

## Chapter 16.86

### ACCESSORY DWELLING UNITS

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#### **16.86.010 Purpose.**

This section provides for Accessory Dwelling Units on residential lots developed or proposed to be developed with one single-family dwelling per lot under Government Code Sections 65852.150 and 65852.2. Such Accessory Dwelling Units contribute needed housing to the community while maintaining neighborhood character, support affordable housing and multigenerational living, and enhance housing opportunity near transit. An Accessory Dwelling Unit that conforms to this section shall:

- A. Be deemed an accessory use and not be considered to exceed the allowable density for the lot upon which it is located; and; and
- B. Be deemed a residential use that is consistent with the allowable density for the lot upon which it is located; and
- C. Not be considered in the application of any ordinance, policy, or program to limit residential growth; and
- D. Not be considered a new residential use for the purpose of calculating connection

fees or capacity charges for utilities, including water and sewer service.

#### **16.86.020 Definitions.**

##### **A. Accessory Dwelling Unit**

**(ADU)** shall mean an attached or detached residential 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 as the single-family dwelling unit.

##### **B. Attached Accessory Dwelling Unit.**

An ADU that shares a common wall with the primary unit, either by being constructed as a physical expansion (i.e., addition) of a primary unit, conversion of existing garage attached to a primary unit, conversion of existing habitable floor space within the primary unit, or installation of a new basement underneath an existing primary unit.

**C. Car Share Location.** A type of car rental where people rent cars for short periods of time, often by the hour, with a designated pick up and drop off location. The organization renting the cars may be a commercial business or the users may be organized as a company, public agency, cooperative, or ad hoc grouping. A Car Share Location does not include automobile rentals on-site.

##### **D. Detached Accessory Dwelling Unit.**

An ADU that is constructed as a separate structure from the primary unit, or is created through conversion (full or partial) of an existing legally-constructed detached accessory building, including a detached garage, into an accessory dwelling unit.

**E. “Efficiency Unit”** means a minimum square footage size as defined in Section 17958.1 of the Health and Safety Code.

**F. Owner Occupied** shall mean a unit occupied by a person who has an

ownership interest in the unit and also occupies a unit on the property as their primary residence.

**G. Primary Unit.** The building (or portion of the building in cases of an attached accessory dwelling unit) in which the principal residential use of the lot takes place. An accessory dwelling unit cannot constitute the primary unit.

**H. Public Transit Stop.** A signed and designated bus stop, train stop or other public transit station.

### **16.86.030 Applicability.**

The provisions of this Chapter apply to all lots that are occupied with a single family dwelling unit and zoned residential, except that accessory dwelling units are not allowed in any Planned Development Overlay District. The Accessory Dwelling Unit shall not exceed the allowable density for the lot upon which the unit is located and shall be a residential use that is deemed consistent with the existing General Plan and zoning designation for the lot.

### **16.86.040 Development/Design Standards.**

An Accessory Dwelling Unit may be constructed within the existing building envelope of a dwelling or accessory structure, added to the existing dwelling or accessory structure, or constructed as a detached structure.

A. Number Allowed: Only one (1) Accessory Dwelling Unit is permitted per lot that contains or is proposed to contain one (1) primary dwelling.

B. Size: The minimum size for an Accessory Dwelling Unit shall be no less than the square footage established for “efficiency units”. The maximum size of an Accessory Dwelling Unit shall not exceed the lesser of one thousand (1,000) square feet or fifty (50) percent of the floor area of the primary dwelling (excluding the garage).

C. Number of Bedrooms: The maximum number of bedrooms of an Accessory Dwelling Unit shall not exceed two (2) bedrooms.

D. Addressing: Accessory Dwelling Units shall have the same address as the primary unit, except that alley access units shall have an ‘A’ suffix (i.e., 1241-A) and front access units will have a ‘B’ suffix (i.e., 1241-B). The resident owner shall install address signs that are clearly visible from the street during both daytime and evening hours and which plainly indicate that two separate units exist on the lot, as required by the fire marshal. The resident owner shall obtain the new street address for the Accessory Dwelling Unit from the planning department.

E. Compliance with Standards and Codes. Except as otherwise set forth herein, Accessory Dwelling Units must comply with all requirements relating to lot coverage, architectural review, site plan review, fees and charges, and all applicable building, fire, health and safety codes and zoning standards that apply to the primary residence. Accessory Dwelling Units shall not be required to provide fire sprinklers if they are not or were not required of the primary residence.

F. Attached Accessory Dwelling Units: An Accessory Dwelling Unit that is attached to or created within an existing primary dwelling shall comply with all height, building coverage, yard areas, and setback requirements for the primary dwelling, and the following provisions:

1. Independent Access: Exterior access shall be provided independently from the primary dwelling.

2. Unit Separation: Attached units and units that are within the primary dwelling may maintain an interior connection to the primary dwelling provided there is a fire-rated door separating the units that is lockable on both sides.

3. Aggregate Lot Coverage: The aggregate lot coverage of all building footprint(s) on the lot shall not exceed the maximum building lot coverage allowed by zone.

G. Detached Accessory Dwelling Units: An accessory dwelling unit that is constructed as a detached structure or created through the conversion of an existing accessory structure shall comply with the requirements in Chapter 16.140.030 Accessory Building/Structures, and shall comply with the following provisions:

1. Notwithstanding setbacks in Chapter 16.140.030, no setback shall be required for an existing garage or accessory structure that is converted to an Accessory Dwelling Unit.

2. Detached Accessory Dwelling Units shall not exceed 15 feet in height and shall be limited to one-story, except that an existing 2nd story space (e.g. game room, office or storage space) may be converted to an Accessory Dwelling Unit so long as all other requirements of this chapter are met.

3. For residential properties that back up against non-residential properties the minimum rear setback for an Accessory Dwelling Unit may be reduced to a minimum of five (5) feet from the rear property line.

4. Aggregate Lot Coverage. The aggregate lot coverage of all building footprint(s) on the lot shall not exceed the maximum building lot coverage allowed by zone.

H. Detached Accessory Dwelling Units on lots with rear alley access.

1. One (1) story accessory dwelling units may have a minimum rear yard setback of five (5) feet and a minimum side yard setback of five (5) feet. Such five (5) foot side yard encroachment shall be limited to one (1) side yard of a lot. Additionally one (1) story accessory

dwelling units shall not exceed 15 feet in height. All other provisions shall comply with the requirements in Chapter 16.140.030 regarding Accessory Building/Structures.

2. Two (2) Story or Second Story Accessory Dwelling Units may be allowed on lots containing rear alley access. Such two (2) story structures shall be located within the back ten (10) feet of the rear property line, but no closer than five (5) feet from the rear property line. Such Accessory Dwelling Units/structures may have a minimum side yard setback of eight (8) feet and such eight (8) foot encroachment shall be limited to one (1) side yard of a lot. Additionally two (2) story or 2nd story Accessory Dwelling Units shall not exceed 30 feet in height. All second story Accessory Dwelling Units shall have either internal access or covered external access.

I. Design Standards:

1. Attached Unit: The design of an attached Accessory Dwelling Unit shall appear as an integral part of the primary dwelling and incorporate the same materials, colors and style as the exterior of the primary dwelling, including roof materials and pitch, eaves, windows, accents, distinctive features, and character defining elements.

2. Detached Unit: The design of a detached Accessory Dwelling Unit shall be subordinate to the primary dwelling in terms of massing, height and building footprint. The detached building shall exhibit residential character and complement the primary dwelling in terms of proportions, roof form, and basic architectural features.

a. Window Placement. Any detached two story or detached second story Accessory Dwelling Unit shall be designed so that no second story window faces the narrow side yard setback for such unit. This design standard is intended to minimize

direct views to adjacent neighboring properties to preserve privacy.

b. Utilities. All new utilities for detached Accessory Dwelling Units shall be installed underground. All utilities, including water, sewer, electric and gas, etc., shall be limited to one service. Noise generating equipment/devices (i.e., compressors, air conditioning units, etc.) shall not be located within the rear (excepting units on lots with alley access) or side yard adjacent to adjoining property line.

### **16.86.050 Parking Standards.**

The parking requirement for an Accessory Dwelling Unit shall be one off-street parking space per unit. This space shall comply with all requirements set forth in Chapter 16.144 Parking and Loading.

Notwithstanding Chapter 16.144, this space may be provided as tandem parking, including on an existing driveway or in a side or rear yard area, unless specific findings are made by the Community Development Director that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions.

A. Exceptions. Notwithstanding the parking requirement in this section, no off-street parking shall be required for an Accessory Dwelling Unit in any of the following instances:

1. The Accessory Dwelling Unit is within an existing primary dwelling or an existing accessory structure.

2. The Accessory Dwelling Unit is located within one-half (1/2) mile of a public transit stop or station.

3. The Accessory Dwelling Unit is located within an architecturally and historically significant historic district.

4. When on-street parking permits are required but not offered to the occupant of the Accessory Dwelling Unit.

5. When there is a car-share rental service pick-up/drop-off location within one (1) block of the Accessory Dwelling Unit.

B. Replacement Parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an Accessory Dwelling Unit, replacement of the number of parking space(s) meeting the requirements of Chapter 16.144 Parking and Loading shall be required.

Notwithstanding Chapter 16.144, such replacement parking may be located in any configuration on the same lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, including on an existing driveway or in a side or rear yard area, unless specific findings are made by the Community Development Director that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions.

### **16.86.060 Occupancy, Rental and Sale Limitations**

Before issuing a building permit for an Accessory Dwelling Unit the property owner shall file with the San Joaquin County Recorder a declaration or an agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

A. The Accessory Dwelling Unit shall not be sold separately from the primary dwelling; and

B. The Accessory Dwelling Unit shall not be rented for a period of less than thirty (30) days; and

C. The property owner shall occupy either the primary residential unit or the Accessory Dwelling Unit. If neither unit is owner-occupied, then the use of the property shall revert to a single family occupancy.

Nothing in this section shall be construed to prohibit one or both of the units remaining vacant. This owner-occupancy requirement may be temporarily waived for a period of not more than one (1) year if the Planning Commission finds that the owner has an unavoidable reason for absence and if the owner appoints in writing another person to occupy and take responsibility for maintaining the property. All properties approved for Accessory Dwelling Units must be maintained at a level consistent with the neighborhood in which it is located; and

D. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

**16.86.070 Application and Review Standards for Accessory Dwelling Units**

- A. Permit Required. An Accessory Dwelling Unit permit and a building permit are required for every Accessory Dwelling Unit.
- B. Application for Permit. Applications for an Accessory Dwelling Unit permit shall only be issued to an owner occupant of the primary or Accessory Dwelling Unit. Applications shall be submitted to the Department of Planning and Economic Development accompanied by all required fees, project plans (drawn to scale) depicting all onsite improvements, the location of the primary residence and the proposed Accessory Dwelling Unit. The project plan shall also include location of existing trees and structures, architectural elevations showing the proposed Accessory Dwelling Unit and its relation to the primary residence, a description of building materials, landscaping, exterior finishes to be used, parking to be provided and any other information required by the Department of Planning and

Economic Development to determine whether the proposed Accessory Dwelling Unit conforms with the requirements of this Chapter.

C. Ministerial Review/Processing. An application for an Accessory Dwelling Unit shall be approved ministerially within 120 days of submission of a complete application provided it is in compliance with all requirements of this Chapter. Prior to issuance of a building permit for an Accessory Dwelling Unit, the Planning Director shall issue a zoning clearance which establishes that all applicable development standards of this Chapter are met.

**16.86.080 Existing Accessory Dwelling Units - Amnesty.**

- A. Nonconforming Status. An existing Accessory Dwelling Unit that does not comply with the requirements of this Chapter shall be considered a nonconforming unit. If a property owner wishes to alter an existing nonconforming unit, the requirements of this Chapter shall apply to the proposed alteration.
- B. Certificate of Legalization. Record owners of an Accessory Dwelling Unit constructed before the effective date of this Chapter, who wish to legalize said units without penalty, may obtain a certificate of legalization from the Building Official by complying with the following:
1. Provide evidence to the satisfaction of the Building Official that the Accessory Dwelling Unit was constructed prior to the effective date of this Chapter.
  2. Provide a plan of the Accessory Dwelling Unit showing it does not exceed the maximum size allowed by this Chapter.
  3. Provide the Building Official with a property inspection report for the Accessory Dwelling Unit from a licensed contractor, or property inspector, which

report shall be subject to verification and requirements for correction of any code violations by the Department of Planning and Economic Development.

4. Correct any health and safety defects in construction and comply with all applicable building, fire, health and safety codes and zoning standards in effect at the time of original construction of the

Accessory Dwelling Unit to the satisfaction of the Building Official.

5. Pay all required fees

C. Limitation. The amnesty provided herein shall not apply to garage conversions unless alternate off street parking is provided in compliance with the current requirements of the Ripon Municipal Code.