

ORDINANCE NO. 1127

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO AMENDING THE CITY'S LAND USE CODE REGULATING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO ENSURE CONSISTENCY WITH STATE LAW; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE SECTION 21080.17

WHEREAS, the City of San Juan Capistrano, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"); and

WHEREAS, Chapter 13 of Division 1 of Title 7 of the Government Code (the "State ADU Law") imposes limits on local authority to regulate ADUs and JADUs; and

WHEREAS, if a local ordinance does not comply with State ADU Law, it is rendered null and void; and

WHEREAS, the City implements State ADU Law via San Juan Capistrano Municipal Code section 9-3.501.1 ("ADU Ordinance"); and

WHEREAS, in recent years, the City has amended the ADU Ordinance as necessary to remain consistent with changes in State ADU Law; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 ("AB 2533") and Senate Bill 1211 ("SB 1211"), which further amend state ADU law; and

WHEREAS, AB 2533 and SB 1211 took effect January 1, 2025, and if the City's ADU Ordinance did not comply with the requirements imposed by those bills by that date, the entire existing ADU Ordinance would have become null and void as a matter of law; and

WHEREAS, on November 12, 2024, the City Council adopted Urgency Ordinance No. 1122, which updated the ADU Ordinance to comply with AB 2533 and SB 1211. The urgency ordinance took immediate effect and became operative on January 1, 2025. Also at its November 12th meeting, the City Council initiated a code amendment (CA 22-09) to adopt a non-urgency ordinance to comply with AB 2533 and SB 1211; and

WHEREAS, on December 6, 2024, the City received correspondence from the California Department of Housing and Community Development ("HCD") identifying select provisions of the City's ADU ordinance that HCD maintained should be revised to comply

with state ADU law. Staff agreed to incorporate HCD’s revisions into the City’s non-urgency ordinance; and

WHEREAS, this ordinance’s (“Ordinance”) amendments to the ADU Ordinance are identical to those provided in Urgency Ordinance No. 1122, except that they also include the revisions requested by HCD; and

WHEREAS, on January 22, 2025, the Planning Commission held a duly-noticed public hearing on the Ordinance. Following the public hearing, the Planning Commission voted to recommend that the City Council adopt the Ordinance; and

WHEREAS, on March 18, 2025, the City Council held a duly-noticed public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration and recommendations by the Planning Commission; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, the City Council of the City of San Juan Capistrano does ordain as follows:

Section 1. Incorporation of Recitals. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. CEQA. Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city to implement the provisions of Article 2 (commencing with section 66314) of Chapter 13 of Division 1 of Title 7 of the Government Code, which is California’s ADU law and which also regulates JADUs (pursuant to Government Code section 66323(a)(1)(D)). Therefore, adoption of the Ordinance is statutorily exempt from CEQA because implements State ADU Law.

Section 3. General Plan. Adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code sections 66314(c) and 66319.

Section 4. Code Amendments. Section 9-3.501.1 of the San Juan Capistrano Municipal Code is hereby amended to read as set forth in Exhibit “1,” attached hereto and incorporated herein by reference.

Section 5. Effective Date. This Ordinance becomes effective 30 days after its adoption.

Section 6. HCD Submittal. The City Clerk shall submit a copy of this Ordinance to the Department of Housing and Community Development within 60 days after its adoption.

Section 7. Severability. If any provision of this Ordinance or its application to any person or circumstance is held to be invalid by a court of competent jurisdiction, such

invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

Section 8. Notice of Exemption. The City Council hereby directs staff to prepare, execute, and file with the County of Orange Clerk a notice of exemption within five working days of the adoption of this Ordinance.

Section 9. Custodian of Records. The Custodian of Records for this Ordinance is the City Clerk and the records comprising the administrative record are located at 32400 Paseo Adelanto, San Juan Capistrano, CA 92675.

Section 10. Publication. The City Clerk shall certify to the adoption of this Ordinance and post or publish this Ordinance as required by law.

PASSED, APPROVED AND ADOPTED at this 1st day of April, 2025.



TROY A. BOURNE, MAYOR

ATTEST:

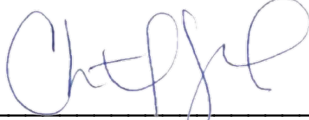


CHRISTY JAKL, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN JUAN CAPISTRANO)

I, CHRISTY JAKL, City Clerk of the City of San Juan Capistrano, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1127 which was regularly introduced and placed upon its first reading at the Regular Meeting of the City Council on the 18th day of March 2025 and that thereafter, said Ordinance was duly adopted and passed at the Regular Meeting of the City Council on the 1st day of April 2025 by the following vote, to wit:

AYES: COUNCIL MEMBERS: Farias, Hart, Taylor, Campbell and Mayor Bourne
NOES: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None



CHRISTY JAKL, CITY CLERK

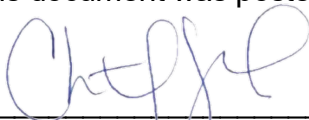
STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
CITY OF SAN JUAN CAPISTRANO)

I, CHRISTY JAKL, declare as follows:

That I am the duly appointed and qualified City Clerk of the City of San Juan Capistrano; That in compliance with State laws, Government Code section 36933(1) of the State of California, on the 19th day of March 2025, at least 5 days prior to the adoption of the ordinance, I caused to be posted a certified copy of the proposed ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO AMENDING THE CITY'S LAND USE CODE REGULATING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO ENSURE CONSISTENCY WITH STATE LAW; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE SECTION 21080.17

This document was posted in the Office of the City Clerk



CHRISTY JAKL, CITY CLERK
San Juan Capistrano, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
CITY OF SAN JUAN CAPISTRANO)

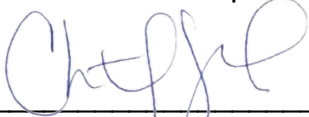
I, CHRISTY JAKL, declare as follows:

That I am the duly appointed and qualified City Clerk of the City of San Juan Capistrano; that in compliance with State laws, Government Code section 36933(1) of the State of California.

On the 2nd of April 2025, I caused to be posted a certified copy of Ordinance No. 1127, adopted by the City Council on April 1, 2025, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO AMENDING THE CITY'S LAND USE CODE REGULATING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO ENSURE CONSISTENCY WITH STATE LAW; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE SECTION 21080.17

This document was posted in the Office of the City Clerk



CHRISTY JAKL, CITY CLERK
San Juan Capistrano, California

EXHIBIT "1"

Section 9-3.501.1 Accessory Dwelling Units

- (a) **Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.
- (b) **Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
 - (1) Deemed to be inconsistent with the City's general plan and zoning designation for the lot on which the ADU or JADU is located.
 - (2) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - (3) Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - (4) Required to correct a nonconforming zoning condition, as defined in subsection (c)(8) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- (c) **Definitions.** As used in this section, terms are defined as follows:
 - (1) "Accessory dwelling unit" or "ADU" 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. An accessory dwelling unit also includes the following:
 - (A) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - (B) A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
 - (2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - (3) "Building height" means the vertical distance from finished grade or flood protection elevation to the topmost point of the roof of a building or to the highest point of a structure other than a building, as shown in Figure 2. Chimneys, finials, and other rooftop architectural projections are not included in determining building height.

For structures in hillside areas, allowable building height shall be determined by connecting an imaginary line, at the applicable building height standard, between a series of vertical lines drawn at the uppermost and the lowermost finish grades of a building (typically measured at a point that is five (5) feet away from the vertical building wall), as shown in Figure 3. For purposes of this definition, “hillside area” means an area in which the average slope of the building footprint area is ten (10) percent or more. For structures in hillside areas that are constructed on a foundation system that include one or more retaining walls or other retaining system, the measurement to establish allowable building height shall be measured from five (5) feet outside of the retaining wall or system used to support the building.

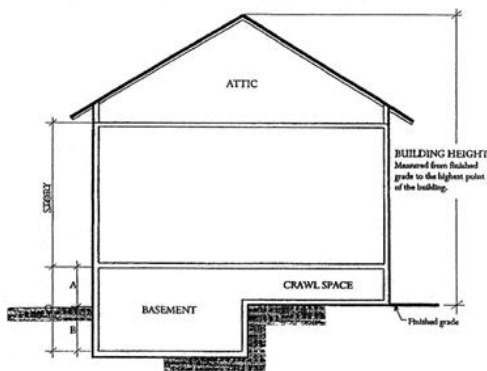


Figure 2: Building Height on Level Lot

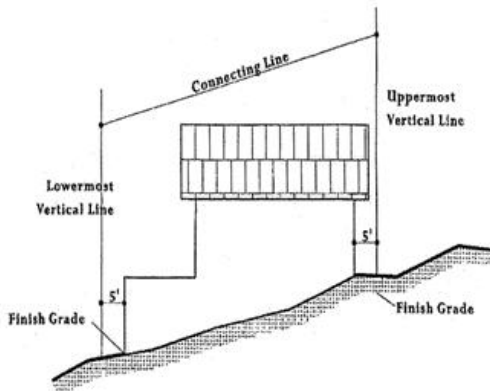


Figure 3: Building Height on Hillside

- (4) “Complete independent living facilities” means 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.

- (5) “Efficiency kitchen” means a kitchen that includes each of the following:
 - (A) A cooking facility with appliances.
 - (B) A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the junior accessory dwelling unit.
 - (6) “Junior accessory dwelling unit” or “JADU” means a residential unit that satisfies all of the following:
 - (A) It is no more than 500 square feet in size,
 - (B) It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - (C) It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - (D) If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
 - (E) It includes an efficiency kitchen, as defined in subsection (c)(5) above
 - (7) “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
 - (8) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
 - (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
 - (10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
 - (11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (d) **Review Process.** The following two review processes identified in subsections (d)(1) and (d)(2) apply to proposed ADUs and JADUs under this section:

- (1) **Building Permit Review.** If an ADU or JADU complies with each of the general requirements set forth in subsection (e) below, it is allowed with only a building permit in the following scenarios:
- (A) **Converted ADUs and JADUs on Single-family Lots:** One ADU (as described in this subsection (d)(1)(A) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU meets all of the following requirements:
- (i) Location: The ADU and JADU is located either:
 - a. within the space of a proposed single-family dwelling; or
 - b. within the space of an existing single-family dwelling; or
 - c. In the case of an ADU only, within the space of an accessory structure as defined in section (C)(2), plus up to 150 square feet of additional habitable floor area to accommodate ingress and egress.
 - (ii) Has exterior access that is independent of that for the single-family dwelling; and
 - (iii) Has minimum interior side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - (iv) The JADU complies with the requirements of sections 66333 – 66339 of the Government Code.
- (B) **New Detached ADUs on Single-family Lots:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (d)(1)(A) above), if the detached ADU satisfies each of the following requirements:
- (i) The side- and rear-yard setbacks are at least 4-feet; and
 - (ii) The total floor area is 800 square feet or smaller; and
 - (iii) The peak height above grade does not exceed the applicable height limit in subsection (e)(3) below.
- (C) **Converted ADUs on Multi-family Lots:** One or more ADUs within portions of existing multi-family structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (d)(1)(C), at least one converted ADU is allowed within an

existing multi-family dwelling, up to a quantity that is equal to 25 percent of the existing multi-family dwelling units.

- (D) **New Detached ADUs on Multi-family Lots:** No more than two detached ADUs on a lot with a proposed multi-family dwelling, or up to eight detached ADUs on a lot with an existing multi-family dwelling, if each detached ADU satisfies all of the following:
- (i) The side and rear yard setbacks are at least four feet. If the existing multi-family structure has a rear or side yard setback of less than four feet, the City will not require any modification to the multi-family structure as a condition of approving the ADU.
 - (ii) The peak height above grade does not exceed the applicable height limit provided in subsection (e)(3) below.
 - (iii) If the lot has an existing multi-family dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

(2) **ADU Permit Review.**

- (A) Except as allowed under subsection (d)(1) above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections (e) and (f) below.
- (B) The City may charge an application fee, adopted by City Council resolution, to reimburse it for costs incurred in processing ADU permits, including the costs of updating and amending the City's ADU ordinance.
- (C) As with the City's review of applications submitted under subsection (d)(1) above, the City will ministerially review and approve ADU permit applications without discretionary review or a hearing.

(3) **Timing.** The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City has not approved or denied the completed application within 60 days, the application is deemed approved unless either:

- (i) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
- (ii) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay approving or denying the application for the ADU or JADU until the City approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or

JADU will still be considered ministerially without discretionary review or a hearing.

- (4) **Application Denial; Comments.** If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (d)(3) above.
 - (5) **Demolition Permits.** A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.
- (e) **General ADU and JADU Requirements.** The following requirements apply to ADUs and JADUs that are approved under subsections (d)(1) or (d)(2) above:
- (1) **Zoning.**
 - (A) An ADU subject only to a building permit under subsection (d)(1) above may only be created on a lot located within a single-family or multi-family zoning district. The City has no mixed-use zoning district.
 - (B) An ADU subject to an ADU permit under subsection (d)(2) above may only be created on a lot in areas zoned to allow single family or multi-family dwelling residential use.
 - (C) In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned for single-family residences.
 - (2) **Fire Sprinklers.**
 - (A) Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - (B) The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
 - (3) **Height.**
 - (A) Except as otherwise provided by subsections (e)(3)(B) and (e)(3)(C) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.
 - (B) A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located 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, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

- (C) A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - (D) An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (e)(3)(D) may not exceed two stories.
- (4) **Rental Term.** No ADU may be rented for a term that is shorter than 30 calendar days. This prohibition applies regardless of when the ADU was created.
- (5) **No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code section 66341, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).
- (6) **Owner Occupancy.**
- (A) ADUs created under this section on or after January 1, 2020, are not subject to an owner-occupancy requirement.
 - (B) As required by state law, all JADUs regardless of when they are created are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or the JADU, as the person's legal domicile and permanent residence. The owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by a governmental agency, land trust, or housing organization.
- (7) **Deed Restriction.** Prior to issuance of a certificate of occupancy for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director of Development Services. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
- (A) The JADU may not be sold separately from the primary dwelling; and,

- (B) The JADU is restricted to the approved size and to other attributes allowed by this section; and,
 - (C) The deed restriction runs with the land and may be enforced against future property owners; and,
 - (D) The deed restriction may be removed if the owner eliminates the JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director of Development Services, providing evidence that the JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of a JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code; and,
 - (E) The deed restriction is enforceable by the Director of Development Services or his or her designee for the benefit of the City. 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 JADU in violation of the recorded restrictions or abatement of the illegal unit.
- (8) **Building & Safety.**
- (A) **Must comply with building code.** Subject to subsection (e)(8)(B) below, all ADUs and JADUs must comply with all local building code requirements.
 - (B) **No change of occupancy.** Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (e)(8)(B) prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.
- (9) **Septic System.** If the ADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten years.

(f) **Specific ADU Requirements.** The following requirements apply only to ADUs that require an ADU permit under subsection (d)(2) above.

(1) **Maximum Size.**

- (A) The maximum size of a detached or attached ADU subject to this subsection (f) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
- (B) A new attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
- (C) Application of other development standards in this subsection (f), such as lot coverage, might further limit the size of an ADU. However, no application of the percentage-based size limit in subsection (f)(1)(B) above or of a lot-coverage or front setback requirement may require the ADU to be less than 800 square feet. The City does not impose FAR or open space requirements on ADUs.

(2) **Setbacks.**

- (A) Subject to subsection (f)(2)(B) below, an ADU subject to this subsection (f) must conform to a 30-foot front yard setback.
- (B) If the front yard setback is the only location on the lot where an ADU may be lawfully constructed, then the ADU may encroach into the required front yard setback as necessary to enable the construction of an 800 square foot unit.
- (C) An ADU subject to this subsection (f) must conform to 4-foot side and rear-yard setbacks.
- (D) No setback is required for an ADU that is subject to this subsection (f) if the ADU is constructed in the same location and to the same dimensions as an existing structure.

(3) **Lot Coverage.** A new attached or detached ADU under this subsection (f) is subject to a lot-coverage limit of 0.35, subject to subsection (f)(1)(C) above.

(4) **Passageway.** No pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU is required.

(5) **Parking.**

- (A) One off-street parking space measuring at least 9 feet wide by 19 feet long is required for each ADU on the property where the ADU is located. The required parking space may be provided in a garage, carport, on a driveway (including as tandem parking) or within paved setback areas.

- (B) The new attached or detached ADU and primary dwelling must use the same driveway apron to access the street, unless a separate driveway apron for the new ADU is required by the fire authority.
- (C) Exceptions. No parking under subsection (f)(5)(A) is required in the following situations:
 - (i) The ADU is located within one-half mile walking distance of a public transit stop, as defined in subsection (c)(9) above.
 - (ii) The ADU is located within the Los Rios Historical Residential District or the Mission Residential Zoning District.
 - (iii) The ADU is part of the proposed or existing primary residence or an accessory structure under subsection (d)(1)(A) above.
 - (iv) When on-street parking permits are required but not offered to the occupant of the ADU.
 - (v) When there is an established car share vehicle stop located within one block of the ADU.
 - (vi) When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria in subsections (f)(5)(C)(i) through (f)(5)(C)(v) above.
- (D) No Replacement. When a garage, carport, covered-parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

(6) Architectural Requirements.

- (A) The exterior, including the walls, trim, roof, windows, and doors shall each be the same material, texture and color as those of the primary dwelling.
- (B) The roof eaves and gables of the ADU shall be no less than 12 inches, as measured from the vertical side of the unit.
- (C) If the ADU would be visible from an adjoining public right-of-way, the roof slope of the ADU must match the dominant roof slope of the primary dwelling, if feasible. The dominant roof slope is the slope of the largest portion of the roof.
- (D) Exterior lighting of the ADU must be limited to down-lights or as otherwise required by the building or fire code.

- (E) The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
 - (F) Fencing, landscaping, or privacy glass must be installed to prevent a direct line of sight from the ADU windows to contiguous developed residential property.
- (7) **Historical Protections.** The architectural treatment of a new attached or detached ADU to be constructed on a lot that has an identified historical resource listed on the California Register of Historic Resources must comply with all applicable ministerial requirements imposed by the Secretary of the Interior.
- (8) **Ridgeline Protection.** No ADU, or grading related to construction of an ADU, shall be permitted within 200 feet (horizontal) of a General Plan designated ridgeline, or as designated on a City subdivision.
- (g) **Fees.** The following fees apply to all ADUs and JADUs approved by the City under this section.
- (1) **Impact Fees.**
 - (A) No impact fee is required for an ADU that is less than 750 square feet in habitable floor area.
 - (B) Any impact fee that is required for an ADU that is 750 square feet or larger in habitable floor area must be charged proportionately in relation to the habitable floor area of the primary dwelling unit. (E.g., the habitable floor area of the primary dwelling, divided by the habitable floor area of the ADU, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
 - (2) **Utility Connections and Fees.** ADUs are subject to the utility connection requirements and fees or charges imposed by the applicable utility provider.
- (h) **Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.**
- (1) **Generally.** The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
 - (2) **Unpermitted ADUs and JADUs constructed before 2020.**
 - (A) **Permit to Legalize.** As required by state law, the City may not deny a permit to legalize an existing but unpermitted ADU or JADU that was

constructed before January 1, 2020, if denial is based on either of the following grounds:

- (i) The ADU or JADU violates applicable building standards; or
- (ii) The ADU or JADU does not comply with state ADU or JADU law or this ADU ordinance (section 9-3.501.1).

(B) **Exceptions.**

- (i) Notwithstanding subsection (h)(2)(A), the City may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the City makes a finding that correcting a violation is necessary to comply with the standards specified in Health and Safety Code section 17920.3 (Substandard Buildings).
- (ii) Subsection (h)(2)(A) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

- (i) **Nonconforming ADUs and Discretionary Approval.** Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (a) through (h) of this section may be allowed by the City with a zone variance, in accordance with Section 9-2.351 of this Code.