



CITY OF  
**BIG BEAR LAKE** *California*

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## **ACCESSORY DWELLING UNIT ORDINANCE**

**(Municipal Code, Title 17, Section 17.25.210)**

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17.25.210 - 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 California Government Code sections 65852.2 and 65852.22.
- 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 or property 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.7. 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, the following 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 dwelling unit. For the purpose of this ordinance, primary dwelling, primary dwelling unit, and primary residence mean the same thing and may be used interchangeably. 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. "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.
  4. "Efficiency kitchen" means a kitchen that includes each of the following:
    - a. A cooking facility with appliances.
    - b. A food preparation counter or counters that total at least fifteen (15) square feet in area.
    - c. Food storage cabinets that total at least thirty (30) square feet of shelf space.

5. "Junior accessory dwelling unit" or "JADU" means a residential unit that
    - a. Is no more than five hundred (500) square feet in size,
    - b. Is contained entirely within an existing or proposed single-family structure,
    - c. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
    - d. Includes an efficiency kitchen, as defined in subsection A.4. above
  6. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but not including a garage or any accessory structure.
  7. "Nonconforming zoning condition" means a physical improvement on a property that does not conform to current zoning standards.
  8. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
  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. Approvals. The following approvals apply to ADUs and JADUs under this section:
1. Building-permit Only. If an ADU or JADU complies with each of the general requirements in subsection E. below, it is allowed with only a building permit in the following scenarios:
    - a. Converted on Single-family Lot: Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
      - i. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to one hundred fifty (150) additional square feet if the expansion is limited to accommodating ingress and egress.
      - ii. Has exterior access that is independent of that for the single-family dwelling.
      - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
    - b. Limited Detached on Single-family Lot: 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 the following limitations:
      - i. The side- and rear-yard setbacks are at least four-feet.
      - ii. The total floor area is eight hundred (800) square feet or smaller.
      - iii. The peak height above grade is sixteen (16) feet or less.
    - c. Converted on Multifamily Lot: One or more ADUs within 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, if each converted ADU complies with state building standards for a dwelling. At least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to twenty-five (25) percent of the existing multifamily dwelling units.

- d. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:
  - i. The side- and rear-yard setbacks are at least four-feet.
  - ii. The peak height above grade is sixteen (16) feet or less.
- 2. ADU Permit.
  - a. Except as allowed under subsection 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 a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ADU-permit processing fee is determined by the planning department and approved by the city council by resolution.
- 3. Process and Timing.
  - a. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
  - b. The city must act on an application to create an ADU or JADU within sixty (60) days from the date that the city receives a completed application, unless either:
    - i. The applicant requests a delay, in which case the sixty-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 dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- E. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that are approved under subsections D.1. or D.2. above:
  - 1. Zoning.
    - a. An ADU or JADU subject only to a building permit under subsection D.1. above may be created on a lot in a residential or mixed-use zone.
    - b. An ADU or JADU subject to an ADU permit under subsection D.2. above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
  - 2. Fire Sprinklers. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
  - 3. Rental Term. An ADU or JADU may be rented for a term of thirty (30) days or longer. Neither the primary dwelling unit nor any ADU or JADU may be rented for a term that is shorter than thirty (30) days or operated under the city's transient private home rental program.
  - 4. No Separate Conveyance. An ADU or JADU may be rented, but 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 multifamily lot).

5. Septic System. If the ADU or JADU 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 (10) years.
6. Owner Occupancy.
  - a. An ADU that was permitted before January 1, 2020, is subject to the owner-occupancy requirements that were in place when the ADU was created.
  - b. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
  - c. All ADUs that are permitted on or after January 1, 2025, are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must occupy the property. "Occupy" here means the right to use the unit exclusively at will as the owner's permanent or seasonal (second home) residence.
  - d. All JADUs are subject to an owner-occupancy requirement. The primary dwelling unit or the JADU on the property must be occupied by an owner of the property. A natural person with legal or equitable title to the property must occupy the property. "Occupy" here means the right to use the unit exclusively at will as the owner's permanent or seasonal (second home) residence. However, the owner-occupancy requirement of this subsection E.6.d. does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
7. Deed Restriction. Prior to issuance of a final inspection and release of occupancy of building permit for an ADU or 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 planning department. 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 ADU or JADU may not be sold separately from the primary dwelling.
  - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
  - c. The deed restriction runs with the land and may be enforced against future property owners.
  - d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request to the director of the planning department, providing evidence that the ADU or JADU has in fact been eliminated. The director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
  - e. The deed restriction is enforceable by the director 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 ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
8. Parking.
  - a. General Parking Requirements. No on-site parking shall be required for a JADU. One on-site parking space shall be required for each ADU. The parking space may

be provided in setback areas or as tandem parking, as defined by subsection A.11. above.

- b. Exceptions. No on-site parking space for an ADU shall be required under subsection E.8.a. in the following situations:
  - i. The ADU is located within one-half mile walking distance of public transit, as defined in subsection A.10. above.
  - ii. The ADU is located within an architecturally and historically significant district established by the city.
  - iii. The ADU is a "Converted on a Single-family lot ADU" specifically within a 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.
- c. No Replacement Parking. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those on-site parking spaces are not required to be replaced.

9. Reporting of Annual Rent. In order to facilitate the city's obligation to identify adequate sites for housing in accordance with government code sections 65583.1 and 65852.2, the following requirements must be satisfied:

- a. With the building permit application, the applicant must provide the City with an estimate of the projected annual rent that will be charged for the ADU or JADU.
- b. By January 31 of each calendar year, the owner of the property containing an ADU or JADU must report the actual rent charged for the ADU or JADU during the prior calendar year. If the city does not receive the report, the owner is in violation of this Code, and the city may send the owner a notice of violation. If the owner fails to submit the report within the time period stated in the notice of violation, the city may enforce this provision in accordance with applicable law.

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 one thousand (1,000) square feet for a unit with two bedrooms. No more than two bedrooms are allowed.
- b. In addition to being subject to subsection F.1.a. above, an attached ADU that is created on a lot with an existing primary dwelling is further limited to fifty (50) percent of the floor area of the existing primary dwelling.
- c. Application of other development standards in this subsection F., such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection F.1.b. above or of an FAR, lot coverage, or open-space requirement may require the ADU to be less than eight hundred (800) square feet.

2. Lot Coverage.

- a. No ADU subject to this subsection F. that is located in the R-L zone may cause the total lot coverage of the lot to exceed thirty (30) percent, subject to subsection F.1.c. above.

- b. No ADU subject to this subsection F. that is located in the R-1 zone may cause the total lot coverage of the lot to exceed forty (40) percent, subject to subsection F.1.c. above.
      - c. No ADU subject to this subsection F. that is located in the R-3 zone may cause the total lot coverage of the lot to exceed sixty (60) percent, subject to subsection F.1.c. above.
    3. Minimum Open Space. No ADU subject to this subsection F. that is located in the R-3 zone may cause the total percentage of open space of the lot to fall below thirty-five (35) percent, subject to subsection F.1.c. above.
  4. Building Height.
    - a. A single-story attached or detached ADU may not exceed sixteen (16) feet in height above grade, measured to the peak of the structure.
    - b. A second story or two-story attached ADU may not exceed the height of the primary dwelling.
    - c. A detached ADU may not exceed one story.
  5. Passageway. No passageway, as defined by subsection A.8. above, is required for an ADU.
  6. Architectural and Design Requirements.
    - a. Roof.
      - i. The ADU must have a minimum roof pitch of 2:12.
      - ii. All eave and gable overhangs must be at least twelve (12) inches.
    - b. Design. The materials, textures, and colors of the exterior walls, roof, and windows and doors of the ADU must match the appearance and architectural design of those of the primary dwelling.
    - c. Building Entrance. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
    - d. Parking space dimensions.
      - i. Each unenclosed parking space must be at least nine feet wide by nineteen (19) feet deep.
      - ii. Each parking space that is provided within an enclosed garage must be at least ten (10) feet wide by twenty (20) feet deep.
  7. Setbacks.
    - a. An ADU that is subject to this subsection F. must conform to a 15-foot front-yard setback.
    - b. An ADU that is subject to this subsection F. must conform to four-foot side-and rear-yard setbacks.
    - c. 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.

G. Fees.

  1. Impact Fees.
    - a. No impact fee is required for an ADU that is less than 750 square feet in size.
    - b. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary

dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.)

- c. For purposes of this subsection G.1., "impact fee" means a "fee" under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.

2. Utility Fees.

- a. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
- b. Except as described in subsection G.2.a. above, converted ADUs and JADUs on a single-family lot that are created under subsection D.1.a. above are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required.
- c. Except as described in subsection G.2.a. above, all ADUs and JADUs that are not covered by subsection G.2.b. require a new, separate utility connection directly between the ADU or JADU and the utility.
  - i. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixture-units (DFU) values, as defined by the uniform plumbing code, upon the water or sewer system.
  - ii. The portion of the fee or charge that is charged by the city may not exceed the reasonable cost of providing this service.

H. Nonconforming ADUs and Discretionary Approval. Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections A. through G.2. of this section may be allowed by the city with a conditional use permit, in accordance with the other provisions of this title.

(Ord. 2003-333 § 4 (Exh. A (part)), 2003)

(Ord. No. 2011-417, § 4(Exh. A), 12-12-2011; Ord. No. 2019-471, § 4(Att. B), 7-8-2019; Ord. No. 2020-478, § 5(Exh. 2), 1-27-2020; Ord. No. 2020-484, § 4(Exh. 1), 9-14-2020)