

PROPOSED AMENDMENT TO THE ZONING ORDINANCE
Accessory Dwelling Units
(w/~~strike through~~ and underlined language)

17.60.070 Accessory dwelling units.

A. Purposes. The purposes of this section are to authorize accessory dwelling units and junior accessory dwelling units; to establish a procedure for reviewing and approving their development to ensure and maintain healthy and safe residential living environments; to establish location and development standards for accessory dwelling units; to implement the general plan; and to comply with Government Code Sections [65852.2](#) and [65852.22](#), which require local agencies to consider applications for accessory dwelling unit and junior accessory dwelling unit permits ministerially without discretionary review or a public hearing, as well as any successor statutes on accessory dwelling units or junior accessory dwelling units, subject to the following requirements.

B. Definitions. For purposes of this section, the following words and phrases have the following meanings:

1. “Accessory dwelling unit” or “ADU” has the meaning set forth in Government Code Section [65852.2](#), as it may be amended: 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. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An ADU also includes the following: (a) an efficiency unit, as defined in Section [17958.1](#) of the Health and Safety Code; and (b) a manufactured home, as defined in Section [18007](#) of the Health and Safety Code. The ADU may be either attached to or located within the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or it may be within an existing or proposed accessory structure that is detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
2. “Attached accessory dwelling unit” means an ADU attached to a primary dwelling unit.
3. “Detached accessory dwelling unit” means an ADU detached from a primary dwelling unit.
4. “Efficiency unit” shall have the same meaning as specified in the International Building Code of the International Code Council, as incorporated by reference in Part 2 of Title 24 of the California Code of Regulations; have occupancy by no

more than two persons; have a maximum floor area of one hundred fifty square feet; and which may also have partial kitchen or bathroom facilities.

5. “Internal conversion” means the establishment of an ADU or junior accessory dwelling unit within an existing or proposed primary dwelling unit or, in the case of an ADU, within an existing detached accessory building.

6. “Junior accessory dwelling unit” or “JADU” has the meaning set forth in Government Code Section [65852.22](#), as it may be amended: a unit that is no more than five hundred square feet in size and contained entirely within an existing single-family residence ~~and/or attached garage~~. Enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence. A JADU is required to include a separate entrance from the main entrance to the proposed or existing single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. In cases where the JADU shares sanitation facilities with the existing structure, the JADU shall include an interior entry to the main living area of the proposed or existing single-family residence. ~~It is required to have a separate entrance from the main entrance to the proposed or existing single-family residence and to include an efficiency kitchen which shall include a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the unit.~~

7. “Primary dwelling” means either the single-family dwelling unit or the multifamily building on the same lot as one or more ADUs or JADUs, as applicable.

C. Permitting Procedure and Allowances. Except as otherwise provided in subsection D of this section, an application for a permit to establish an ADU will be approved ministerially without discretionary review or public hearing if the ADU meets: the location requirements specified in subsection E of this section; the development standards specified in subsections D and F of this section; all applicable building standards in Title [15](#) that are incorporated into this section and made applicable by reference; and all applicable sanitary sewer, water, and stormwater requirements.

D. Accessory Dwelling Unit Provisions for Existing or Proposed Development. An application for a permit to establish any of the following types of ADUs in a residential or mixed-use zoning district will be approved ministerially without discretionary review or public hearing ~~or will be denied with a full set of comments issued with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant~~ within sixty days of receipt of a complete application if there is an existing or proposed single-family or multifamily dwelling on the lot. Applicable zoning districts are identified in subsection E of this section.

1. Single-Family Development.

a. Up to one attached ADU, one detached ADU, and one JADU may be allowed on each lot with an existing or proposed single-family dwelling. This may consist of one internal conversion or attached ADU to an existing or proposed single-family dwelling or an existing accessory structure or one new detached ADU; in either case, a JADU is also allowed. A JADU must be contained within or as an addition to the primary residence or attached garage and is not allowed as a new detached accessory building or as a conversion of a detached accessory building.

b. Internal Conversions of a Primary Residence or Attached Accessory Structure. Up to one ADU and one JADU are permitted within an existing or proposed single-family dwelling or an existing attached accessory structure, subject to the following requirements:

i. The ADU and the JADU must have separate exterior access from each other and from the existing or proposed single-family dwelling.

ii. ~~The existing primary residence or~~ When converting an attached accessory structure, the attached accessory structure may be expanded by no more than one hundred fifty square feet beyond its physical dimensions at the time of the application to accommodate ingress and egress.

iii. A proposed JADU must comply with all of the requirements of Government Code Section [65852.22](#) and may not exceed five hundred square feet in area.

iv. The side and rear setbacks must be sufficient for fire and safety.

v. No replacement of any off-street parking spaces or attached garage spaces removed due to an internal conversion for an ADU or JADU shall be required.

vi. A local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee, unless constructed with a new single-family residence.

c. Attachments to a Primary Residence or Attached Accessory Structure. Up to one ADU ~~and one JADU are~~ is permitted as an attachment to an existing or proposed single-family dwelling or an existing attached accessory structure, subject to the following requirements:

i. The ADU and the JADU must have separate exterior access from each other and from the existing or proposed single-family dwelling.

ii. The attached ADU is permitted to be at least eight hundred fifty square feet for a studio/one-bedroom unit or one thousand square feet for two or more bedrooms, but shall not exceed the smaller of the following:

(A) One thousand square feet for a studio or one-bedroom unit or one thousand two hundred square feet for a unit with more than one bedroom.

(B) Fifty percent of the existing primary dwelling unit size or eight hundred square feet, whichever is larger.

iii. Attached ADUs may be up to the maximum allowed height in the zoning district or twenty-five feet, whichever is less.

iv. A proposed JADU must comply with all of the requirements of Government Code Section [65852.22](#) and may not exceed five hundred square feet in area.

v. Side and rear setbacks shall be at least four feet. Front yard setbacks shall be as required in the district in which the lot is located, unless the front setback requirement would be prohibitive of an ADU of up to 800 square feet with side and rear setbacks of at least 4 feet and a height not exceeding the limitations set forth in Section 17.60.070(D)(1)(c)(iii).

vi. No replacement of any off-street parking spaces or attached garage spaces removed due to creation of an attached ADU or JADU shall be required.

vii. A local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee, unless constructed with a new single-family residence.

d. Internal Conversions of an Existing Detached Accessory Structure. Up to one ADU is permitted within an existing detached accessory structure, subject to the following requirements:

i. The ADU must have independent exterior access.

ii. The existing detached accessory structure may be expanded by no more than one hundred fifty square feet beyond its physical dimensions at the time of the application to accommodate ingress and egress.

iii. The side and rear setbacks must be sufficient for fire and safety.

iv. No replacement of any off-street parking spaces or garage spaces removed due to an internal conversion of an existing detached accessory structure for an ADU shall be required.

v. A local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related a connection fee, unless constructed with a new single-family residence.

e. Detached ADU Units. Up to one detached new construction ADU on a lot with a proposed or existing single-family dwelling may be allowed subject to the following requirements. The following limits shall apply:

i. The ADU must have independent exterior access.

ii. The ADU shall not exceed:

(A) One thousand square feet for a studio or one-bedroom unit; or

(B) One thousand two hundred square feet for a unit with more than one bedroom.

iii. The ADU shall not exceed:

(A) A height of up to sixteen feet for an ADU on a lot with an existing or proposed single-family dwelling unit.

(B) A height of up to eighteen feet for an ADU on a lot with an existing or proposed single-family dwelling unit that is 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. Up to an additional two feet in height is permitted to accommodate a roof pitch on the ADU to allow for alignment with the roof pitch of the primary dwelling unit.

iv. Side and rear setbacks shall be at least four feet. Front yard setbacks shall be as required in the district in which the lot is located.

v. A detached ADU that complies with the following development standards shall be permitted, notwithstanding any other development standards:

(A) The ADU is eight hundred square feet or smaller.

(B) The ADU is set back at least four feet from the side and rear of the property.

(C) The ADU does not exceed the following height limitations:

~~(1) A height of up to the maximum allowed height in the zoning district or twenty-five feet, whichever is less.~~

(2) A height of up to sixteen feet for a detached ADU on a lot with an existing or proposed single-family dwelling unit.

(3) A height of up to eighteen feet for a detached ADU on a lot with an existing or proposed single-family dwelling unit that is 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. Up to an additional two feet in height is permitted to accommodate a roof pitch on the ADU to allow for alignment with the roof pitch of the primary dwelling unit.

vi. No replacement of any off-street parking spaces or garage spaces removed due to a new detached ADU shall be required.

vii. A local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee, unless constructed with a new single-family residence.

viii. Newly constructed non-manufactured detached ADUs for which permit requests are submitted on or after January 1, 2020, require compliance with 2019 Energy Code photovoltaic (PV) systems requirements (Section 150.1(c)14).

f. No certificate of occupancy shall be issued for an ADU or JADU prior to issuance of a certificate of occupancy for the primary residence.

g. If the permit application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling on the lot, action on the permit application for the ADU or the JADU may be delayed until action on the permit application to create the new single-family dwelling. In this case, the sixty-day time period shall be tolled for the period of the delay.

2. Multifamily Development.

a. Internal Conversions. One or more ADUs that are internal conversions within the nonlivable space of an existing multiple-family dwelling, including

but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, are permitted. Each internal conversion under this subsection must meet all applicable building standards in Title [15](#) as well as any applicable sanitary sewer, water, and stormwater requirements. The following limits shall apply:

- i. Internal ADU conversions within an existing multiple-family dwelling may total at least one conversion but shall not exceed twenty-five percent of the number of existing multiple-family units in the primary dwelling.
- ii. No replacement of any off-street parking spaces removed due to internal conversion ADUs of multifamily dwellings shall be required.
- iii. No new off-street parking shall be required for new ADUs added as internal conversions of multiple-family dwellings.

b. Detached Units. One or two detached ADUs on a lot with an existing multifamily dwelling are allowed if the detached ADU meets all applicable building standards in Title [15](#) and all applicable sanitary sewer, water and stormwater requirements. The following limits shall apply:

- i. The following height limitations are applicable:
 - (A) A height of up to sixteen feet for a detached ADU on a lot with an existing or proposed multifamily dwelling unit.
 - (B) A height of up to eighteen feet for a detached ADU on a lot with an existing or proposed multifamily dwelling unit that is 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. Up to an additional two feet in height is permitted to accommodate a roof pitch on the ADU to allow for alignment with the roof pitch of the primary multifamily dwelling unit.
 - (C) A height of up to eighteen feet for a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling. Up to an additional two feet in height is permitted to accommodate a roof pitch on the ADU to allow for alignment with the roof pitch of the primary multifamily dwelling unit.
- ii. Side and rear setbacks for new detached ADUs shall be at least four feet. Front yard setbacks shall be as required in the district in which the lot is located unless the front setback requirement would be prohibitive of an ADU of up to 800 square feet with side and rear setbacks of at least four feet and a height that does not exceed the limitations set forth in Section 17.60.070(D)(2)(b)(i).

iii. No replacement of any off-street parking spaces or garage spaces removed due to construction of a new detached ADU shall be required.

iv. Newly constructed detached ADUs for which permit requests are submitted on or after January 1, 2020, require compliance with 2019 Energy Code photovoltaic (PV) systems requirements.

c. The total number of allowed ADUs for existing multifamily developments is three or more, including up to twenty-five percent of the number of existing multifamily units as internal conversions plus up to two detached ADUs on each multifamily lot.

E. Location.

1. Subject to the requirements of this section, ADUs may be located on any lot in a single-family residential district (R-1, R-2), multifamily residential district (R-3, R-4), residential or commercial mixed-use district (RMU, CMU), or multifamily overlay district (MF); or in the commercial mixed-use district of the 23rd Street Specific Plan (SP1); or in the low density residential, medium density residential, high density residential, residential mixed-use, commercial mixed-use, mixed-use center north, and mixed-use center south districts of the San Pablo Avenue Specific Plan (SP2). Where associated with existing single-family or multiple-family residential development, ADUs and JADUs may also be located in the NC, CR, and IMU districts.

2. No subdivision rights are authorized that would result in the accessory dwelling unit being located on a separate lot from the primary dwelling.

F. Additional Development Standards.

1. Types of Accessory Dwelling Units. An ADU may be attached to a primary dwelling or detached from a primary dwelling.

a. If an ADU is attached to a primary dwelling, the ADU may consist of an internal conversion of an attached garage or other area within the primary dwelling unit and/or an addition to the primary dwelling unit.

b. If an ADU is detached from a primary dwelling unit, the ADU may be an internal conversion of a detached garage or other accessory building, or new construction. A detached ADU must be located on the same lot as the primary dwelling.

2. Required Yards.

a. An ADU must comply with all requirements relating to yards (front setbacks, side, and rear) and building height that are generally applicable to

residential construction in the zone in which the property is located, except as otherwise provided in this section.

b. A setback is not required for an ADU that is an internal conversion or that is constructed in the same location and to the same dimensions as an existing building; provided, that the existing side and rear setbacks are sufficient for fire and safety.

c. A minimum setback of four feet from the side and rear lot lines is required for an ADU that is not an internal conversion and is not constructed in the same location and to the same dimensions as an existing building.

d. Notwithstanding the setback requirements set forth in subsections (F)(2)(a) and (c) of this section, a building separation of at least six feet between buildings shall be maintained, as required by the building code; provided, however, that this standard shall not prevent the development of an ADU that is eight hundred feet or less in area, complies with the applicable height requirements set forth in this section, and has at least four-foot side and rear yard setbacks.

3. Off-Street Parking.

a. A lot containing an ADU must provide at least one additional off-street parking space to serve the ADU, except as otherwise provided in this subsection as set forth below. The additional space(s) may be provided as tandem parking on a driveway or within a setback area, unless specific findings are made that parking in these locations is not feasible based on specific site or regional topographical or fire and life safety conditions.

b. Replacement parking spaces are not required if a garage, carport, or covered parking structure that provides off-street parking is demolished or converted in conjunction with the construction of an ADU.

c. No additional off-street parking is required for an ADU in any of the following instances:

i. The ADU is located within one-half mile walking distance of public transit, as defined by Government Code Section [65852.2](#).

ii. The ADU is located within an architecturally and historically significant historic district.

iii. The ADU is an internal conversion.

iv. A car share vehicle pickup location is within one block of the ADU. A “car share vehicle” has the same meaning as in Vehicle Code Section [22507.1](#).

v. When on-street parking permits are required but not offered to the occupant of the ADU.

vi. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in Section [17.60.070\(F\)\(3\)\(c\)](#).

4. Living Provisions. An ADU must provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. A JADU may share sanitation facilities with the primary residence.

5. Permanent Foundation. A permanent foundation is required for all ADUs.

6. Independent Access. An ADU must have independent exterior access separate from that of the primary dwelling unit.

7. Sewage and Water. ADUs shall be connected to sanitary sewer and water lines in accordance with local utility requirements. Verification that the standards have been met is required prior to final inspection. For purposes of providing service for water, sewer, or power, including a connection fee, a JADU shall not be considered a separate or new dwelling unit.

G. Building Code Compliance. Notwithstanding any other provision of this section, ADUs shall be developed in compliance with Title [15](#), Buildings and Construction. Newly constructed non-manufactured detached ADUs and JADUs for which permit requests are submitted on or after January 1, 2020, require compliance with 2019 Energy Code photovoltaic (PV) systems requirements.

H. Occupancy Limits.

1. No ADU or JADU may be rented or offered for rent for a term of less than thirty days.

2. Where a JADU is added to a single-family residence, either the JADU or the single-family residence shall be owner-occupied, unless the owner is another governmental agency, land trust, or housing organization.

I. Deed Restrictions. Prior to issuance of a Certificate of Occupancy for an ADU or JADU. ~~Before obtaining a permit authorizing the establishment of an ADU or JADU,~~ the applicant shall do the following:

1. Enter into an agreement of restrictions with the city that refers to the deed under which the property was acquired by the applicant and provides the following:
 - a. The ADU or JADU shall not be sold separately from the primary dwelling.
 - b. The ADU or JADU is restricted to the maximum size allowed under the permit.
 - c. Where a JADU is added to a single-family residence, either the JADU or the single-family residence shall be owner-occupied, unless the owner is another governmental agency, land trust, or housing organization.
 - d. The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action by the city against the property owner.
2. Record the agreement with the county recorder.
3. Prepare a disclosure statement that shall be included in any future offer or sale documents. The statement shall read as follows:

You are purchasing a property with a permit for an (junior) accessory dwelling unit. This permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited from selling the (junior) accessory dwelling unit separately. The (junior) accessory dwelling unit is restricted to the maximum size allowed under the permit. The (junior) accessory dwelling unit may not be rented or offered for rent for a term of less than 30 days. A copy of the permit is available from the current owner or from the City of San Pablo Community Department.

4. Notwithstanding subsections (1)(1) through (3) of this section, an ADU may be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:
 - a. The property was built or developed by a qualified nonprofit corporation.
 - b. There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in Section 402.1(a)(10) of the Revenue and Tax Code.

- c. The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
- i. The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.
 - ii. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.
 - iii. A requirement that the qualified buyer occupy the property as the buyer's principal residence.
 - iv. Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for forty-five years for owner-occupied housing units and will be sold or resold to a qualified buyer.
- d. A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county. A preliminary change of ownership report shall be filed concurrently with this grant deed pursuant to Section [480.3](#) of the Revenue and Taxation Code.
- e. Notwithstanding subsection (l)(4)(d) of this section, if requested by a utility providing service to the primary residence, the ADU has a separate water, sewer, or electrical connection to that utility.

J. Nonconforming Structures. Notwithstanding the provisions of Section [17.08.040](#), if the existing primary dwelling unit is a legal nonconforming structure, an ADU or JADU may be constructed only if the nonconformity of the structure is not expanded and the ADU or JADU otherwise meets all current applicable zoning and building standards.

K. Delayed Enforcement of Building Standards. A property owner who receives a notice from the city to correct a violation of any building standard applicable to an ADU constructed prior to January 1, 2020, may submit to the chief building official a request to delay enforcement pursuant to Section [17980.12](#) of the Health and Safety Code. Such request shall be made in writing and shall include an explanation of the reason for the request. The chief building official shall review the request in accordance with Section [17980.12](#) of the Health and Safety Code, and shall not be required to grant any request pertaining to corrections that are necessary to protect health or safety.

L. Applications.

~~1. An application for an ADU permit must be submitted to the zoning administrator for plan check/zoning clearance before a building permit application~~

~~is submitted to the city. An application for a JADU permit must be submitted in the same manner and form as an application for an ADU permit.~~

1.2. An application for an ADU permit must be made in writing and contain the following information. Individual adjustments to this list of requirements may be made by the zoning administrator in keeping with the general intent of this section.

a. Name(s) and address(es) of applicant(s) and property owner(s).

b. Address and assessor's parcel number for the lot.

c. Current zoning and use of the property.

d.e. Size, indicating dimensions and square footage of the primary dwelling unit and the proposed accessory dwelling unit.

e.d. A legible scale drawing, showing:

i. A north arrow to indicate lot orientation.

ii. Lot dimensions and labels for all property lines.

iii. Siting and location of the primary dwelling unit and the proposed accessory dwelling unit.

iv. Floor plan configuration of the primary dwelling unit and the proposed accessory dwelling unit.

v. All other existing improvements, including driveways and parking areas.

vi. Exterior design of the primary dwelling unit and the proposed accessory dwelling unit. "Exterior design" includes exterior features, such as entrances, windows, and roof.

f.e. Color photographs of the primary dwelling unit and surrounding properties taken from each of the property lines of the project site.

g.f. Location and description of water and sanitary services for both the primary dwelling unit and the proposed accessory dwelling unit.

h.g. Property owner's consent to physical inspection of the premises.

~~i.h.~~ A written legal description of the property. (Ord. 2023-004 § 2, 2023; Ord. 2020-011 § 8, 2020; Ord. 2017-002 § 9, 2017; Ord. 2015-002 § 3 (Exh. 1)(part), 2015)

2. An application for a JADU permit must be submitted in the same manner and form as an application for an ADU permit.