

### **18.104.180 – Accessory dwelling units and junior accessory dwelling units**

- A. Pursuant to the provisions of Government Code Sections 66310 et seq., the following requirements apply to accessory dwelling units and junior accessory dwelling units, as specified:
1. Zoning and Required Uses.
    - a. Accessory Dwelling Units. Accessory dwelling units are allowed on a legal lot, as defined by Section 18.08.340 of this title, that is zoned RS, RM, RC, AP, AW or PD, or is developed under the provisions of the :AH overlay zone, and that contains an existing or proposed single family dwelling or an existing or proposed multifamily unit that is precluded from transient occupancy.
    - b. Junior Accessory Dwelling Units. Only one junior accessory dwelling unit is permitted on a legal lot, as defined by Section 18.08.340 of this title, that is zoned RS or RC and that contains an existing or proposed single family dwelling.
    - c. Urban Lot Splits. No accessory dwelling unit or junior accessory dwelling unit shall be permitted if the lot was created by an urban lot split pursuant to Chapter 17.17, and the approval of the accessory dwelling unit or junior accessory dwelling unit would result in more than two dwelling units on the lot.
  2. Types of Accessory Dwelling Units. Accessory dwelling units may be attached to an existing or proposed primary structure or accessory structure (attached accessory dwelling unit), detached from an existing or proposed primary structure (detached accessory dwelling unit), or located within an existing primary structure or existing accessory building (interior accessory dwelling unit).
  3. Junior Accessory Dwelling Units. Junior accessory dwelling units must be created within the walls of an existing or proposed primary dwelling. An attached garage is part of the single-family dwelling unit for purposes of this Section 18.104.180. Junior accessory dwelling units are only permitted on a legal lot with no more than one existing or proposed single-family dwelling.
  4. Exempt Accessory Dwelling Units. The following are exempt from certain development and design standards, as specified in subsections B and C below, and are referred to as “exempt accessory dwelling units”:
    - a. One accessory dwelling unit on a legal lot with up to one junior accessory dwelling and at least one proposed or existing single-family dwelling if the accessory dwelling unit complies with subsections A.4.a.i-iv. The accessory dwelling unit described in this subsection A.4.a may be developed on a lot with a junior accessory dwelling unit that complies with the requirements of this subsection A and subsection D below.
    - i. The accessory dwelling unit or junior accessory dwelling unit is within the proposed or existing space of a single-family dwelling or existing space of an 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.

- ii. The accessory dwelling unit has separate exterior access from the proposed or existing single-family dwelling.
  - iii. The side and rear setbacks are sufficient for fire and safety.
  - iv. The junior accessory dwelling unit complies with the requirements of this subsection A and subsection D below.
- b. One detached, new construction accessory dwelling unit on a legal lot with at least one proposed or existing single-family dwelling if the accessory dwelling unit provides four-foot side and rear yard setbacks; does not exceed 800 square feet in floor area, and does not exceed the height described in subsection A.4.b.i or ii, as applicable.. The accessory dwelling unit described in this subsection A.4.b may be developed on a lot with a junior accessory dwelling unit that complies with the requirements of this subsection A and subsection D below.
  - i. 18 feet on a legal lot with an existing or proposed single-family dwelling if the lot is within one-half mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Public Resources Code Section 21155. An additional two feet in height may be permitted to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the single-family dwelling;
  - ii. 16 feet on all other legal lots with an existing or proposed single-family dwelling unit.
- c. Up to two detached accessory dwelling units on a legal lot with a proposed or existing multifamily dwelling if the accessory dwelling units provide at least four-foot side and rear yard setbacks. If the existing multifamily dwelling has a rear or side setback of less than four feet, no modification of the existing multifamily dwelling shall be required as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subsection. The height of the accessory dwelling units shall not exceed the following:
  - i. 18 feet on a legal lot with an existing or proposed multifamily dwelling unit if the lot is within one-half mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Public Resources Code Section 21155. An additional two feet in height may be permitted to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the multifamily dwelling;
  - ii. 18 feet on a legal lot with an existing or proposed multistory multifamily dwelling;
  - iii. 16 feet on all other legal lots with an existing or proposed multifamily dwelling;
- d. A legal lot with an existing multifamily dwelling may contain accessory dwelling units converted from portions of the building that are not used as livable space, if each unit complies with state building standards for dwellings. The number of accessory dwelling units permitted is equivalent to up to 25 percent of the

- number of existing, legally permitted units in the multifamily dwelling, or one, whichever is greater.
5. Only one accessory dwelling unit shall be permitted on legal lots with proposed or existing single-family or multifamily dwellings unless all existing and proposed accessory dwelling units on the lot meet the requirements of subsection A.4 above.
  6. Building Code. Junior accessory dwelling units and accessory dwelling units shall comply with all applicable building code requirements, except as follows:
    - a. Fire sprinklers shall not be required for an accessory dwelling unit if they are not required for the primary dwelling. Fire sprinklers may not be required for an existing primary dwelling unit as a condition of the approval of an accessory dwelling unit.
    - b. The new construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety or the accessory dwelling unit is converted from unhabitable or nonresidential space.
  7. Owner Occupancy. On a property with a junior accessory dwelling unit, the owner must occupy as a principal residence either the primary dwelling or the junior accessory dwelling unit, unless the owner is another governmental agency, land trust, or housing organization. Owner occupancy is not required for the accessory dwelling unit.
  8. Prohibition on Separate Sale.
    - a. Accessory Dwelling Unit. An accessory dwelling unit may not be sold separately from the single-family or multifamily dwelling, except that the accessory dwelling unit and primary unit may be owned by multiple owners as tenants in common if the single-family dwelling and accessory dwelling unit were developed by a qualified nonprofit, as that term is defined in Government Code Section 66340, and if all of the provisions of Government Code Section 66341 are met.
    - b. Junior Accessory Dwelling Unit. A junior accessory dwelling unit may not be sold separately from the single-family dwelling.
  9. Covenants:
    - a. Accessory Dwelling Units. At the time of application for an accessory dwelling unit, the property owner shall acknowledge in writing that neither the accessory dwelling unit nor the single-family dwelling or multifamily dwelling may be used for short-term residential rentals of less than thirty days. Prior to the issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant with the Napa County Recorder's Office in a form approved by county counsel to prohibit renting the accessory dwelling unit for fewer than 30 consecutive calendar days.
    - b. Junior Accessory Dwelling Units. Prior to issuance of a certificate of occupancy for a junior accessory dwelling unit, the

owner shall record a covenant in a form prescribed by county counsel, which shall run with the land and provide for the following:

- i. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family principal dwelling;
  - ii. A restriction on the size and attributes of the junior accessory dwelling unit consistent with subsection D below;
  - iii. A requirement that either the primary residence or the junior accessory dwelling unit be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
- c. A copy of the recorded covenant shall be filed with county counsel.

B. Development Standards – All Accessory Dwelling Units. The following development standards apply to all accessory dwelling units:

- 1. Except as specified below, an accessory dwelling unit shall comply with the requirements of this Section 18.104.180, the underlying zoning district, and other provisions of the Napa County Code except:
  - a. If the requirements of the underlying zoning district or other provisions of the Napa County Code are inconsistent with the provisions of this Section 18.104.180, the standards of this section shall apply. Exempt accessory dwelling units described in subsection A.4 need only comply with the applicable provisions of this Section 18.104.180, building code requirements, and health and safety requirements, such as those applicable to private water and sewer service.
  - b. Limits on lot coverage, front yard setback, floor area ratio, open space, and size must permit or shall be waived to allow an eight hundred square foot detached or attached accessory dwelling unit with four-foot side and rear yard setbacks, if the proposed accessory dwelling unit is in compliance with all other applicable development standards.
  - c. The county may not require as a condition of approval the correction of nonconforming zoning conditions.
  - d. If the application is to legalize an unpermitted accessory dwelling unit that was constructed before January 1, 2018, the accessory dwelling unit does not need to conform with this section or building standards pursuant to Health & Safety Code Section 17960 et seq. However, the county may deny the application for an unpermitted accessory dwelling unit constructed before January 1, 2018 if the building official makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.
  - e. No setback is required for a new structure constructed in the same location and to the same dimensions as an existing structure.
- 2. Entrance. An accessory dwelling unit shall have a separate entrance from the primary dwelling unit.

3. **Parking.** Accessory dwelling units shall have one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway. Off-street parking is permitted in setback areas or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions. "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. Notwithstanding the foregoing, no parking shall be required in any of the following instances:
  - a. The accessory dwelling unit is located within one-half mile of a public transit stop 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;
  - b. The accessory dwelling unit is located within an architecturally and historically significant district;
  - c. The accessory dwelling unit is an interior accessory dwelling unit;
  - d. On-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
  - e. There is a car share vehicle pick-up location within one block of the accessory dwelling unit.
4. **Demolition of Parking.** If the construction of an accessory dwelling unit replaces an existing garage, carport, or covered parking structure, no replacement spaces need be provided. If the applicant applies for a demolition permit to demolish a detached garage and a building permit to construct a detached accessory dwelling unit, the demolition permit and building permit for the accessory dwelling unit shall be issued at the same time.
5. **Detached Accessory Dwelling Units:**
  - a. **Maximum Height:** The height of a detached accessory dwelling unit shall not exceed 35 feet except that exempt accessory dwelling units are only subject to the height limits in subsection A.4.
  - b. **Maximum Size.** The total floor space of a detached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet as measured from the inside of the exterior walls except the exempt accessory dwelling units are subject only to limits on size contained in subsection A.4.
  - c. **Setbacks.** A four feet setback is required from the rear and side property lines.
6. **Attached Accessory Dwelling:**
  - a. **Maximum Height.** The height of an attached accessory dwelling unit shall not exceed 35 feet.
  - b. **Setbacks.** A four feet setback is required from the rear and side property lines.
  - c. **Interior Access.** An accessory dwelling unit attached to an accessory structure shall not have interior access connecting to the accessory structure.

- C. Design Standards – Non-Exempt Accessory Dwelling Units. The following design standards shall apply to all accessory dwelling units except exempt accessory dwelling units described in subsection A.4:
1. Detached Units: Maximum Distance Between Units. The maximum distance that a detached accessory dwelling unit may be from the nearest portion of the living area of the existing legal single-family dwelling or multi-family dwelling on the same legal lot shall be five hundred feet, measured along a level, horizontal straight line, unless a greater distance is required to avoid an agricultural constraint or to meet the standards of the department relating to private water or sewer systems or to avoid an environmentally sensitive area as defined by Section 18.08.270 of this title.
  2. Attached Units: Maximum Distance Between Units.
    - a. The accessory dwelling unit shall be located no more than twenty feet from the living area of the existing dwelling and shall be attached to the existing dwelling in the manner set forth in Section 18.08.070 of this title.
    - b. Maximum size. The total floor space of an attached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet as measured from the inside of the exterior walls. If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed fifty percent of the existing primary dwelling or eight hundred square feet, whichever is greater.
- D. Design and Development Standards – Junior Accessory Dwelling Units. Pursuant to the provisions of Government Code Sections 66310 et seq., the following requirements apply to all junior accessory dwelling units:
1. Size. The total floor space of a junior accessory dwelling unit shall not exceed five hundred square feet as measured from the inside of the exterior walls.
  2. Entrance. An exterior entry separate from the exterior entry for the single-family dwelling unit shall be provided to serve a junior accessory dwelling unit. However, if the junior accessory dwelling unit shares sanitation facilities with the single-family dwelling unit, there must also be an interior entry to the main living area of the single-family dwelling unit.
  3. Kitchen. The junior accessory dwelling unit shall include at least an efficiency kitchen which includes cooking appliances, a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
  4. Parking. Parking is not required for a junior accessory dwelling unit. If the construction of a junior accessory dwelling unit replaces an existing attached garage, replacement parking is required.
- E. Applications and Processing. All reviews of accessory dwelling units and junior accessory dwelling units shall be ministerial.
1. In addition to other information requested in this section and the application form, for issuance of a building permit, the approval by the relevant department must be obtained where a private or individual sewage disposal system or water system is to be used.
  2. The director shall administratively review and approve or deny complete ministerial permit applications for accessory dwelling units and junior accessory dwelling units within 60 days from the date the county receives

a completed application, except that applications for pre-approved accessory dwelling unit plans shall be approved or denied within 30 days from the date that the county receives a completed application. However, if the permit application is submitted with an application to construct a new single-family or multifamily dwelling, then the county may delay review of the permit application for the accessory dwelling unit or junior accessory dwelling unit until the county approves or denies the permit for the new dwelling. If the application is denied, the director will provide, within the review period, a complete list of the application's deficiencies and describe how the applicant can remedy the application.

F. Utilities and Impact Fees.

1. Fees and Utility Connections for Accessory Dwelling Units. All permit and mitigation fees and other charges applicable to primary dwellings in the zone in which the property is located shall apply to an accessory dwelling units except:
  - a. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating any connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit is constructed with a new single-family dwelling.
  - b. Interior accessory dwelling units are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges unless the interior accessory dwelling unit was constructed with a new single-family dwelling. For other accessory dwelling units, new or separate utility connections are required between the accessory dwelling unit and the utility. Any connection or capacity charge shall be proportionate to the burden of the proposed accessory dwelling unit on the water or sewer system, based on either its square feet or the number of drainage fixture units.
  - c. No impact fees shall be imposed upon the development of an accessory dwelling unit less than seven hundred fifty square feet. Any impact fees charged for an accessory dwelling unit of seven hundred fifty feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit. For purposes of this provision, an "impact fee" includes the fees specified in Government Code Sections 66000 and 66477. Impact fees do not include connection fees or capacity charges.
2. Fees for Junior Accessory Dwelling Units.
  - a. For the purposes of providing service for water, sewer, or power, a junior accessory dwelling unit is not considered a separate or new dwelling unit. No water, sewer, or power requirements may be applied to single-family dwellings containing a junior accessory dwelling unit unless they apply uniformly to all single-family dwellings in the zone regardless of whether or not they contain a junior accessory dwelling unit.
  - b. Junior accessory dwelling units are exempt from any requirement to pay connection or capacity fees or charges.
3. Utility Connections and Meters.

- a. Accessory dwelling units may be separately metered and shall include separate shut-off valves for all utilities.
  - b. Junior accessory dwelling units are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges.
- 4. Water Availability Standards. If the lot is located within the Groundwater Sustainability Plan (GSP) area and/or is located within a designated Groundwater Deficient Area, then the proposal must comply with the objective requirements of the Water Availability Analysis Guidance Document (WAA).
- G. No conflict with state law. If any provision of this section conflicts with Government Code Section 66310 et seq. or other applicable state law, state law shall supersede the provisions of this section.