

Accessory Dwelling Units



Community Development Department

Summary of State Standards

I. New State Law Regulations for ADU Applications

A. GENERAL STANDARDS

Generally the City must ministerially approve ADUs if the unit complies with the following general standards:

- Unit is not intended for sale separate from the primary residence and may be rented.
- Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- Accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
- Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- Total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet.
- Passageways are not required in conjunction with the construction of an accessory dwelling unit.
- Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage.
- Local building code requirements that apply to detached dwellings are met, as appropriate.
- Local health officer approval where a private sewage disposal system is being used, if required.

B. EXEMPTION FROM PARKING REQUIREMENTS

Currently, for a single-family/duplex dwelling, SHMC requires that there be garage parking as follows:

Number of bedrooms or rooms that can be used as bedroom	Number of garage stalls
3 or fewer	2
4 or 5	3
6 or more	4

Unfortunately, under the new state law, an ADU shall not be considered a new bedroom or room for the purposes of SHMC’s parking requirement. The new state law on ADUs have lax parking standards for the addition of an ADU.

At most, only one off-street parking space per ADU may be required, and the parking requirement may be provided as tandem parking on an existing driveway or in setback areas unless certain findings are made that such parking is infeasible based on specific site, regional topographical or fire and life such as fire and life safety conditions or that such parking is not permitted anywhere else in the jurisdiction. Covered parking cannot be required for the off-street parking for ADUs.

Currently, SHMC prohibits tandem parking and carports pursuant to SHMC Section 20.10.130. If the City desires to continue to prohibit tandem parking and carports within its City, the City must permit off-street parking for ADUs somewhere else in setbacks. The City cannot unnecessarily restrict the creation of ADUs by determining that all off-street parking is infeasible.

Furthermore, an ADU is exempt from **any** parking requirements if the ADU meets **any** of the following: (1) is within a half mile from public transit; (2) is within an architecturally and historically significant historic district; (3) is part of an existing primary residence or an existing accessory structure; (4) is in an area where on-street parking permits are required, but not offered to the occupant of the ADU; or (5) is located within one block of a car share area. While “public transit” and “car share vehicle” are not defined, a reasonable interpretation may be that public transit refers to a transit stop (not just a route) and that car-share vehicle refers to a car-sharing pick-up/drop-off location.

When a garage or covered parking structure ceases to exist so that an ADU can be created, the replacement parking must be allowed in any configuration on the lot including, but not limited to, covered spaces or uncovered spaces.

C. EXEMPTION FROM DENSITY REQUIREMENTS

The addition of an ADU does not cause a lot to exceed the allowable density, and ADUs are residential uses consistent with existing residential zoning and general plan designations.

For example, if the Residential Low Density District allows one unit per 5,000 square feet lot, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 10,000 square feet) to account for an ADU.

D. ACCESSORY DWELLING UNITS IN EXISTING STRUCTURE

The City must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit meets **all** of the following requirements: (1) the ADU is proposed to be contained within an existing residence or accessory structure; (2) the property is in a single-family residential zone; (3) the ADU has independent exterior access from the existing residence; and (4) the side and rear setbacks that are sufficient for fire safety.

No additional parking or other development standards can be applied except for building code requirements. No fire sprinklers can be required if they are not also required for the primary residence.

E. OCCUPANCY RESTRICTIONS

Permits may require that applicants be owner-occupants of properties proposed to include an ADU or require that ADUs be used for rentals of terms longer than 30 days, but no additional standards may be imposed.

F. UTILITY FEES

ADUs shall not be considered new residential uses when calculating connection fees and capacity charges. Where ADUs are being created within an existing structure (primary or accessory), the City cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge. However, for ADUs that are not contained in existing structures, the City may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures and shall not exceed the reasonable cost of providing this service.