

***Amend Sections 9-5.010 through 9-5.070 as follows:***

**§ 9-5.010 Purpose.**

**(a)** The purpose of this chapter is to prescribe objective development and site regulations that apply, except where specifically stated, to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). This chapter is intended to implement Government Code Sections **66310** to **66342**, as amended from time to time. Implementation of this chapter is meant to expand housing opportunities by increasing the number of smaller units available within existing neighborhoods while meeting Statewide housing goals and responding to wildfire and wastewater constraints.

**(b)** The City recognizes opportunities to implement policies and programs of the Atascadero General Plan housing element providing for, and regulating, expanded housing opportunities for all persons within the community.

**(c)** Implementation of this chapter is meant to expand housing opportunities for very low-, low- and moderate-income and/or elderly households by increasing the number of affordable by design and rental units available within existing neighborhoods.

**(d)** As mandated in Section **66314** and **66319** of the Government Code, units that comply with this chapter are considered not to exceed the density limits prescribed by the General Plan and/or this title from residential zoning districts.

**§ 9-5.020 Definitions.**

As used in this chapter:

**Accessory Dwelling Unit (ADU).**

ADUs are defined by Government Code Section **66313** to mean an attached or 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**. ADUs shall include permanent provisions for living, sleeping, eating, cooking, and shall have a bathroom, and shall be located on the same parcel as the single family or multifamily dwelling per the standards set forth in this section. An accessory dwelling unit also includes an efficiency unit as defined in Section **17958.1** of the Health and Safety Code and a manufactured home as set forth in Section **18007** of the Health and Safety Code.

**Existing Structure.**

For the purposes of this chapter and implementation of Government Code Section **66314**, an existing accessory structure or existing primary structure is defined as a structure, or the confines of a structure, that has received a passed final inspection prior to January 1, 2020.

Guesthouse.

Guesthouses are defined as residential occupancy construction (R) structures permitted prior to 2004 with a full bathroom, partial kitchen, and are the same as a residential dwelling unit for the purposes of defining use and calculating fees.

Junior Accessory Dwelling Unit (JADU).

JADUs are defined by Government Code Section **66313** to mean a residential dwelling unit ~~that is no more than 500 square feet in size and contained entirely within a single-family residence internal to an existing or new primary dwelling unit that provides complete independent living facilities for one or more persons. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.~~ JADUs shall include permanent provisions for living and shall be located on the same parcel and within the same structure as the single-family dwelling. A JADU also includes an efficiency unit as defined in Section **17958.1** of the Health and Safety Code.

Livable Space.

A space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

Primary Dwelling Unit.

A primary dwelling unit (primary unit) is a principal or urban dwelling unit.

Principal Dwelling Unit.

An existing or new proposed dwelling unit on a residential zoned legal lot of record permitted as allowed by the City's zoning and allowed density of the parcel and not constructed under the provisions for Chapter 5 or Chapter 18 of this title. Any additional existing units above the base residential density shall be considered an ADU or UDU. New units built as part of an SB9 lot split shall not be considered a principal dwelling unit if a principal unit already exists on the parent parcel or new parcel that is created from the lot split.

Residential Multifamily Development.

A residential multifamily property zoned for multiple principal dwelling units that has been developed ~~with multi-family units as allowed by City zoning to the maximum-allowed density~~ and which shares access, parking, and/or amenities regardless of the number of underlying parcels. This may include, but is not limited to, attached or detached residential units, common interest subdivisions, and related residential development on a single or multiple lots developed as a single development project with a developable density of at least 10 units per acre.

Residential Single-Family Property.

A property zoned for single-family development with a base density of one dwelling unit per parcel.

Short-Term Rental.

Short-term rentals (vacation rental) shall be defined as rental units with stays of 30 consecutive calendar days or less per individual or party.

Small-Lot Single-Family Subdivision.

A subdivision with private side and rear yard areas built to a density of less than or equal to nine dwelling units per acre.

Urban Dwelling Unit (UDU).

A primary dwelling unit established or proposed to be developed in accordance with the standards, procedures, and requirements set forth under Government Code Section **65852.21** and Chapter 18 of Title **9**, either as a primary or secondary primary unit on a parcel.

**§ 9-5.030 General requirements.**

**(a) Building Permit Required.** A building permit application shall be required for the construction, occupancy, or conversion of any ADU or JADU.

**(b) Ministerial Review Process.** An application for development of an ADU or JADU will be reviewed as a ministerial permit, without discretionary review or a hearing, if it meets all the requirements set forth in this section, does not impact environmental (including historic) resources, and after payment of all applicable submittal fees.

**(c) Garage Demolition.** A demolition permit for a detached garage that is to be replaced with an ADU **shall** be reviewed with the application for the accessory dwelling unit and issued at the same time.

**(d) Water Service.** All habitable dwelling units shall be served by a public water system.

**(e) Wastewater Service.** To avoid health and safety impacts to ground water quality and nitrogen loading, ADUs shall be served by the City sanitary sewer system subject to **one of** the following exceptions:

**(1)** The parcel is three-quarters (0.75) gross acres or greater and all of the following criteria can be met:

**(i)** It can be demonstrated that all properties within a one-quarter mile radius are of sufficient size, considering possible future lot splits and full development potential, to provide a minimum density of at least one-half (0.5) acres per unit within the one quarter mile radius.

**(ii)** It shall be demonstrated that a new or expanded on-site wastewater disposal system can accommodate the additional unit while meeting requirements of the City's Local Area Management Plan (LAMP).

**(2)** The parcel contains a gross lot area of 0.5 acres per unit or greater, including existing units and all units proposed at the time of application.

**(f)** For the purposes of this paragraph, "units" means all primary and accessory dwelling units, but shall not include Junior ADUs.

**(3)** ADUs that do not meet the above requirements and do not have the ability to connect to City sewer must be served by an on-site wastewater system that includes pre-treatment and shall be subject to the approval of the City Engineer. These systems must be approved and constructed in accordance with the City's LAMP standards.

**(f) Design.** The design of an ADU and/or JADU shall be consistent with any objective design standards listed in this chapter.

**(g) Short-Term Rental Prohibited.** ADUs and JADUs developed in accordance with Government Code Sections **66314** to **66339** shall not be rented for terms of **less than 30 days** ~~or less~~.

**(h) Illegal Unit.** The construction, establishment, or occupancy of an ADU and/or JADU that has not received a valid construction permit and is contrary to the provisions of this chapter is declared to be unlawful and shall constitute a misdemeanor and a public nuisance.

**(i) Deed Notification Agreement** Required. Prior to issuance of a building permit for the ADU, the property owner shall submit to the City an **agreement deed covenant for**

~~recording with the County Recorder~~ in a form approved by the Community Development Director, which shall run with the land and include at a minimum the following provisions:

- (1) A prohibition on the sale of the ADU separate from the sale of the principal dwelling unit, unless specifically authorized by State law or a subsequent lot split is approved and recorded.
- (2) A restriction on the size and attributes of the ADU that conforms with Government code ~~6585266314~~.
- (3) ~~(1)~~ A prohibition on using the ADU as a short-term rental ~~for periods of less than 30 days, as authorized by Government Code Section 66315 or less~~.
- (4) (2) Owner occupancy requirements for properties constructing or containing a JADU ~~that shares sanitation facilities with the primary residence~~, as applicable.
- (5) ~~(2)~~ A statement that the restrictions shall be binding upon any successor owner of the property and that failure to comply with the restrictions shall result in legal action against the owner.

**§ 9-5.040 Applicability.**

(a) Permitted Zoning Districts. Accessory and junior accessory dwelling units shall be allowed in all areas zoned to allow single-family or multifamily dwellings consistent with the standards of this section. ADUs shall not be allowed within the following locations:

(1) Pursuant to the authority provided by Section **65852.21(f)** of the Government Code, no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot in a single-family zoning district if: (i) an urban lot split has been approved pursuant to Title 11; and (ii) two units (primary dwelling unit, UDU, ADU, or JADU) already exist or are approved for construction.

(2) No ADUs shall be allowed inconsistent with the **Title 14 California Code of Regulations** Section 1273.08.

(3) No ADU may be established in a commercial district unless all of the following conditions have been met:

- (i) The ADU is part of an approved mixed-use development; ~~and~~
- (ii) The ADU is built above the ground floor. ~~and~~

~~(iii) The ADU is within a mixed-use development that has reached its maximum allowable residential density.~~

~~(4) No ADU may be established on a lot subdivided pursuant to Government Code Section **66499.41** ("the Starter Home revitalization Act Senate Bill 684"), as amended from time to time.~~

**§ 9-5.050 Objective design standards for accessory dwelling units.**

Standards for the development of Accessory Dwelling Units (ADUs) shall be governed by this section. Each ADU shall be subject to compliance with the California Building Code and the following standards:

**(a)** Maximum Floor Area. ADUs shall have a maximum floor area of 1,000 square-feet, except as follows:

**(1)** A garage or other unconditioned space may be attached to an ADU provided any attached space with a non-R occupancy shall be limited to 300 square-feet, or 500 square-feet on lots one acre or greater. Any non-R occupancy space may be up to 500 square-feet if it is on a different level than the ADU and used for vehicle parking and the entirety of the ADU is located on a different floor with the exception of an entry and stairs. If an existing accessory structure is converted to an ADU and the size of the unconditioned space exceeds the maximum limit, the existing space may remain but shall not be expanded.

**(2)** Properties may have a detached ADU up to 1,200 square feet when all of the following are met:

**(i)** The property is a minimum of one gross acre; and

~~**(ii)** The ADU has a setback of at least 10 feet from side and rear property lines; and~~

**(iii)** The ADU height is limited to 18 feet; and

**(iv)** All other property development standards applicable to the zoning district shall apply, unless specifically modified by State law.

**(3)** Any dwelling unit other than the principal dwelling unit, that was established on the lot prior to the submittal of a complete application for a development pursuant to this chapter, may not be altered or expanded to a size greater than allowed by this chapter. No additional unconditioned space can be added if greater than the

maximum allowances described in subsection (a)(1) above. If existing units exceed the maximum size thresholds, no expansion or additions shall occur.

**(b) Required Parking.** One off-street parking space (standard or tandem within a driveway) shall be required for each ADU, with the following exceptions:

**(1)** No parking shall be required if the ADU is within one-half mile walking distance of public transit.

**(2)** No parking shall be required when the ADU is within a designated historic district or on the site of a designated historic property ~~within a one-mile walking distance to public transit.~~

**(3)** No parking shall be required when the ADU is part of a proposed or existing primary residence or a converted existing accessory structure.

**(4)** No parking shall be required when there is a car-share vehicle ~~available to the tenant of the ADU and~~ located within one block of the ADU.

**(5)** No parking shall be required when a permit application for an accessory dwelling unit is submitted concurrently 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 and the parcel satisfy all other criteria listed in this chapter.

**(c) Replacement Parking.** No replacement parking shall be required when ~~a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit~~ parking spaces are removed or demolished to accommodate the construction of an ADU.

**(d) Accessory Structure Conversion.** ADUs may be constructed within existing accessory structures subject to the following:

**(1)** The size of the ADU shall comply with the size limitations set forth in subsection (a) above.

**(2)** Any portions of the accessory structure not utilized for the ADU shall remain as non-habitable accessory space and shall be separated with a permanent wall from the interior space of the ADU. Any openings (doors) between the ADU and non-habitable space shall comply with building and fire code standards.

**(3)** Conversions of existing legal accessory structures built prior to January 1, 2020, may be subject to different standards, consistent with Government Code Section **66323**.

**(e)** Height. The maximum height of an ADU shall be as follows:

**(1)** Sixteen feet for any detached ADU where the setback is less than the minimum required setbacks for the underlying zoning district.

**(2)** Eighteen feet in a multifamily zone for any detached ADU where the setback is less than the required minimum setbacks for the zoning district if the multifamily dwelling on the same site is multi-story.

**(3)** Twenty feet for any detached ADU that complies with the setbacks of the underlying zoning district.

~~**(4)** Twenty-five feet if setbacks are increased to 15 feet from the side and rear property lines.~~

~~**(54)** Twenty-five feet for an ADU that is attached to a primary dwelling.~~

~~**(65)** No ADU shall exceed two stories.~~

**(f)** Setbacks. An ADU shall maintain ~~the following~~ setbacks consistent with each zoning district and consistent with the California Building Code and Fire Code, unless reduced setbacks apply, consistent with Govt Code section 66321-66314 (d) (7).

~~**(1)** Side-Setback. A minimum of five feet except for the following:~~

~~**(i)** ADUs that are 16 feet or less in height located on a lot with a proposed or existing primary residence may be set back a minimum of four feet from the side property line;~~

~~**(ii)** ADUs that exceed 20 feet in height shall increase the side setback to 15 feet;~~

~~**(iii)** ADUs that are 18 feet or less in height located on a lot with a proposed or existing multi-story multifamily building may be set back a minimum of four feet from the side property line.~~

~~**(2)** Primary Street Frontage. Twenty-five feet for single-family properties, 15 feet for multifamily properties.~~

~~**(3)** Corner Street Frontage. Ten feet.~~

~~**(4)** Secondary Street Frontage. One-half the front setback.~~

~~**(5)** Rear. A minimum of 10 feet except for the following:~~

~~(i) ADUs that are 16 feet or less in height located on a lot with a proposed or existing single-story primary residence may be setback a minimum of four feet from the rear property line.~~

~~(ii) ADUs that exceed 20 feet in height shall increase the rear setback to 15 feet.~~

~~(iii) ADUs that are 18 feet or less in height located on a lot with a proposed or existing multi-story multifamily building may be set back a minimum of four feet from the rear property line.~~

~~(6) Access Way (Flag or Easement). Ten feet.~~

~~(1) (7) No setback is required for an existing permitted structure or a structure constructed in the same location and to the same dimensions as an existing permitted structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.~~

~~(g) Building Separations. A minimum separation of five feet shall be maintained between a primary dwelling unit and a detached accessory dwelling unit. Minimum fire and building code separations shall be maintained between primary and secondary units.~~

~~(h) Fire Sprinklers.~~

~~(1) An ADU shall comply with all applicable fire safety provisions of State law, as well as locally adopted building and fire codes under Chapter 4-7 and Title 8 of this code.~~

~~(2) A detached ADU shall be required to be equipped with fire sprinklers unless the primary dwelling unit is not required to be sprinklered. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.~~

~~(3) An attached ADU shall provide fire sprinklers per the standards for residential additions.~~

~~(i) Number of ADUs Permitted.~~

~~(1) Single-Family Zoned Parcels and Small-Lot Single-Family Subdivisions shall be allowed to construct accessory dwelling units consistent with Govt Code 66323 and section 9-5.060(c) of this Chapter. One ADU per parcel shall be permitted. If a lot contains the maximum number of allowed dwelling units no additional ADU or JADU shall be allowed.~~

**(2)** Residential Multifamily/Mixed-Use Developments. ADUs shall be permitted in multifamily and mixed-use developments subject to the following:

**(i)** Portions of an existing multifamily building not used as livable space may be converted to one or more ADUs at a maximum ratio of 25% of the existing on-site units above the permitted site density.

**(ii)** In addition to the units authorized by subsection **(i)(2)(i)** above, additional detached accessory dwelling units above the permitted site density shall be permitted within a multifamily or mixed-use development at the following quantities:

**a.** On a lot with an existing multifamily dwelling, eight detached accessory dwelling units, or a quantity equal to the number of existing ~~principal~~ dwelling units on the lot, whichever is fewer.

**b.** On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.

**(iii)** All residential units in a mixed-use development must meet the provisions of the underlying zoning district, except as provided for by Government Code Sections **66310** to ~~**6643266342**~~, and must be consistent with all land use definitions for such development.

~~**(3)** If a site proposed for development contains one or more residential units that were constructed prior to designation as an ADU, JADU or UDU, and that site now exceeds its zoned density, those units must be designated as one of the permitted housing unit types prior to further development of the property.~~

**(j)** Nothing in this section shall prohibit the construction of an ADU in accordance with Government Code Sections **66321(b)(3)**, **66321(b)(4)(B)**, **66321(b)(4)(C)**, and **66323**. To the extent anything in this section conflicts with the provisions of the above-referenced Government Code sections, those Government Code sections shall control.

**§ 9-5.060 Objective design standards for junior accessory dwelling units.**

Standards for the development of Junior Accessory Dwelling Units (JADUs) shall be governed by this section. Each JADU shall be subject to compliance with the California Building Code and the following standards:

**(a)** Maximum Floor Area. Each JADU shall be constructed within the walls of an existing or proposed primary dwelling unit and shall be a maximum of 500 square feet.

**(b)** Septic Systems. JADUs may be served by the system serving an existing or proposed primary unit or a secondary septic system, subject to the approval of the City Engineer and provisions of the City's LAMP.

**(c)** Number of JADUs Permitted. One JADU is permitted per single-family residential property or small-lot single-family residential subdivision parcel. ~~If a lot contains the maximum number of allowed dwelling units, no additional ADU or JADU shall be allowed.~~

**(d)** Design Standards.

**(1)** Each JADU may contain separate sanitation facilities or may share sanitation facilities with the principal dwelling unit.

**(2)** Each JADU shall include a separate entrance from the main entrance to the existing or proposed principal dwelling unit and may include an interior entry to the main living area.

**(3)** Each JADU shall, at a minimum, include an efficiency kitchen as defined by the building code ~~and Government Code Section 66333(f)(1).~~

**(e)** Owner Occupancy. The property owner shall reside on site and maintain primary residency in either a primary dwelling unit, ADU, or the JADU ~~if the JADU shares sanitation facilities with the primary residence.~~

**(f)** Nothing in this section shall prohibit the construction of a JADU in accordance with Government Code Section **66323**. ~~To the extent anything in this section conflicts with the provisions of Government Code Section 66323, Section 66323 shall control.~~

**§ 9-5.070 Development fees.**

Accessory units, whether attached or detached, shall be exempt from development impact fees when the gross floor area is less than 750 square feet. Units 750 square feet and larger shall be subject to the City's adopted development impact fee schedule.