

SEC. 10-1.2740 - ACCESSORY DWELLING UNITS (ADUs)

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SEC. 10-1.2741 PURPOSE.

The ordinance codified in this section establishes regulations for the construction of accessory dwelling units subordinate to single-family dwellings. Accessory dwellings units provide housing opportunities in a flexible manner to address the unmet demand for affordable housing and achieve the goals, objectives, and policies of the Housing Element and General Plan to provide a diverse mix of housing options for the community. (Ordinance 17-16, November 7, 2017)

SEC. 10-1.2742 DEFINITIONS.

- a. “Accessory dwelling unit(s)” shall be defined as an attached, detached, or internal 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 and shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s).

SEC. 10-1.2743 LOCATION CRITERIA.

- a. Accessory dwelling units as detached, attached, or internal accessory uses shall be permitted in the Single-Family Residential (RS), Residential Nature Preservation (RNP), Medium-Density Residential (RM), Residential Office (RO), Agricultural (A) zoning districts, and in the T-3 Suburban transect zone in the Mission Boulevard Corridor Form-Based Code area, where one legally constructed single-family dwelling exists as the primary structure on the parcel.
- b. Accessory dwelling units limited exclusively to the internal conversion or repurpose of an existing structure shall be permitted in the following zoning districts: Central-City Commercial (CC-C), Central-City Residential (CC-R), Central-City Plaza (CC-P), and Airport-Terminal Medium Density Residential (AT-RM) zoning districts, provided one legally constructed single-family dwelling exists as the primary structure on the parcel.

- c. Planned Development Districts. The new construction of attached and detached accessory dwellings units shall not be permitted in Planned Development (PD) zoning districts, unless otherwise specified within the original development proposal as an amenity. Accessory dwelling units involving the internal conversion of an existing structure shall be permitted provided the proposed unit complies with the criteria set forth in Section 10-1.2743(b) and the remainder of this Article, as applicable.

SEC. 10-1.744 DESIGN AND DEVELOPMENT STANDARDS.

All proposed accessory dwelling units shall comply with the following design and development standards:

- a. Quantity. On any one parcel of land, no more than one accessory dwelling unit shall be allowed regardless of the number of single-family dwellings located on the lot.
- b. Unit Size. All proposed accessory dwelling units shall not exceed 50-percent of the habitable floor area of the existing single-family residence or 1,200 square-feet, whichever is less. Habitable floor area calculation shall not include garages, detached accessory structures, patio covers, porches, covered and uncovered balconies, and decks as determined by the Planning Director.
- c. Maximum Number of Bedrooms. Accessory dwelling units shall not exceed a maximum of two bedrooms as sleeping quarters.
- d. Attached Units. Accessory dwelling units proposed to be attached from the primary residence shall comply with the development standards set forth by the underlying zoning for the primary structure including, but not limited to, setbacks, lot coverage, height, and architectural compatibility.
- e. Detached Units. Accessory dwelling units proposed to be detached from the primary residence shall comply with the minimum design and performance standards set forth by the underlying zoning district for detached, accessory and secondary structures including, but not limited to, setbacks, lot coverage, height, distance between structures, location and architectural compatibility.
- f. Setbacks. Accessory dwelling units proposed to be constructed atop of existing, legal detached garages shall provide a minimum five-foot setback from the interior side and rear property lines, unless a greater setback is required pursuant to Building and Fire standards or the property is a corner lot which shall comply with the minimum street-side setback requirements. Accessory dwelling units proposed to be attached or detached shall conform to the development standards and performance standards set forth in the underlying zoning district.

- g. Height Restrictions. Accessory dwelling units shall comply with the following height restrictions based on the proposed location of the unit:
- (1) Accessory dwelling units attached to the primary structure shall comply with the height limitations of the underlying zoning district for the principal structure.
 - (2) Accessory dwelling units to be detached from the primary structure shall be limited to the height restrictions set forth in the underlying zoning district for detached, accessory and secondary structures.
 - (3) Accessory dwelling units proposed to be constructed atop of legally constructed detached garages shall be subject to the review and approval of a discretionary Site Plan Review application in accordance with Section 10-1.3000 of the Hayward Municipal Code. In order to deny a Site Plan Review application, the Planning Director shall find that the accessory dwelling unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors. In any instance, the accessory dwelling unit shall be limited to the maximum height restriction of the primary structure within the underlying zoning district
- h. Independent Exterior Access. Accessory dwelling units shall provide an independent exterior access separate from the primary residence. The separate entry constructed for the accessory dwelling unit shall not face the street or the public right-of-way.
- i. Owner Occupancy. The legal property owner of the lot shall be required to reside in either the primary residence or the accessory dwelling unit located on the parcel. At no time shall the property owner rent the primary dwelling and the accessory dwelling unit separately or allow the main house and the accessory dwelling unit to be sublet individually while the property owner resides elsewhere.
- (1) The accessory dwelling unit shall not be sold separately from the principal residence. The rental and lease period for either unit shall be longer than a minimum of 30-days and shall not be utilized as a short-term rental.
- j. Fire Sprinklers. Accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinkler installation is required for the primary dwelling
- k. Park Dedication In-Lieu Fees. Each accessory dwelling unit whether detached, attached, or internal shall be required to pay the applicable Park-Dedication In-Lieu fee as set forth in Chapter 10, Article 16 of the Hayward Municipal Code (Property Developers – Obligations for Parks and Recreation) prior to the date of final inspection or the date the Certificate of Occupancy is issued for the development, whichever occurs first.
- l. Private Sewage System. If the accessory dwelling unit is proposed to incorporate or utilize a private sewage disposal system (e.g. septic tank or on-site wastewater treatment system), the applicant shall be required to provide documentation and proof by the Alameda County Department of Environmental Health at the time of application. No private sewage disposal

shall be permitted where there is an available public sewer within 200-feet, measured along streets, alleys, or public right-of-way upon which a lot abuts pursuant to Chapter 11, Article 3 (Sanitary Sewer System) of the Hayward Municipal Code.

SEC. 10-1.2745 ADDITIONAL PROVISIONS FOR THE CONVERSION OF EXISTING STRUCTURES TO CREATE ACCESSORY DWELLING UNITS.

- a. Setbacks. No side or rear yard setback shall be required for an existing, legally constructed garage or accessory structure that is converted into an accessory dwelling unit provided it is sufficient for fire safety standards as determined by the Hayward Fire Department and Chief Building Official.
- b. Utility Connection Fees. Accessory dwelling units constructed within the building envelope of the existing principal residence, garage, or accessory structure shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
- c. Parking. No additional parking shall be required if the accessory dwelling unit is located within the existing building envelope of the primary residence or accessory structure, unless it involves the conversion of a garage or reduction of the off-street parking requirement for the parcel.

SEC. 10-1.2746 PARKING.

Accessory dwelling units shall be required to provide parking in accordance with the following requirements:

- a. Parking Requirement for Primary Residence. In any instance, the property shall be required to meet the minimum parking requirement as set forth in Chapter 10, Article 2, Off-Street Parking Regulations for the principal residence prior or concurrent to the application for an accessory dwelling unit.
- b. New Units. Accessory dwelling units shall be required to provide one (1) off-street parking space on the same lot as the unit in a covered, uncovered, or tandem configuration. Parking spaces may be located in the required setbacks provided the proposed location complies with the landscaping requirement in the front yard and minimum standards set forth within the Off-Street Parking Regulations for open parking spaces, unless otherwise approved by the Planning Director.
- c. Garage Conversions. Where garages are converted for the purpose of creating an accessory dwelling unit, replacement off-street parking shall be provided on the same lot as the unit in either a covered, uncovered, or tandem configuration provided the proposed location complies with the landscaping requirement in the front yard and the minimum standards set

forth within the Off-Street Parking Regulations for open parking spaces, unless otherwise approved by the Planning Director.

- d. Parking Requirement Exemptions. Off-street parking shall not be required for accessory dwelling units if any of the following circumstances apply:
- (1) The unit is located within one-half mile of public transit and bus stations.
 - (2) The unit is located within an architecturally and historically significant historic district.
 - (3) Where there is designated car-share vehicle parking within one block of the unit.

SEC. 10-1.2747 PERMIT REQUIRED.

Unless otherwise noted in this Ordinance, the applicant shall be required to obtain the approval of a Zoning Conformance Permit by the Planning Division prior to the submittal of a building permit application to the Building Division. Zoning Conformance Permits shall either be disapproved or approved within 120 days of the submission of a complete application. Application submittal requirements for an Accessory Dwelling Unit shall include the following items, in addition to the required fees for each accessory dwelling unit proposed in accordance with the adopted Master Fee Schedule:

- a. Project Plans. The applicant shall be required to provide a site plan, floor plan, elevations, and cross sections of the proposed accessory dwelling unit drawn to scale. Plans shall include minimal project information, dimensions, and calculations including, but not limited to the proposed setbacks, lot coverage, height, distance between structures, square-footage, easements, materials, etc. as required by the Planning Director or his/her designee.
- b. Deed Restriction. Prior to the issuance of a building permit for the accessory dwelling unit, the property owner shall file with Alameda County Recorder a deed restriction approved by the City stating compliance with provisions of this Ordinance and Hayward Municipal Code and such deed is binding upon any successor in ownership of the property, and lack of compliance shall be grounds for Code Enforcement action and removal of the accessory dwelling unit.