

ORDINANCE NO. 22-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN
REPEALING AND REPLACING SECTIONS 159.325-329 TO THE AUBURN
MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS AND
JUNIOR ACCESSORY DWELLING UNITS

**THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS
FOLLOWS:**

Section One: Code Repeal and Replacement. Sections 159.325 - 159.329 of Chapter 159 (Zoning) of Title XV (Land Use) of the Auburn Municipal Code entitled "Second Residential Units" is hereby repealed and replaced in its entirety with new Sections 159.325 - 159.329 entitled "Accessory Dwelling Units" as set forth in the attached Exhibit "A".

Section Two: California Environmental Quality Act. The proposed ordinance is statutorily exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15282, Subdivision (h), of the CEQA regulations because it adopts "an ordinance regarding second units in a single-family or multi-family residential zone by a town or county to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code."

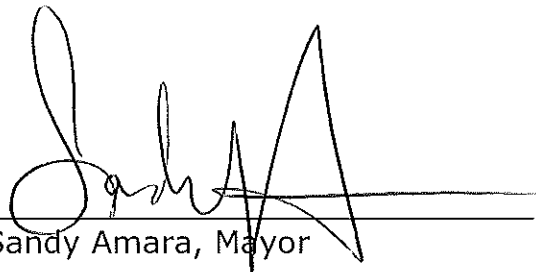
Section Three: Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Auburn hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section Four: Inconsistent Provisions. Any provision of the Auburn Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and

no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

Section Five: Publication and Effective Date. This ordinance shall take effect 30 days after final adoption. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

DATED: November 14, 2022



Sandy Amara, Mayor

ATTEST:



Amy Lind, City Clerk

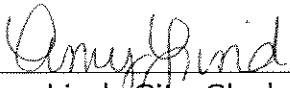
I, Amy Lind, City Clerk of the City of Auburn, hereby certify that the foregoing ordinance was duly passed at a regular meeting of the City Council of the City of Auburn held on the 14th day of November 2022 by the following vote on roll call:

Ayes: Spokely, Berlant, Dowdin Calvillo, Radell-Harris, Amara

Noes:

Absent:

Abstain:



Amy Lind, City Clerk

EXHIBIT "A"
**CHAPTER 159: ACCESSORY DWELLING UNITS (SECTIONS
159.325-159.329)**

Section:

- 159.325 – Purpose
- 159.326 – Definitions
- 159.327 – Review Process
- 159.328 – Development Standards
- 159.329 – Development Standards for JADUs

§ 159.325 PURPOSE

The City finds that special regulations relating to the establishment and operation of Accessory Dwelling Units and Junior Accessory Dwelling Units are necessary to implement Cal. Gov't Code §§ 65852.2 and 65852.22 to improve affordable housing opportunities in the City and to protect the health, safety, and general welfare of the residents of the City.

§ 159.326 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY DWELLING UNIT or ADU. An attached or a detached residential dwelling unit, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel the Primary Dwelling Unit is situated. An Accessory Dwelling Unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code; and
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

ACCESSORY STRUCTURE. A structure that is accessory and incidental to a dwelling located on the same lot.

ATTACHED ACCESSORY DWELLING UNIT. An Accessory Dwelling Unit that is attached to the Primary Dwelling Unit, not including a Junior Accessory Dwelling Unit.

CITY. The City of Auburn.

CONVERTED or CONVERSION. The repurposing of all or apportion of an existing structure as an Accessory Dwelling Unit entirely within the existing structure building envelope and in accordance with all required residential building and construction standards set forth in the applicable California Building Codes.

DEPARTMENT. The Community and Economic Development Department.

DETACHED ACCESSORY DWELLING UNIT. An Accessory Dwelling Unit that is separated from the Primary Dwelling Unit.

DIRECTOR. The Community and Economic Development Director or his or her designee.

EFFICIENCY KITCHEN. 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 Junior Accessory Dwelling Unit.

FLOOR AREA. The sum of the gross areas of the enclosed floors of a building or buildings measured from the centerline of the exterior wall or bottom plate or from the centerline of party walls separating such buildings.

GARAGE. The same meaning as defined in Section 159.001.

JUNIOR ACCESSORY DWELLING UNIT or JADU. A residential dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within an existing single-family structure. A Junior Accessory Dwelling Unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.

LIVING AREA. The interior habitable area of a dwelling unit, including basements and attics, but does not include a Garage or any Accessory Structure.

PRIMARY DWELLING UNIT. A single-, two-, or multi-family dwelling existing or proposed, which provides complete independent living facilities for one or more persons.

PROPOSED DWELLING. A dwelling that is the subject of a permit application and that meets the requirements for permitting.

§ 159.327 APPLICABILITY REVIEW PROCESS

- A. A Request for an Accessory Dwelling Unit and/or a Junior Accessory Dwelling Unit shall be reviewed by the Director in conjunction with an application for a building permit.
- B. The applicant shall submit a site plan map, building elevations, and other information as may be necessary to determine compliance with the standards in Sections 159.328 – 159.329, as applicable.
- C. The Director shall administratively approve the request for an Accessory Dwelling Unit and/or a Junior Accessory Dwelling Unit if the request complies with the standards listed in Section 159.328 – 159.329, as applicable.

§ 159.328 DEVELOPMENT STANDARDS

All Accessory Dwelling Units and Junior Accessory Dwelling Units shall meet the following requirements:

A. Zoning.

- 1. Accessory Dwelling Units and Junior Accessory Dwelling Units are only permitted in the following zoning districts:
 - i. Single-Family Residential District (R-1);
 - ii. Two-Family Residential (Duplex) District (R-2);
 - iii. Medium Density Multi-Family Residential District (R-3);
 - iv. Exclusive Agricultural District (A-1); or
 - v. Agricultural Residential District (AR).
- 2. Accessory Dwelling Units and Junior Accessory Dwelling Units may not exceed the allowable density for the lot upon which the unit is located, and ADUs/JADUs must be for residential use that is consistent with the General Plan and zoning designation for the lot.

B. Historic Properties.

- 1. An Accessory Dwelling Unit proposed for a historic property, including a Conversion, shall:
 - i. Be located in the rear of the property such that at least

50 percent of the ADU's first floor, front-facing facade is behind the predominant massing of the existing dwelling.

- ii. Not be placed in a manner to block visibility of the historic resource from the public right-of-way or compete with character-defining features of the historic resource.

C. Floor Area of ADUs.

1. The maximum size of the Floor Area of an Attached Accessory Dwelling Unit shall not exceed 50% of the existing Primary Dwelling if the Primary Dwelling is a single-family residence.
2. The maximum size of the Floor Area of an Attached Accessory Dwelling Unit shall not exceed 25% of the existing Primary Dwelling if the Primary Dwelling is a multi-family residence.
3. The maximum size of the Floor Area of a Detached Accessory Dwelling Unit shall not exceed 1,200 square feet.
4. Nothing in this subsection shall prohibit an ADU that is 850 square feet, or 1,000 square feet if it provides more than one bedroom, and constructed in compliance with all other local development standards.

D. Floor Area of JADUs.

1. The maximum size of the Floor Area of a Junior Accessory Dwelling Unit shall not exceed 500 square feet.
2. The minimum size of the Floor Area of a Junior Accessory Dwelling Unit shall be greater than 220 square feet, pursuant to the International Building Code of the International Code Council Standards.

E. Site Coverage.

1. A maximum of 30% of the rear yard area may be covered by structures, including the areas covered by the Accessory Dwelling Unit or Junior Accessory Dwelling Unit and any other Accessory Structures, and projections of the Primary Dwelling Unit.

2. The lot must contain an existing single-family detached dwelling unit or a proposed single-family dwelling unit and no other dwelling units. There shall be no more than one Accessory Dwelling Unit and one Junior Accessory Dwelling Unit per lot with a single-family dwelling. There shall be no more than two detached Accessory Dwelling Units on a lot with an existing multifamily dwelling. Multiple Junior Accessory Dwelling Units shall be permitted within the portions of existing multifamily dwelling structures that are not used as Living Areas if each JADU complies with state building standards for dwellings.
3. Nothing in this subchapter shall prohibit an Accessory Dwelling Unit that is at least 800 square feet, 16 feet in height, with four-foot side and rear yard setbacks, and constructed in compliance with all other local development standards.

F. Setbacks.

The setback standards for ADUs are as follows:

1. Front yard setback – 20-feet.
2. Side yard setback – four feet.
3. Rear yard setback – four feet.
4. There are no setback requirements for an existing Living Area or Accessory Structure, or a structure constructed in the same location and to the same dimensions as an existing structure that is Converted into an Accessory Dwelling Unit or portion of an Accessory Dwelling Unit.
5. If a Garage is attached to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, it shall be set back 10 feet from property line.

G. Height Limits.

1. Accessory Dwelling Units shall not exceed one-story or 16 feet in height measured to top of parapet or pitched roof, unless the Accessory Dwelling Unit is contained within the existing legal two-story space of a single-family detached dwelling unit; added above or below an existing legal single-family detached dwelling unit; or added above an existing

legal one-story detached Garage on a property with an existing legal two-story single-family detached dwelling unit; and consistent with the setback and height regulations of Appendix A (District Regulations) of Chapter 159 of Title XV. Accessory Dwelling Units shall not exceed two stories in height in all cases.

H. *Parking.*

1. A minimum of one paved off-street parking space shall be provided for each Accessory Dwelling Unit. Surface parking may encroach up to 15 feet into the rear setback. The additional on-site space required for the Accessory Dwelling Unit may be provided by tandem parking, unless the Director makes specific findings that such parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the City.
2. If an existing Garage, carport, or covered parking structure is to be demolished in conjunction with the construction of an Accessory Dwelling Unit, the required off-street parking for the Primary Dwelling Unit need not be replaced. Replacement parking spaces may be provided in any configuration on the lot, including, but not limited to, covered, uncovered, or tandem spaces, or by the use of mechanical automobile parking lifts.
3. Notwithstanding any other provision of this code, no additional parking shall be required for an Accessory Dwelling Unit if any of the following is true:
 - i. The Accessory Dwelling Unit is located within one-half mile walking distance of a public transit stop;
 - ii. The Accessory Dwelling Unit is located within an architecturally and historically significant historic district;
 - iii. The Accessory Dwelling Unit is part of the existing Primary Dwelling Unit or an existing accessory structure;
 - iv. On-street permits are required but not offered to the occupant of the Accessory Dwelling Unit; or

- v. There is a publicly accessible car share vehicle located within one block of the Accessory Dwelling Unit.

I. *Facilities.*

1. An Accessory Dwelling Unit and a Junior Accessory Dwelling Unit shall have the following features located within the unit:
 - i. Independent heating controls, and cooling controls if air conditioning is provided.
 - ii. Its own kitchen with sink and standard built-in or freestanding appliances, except that a Junior Accessory Dwelling Unit shall have an Efficiency Kitchen.
 - iii. Its own bathroom with toilet, sink, and tub or shower, except that a Junior Accessory Dwelling Unit may share these facilities with the Primary Dwelling Unit.
 - iv. Indoor washer and dryer hookups, except that a Junior Accessory Dwelling Unit may share these facilities with the Primary Dwelling Unit.
 - v. Exterior access independent from the Primary Dwelling Unit. Except for a Junior Accessory Dwelling Unit, there shall be no shared access with the Primary Dwelling Unit.

J. *Utilities.*

1. A new or separate utility connection shall be required for all Accessory Dwelling Units that are not described in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 of the California Government Code.
2. A connection fee and capacity charge for utilities, including water and sewer service, shall be charged for such Accessory Dwelling Units proportionate to the additional burden the unit places on the service(s) provided.
3. Approval by the local health officer is required where a private sewage disposal system is being used.

K. *Building Code.*

1. The Accessory Dwelling Unit must meet minimum building and fire code requirements prior to occupancy of the Accessory Dwelling Unit.
2. An Accessory Dwelling Unit and a Junior Accessory Dwelling Unit shall be required to have a permanent foundation.

L. Appearance.

1. The design of the Accessory Dwelling Unit shall be the same as the Primary Dwelling Unit on the lot. The Director shall make this determination based on architectural use of forms, height, materials, colors, and landscaping.
2. A minimum of 100 square feet shall be provided for use as common space by an Accessory Dwelling Unit and a Junior Accessory Dwelling Unit, of which no less than half shall be directly accessible to the unit.

M. Primary and Accessory Dwellings Not Separable.

1. An Accessory Dwelling Unit shall not be sold separately from the Primary Dwelling Unit, except as provided in California Government Code § 65852.26.

N. Occupancy and Rental.

1. On all lots containing an Accessory Dwelling Unit, either the Primary or Accessory Dwelling Unit shall be owner-occupied and eligible for a "homeowners' exemption" for property tax purposes. This subsection shall only apply to an Accessory Dwelling Unit for which an application is approved on or after the effective date of this subsection. The owner occupancy requirement in this subsection is not operative between January 1, 2020, and January 1, 2025.
2. The owner shall sign a "Notice of Restrictions: Occupancy, Sale and Rental," which the Director will record with the County Recorder's office, prior to issuance of a building permit for the Accessory Dwelling Unit or the Junior Accessory Dwelling Unit, acknowledging the requirements of subsections (M)(1) and (N)(2) of this section.

O. Fees.

1. An Accessory Dwelling Unit application must be submitted

to the Director along with the appropriate fee as established by the City Council from time to time by resolution in accordance with applicable law.

2. The City may impose a fee on the applicant in connection with approval of an Accessory Dwelling Unit for the purpose of defraying all or a portion of the cost of public facilities related to its development, as provided for in Government Code Sections 65852.2(f)(1) and 66000(b).
3. Any development impact fees charged for an Accessory Dwelling Unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the Accessory Dwelling Unit. Accessory Dwelling Units of less than 750 square feet shall not be charged an impact fee.
4. The City will not consider an Accessory Dwelling Unit to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family or multi-family dwelling.
5. The City may charge a fee to inspect an Accessory Dwelling Unit to determine compliance with applicable building standards.

P. Permit Approval.

1. All proposed Accessory Dwelling Units and Junior Accessory Dwelling Units are subject to review for compliance with the terms of this subchapter by the Director, via a zoning clearance. The Director shall complete the review of the application within sixty (60) days of receipt of a complete submission if there is an existing single-family or multifamily dwelling on the lot. Review of, and the denial of or granting of, an application for an Accessory Dwelling Unit permit by the Director is a ministerial action. The Director shall not approve an application or issue a permit unless the proposed Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit complies with the requirements of this subchapter. The decision of the Director shall be final and conclusive.
2. A proposed Accessory Dwelling Unit submitted with a new single-family dwelling application will be reviewed for

compliance at the time the new single-family dwelling application is reviewed. The Accessory Dwelling Unit application shall be considered ministerially without discretionary review.

P. *Permit Termination* A permit for an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit shall terminate when one (1) or more of the following occur:

1. The construction of the Accessory Dwelling Unit or the Junior Accessory Dwelling Unit is not commenced within one (1) year from the date of permit issuance;
2. The construction of the Accessory Dwelling Unit or the Junior Accessory Dwelling Unit has been abandoned or discontinued for one hundred eighty (180) consecutive days or more;
3. The owner of the Accessory Dwelling Unit or the Junior Accessory Dwelling Unit files a declaration with the Director that the permit has been abandoned or discontinued and the unit has been removed from the property; or
4. The permit has expired by its own terms.

§ 159.329 DEVELOPMENT STANDARDS FOR JADUS

- A. All the requirements under Section 159.328 apply equally to Junior Accessory Dwelling Units, unless stated otherwise in this section.
- B. A property owner may build a Junior Accessory Dwelling Unit, in addition to an Accessory Dwelling Unit, provided each Junior Accessory Dwelling Unit and Accessory Dwelling Unit, if applicable, are in compliance with the requirements of this section in any zone and for any property for which an Accessory Dwelling Unit is permitted by this subchapter.
- C. Any Junior Accessory Dwelling Unit shall be built within the Primary Dwelling Unit and the Primary Dwelling Unit may be extended up to one hundred fifty (150) square feet in conjunction therewith. A Junior Accessory Dwelling Unit may be combined with an Accessory Dwelling Unit in compliance with this subchapter.
- D. The owner must reside in the single-family residence but may choose to reside within the remaining portion of the structure or

the newly created Junior Accessory Dwelling Unit, except as may be allowed otherwise by Government Code Section 65852.22, subdivision (a)(2).

- E. All Junior Accessory Dwelling Units shall include, at a minimum, an Efficiency Kitchen and Living Area. It may include separate sanitation facilities or may share sanitation facilities with the existing structure. The Junior Accessory Dwelling Unit must include a separate entrance from the main entrance to the proposed or existing single-family residence.