

County  
of  
San Benito



Zoning Code

## 25.08: Standards for Specific Uses and Areas

### 25.08.001 Introduction

This Chapter establishes development standards specific to a variety of uses and for specific areas which require the application of special development standards. These are in addition to the basic development standards for all uses in the various zones and are intended to replace the basic standards for these specific uses.

### 25.08.002 Accessory Dwelling Units and Innovative Housing

#### A. Purpose and Intent

This section establishes regulations and a ministerial review process for Accessory Dwelling Units. Accessory Dwelling Units are intended to expand housing opportunities for low income and moderate income or elderly households by increasing the number of rental units available within existing neighborhoods while maintaining the primarily single-family residential character of the area.



*Example of an Accessory Dwelling Unit, in this case detached from the primary dwelling.*

## **B. Applicability**

This section applies to all Accessory Dwelling Units, including Junior Accessory Dwelling Units, as defined. Accessory dwelling units are permitted by right in any zoning district which permits single-family or multi-family homes.

## **C. Relationship to General Plan and Zoning**

Any Accessory Dwelling Unit or Junior Accessory Dwelling Unit which conforms with the requirements of this Chapter shall be deemed to be consistent with the General Plan designation and zoning for the parcel, regardless of any limitations on residential density imposed by the General Plan or zoning.

Accessory Dwelling Units shall not be counted when determining residential density for conformance with General Plan or Zoning.

## **D. Permits and Approval**

1. Ministerial Action. Approval or denial of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit is a ministerial action and subject to compliance with the standards in this Section and all other applicable codes.
2. Building Permit. All Accessory Dwelling Unit or Junior Accessory Dwelling Units shall require a building permit, subject to all the standard application and processing fees and procedures that apply to building permits generally. No other Planning-related permit is required.
3. Issuance of Permit. The County shall issue a building permit within (60) sixty calendar days from the date on which the County received a completed application, unless either.
  - a. The applicant requests a delay, in which case the 60-day time period is put on hold for the period of the requested delay; or
  - b. The application to create an Accessory Dwelling Unit or Junior Accessory Dwelling Unit is submitted with an application to create a new single-family dwelling unit on the parcel. The County may delay acting on the Accessory Dwelling Unit application until such time as the new single family dwelling unit is approved.

## **E. ADU Terms and Definitions**

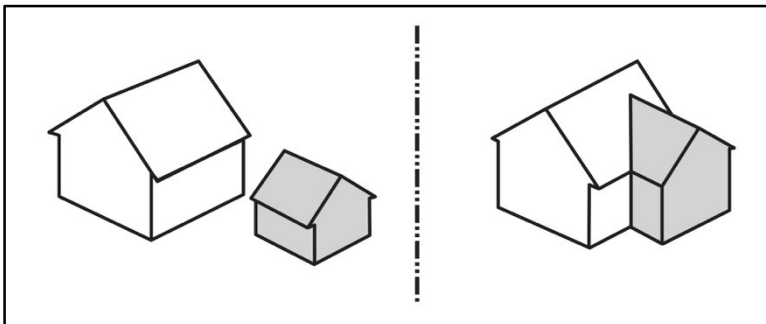
The following terms are used in this section. For definitions, see the Glossary in Chapter 25.09.

1. Accessory Dwelling Unit.
2. Accessory Structure.

3. Car Share.
4. Efficiency Kitchen.
5. Efficiency Unit.
6. Independent Living Facility.
7. Living Area.
8. Passageway.
9. Primary Dwelling.
10. Public Transit.
11. Single-unit, Two-unit, and Multi-unit.
12. Tandem Parking.

**F. Types of Accessory Dwelling Units**

1. Accessory Dwelling Units, Attached and Detached



*Accessory Dwelling Units can be detached from (left) or attached to (right) the primary unit.*

- a. Attached. An Accessory Dwelling Unit that is attached to an existing or proposed primary dwelling, such as through a shared wall, floor, or ceiling. An Attached Accessory Dwelling Unit can be created by converting a portion of an existing primary dwelling, by constructing a new primary dwelling which includes an Accessory Dwelling Unit, or by constructing an addition to an existing primary dwelling.



*Example of an Accessory Dwelling Unit (right side) attached to the primary dwelling.*

- b. Detached. An Accessory Dwelling Unit that is physically detached or separated from the primary dwelling. Detached includes a second-story addition above an existing detached structure. A Detached Accessory Dwelling Unit can be new construction or the conversion or expansion of an existing structure. Tiny homes, as defined in 25.08.029, may be used as Detached Accessory Dwelling Units.

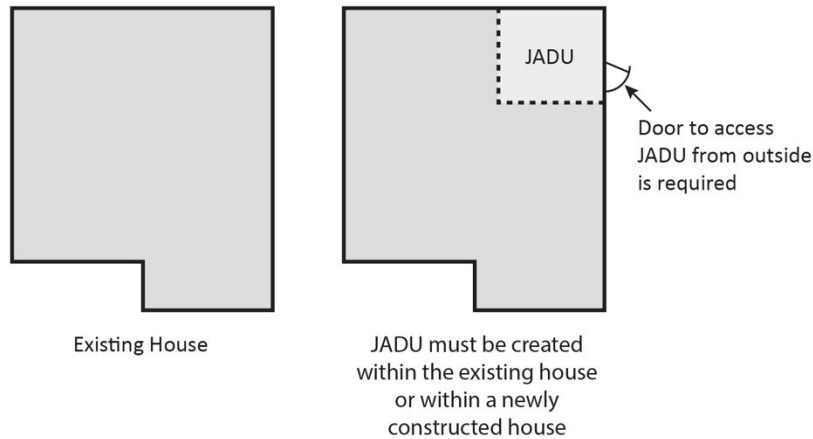


*Example of an Accessory Dwelling Unit detached from the primary dwelling.*

2. Junior Accessory Dwelling Unit. An attached Accessory Dwelling Unit that is a unit that meets specific criteria as specified below.
  - a. Maximum of 500 square feet in size.



- b. Contained entirely within the existing footprint or area a single-unit primary dwelling (see illustration below).



- c. Has a separate entrance from the main entrance to the primary dwelling.
- d. Has a bathroom that is either in the Junior ADU or in the primary dwelling.
- e. Includes an efficiency kitchen.

#### **G. Number of Accessory Dwelling Units on Lots or Parcels Which Allow Single-Family Homes**

The following number of Accessory Dwelling Units apply in all zoning districts that allow single family homes as a permitted use:

1. One attached or detached Accessory Dwelling Unit shall be allowed on a parcel with one primary dwelling unit.
2. One Junior Accessory Dwelling Unit shall be allowed on a parcel with primary dwelling.
3. Up to one attached or detached Accessory Dwelling Unit and one Junior Accessory Dwelling Unit shall be allowed on a single parcel.

#### **H. Number of Accessory Dwelling Units on Lots or Parcels Which Allow Multi-Family Homes**

The following number of Accessory Dwelling Units apply in all zoning districts that allow multi-family homes as a permitted use:

1. Attached Accessory Dwelling Units.
  - a. At least (1) one attached or up to (25) twenty-five percent of the number of the existing multi-family units shall be allowed as Attached Accessory Dwelling Units in an existing multi-family development.

- b. Attached Accessory Dwelling Units in a multi-family development may be created only through the conversion of parts of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.
- 2. Detached Accessory Dwelling Units. Up to (2) two detached Accessory Dwelling Units shall be allowed on a parcel with one or more multi-family structures, subject to compliance with the development standards for Detached Accessory Dwelling Units in this Chapter.

**I. Development Standards for Attached and Detached Accessory Dwelling Units**

**1. Attached Accessory Dwelling Units**

- a. Location. Shall be located on the same lot or parcel as a primary dwelling unit and be attached to the primary dwelling unit by at least one wall or by a ceiling (above or below the primary dwelling unit).
- b. Size. The total floor area of an Attached Accessory Dwelling Unit shall not exceed 1,500 square feet or 50% of the size of the primary dwelling unit, whichever is less. This limit does not include up to (150) one hundred-fifty square feet of area added to the primary dwelling for the sole purpose of providing access to the Accessory Dwelling Unit.
- c. Setbacks.
  - i) Front yard setback: Per the zoning district standard for the primary dwelling.
  - ii) Side yard: Four (4) feet.
  - iii) Rear yard: Four (4) feet.
- d. Height. Per the zoning district standard for the primary dwelling.
- e. Access. An attached Accessory Dwelling Unit shall have direct exterior access separate from the main entrance to the primary dwelling.
- f. Design. Accessory dwelling units shall be compatible with the architectural style, materials, and colors of the primary dwelling unit. Accessory Dwelling Units built using County-approved designs may differ in architectural style and materials.
- g. See subsection K, below, for parking requirements.
- h. Environmental Health clearance is required for water and wastewater systems serving the Accessory Dwelling Unit.

**2. Detached Accessory Dwelling Unit Development Standards**

- a. Location. Shall be located on the same lot or parcel as a primary dwelling unit.
- b. Size. No minimum size, except as needed to conform with the requirements for an Efficiency Unit as defined in the Building Code. A Detached Accessory Dwelling Unit shall not exceed 1,500 square feet in size.
- c. Setbacks.
  - i) Front yard setback: Per the zoning district standard for the primary dwelling.
  - ii) Side yard: (4) Four feet.
  - iii) Rear yard: (4) Four feet.
- d. Height. 25 feet for new structures built specifically as an Accessory Dwelling Unit. Existing structures can be converted to an Accessory Dwelling Unit consistent with the requirements of this Chapter 25.08.002.
- e. Design. Accessory dwelling units shall be compatible with the architectural style, materials, and colors of the primary dwelling unit. Accessory Dwelling Units built using County-approved designs may differ in architectural style and materials.
- f. See subsection K, below, for parking requirements.
- g. Environmental Health clearance is required for water and wastewater systems serving the Accessory Dwelling Unit.

### 3. Junior Accessory Dwelling Unit Development Standards

- a. Location. Shall be located on the same lot or parcel as a primary dwelling unit and be attached to the primary dwelling unit by at least one wall or by a ceiling. The Junior Accessory Dwelling Unit may be located above or below the primary dwelling unit.
- b. Size. Maximum of (500) five hundred square feet of living area. Up to (150) one hundred fifty square feet of building space may be added to the primary dwelling for the sole purpose of providing access to the Accessory Dwelling Unit; this shall not count toward the maximum area for the Junior Accessory Dwelling Unit.
- c. Setbacks. If the primary dwelling unit is expanded to create the Junior Accessory Dwelling Unit, the addition shall maintain setbacks of four feet from side and rear yards or the same setback as the existing structure, whichever is less. Front setback shall be the same as the existing structure or per the zoning district for the primary structure, whichever is less. Larger setbacks shall apply if required by Fire or Building codes on a case-by-case basis.



- d. Access. A Junior Accessory Dwelling Unit shall have direct exterior access separate from the main entrance to the primary dwelling.
- e. Kitchen. Each Junior Accessory Dwelling Unit shall include an efficiency kitchen.
- f. Utilities.
  - i) Whether built as part of a new dwelling or converted from space in an existing dwelling, a Junior Accessory Dwelling Unit shall not be considered a separate or new dwelling unit for the purposes of calculating connection fees or County charges for utilities, including water, sewer, or power service, or impact fees.
  - ii) No new or separate utility connection between the Junior Accessory Dwelling Unit and the utility shall be required, although the property owner may voluntarily install a submeter for the Junior Accessory Dwelling Unit.
  - iii) Any utility charges or fees shall be consistent with state law.
- g. Parking. No additional off-street parking is required for the Junior Accessory Dwelling Unit.
- h. Environmental Health clearance is required for water and wastewater systems serving the Accessory Dwelling Unit.
- i. Owner Occupancy Requirements for Junior ADUs.
  - i) A person with legal or equitable title to the primary dwelling shall reside on the property in either the primary dwelling or Junior Accessory Dwelling Unit as that person's legal domicile and permanent residence.
  - ii) The owner occupancy requirement does not apply if the property is entirely owned by a governmental agency, land trust, or non-profit housing organization.
  - iii) Prior to issuance of a Building Permit for a Junior Accessory Dwelling Unit, a deed restriction shall be recorded in the chain of title of the primary single-unit property. The form of the deed restriction shall be approved by the County and shall provide that the Junior Accessory Dwelling Units shall not be sold separately from the primary dwelling.
  - iv) The deed restriction shall run with the land and shall be enforced against future property owners.

## **J. Impact Fees**

### **1. Impact Fee Requirements**

- a. No County-imposed impact fees shall be charged for an Accessory Dwelling Unit that is less than (750) seven hundred fifty square feet in size.
- b. For Accessory Dwelling Units (750) seven hundred fifty square feet or larger, County-imposed impact fees shall be charged proportionately in relation to the square footage of the primary dwelling (e.g., the floor area of the Accessory Dwelling Unit, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling). See the example below:
  - 750 square foot ADU
  - 2,250 square foot primary dwelling

$750/2,250 = 0.33$  ADU pays 0.33 (33%) of the fees that would be charged for the primary dwelling
- c. For the purposes of this Subsection, impact fees do not include any connection fee or capacity charge for water or sewer service or charges for garbage or recycling service.
- d. Fees imposed by any agency or special district other than the County shall be collected in accordance with the agency's or district's fee schedule.

**K. ADU Required Parking**

1. Number of Parking Spaces.

- a. One off-street parking space, covered or uncovered, is required for each Attached and Detached Accessory Dwelling Unit.
- b. No off-street parking is required for an Attached or Detached Accessory Dwelling Unit if one or more of the following applies:
  - i) The Accessory Dwelling Unit is located within one-half mile walking distance of public transit, including transit stations and bus stations.
  - ii) When on-street parking permits are required by the County but not offered to the occupant of the Accessory Dwelling Unit.
  - iii) The Accessory Dwelling Unit is part of the proposed or existing primary residence.
  - iv) The Accessory Dwelling Unit is the conversion of an existing accessory structure.

- v) When there is a car share vehicle located within one block of the Accessory Dwelling Unit.
  - c. No off-street parking is required for a Junior Accessory Dwelling Unit.
  - d. Required off-street parking for an Accessory Dwelling Unit space may be provided as tandem parking, including on a paved driveway.
2. Parking lost when a garage, carport, or covered parking structure is demolished to allow for the construction of an Accessory Dwelling Unit or for the conversion of a structure to an Accessory Dwelling Unit shall not be required to be replaced.