

## Chapter 20.42 - ACCESSORY DWELLING UNITS

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### 20.42.010 Purpose and Applicability

This chapter establishes standards for the development of accessory dwelling units ("ADU or "ADUs") in conformance with Government Code Section 65852.2 and 65852.22. These standards are intended to allow for ADUs and junior accessory dwelling units ("JADU" or "JADUs") as an important form of affordable housing while preserving the character and integrity of residential neighborhoods within the City.

The provisions of this chapter apply to all parcels in the City of Merced that are zoned residential or allow residential uses.

### 20.42.020 Application Process and Review and Nonconforming Conditions

- A. Ministerial Review.** A permit application for an ADU or JADU may be allowed with ministerial review, approval, and issuance of a building permit, without discretionary review or a public hearing. The correction of nonconforming zoning conditions ("a physical improvement on a property that does not conform to zoning standards") or the installation of public improvements cannot be required as a condition for ministerial approval.



**B. Processing Time.** If there is an existing single-family or multi-family dwelling on the parcel, the City shall act on the application to create an ADU or a JADU within sixty (60) days from the date a complete application is received, unless either:

1. The applicant requests a delay, in which case the sixty (60)-day time period shall be tolled for the period of the delay; or,
2. The construction of a single-family dwelling is proposed at the same time as a construction of an ADU or a parcel, in which case, the City shall not approve the permit for the ADU prior to the permit for the single-family dwelling and shall not issue the Certificate of Occupancy for the ADU prior to the Certificate of Occupancy for the single-family dwelling.

If the local agency has not acted upon the complete application within sixty (60) days, and neither of the above criteria is met, the application shall be deemed approved.

**C. Nonconforming Conditions.** Notwithstanding Chapter 20.52 (Nonconforming Parcels, Uses, and Structures) to the contrary, an owner of an ADU or JADU that receives a notice to correct violations or abate nuisance, in relation to the ADU or JADU, may request a delay for 5 years in enforcement of a building standard, as long as the violation is not a health and safety issue as determined by the City of Merced, subject to compliance with the Health and Safety Code Section 17980.12 and the following conditions:

1. The ADU was built before January 1, 2020; or,
2. The ADU was built on or after January 1, 2020 in a local jurisdiction with a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made; and,
3. The City shall not approve any such applications after January 1, 2030; and,
4. This section shall remain in effect only until January 1, 2035 and as of that date is repealed.

**D. State ADU Law.** If any portion of this chapter conflicts with ADU law or other applicable state law, then state law shall supercede this chapter. Any ambiguities of this chapter shall be interpreted to be consistent with state ADU law.

#### **20.42.030 Type and Number of ADUs and Site and Design Standards**

**A. Location.** Accessory dwelling units shall be permitted in districts zoned to allow single-family and multi-family residential or mixed use as provided in Part 2 (Zoning Districts).

**B. Types of Accessory Dwelling Units.** An accessory dwelling unit (ADU) approved under this Chapter may take any of the following forms:

1. **Attached.** An ADU may be a new habitable space attached to an existing or proposed single-family dwelling.

2. **Detached.** An ADU may be a new detached habitable structure located on the same parcel as an existing or proposed single-family dwelling.
3. **Converted.** An ADU may be located within areas converted to habitable space that complies with the California Building Code for a dwelling, such as:
  - a. An area within an existing single-family dwelling (e.g. an attached garage); or,
  - b. An existing accessory structure (e.g. a detached garaged or pool house) located on the same parcel as the single-family dwelling; or,
  - c. Portions of existing multi-family structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.
4. **Junior Accessory Dwelling Unit (JADU).** A JADU is a dwelling, contained entirely within an existing or proposed single-family dwelling, that is a maximum of five hundred (500) square feet in size. A JADU may include separate facilities or may share sanitation facilities with the existing single-family dwelling. JADUs shall comply with Section 20.42.050 (Standards for Junior Accessory Dwelling Units).
5. **Tiny Home on Wheels.** [See Section 20.42.060]

**C. Number of Accessory Dwelling Units Permitted Per Parcel**

1. **Parcels with a Single-Family Dwelling.** One (1) attached ADU (new or converted), one (1) detached ADU (new or converted) and one (1) JADU shall be allowed per lot with a proposed or existing single-family dwelling in conformance with the rest of this Chapter.
2. **Parcels with Multi-Family Dwelling(s).**
  - a. *Converted ADUs.* The number of converted ADUs, on a parcel with an existing multi-family dwelling, shall not exceed twenty-five (25) percent of the total number of dwelling units.
  - b. *Detached ADUs.* Not more than two (2) detached ADUs may be located on a parcel that contains an existing multi-family dwelling.

**D. Site Requirements**

1. **No Minimum Parcel Size.** Accessory dwelling units that comply with this chapter shall be permitted on all legally established parcels, regardless of parcel size.
2. An ADU may only be established if a single-family dwelling unit ("primary dwelling") exists on the parcel or is being built at the same time.



3. **Statewide Exemption ADU.** No lot coverage, floor area ratio, open space, or minimum lot size requirement shall preclude the construction of an ADU up to eight hundred (800) square feet, sixteen (16) feet in height, and with four (4)-foot side and rear yard setbacks. The construction of a detached Statewide Exemption ADU may be combined with a JADU within any zone allowing residential or mixed use.

#### **E. Size/Floor Area**

1. **Attached or Converted Accessory Dwelling Units.** The floor area of an attached or converted ADU shall not exceed fifty (50) percent of the living area of the existing primary dwelling on the parcel or one thousand two hundred (1,200) square feet, whichever is less. Garages and carports are excluded from floor area calculations for both the primary dwelling and accessory dwelling unit. These limits do not include up to one hundred fifty (150) square feet of area added to the primary dwelling for the sole purpose of providing ingress and egress to the ADU.
2. **Detached Accessory Dwelling Units.** The floor area of a detached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, excluding any space devoted to a carport or garage.

#### **F. Development Standards**

1. An ADU shall comply with all current objective development and design standards of the General Plan and Zoning Ordinance that are applicable to the primary dwelling, including, but not limited to, building setbacks, parcel coverage, building height, and architectural design, with certain exceptions, discussed in this Chapter.
2. The ADU in compliance with this section shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The ADU shall be deemed to be an accessory use or accessory building and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
3. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the accessory dwelling unit independently of the primary dwelling unit or any portion of the property except in accordance with MMC 20.42.040(C). This stipulation shall be included in a recorded deed restriction on the property.
4. An ADU or JADU shall only be allowed on parcels connected to public water and sewer service.

## G. Design Requirements

1. **Height.** The maximum height of a detached ADU shall be as follows:
  - a. The height of an attached ADU on a parcel containing a single-family or multi-family dwelling shall not exceed the height of the existing single-family or multi-family dwelling or twenty-five (25) feet, whichever is lower.
  - b. The height of a detached ADU on a parcel containing a single-family or multi-family dwelling shall not exceed sixteen (16) feet, unless one of the following conditions are met:
    - i. The maximum height for a detached ADU on a parcel with an existing or proposed single-family or multi-family dwelling unit that is within one-half mile walking distance of a major transit stop or high-quality transit corridor, as defined in Section 21155 of the Public Resources Code shall be eighteen (18) feet. The maximum height may be increased by an additional two (2) feet, to twenty (20) feet, for the purpose of accommodating a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit; or,
    - ii. The maximum height for a detached ADU on a lot with an existing or proposed multi-family, multi-story dwelling shall be eighteen (18) feet.

2. **Finish Materials and Roof Form.**

The ADU or JADU entrance shall have the same exterior finish materials as the existing or proposed single-family or multi-family dwelling on the parcel and shall be of the same construction



typical of other dwelling units in the zone. The ADU or JADU shall have the same roof form as the primary dwelling and shall not have a flat roof.

3. **Setbacks.**

- a. When an existing detached accessory structure is converted to a detached ADU, no additional setbacks shall be required.
- b. When an ADU is constructed above a detached garage, a four-foot side and four-foot rear setback are required.
- c. No additional setbacks shall be required when a new structure containing an ADU is constructed in the same location (and to the same dimensions as the existing detached accessory structure).
- d. Four-foot side and four-foot rear setbacks shall be required for detached ADUs on parcels containing either existing single or multi-family dwellings.

4. **Addresses.** The addresses of both the primary dwelling and the accessory dwelling unit shall be displayed and clearly visible from the street for public safety purposes.
5. **Fire Sprinklers and Passageways.** Fire sprinklers are not required to be provided with an ADU if they are not required for the single-family dwelling. No passageway defined as “a pathway that is not unobstructed, clear to the sky, and extends from a street to one entrance of an ADU or JADU” shall be required.

#### H. Parking

1. A maximum of one (1) additional off-street parking space shall be provided for an ADU or per bedroom, whichever is less. Parking for an ADU may be provided as tandem parking on an existing driveway or in the front or rear setback areas. These spaces shall not be covered if located within the setback areas.
2. When all or a portion of a garage, carport, or other parking structure is converted or demolished to construct an accessory dwelling unit, the parking spaces displaced by the conversion are not required to be replaced.
3. The parking standards provided in this section and otherwise in this code do not apply to an ADU in any of the following instances:
  - a. It is located within one-half mile walking distance of public transit (defined as “a location including but limited to a bus stop or train station, where the public may access trains, subways, buses, or other forms of transportation that charges set fares, runs on fixed routes, and are available to the public”);
  - b. It is located within an official architecturally and historically significant historic district;
  - c. It is part of the proposed or existing primary residence or an accessory structure;
  - d. On-street parking permits are required but not offered to occupants of an ADU;
  - e. A car share vehicle is located within one (1) block of the ADU; and,
  - f. The ADU is an attached or converted ADU.



To qualify for any of the above exemptions, the applicant shall provide supporting evidence as part of a building permit application.

**20.42.040 Occupancy Standards and Fee Requirements**

- A. Owner Occupancy.** The City shall not impose owner occupancy requirements on any ADUs or associated primary dwellings permitted between January 1, 2020, and January 1, 2025. After January 1, 2025, the following section shall apply. The owner of a parcel with an ADU shall be permitted to rent either the primary unit or the ADU, but not both, and may reside in either the primary dwelling unit or the ADU, if the ADU is located within an R-1 Zoning District or equivalent designation in a Planned Development or Residential Planned Development only. This requirement does not apply to any other Zoning Districts.
- B. Rental Term.** An ADU or JADU may be rented, provided the rental term is at least thirty (30) continuous days or more. Non-continuous or transient occupancy is prohibited.
- C. Separate Conveyance.** An ADU shall not be sold or otherwise conveyed separately from the principal residence, except when sold by a qualified nonprofit corporation to a qualified buyer in accordance with Government Code Section 65852.26 with affordability restrictions.
- D. Fees and Other Requirements.**



1. ADU's are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service unless the ADU or JADU is constructed with a new single-family dwelling; and any utility fee or charge imposed on the creation of a detached ADU must not exceed the reasonable cost of providing the service.
2. ADUs contained within the existing space of a single family residence or accessory structure are not required to install a new or separate utility connection and cannot be charged for a related connection fee or capacity charge.
3. A new ADU shall be required to pay all applicable fees, including impact fees. However, no impact fees shall be imposed on ADUs of less than seven hundred fifty (750) square feet. For an ADU larger than seven hundred fifty (750) square feet, any impact fee shall be charged proportionately in relation to the square footage of the single-family dwelling.
4. Prior to occupancy of the ADU, a new address shall be assigned by Department of Development Services."
5. A JADU shall not be considered a separate or new dwelling for the purposes of providing service for water, sewer, and/or power.

**20.42.050 Standards for Junior Accessory Dwelling Units (JADUs)**

- A.** All other provisions for ADUs in this chapter shall also apply to Junior Accessory Dwelling Units (JADUs) except as provided below.
- B. Location.** A JADU shall be entirely within the walls of an existing or proposed single-family dwelling.
- C. Number.** A maximum of one (1) JADU is allowed per parcel within an existing or proposed single-family dwelling.
- D. Size.** A JADU shall not exceed five hundred (500) square feet in size.
- E. Entrance.**
1. A JADU shall have an entrance that is separate from the main entrance of the existing or proposed single-family dwelling.
  2. A Converted ADU or JADU may include an expansion of a maximum one hundred fifty (150) square feet beyond the physical dimensions as the existing accessory structure or single-family dwelling. This expansion shall be limited to accommodating ingress and egress from the ADU or JADU.
  3. **Kitchen.** A JADU shall include an efficiency kitchen which shall include all of the following:
    - a. Cooking facilities with appliances; and,
    - b. Food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- F. Owner Occupancy.** The owner shall reside on the property in either the newly created JADU or the remaining portion of the single-family dwelling, unless the owner is a governmental agency, land trust, or housing organization.
- G. No Separate Conveyance.** A JADU shall not be sold or otherwise conveyed separately from the single-family dwelling on a parcel, except when sold to a qualified buyer in accordance with Government Code Section 65852.26.
- H. Deed Restriction.** Prior to issuance of a Building Permit, a deed restriction shall be recorded on the property indicating the following:
1. The size of the JADU is restricted to a maximum of five hundred (500) square feet; and the JADU shall contain cooking facilities with appliances and food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU;
  2. The deed restriction shall run with the land and may be enforced against future property owners;
  3. Owner-occupancy is required in either the JADU or the remaining portion of the single-family dwelling; and,
  4. The JADU shall not be sold or otherwise conveyed separately from the single-family dwelling.





### 20.42.060 Standards for Tiny Homes on Wheels (THOWs)

- A. **Permit.** All other provisions for ADUs in this chapter shall also apply to THOW's except as provided below. In addition to building permit issuance as a detached THOW as an accessory dwelling unit, a THOW shall be approved ministerially by the Director if the following additional conditions are met:



1. The THOW is licensed and registered by the California Department of Motor Vehicles;
2. The THOW has been certified as meeting American National Standards Institute (ANSI) A119.2, National Fire Protection Association (NFPA) 1192 standards, Recreational Vehicle Standards and A119.5 Park Model Recreational Vehicle Standard requirements;
3. A THOW permit if approved shall cease, expire, or be revoked if any of the following occur:

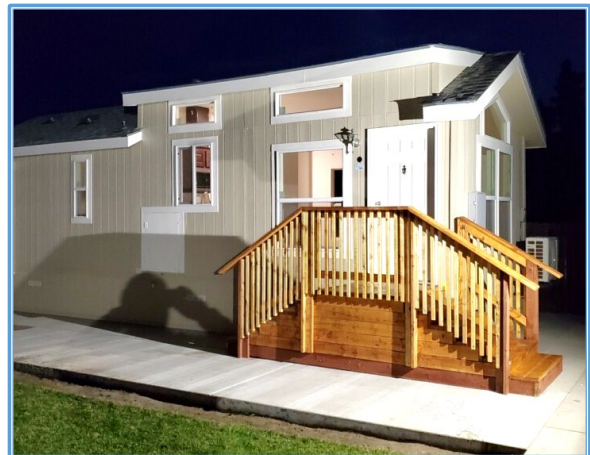
- a. The THOW is removed from the property in which it was approved; or,
  - b. The THOW fails to comply with annual registration with the California Department of Motor Vehicles, including all registration fees; or,
  - c. The THOW is out of compliance with ANSI A119.2, NFPA 1192 standards, Recreational Vehicle Standards and A119.5 Park Model Recreational Vehicle Standard requirements; or,
  - d. The THOW fails to renew with the City of Merced every five (5) years.
- B. **Location.** THOWs shall be permitted in districts zoned to allow single-family or multi-family residential or mixed use as provided in Title 20 Part 2 (Zoning Districts).
- C. **Number of THOWs permitted per parcel.**

1. Parcels with a Single-Family Dwelling.

- a. One (1) THOW shall be allowed per lot with a proposed or existing single-family dwelling in conformance with the rest of this chapter.

2. Parcels with Multi-Family Dwelling(s).

- b. Not more than two (2) detached ADUs total (THOW or otherwise) may be located on a parcel that contains an existing multi-family dwelling.



### D. Development Standards

1. **Setbacks.** THOWs shall provide a minimum of five (5) foot setback for rear and side yards.
  - a. In no case shall a THOW be placed in the front exterior yard.
  - b. Additional setback requirements may be imposed as necessary to comply with any recorded utility easements or setback restrictions.
2. **Distance from buildings and structures.** A minimum of six (6) feet shall be required between a THOW and any building or structure at all times.
3. **Floor Area.** Floor area must be less than four hundred (400) square feet excluding lofts. THOWs shall have a minimum of one hundred (100) square feet of first floor interior living space.
4. **Height.** Total building height shall not exceed fourteen (14) feet. The maximum height is established by the California Department of Motor Vehicles for towing on public roadways at the time of application.
  - a. Ceiling heights in sleeping and storage lofts are permitted to be less than six (6) feet eight (8) inches.
5. **Design Standards.**
  - a. THOWs shall not be located in front of the primary residential structure and shall not be parked in the driveway.
  - b. Flat roofs are prohibited. Roof pitch or slope shall be no less than a ration of two (2) inches vertical rise for each twelve (12) inches horizontal run (2:12).
  - c. THOWs shall have the same exterior finish materials or similar style as the existing or proposed primary dwelling on the parcel.
  - d. The THOW should be designed and built to look like a conventional building structure.



e. The wheels and hitch mechanism shall be attached and screened from view.

f. In no circumstance shall motorhomes or other recreational vehicles serve as a THOW approved by the provisions of this Chapter.

## 6. Utilities.

- a. **Electricity.** Tiny Homes on Wheels shall be connected to a source of electricity in compliance with ANSI 119.5 and the California Electrical Code in effect at time of application for building permit.
- b. **Water and Sewer.** Tiny Homes on Wheels shall be connected to service for water and sewage disposal in compliance with the California Plumbing Code in effect at time of application for building permit.
  - i. The City of Merced permits only one water and sewer connection per parcel.

7. **Parking.** No additional parking is required.

## 8. Parking Pad Requirements

- a. All THOWs must be parked on a paved parking pad that meets one of the following requirements:
  - i. Paved pad with hard, durable asphaltic paving at least two (2) inches thick after compaction; or
  - ii. Paved pad with cement paving at least three (3) inches thick; or
  - iii. Paved pad with permeable pavers or permeable interlocking concrete pavers that are at least 80 mm (3.14 inches) thick; or
  - iv. Paved pad with alternative materials that may consist of porous asphalt; porous concrete, decomposed granite, crushed rock or gravel; plastic or concrete grid system confined on all sides and filled with gravel or grass in voids; or other similar materials as approved by the City where the underlying drainage material is installed to meet manufacturer's, other qualified third-party inspection, specifications.



- b. Wheels must remain attached to a THOW unit at all times. If wheels are removed and a THOW is attached to a foundation, the unit no longer qualifies as a THOW and will be subject to all California Building Standards.

**E. Miscellaneous**

1. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the accessory dwelling unit independently of the primary dwelling unit or any portion of the property except in accordance with Section 20.42.040(C). This stipulation shall be included in a recorded deed restriction on the property.
2. **Floodplain Management.** All THOWs shall meet the flood elevation requirements for manufactured homes outlined in Chapter 17.48.170
3. THOWs shall comply with California Building Standards including, but not limited to Fire Code, Electrical Code, Mechanical Code, and Plumbing Code.

