Units on Multi-Family Residential Dwelling Parcels. If a detached accessory dwelling is located on a parcel with a multistory multi-family dwelling structure, the detached accessory dwelling unit is limited to a maximum height of 18 feet.
  3. Attached Units. An accessory dwelling attached to the primary dwelling is limited to 25 feet or the height allowed in the underlying zoning district, whichever is lower. In no case shall an accessory dwelling unit exceed two stories.
- C. Parking. One off-street parking space is required for an accessory dwelling unit in addition to that required for the primary dwelling, except as established below.
1. No off-street parking shall be required for an accessory dwelling unit if any of the following circumstances exist:
    - a. The accessory dwelling unit is located within one-half mile of public transit.
    - b. The accessory dwelling unit is on a property located within the Historic Preservation District, or for properties with structures listed on the Local Register of Historic Structures.
    - c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
    - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
    - e. Where there is a car share vehicle located within one block of the accessory dwelling unit.
  2. The required off-street parking space may be covered or uncovered and shall be allowed in tandem and in setback areas, except as specified in Paragraph C.3 of this Subsection, unless the review authority makes specific findings that such parking is not feasible due to specific site topographical or fire and life safety conditions.
  3. Covered parking shall not be allowed in setback areas.
  4. If a garage, carport, or covered parking is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking is not required.
- D. Setbacks. An accessory dwelling unit shall comply with the following setback requirements:
1. Attached Unit. An attached accessory dwelling unit shall be subject to the same front setback requirement applicable to the primary dwelling, unless it precludes development of an accessory dwelling unit that is at least 800 square feet. An attached accessory dwelling unit shall have a minimum setback of four feet from the side and rear lot lines.

2. Conversion of Existing Living Space or Existing Accessory Building. See Section 17.14.100.C.
  3. New Detached Unit. A new construction detached accessory dwelling unit shall comply with the front setback of the underlying zoning district, unless it precludes development of an accessory dwelling unit that is at least 800 square feet. A detached accessory dwelling unit shall have a minimum setback of four feet from the side and rear lot lines.
- E. Design. The following requirements apply only to accessory dwelling units located within the Historic Preservation District as provided in the City's Zoning Map or is located on a parcel where the primary structure is listed on the City's Local Register of Historic Structures.
1. Converted Structures. The conversion of an existing structure to an accessory dwelling unit shall not alter any exterior features of the existing structure except as necessary to comply with current Building Code, State law, and this Chapter to make the unit livable (e.g., addition of doors or windows, garage door removal, addition of air conditioning unit). Any exterior alternations shall comply with Subparagraphs 2 through 6 of this Subsection E.
  2. Siding. Siding treatments of the accessory dwelling unit (e.g. clap board, board and batten, shingle) shall be an in-kind replication of the primary residence.
  3. Vents. Vent features on the exterior of the accessory dwelling unit shall be an in-kind replication of the vent features of the primary residence.
  4. Roof Features. Roof features (fascia, exposed rafter rails, corbels) and roof materials (asphalt shingles, wood shingles, tile) shall be an in-kind replication of the primary residence.
  5. Windows and Doors. The window and door treatments (e.g., trim width, shutters, muntins, grilles, sills, mullions, lintels, etc.) of the accessory dwelling unit shall be an in-kind replication of the window and door features of the primary residence.
  6. Exterior Lighting. Exterior light fixtures shall be an in-kind replication of the exterior lighting of the primary residence.

#### **17.14.100 Standards Applicable to Converted Accessory Dwelling Units.**

The following standards shall apply only to converted accessory dwelling units:

- A. Limited Expansion. Conversions may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure if the expansion is for the sole purpose of accommodating ingress and egress to the converted structure. Limited expansion areas shall conform with accessory dwelling unit setback requirements.
- B. Exterior Access Required. The converted space or structure shall have exterior access.
- C. Setbacks. An accessory dwelling unit or portion of an accessory dwelling unit located within the existing space of an existing dwelling or within an existing detached accessory structure shall not require a setback from the rear, street side, or interior side property lines.
- D. Parking. No additional off-street parking is required for the converted accessory dwelling unit. If replacement parking is provided, the replacement space(s) shall be located in any configuration on



the same parcel as the accessory dwelling unit and may include but is not limited to covered spaces, uncovered spaces, or tandem spaces. Replacement parking may only occur on driveways leading to a required parking space or in rear yard on a paved surface.

- E. Unit Size Requirements. The conversion of an existing accessory structure or a portion of the existing primary dwelling to an accessory dwelling unit is not subject to unit size requirements established in this Chapter. For example, if an existing 2,000 square-foot accessory structure was converted to an accessory dwelling unit, it would not be subject to the established unit size requirements.

#### **17.14.110 Standards Applicable to Junior Accessory Dwelling Units.**

The following standards shall apply only to junior accessory dwelling units.

- A. Where Allowed. Junior accessory dwelling units shall only be allowed on parcels zoned for Single-Family Residential use and that include an existing or proposed single-family dwelling.
- B. Location on Parcel. A junior accessory dwelling unit shall be allowed in the following locations:
  - 1. Within the walls of an existing or proposed primary single-unit dwelling.
  - 2. A conversion of an attached garage in the existing or proposed primary single-unit dwelling.
- C. Number of Units Per Parcel. A maximum of one junior accessory dwelling unit shall be allowed on any parcel.
- D. Unit Size Requirements. The total area of floor space for a junior accessory dwelling unit shall not exceed 500 square feet and shall not expand the size of an existing single-family dwelling by more than 150 square feet, provided such expansion is provided solely for the purpose of accommodating ingress and egress.
- E. Efficiency Kitchen. A junior accessory dwelling unit shall include an efficiency kitchen as described in Section 17.14.060(D)(5).
- F. Parking. No off-street parking is required for the junior accessory dwelling unit.
- G. Entrance. The junior accessory dwelling unit shall include an exterior entrance separate from the main entrance to the existing or proposed single-family dwelling. If a bathroom facility is not shared with the single-unit dwelling, the junior accessory dwelling unit may, but is not required to, include an interior entry into the main living area, which may include a second interior doorway for sound attenuation.
- H. Deed Restriction. Junior accessory dwelling units shall comply with the following deed restriction requirements:
  - 1. Deed Restriction Required. Prior to issuance of a Building Permit for a junior accessory dwelling unit, a deed restriction shall be recorded against the title of the property in the Tulare County Recorder's office and a copy filed with the City. The deed restriction shall run with the land and bind all future owners. The form of the deed restriction will be provided by the City and shall provide that:
    - a. The junior accessory dwelling unit shall not be sold separately from the primary dwelling, except as may otherwise be permitted by State law.

- b. The junior accessory dwelling unit is restricted to the approved size and other attributes allowed by this Section.
    - c. The deed restriction runs with the land and shall be enforced against future property owners.
    - d. The property owner shall reside on the site of the primary dwelling in which the junior accessory dwelling unit will be permitted for a minimum of three years. The owner may reside in either the remaining portion of the primary dwelling or the newly created junior accessory dwelling unit. Owner occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
2. Deed Restriction Removal. The deed restriction may be removed if the property owner eliminates the junior accessory dwelling unit. To remove the deed restriction, a property owner shall make a written request to the City, providing evidence that the junior accessory dwelling unit is eliminated. The City shall determine the junior accessory dwelling unit has been eliminated. If the junior accessory dwelling unit is not entirely physically removed but is only eliminated by virtue of having a necessary component of a junior accessory dwelling unit removed, the remaining structure and improvements shall otherwise comply with all applicable development and building standards.
3. Enforcement. 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 accessory dwelling unit in violation of the recorded restrictions or abatement of the illegal unit.