

DRAFT
CITY SAN RAFAEL ACCESSORY DWELLING UNIT ORDINANCE

14.16.285 – Accessory Dwelling Units.

A. Purpose: The purposes of the accessory dwelling unit regulations are to:

1. Implement policies of the housing element of the San Rafael general plan encouraging the provision of accessory dwelling units as a source of affordable housing;
2. Establish a streamlined process for reviewing applications for accessory dwelling units;
3. Establish a list of performance standards for the development of accessory dwelling units; and
4. Comply with provisions of state law as they relate to the development of accessory dwelling units;

Accessory Dwelling Unit. “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. 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 accessory dwelling unit also includes the following: (A) An efficiency unit, (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

- a. Accessory dwelling units are not considered to exceed the allowable density for the lot upon which it they are located.
- b. Accessory dwelling units are considered a residential use consistent with the general plan and zoning designation for the lot.

B. Applicability. An accessory dwelling unit is permitted in (1) any zoning district that allows the development of single-family or multifamily dwelling residential use and (2) on any lot with a legal nonconforming residential structure, except when prohibited by Section E. The following are the four types of accessory dwelling units:

Accessory Dwelling Unit Classifications.

1. Attached Accessory Dwelling Unit. An accessory dwelling unit that shares at least one common wall with an existing primary dwelling and is not fully contained within the existing space of the primary dwelling or an accessory structure. Attached Accessory Dwelling Units also include accessory dwelling units which are proposed to be constructed concurrently with a proposed primary dwelling unit and which are attached to or constructed within said primary dwelling unit.
2. Detached Accessory Dwelling Unit. An accessory dwelling unit that does not share a common wall with the existing or proposed primary dwelling and is not fully contained within the existing space of an accessory structure.
3. Internal Conversion Accessory Dwelling Unit. An accessory dwelling unit that is fully contained within the existing space of an existing primary dwelling or contained within the existing space of an existing accessory structure.

4. Junior Accessory Dwelling Unit. An accessory dwelling unit that is no more than 500 square feet in size and contained entirely within the walls of a proposed or existing single-family residential space.

C. Permitting Process.

1. Ministerial Review: A proposed accessory dwelling unit or junior accessory dwelling unit that complies with the following Development Standards (section C.1.a and C.1.b), Objective Design Standards (section C.1.c) and General Standards (section C.1.d)., shall be approved ministerially within the time frames established by Section D and shall only be subject to issuance of a building permit. No discretionary review or public hearing shall be required.
 - a. Except as permitted by subsection F below, Development Standards applicable to all Accessory Dwelling Units shall be as follows:

TABLE 14.16.285					
	Attached	Detached	Internal Conversion	Junior ADU*	NOTES
Minimum Floor Area	150 square feet	150 square feet	150 square feet	150 square feet	
Maximum Floor Area	1,000 sq. ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less	1,000 square feet	N/A	500 square Feet	
Lot Coverage Limits	None	None	None	None	
Setbacks					
	Front	Same as primary dwelling	N/A	N/A	
	Side	4	4	N/A	N/A
	Rear	4	4	N/A	N/A
	Front Entry	10 from any right-of-way	10 from any right-of-way	N/A	N/A
	Reverse Corner	Rear twenty (20') feet of the street side yard shall have a fifteen (15') foot setback	Rear twenty (20') feet of the street side yard shall have a fifteen (15') foot setback	N/A	N/A
Maximum Height	16 feet	16 feet	N/A	N/A	B, C
Parking	1 space	1 space	None	None	D

Separate independent entrance required?	Yes	Yes	Yes	Yes	
Interior access allowed?	No	No	No	Yes	

- * See subsection C.1.b. for additional requirements for Junior Accessory Dwelling Units
- (A) Decks, Balconies and Platforms greater than 12” attached to or associated with a detached or attached accessory dwelling unit shall be located at least four (4) feet from a rear or side property line.
 - (B) Height measurement shall be as defined by SRMC Section 14.03.030 except as follows:
 - a. Height measurement shall exclude flagpoles not exceeding a height of twenty-four feet (24’), aboveground utility distribution facilities including communications towers and public water tanks, windmills, monuments, mechanical appurtenances, satellite dishes in multifamily and nonresidential districts and architectural features such as screening for mechanical equipment, chimneys, steeples and cupolas.
 - (C) EA-Overlay District Exception to Height Standard: See section 14.16.285(C)(c)(2) for exception to height standard in Eichler-Alliance Overlay District.
 - (D) Parking see Parking subsection C.d.4 for exclusions to the parking requirements.

- b. **Junior Accessory Dwelling Units Additional Standards.** In addition to the Development Standards in in Table 14.16.285 and Objective Design Standards in section C.1.c., JADU units shall comply with all provisions of this Section unless expressly indicated otherwise
 - i. **Sanitation Facilities.** A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the existing structure.
 - ii. **Kitchen.** A junior accessory dwelling unit must include a kitchen as defined in SRMC Chapter 12.255 California Residential Code.
- c. **Objective Design Standards.** Except as provided in section F (Units Subject to Limited Standards) of this chapter, an accessory dwelling unit shall comply with the following design standards
 - (1) **Foundation.** An accessory dwelling unit shall be constructed on a permanent foundation.
 - (2) **In Eichler Alliance (EA) District, Accessory Dwelling Units shall not exceed the height of the existing residence or a maximum height of seventeen (17) feet, whichever is less.**
- d. **General Standards.** Except as provided in section F (Units Subject to Limited Standards) of this section, an accessory dwelling unit shall comply with the following general standards:
 - (1) **Maximum Number per Lot.** Not more than one accessory dwelling unit shall be permitted per legal lot
 - (2) **Rental.** An accessory dwelling unit may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling
 - (3) **Parking.** One parking space shall be provided per accessory dwelling unit except where the proposed accessory dwelling unit meets any criteria of subsection (ii) of this section.
 - i. This parking space may be provided as tandem parking on a driveway.
 - ii. When a garage, carport, or covered parking structure is demolished in conjunction with the constructions of an accessory dwelling unit or converted

to an accessory dwelling unit, those offstreet parking spaces need not be replaced.

iii. No Parking shall be required for the following:

a) The accessory dwelling unit is located within one-half mile walking distance of public transit.

b) The accessory dwelling unit is located within an architecturally and historically significant historic district.

c) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

d) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

e) When there is a car share vehicle located within one block of the accessory dwelling unit.

(4) Nonconforming Conditions. The City shall not require, as a condition for approval of an accessory dwelling unit application, the correction of nonconforming zoning conditions

(5) Building Code and Housing Code. All new or expanded accessory dwelling units shall comply with the Uniform Building Code and Uniform Housing Code in addition to the requirements of this Section.

2. Discretionary Review: When Deviating from Standards.

- a. A proposed accessory dwelling unit that deviates from the following development standards in section C.1.a. (Development Standards) shall require Administrative Design Review pursuant to SRMC section 14.25.040.C *Administrative Design Permits*.
 - i. Height increase of a detached accessory unit of no more than 1 foot when such increase results in an improved design.
 - ii. Rear or Side Yard Setback deviations of no more than 1 foot. Windows or other openings shall not be located within 3 feet of the side or rear property line.
- b. A proposed accessory unit that deviates from any standard in section C.1.c (Objective Design Standards) shall require Administrative Design Review pursuant to SRMC section 14.25.040.C *Administrative Design Permits*
- c. A proposed accessory dwelling unit that deviates from any other applicable standard in subsection C.1.a. (Development Standards) and subsection C.1.c (Objective Design Standards, shall require a Variance pursuant to SRMC chapter 14.23.
- d. A proposed accessory dwelling unit may deviates from the height standards set forth in Table 14.16.285 (Development Standards Applicable to All Accessory Dwelling Units) up to a maximum height set forth in the *Property Development Standards* tables sections 14.04.040, 14.05.030 or 14.05.032 of this Code, if the proposed accessory dwelling unit is consistent with all required setbacks established by the applicable zoning district within which the accessory dwelling unit is to be located.

D. Timeline for Review

- a. The City shall act on the accessory dwelling unit application within 60 days from the date the City receives a completed application if there is an existing single-family or multifamily dwelling on the lot.
- b. If the accessory dwelling unit application is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the accessory dwelling unit permit application until the City acts on the permit application to create the new single-family dwelling.
- c. If the applicant requests a delay in the processing of an accessory dwelling unit application, the 60-day time period set forth in subsection (2) of this section shall be tolled for the period of the delay.
- d. The City shall be deemed to have acted on the application if the City:
 - 1) approves a building permit for the accessory dwelling unit; or
 - 2) denies a building permit for the accessory dwelling unit; or
 - 3) determines that the accessory dwelling unit does not qualify for ministerial approval.
- e. When Dependent on Separate Construction. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building that is not a part of the accessory dwelling unit (“separate construction”), the City shall either:
 - 1) Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or
 - 2) Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, Attachment 1 – Ordinance Amending Title 17 – Accessory Dwelling Units the accessory dwelling unit is subject to the same review procedures and requirements as the separate construction.

E. Prohibited locations. Due to narrow travel lanes (<14'), excessive turning radius, maneuvering difficulty, and/or lack of turnaround, ADUs and JADUs shall be prohibited on certain streets as determined by the Fire Chief and the Community Development Director. The Community Development Department shall maintain and publish an updated list of those streets where ADUs are prohibited and make this list available to the public.

F. Units Subject to Limited Standards. Without regard to subsections C.1.a and C.1.b (Development Standards), subsection C.1.c (Objective Design Standards) and subsection C.1.d (General Standards) of this section, the City shall ministerially approve an application for a building permit within a residential or mixed-use district to create the following types of accessory dwelling units. For each type of accessory dwelling unit, the City shall require compliance only with the development standards in this subsection:

1. Internal Accessory Dwelling Units. One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
 - a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - b. The space has exterior access from the proposed or existing single-family dwelling.
 - c. The side and rear setbacks are sufficient for fire and safety.
 - d. The junior accessory dwelling unit complies with the requirements of Government Code Section 65852.22.
2. Detached or Attached Accessory Dwelling Units. One detached or one attached, new construction accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply: The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subsection B.4 (Junior Accessory Dwelling Units). The accessory dwelling unit must comply with the following:
 - a. Maximum floor area: 800 square feet.
 - b. Maximum height: 16 feet.
 - c. Minimum rear and side setbacks: four feet.
3. Conversion of Non-Livable Multifamily Space. Multiple accessory dwelling units within the portions 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, subject to the following:
 - a. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to maximum of 25 percent of the existing multifamily dwelling units; and
 - b. Each accessory dwelling units shall comply with building code standards for dwellings.
4. Detached Accessory Dwelling Units on Multifamily Lots. Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to the following:
 - a. Maximum height: 16 feet
 - b. Minimum rear and side setbacks: four feet.