

Chapter 18.42

ACCESSORY DWELLING UNITS

Sections:

18.42.010	Purpose.
18.42.020	Definitions.
18.42.030	ADU/JADU Permit Required.
18.42.040	Permit Application and Procedures.
18.42.050	General Requirements – ADUs/JADUs
18.42.055	Development Standards - ADUs.
18.42.060	Guaranteed Allowance.
18.42.065	Exceptions to Standards for ADUs.
18.42.070	Development Standards - JADUs.
18.42.075	Units Subject to Limited Standards.
18.42.080	Rent-Restricted ADUs.
18.42.081	Urban Lot Splits and Two-Unit Housing Development.
18.42.085	Termination of Permit and Use.
18.42.090	Administration and Enforcement.

Editor's Note: Chapter 18.42 formerly titled Residential Second Units

18.42.010 Purpose. The purpose of this chapter is to establish the procedures and development standards for the ministerial, non-discretionary processing of applications for new accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) in compliance with California Government Code Section 66310 through 66342 and consistent with the policies, goals and programs of the Housing Element of the General Plan. ADUs and JADUs increase the overall supply of housing within established residential zoning districts or as part of new residential subdivisions, while maintaining the existing character of the neighborhood. Such units are intended to increase the supply of smaller, more affordable housing within existing residential neighborhoods and provide independent living units for prospective and current residents, including family members, students, local employees, the elderly, in-home health and childcare providers, and single adults, among others. The intent of the Town in adopting the code section is to ensure that the Town’s ordinance has the effect of providing for the creation of ADUs and JADUs and that the provisions in this ordinance relating to matters including size, parking, and other development standards are not arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs or JADUs consistent with state law intended to promote their development. (Ord. 727 (part), 2024; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011; Ord. 578 §8(part), 2003).

18.42.020 Definitions. For the purposes of this chapter, the following words have the following definitions:

"Accessory dwelling unit" or “ADU” shall have the same meaning as set forth in California Government Code Section 66313, as amended from time to time.

“Accessory dwelling unit, attached” means an accessory dwelling unit that shares a common wall with the primary dwelling unit.

“Accessory dwelling unit, detached” means an accessory dwelling unit that is constructed as a separate structure from the primary dwelling unit.

“Affordable rent certification” means documentation and certification that an accessory dwelling unit is being rented to a very low-income household at an affordable rent level or is exclusively being occupied by an owner whose household qualifies as a very low-income household. Required information for documentation and certification shall include the rent charged, the utilities included in the monthly rent, the household size of the accessory dwelling unit, the names and ages of the accessory dwelling unit occupants, and the gross household income of the accessory dwelling unit household.

“Affordable rent level” means that the accessory dwelling unit household’s monthly cost of rent, plus the cost of electricity, gas, water and sewer service, and garbage collection (hereinafter “utilities”) is 30% or less than the upper limit of the annual gross household income, divided by 12, for a specified income category and household size as last published by the California Department of Housing and Community Development (hereinafter “HCD”). The Town shall determine maximum affordable rent levels for rent-restricted accessory dwelling units following the annual publication of the State Income Limits by HCD. In determining rent levels, the household size for rent-restricted accessory dwelling units shall be: studio, 1 person; one-bedroom, 2 persons; two-bedroom, 3 persons; and, three-bedroom, 4 persons. The cost of utilities for the accessory dwelling unit shall be included in the affordable rent level. For rent-restricted accessory dwelling units where utilities are separately metered and billed, and where the accessory dwelling unit household is responsible for the costs of that household’s use of utilities, the maximum rent shall be set at 90% of the affordable rent level.

“Efficiency kitchen” shall have the same meaning as set forth in Government Code Section 66333.

“Existing structure” means an existing single-family residence, including all fully enclosed areas such as a partial basement, an attached garage, or an accessory structure that can be made safety habitable under building codes.

“Gross household income” means the total monies earned or received by all members of a household age 18 and over, including: wages and all types of compensation, before any payroll deductions; spousal and child support; social security, retirement, disability, insurance, and other types of periodic payments; unemployment compensation and other payments in-lieu of earnings; welfare and other public assistance; interest, dividends and other payments generated from any real or personal property; net business income; and, any other type of payment determined to qualify as income by the U.S. Department of Housing and Urban Development (HUD) and as published in the HUD’s Housing Choice Voucher Program Guidebook. The annual gross household income is calculated by multiplying the monthly amounts earned or received at the time of certification by 12 and adjusting for anticipated payments and changes in amounts over the next 12 months.

“Household” means those persons who collectively occupy a housing unit. A property owner’s household shall include any child or dependent, as defined in section 152 of the Internal Revenue Code, of the property owner who is under the age of 18 or is under the age of 24 and is a full-time student.

“Household size” means the number of persons in a household.

“Junior accessory dwelling unit” or “JADU” shall have the same meaning as set forth in California Government Code Section 66313, as amended from time to time.

“Kitchen” shall have the same meaning as set forth in California Residential Code Section R-202 which currently is defined as an area used, or designated to be used, for the preparation of food.

“Livable space” means a space in a dwelling for human habitation, including living, sleeping, eating, cooking, or sanitation.

“Major transit stop or high-quality corridor” shall have the same meaning as set forth in Public Resources Code Section 21155.

“Nonconforming accessory dwelling unit” means an accessory dwelling unit approved as an accessory dwelling unit or second unit through the issuance of a conditional use permit or an accessory dwelling unit that meets the definition of an accessory dwelling unit and was occupied prior to effective date of this ordinance. The Planning Department shall determine the status of such units in accordance with the provisions of this code.

“Public transit” means a location, including but not limited to, a bus stop or train station, where the public may access buses, trains, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. Public transit does not include school bus stops associated with bus routes operated seasonally or only during school hours for the intended purpose of serving students, even if the general public may access such bus service; or school bus routes provided by a school district for the exclusive use of students.

“Rent-restricted accessory dwelling unit” means an accessory dwelling unit that is approved under a rent-restricted accessory dwelling unit permit. A rent-restricted accessory dwelling unit shall only be rented to a very low-income household at an affordable rent level or occupied by an owner whose household qualifies as a very low-income household. “Rent” means to enter into an agreement whereby the occupant(s) of the accessory dwelling unit makes a monetary payment or exchange of goods or services in consideration of occupancy of the accessory dwelling unit.

“Single family residential zoning district” means a district listed in this code that allows one single-family dwelling on a particular lot or parcel, otherwise known as an “R-1” zoning district.

“Tandem parking” shall have the same meaning as set forth in California Government Code Section 66313, as amended from time to time.

“Very low-income household” means a household with an annual gross household income of 50% or less than the Marin County median annual gross household income for that household size as last published by HCD. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011; Ord. 578 §8 (part), 2003).

18.42.030 ADU/JADU Permit Required. An ADU is allowed on any parcel in a single-

family residential or multifamily residential zoning district with a primary unit, subject to the issuance of an ADU permit. A JADU is allowed on any parcel in a single-family residential zoning district with a primary unit, subject to the issuance of a JADU permit. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

18.42.040 Permit Application and Procedures.

(a) ADUs and JADUs Subject to Administrative Review.

(1) Application. An owner may apply for an ADU or a JADU permit by submitting an application to the Planning Department on a form provided by the Town. The application form shall specify the information required from applicants. The town council may establish a fee for the application.

(2) Decision. The Planning Department shall consider the application without discretionary review, public notice, or a hearing. The Planning Department shall approve or deny the application to create or serve an ADU or JADU within 60 days from the date the Planning Department receives a complete application, and the Planning Department's decision shall be in writing. The Planning Department shall approve the application if the application meets all of the requirements and standards of this Chapter. The Planning Department shall deny the application if it is determined not to meet all of such requirements. The Planning Department's denial shall include a full set of comments to the applicant with a list of defective or deficient items and a description of how the application can be remedied by the applicant. The Planning Department's decision shall be final.

(b) ADUs Subject to Town Council Review.

(1) General. The town council may grant discretionary exceptions to the development standards regulating the number of ADU permitted on a lot or parcel and ADU height, location, size and floor area as set forth in Sections 18.42.050 and 18.42.055.

(2) Application for Exception. Where an owner seeks an exception to the development standards of this Chapter, the owner may apply for an ADU permit by submitting an application to the Planning Department on a form provided by the Town. The application form shall specify the information required from applicants. The town council may establish a fee for the application.

(3) Application for Exception to Floor Area and/or Building Coverage. Where an owner seeks an exception to the floor area and/or building coverage requirement as set forth in Section 18.42.065 of this Chapter, the owner may apply for an ADU permit by submitting an application to the Planning Department on a form provided by the Town consistent with the provisions of Section 18.42.080 of this Chapter. The application form shall specify the information required from applicants. The town council may establish a fee for the application.

(4) Hearing. The town council shall hold a public hearing on the application.

(5) Decision. The town council shall approve, conditionally, approve, or deny the ADU exception application in accordance with the provisions of Section 18.42.065 or Section 18.42.080. The town council shall make its determination on the individual merit of each application without following or establishing precedent. The town council shall not approve an

application unless it makes specific findings of fact as provided in Section 18.42.065 or Section 18.42.080. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

(c) ADUs constructed prior to January 1, 2018. An ADU Permit shall not be denied for an unpermitted ADU that was constructed before January 1, 2018, due to either of the following, unless a finding is made that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure, or the building is deemed substandard pursuant to Health and Safety Code Section 17920-3.

- (1) The ADU is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.
- (2) The ADU does not comply with the provisions of Government Code Sections 66314-66332 or this Chapter 18.42. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

18.42.050 General Requirements – ADUs and JADUs.

(a) ADUs may be constructed on a residentially zoned parcel with a proposed or existing single-family or multifamily dwelling. JADUs may be constructed on a single-family residentially zoned parcel with a proposed or existing single-family dwelling.

(b) An ADU may either be attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(c) Owner Occupancy. Where an ADU is permitted, owner occupancy is not required for either the primary residence or the ADU. Where a JADU is permitted, owner occupancy in the single-family residence is required. The owner may reside in either the remaining portion of the structure or the newly created JADU unit. Owner occupancy shall not be required if the owner of the JADU is another governmental agency, land trust, or housing organization.

(d) Street addresses shall be assigned to all ADUs to assist in emergency response.

(e) The ADU/JADU may be rented but shall not be sold independently of the primary dwelling on the parcel unless otherwise permitted pursuant to Government Code Section 66341.

(f) The ADU/JADU shall not be rented for less than 30 consecutive days.

(g) The total number of ADUs and /or JADUs per lot shall not exceed the number of ADUs and JADUs allowed pursuant to Government Code Section 66323(a)(1-4) or any successor provisions.(Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020).

18.42.055 Development Standards - ADUs.

(a) Separate Kitchen and Bathroom. All ADUs shall contain a separate kitchen and bathroom independent of the primary residence.

(b) Location. Detached ADUs shall be separated from the primary dwelling and any accessory structures by a minimum of 3 feet.

(c) Height. An attached ADU or detached ADU shall not exceed the following heights. The height may be increased following submittal of an application for an approval of a discretionary ADU Exception Permit application per Section 18.42.065(c).

- (1) A height of 16 feet for a detached ADU unit on a lot with an existing or proposed single-family or multifamily dwelling unit.
- (2) A height of 18 feet for a detached ADU unit on a lot with an existing or proposed single-family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. The Town shall also allow an additional two feet in height to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
- (3) A height of 18 feet for a detached ADU unit on a lot with an existing or proposed multifamily, multistory dwelling.
- (4) A height of 25 feet or the height limitation in the zoning ordinance that applies to the primary dwelling, whichever is lower, for an attached ADU, not to exceed two stories.
- (5) The Town Council may grant an ADU size increase to 1,200 square feet per Section 18.42.065 and Section 18.42.080 of this Chapter.

(d) Bedrooms. All ADUs are limited to a maximum of two bedrooms.

(e) Size. ADUs shall be subject to the size limitations set forth in Table 1.

Table 1.

ADU Type	Maximum ADU Floor Area
Attached and Detached	
One bedroom or less	850 square foot with four-foot side and rear yard setbacks
More than one bedroom	1,000 square foot with four-foot side and rear yard setbacks
Junior	500 square feet

(1) Parking. One off-street parking space shall be provided for each ADU in addition to those required for the primary unit. The parking spaces may be provided as tandem parking on a driveway. Off-street parking is not required for an ADU in any of the following instances:

- a) The ADU is located within one-half mile of public transit.

- b) The ADU is located within a historic district.
- c) The ADU is part of the proposed or existing primary residence or an accessory structure.
- d) When on-street parking permits are required but not offered to the occupant of the ADU.
- e) When there is a dedicated parking space for a car share vehicle located within one block of the ADU.
- f) When a permit application for an ADU is submitted with a permit application to create a new sing-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this section.

(2) When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces need not be replaced.

(c) Lighting. All exterior lighting, including landscape lighting, must be dark sky compliant. All new exterior lighting must be designed and installed so that the filaments, light sources or lenses are shielded and downward facing, with opaque materials in such a way that they will not be visible at property lines. The exterior lights shall have a color temperature of 3500 Kelvin or lower (warm not cool).

(d) Landscaping. Any tree over 12 inches in circumference removed in conjunction with the construction of an ADU must be replaced by a 24-inch box tree on the project site.

(e) Windows.

(1) All windows that face a side yard adjoining a side yard of an adjacent property and are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU. Windows, other than clerestory, may be allowed on the building elevation that faces the side yard adjoining a side yard of an adjacent property located within 15 feet of that shared property line following submittal of an application for and approval of a discretionary ADU Exception Permit application per Section 18.42.065 or with written approval from the adjacent property owner that faces the window(s).

(2) All windows that face a rear yard adjoining a rear yard of an adjacent property that are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU. Windows, other than clerestory, may be allowed on the building elevation that faces the rear yard adjoining a rear yard of an adjacent property following submittal of an application for and approval of a discretionary Design Review application by the Zoning Administrator or with written approval from the adjacent property owner that faces the window(s).

(f) Setbacks. ADUs shall be subject to the following requirements related to setbacks:

(1) No setback shall be required for an existing living area or accessory structure that is fully or partially converted to an ADU, or for a structure constructed in the same location and to the same or smaller dimensions as an existing living area or accessory structure that is fully or partially converted to an ADU.

(2) Setbacks of four feet from the side and rear lot lines are required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(3) No front setback shall be applied that would preclude the development of an 800 square foot ADU with at least four-foot side and rear setbacks.

(g) Flood Plain. An attached or detached ADU located in the flood plain shall comply with Chapter 15.36 of the Municipal Code.

(h) Adequate Services. The proposed method of water supply and sewage disposal for the ADU/JADU must be provided, as well as service availability from any associated electric and gas provider for the lot. Letters of service availability must be provided by the appropriate utilities service provider(s) for the lot. The property owner must also demonstrate existing or future legal access.

(i) Prior Discretionary Approvals. Subject to the requirements set forth in Section 18.42.040 related to unpermitted ADUs constructed prior to January 1, 2028, the ADU shall not conflict with any other requirements associated with prior land use entitlements (e.g. Design Review, Nonconformity Permit) granted for the subject property, unless such requirements have been amended through required approval processes. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020).

18.42.060 Guaranteed Allowance.

All standards related to size, limits on lot coverage, floor area ratio, and/or minimum lot size that apply to an ADU and JADU shall not prohibit an ADU with up to 800 square feet of floor area and a JADU with up to 500 square feet of floor area, a height as listed in Section 18.42.055(c), and four-foot side and rear yard setbacks, provided the ADU complies with all other applicable standards. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020).

18.42.065 Exceptions to Standards for ADUs.

At its discretion, the town council may grant exceptions to the general requirements and development standards for an ADU as set forth in Section 18.42.050 and Section 18.42.055 of this code.

(a) Exception to Number of ADUs. The town council may grant an exception to the number of detached ADUs permitted on a lot or parcel to permit two detached ADUs on a parcel or lot, provided the parcel or lot is at least one acre in size.

(b) Exceptions to Floor Area and/or Building Coverage. (1) The town council may grant an exception to allow the nonconforming floor area and/or building coverage of an ADU to

exceed 800 square feet up to 1,200 square feet if the ADU is to be rent restricted for a very low-income household subject to the provision of Section 18.42.080 of the Ross Municipal Code. (2) The Town Council may grant an exception to allow any amount of existing floor area that is converted to new ADU space to be transferred as a floor area allowance for a new addition to the primary residence.

(c) Exception to Height. The town council may grant an ADU height increase beyond that set forth in Section 18.42.055(c) with a maximum building height of thirty feet at any point when measured from either existing or finished grade, whichever is lower.

(d) Exception to Location. The town council may grant an exception to the location standard to allow a newly constructed ADU above an existing first floor.

(e) Exception to Size. The town council may grant an ADU size increase to 1,200 square feet.

(f) Exception to Windows. The town council may grant an exception to Section 18.42.055(i)(1).

(g) The town council may grant an exception enumerated above if the exception complies with the design review criteria and standards of Section 18.41.100, the adopted Design Guidelines, and if the town council makes the following findings:

(1) The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good.

(2) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.

(3) Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.

(4) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

18.42.070 Development Standards – JADUs.

JADUs are subject to the following objective development standards.

(a) Entryways. A JADU must include a separate entrance from the main entrance to the primary residence. A JADU may include a second interior doorway for sound attenuation.

(b) Location. The JADU must be created within the existing walls of the proposed or existing single-family residence which includes attached garages.

(c) Kitchen. The JADU shall include an efficiency kitchen as defined in California Government Code Section 65852.22.

(d) Bathroom. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. If a JADU does not include a separate bathroom, the JADU shall include an interior access to the primary home.

(e) Size. The size of a JADU shall not exceed 500 square feet of gross floor area. The gross floor area of a shared sanitation facility shall not be included in the maximum gross floor area of the unit. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020).

18.42.075 Units Subject to Limited Standards.

Notwithstanding sections 18.42.055, 18.42.060, 18.42.065 and 18.42.070 of this Chapter, building permits shall be issued ministerially in a residential or mixed-use zone for ADUs and JADUs based solely on the standards set forth in this section and all applicable Building Code standards, as follows:

(a) One ADU and one JADU per lot with a proposed or existing single-family dwelling if all of the following apply:

(1) The ADU or JADU unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or 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.

(2) The space has exterior access from the proposed or existing single-family dwelling.

(3) The side and rear setbacks are sufficient for fire and safety.

(4) The JADU complies with the requirements of Government Code Section 66333 through 66339 as they may be amended.

(b) One detached, new construction, ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The ADU may be combined with a JADU described in subsection (a) of this section. An ADU permitted under subsection (b) is subject to the following conditions:

(1) A total floor area limitation of not more than 800 square feet.

(2) A height not to exceed the height limitation in Section 18.42.055(c) of this Chapter. Multifamily Dwelling ADUs.

(3) Multiple ADUs within the 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 unit complies with state building standards for dwellings.

(4) One ADU within an existing multifamily dwelling shall be allowed up to 25 percent of the existing multifamily dwelling units.

(5) On a lot that has an existing multifamily dwelling, not more than eight ADUs that are detached from that multifamily dwelling and are subject to a height not to exceed the height limitations in Section 18.42.55(c) of this Chapter and four-foot rear yard and side setbacks, provided, however, the number of detached ADUs shall not exceed the number of existing units on the lot.

(6) On a lot with a proposed multifamily dwelling, not more than two detached ADUs.

(c) Rentals of ADU and JADU permitted pursuant to this section shall be for a term longer than 30 days.

(d) Installation of fire sprinklers are not required in an ADU or JADU if sprinklers are not required for the primary residence.

(e) ADUs and JADUs permitted under this section shall not be required to install a new or separate utility connection directly between the ADU and the utility nor shall a related connection fee or capacity be charged unless the ADU or JADU is proposed to be constructed with a new single-family home. (Ord. 727 (part), 2024; Ord. 708 (part), 2020; Ord. 703 (part), 2020).

18.42.080 Rent-restricted ADUs.

At its discretion, the town council may grant an exception to the floor area requirement for ADUs if the owner agrees to occupy or rent a newly constructed ADU as a rent restricted ADU, if the ADU is not located on a hillside area as defined in Section 18.39.020(a), and if the town council makes specific findings of fact as set forth in this section.

(a) Exceptions to Floor Area and/or Building Coverage. (1) The town council may grant an exception to allow the nonconforming floor area and/or building coverage of an ADU to exceed 800 square feet up to 1,200 square feet if the ADU is to be rent restricted for a very low-income household. (2) The Town Council may grant an exception to allow any amount of existing floor area that is converted to new ADU space to be transferred as a floor area allowance for a new addition to the primary residence.

(b) The town council may grant a floor area exception if the exception complies with the design review criteria and standards of Section 18.41.100 and the town council makes the following findings:

(1) The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good.

(2) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.

(3) Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff

from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.

(4) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.

(c) Declaration of Rent Restrictions. The owner shall submit a signed Declaration of Rent Restrictions, to be recorded before or concurrently with, and as a condition of, issuance of the rent restricted ADU permit, reflecting the rent restriction. The Town shall provide the form of such Declaration.

(d) Affordable Rent Certification. An owner who has executed a Declaration shall submit to the Town an ADU Affordable Rent Certification on an annual basis, effective each December 31 and as part of the annual Town business license application and renewal, if the ADU is being rented. The ADU Affordable Rent Certification shall include the rent charged, the cost of the utilities, whether the utilities are included in the cost of rent, the household size of the ADU, the names and ages of the ADU occupants, the gross household income of the ADU household, and other information as determined appropriate by the Town. The Town shall provide the form of the Certification to be signed under penalty of perjury by both the owner and the tenant, if any.

(e) Termination of Rent-Restricted ADU Permit. At its discretion, the town council may grant an owner's request to terminate a rent restricted ADU permit. The town council shall consider the length of time such permit has been in force, the conditions of approval, the exceptions granted for the permit, and the impact on the town's affordable housing supply. In no case shall such permit be terminated prior to 20 year from the date of town council approval under this section. As a condition of termination, the town council shall require the owner to make modifications to the property to comply with current building code requirements and to comply with the planning code requirements in effect at the time the exception(s) was granted or obtain a variance from such requirements. (Ord. 708 (part), 2020; Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 625 (part), 2011).

18.42.081 Urban Lot Splits and Two-Unit Housing Development.

Pursuant to the authority provided by section 65852.21(f) of the Government Code, no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot in a single-family zoning district if: 1) an Urban Lot Split has been approved pursuant to Chapter 17.37 herein, and 2) a Two-Unit Housing Development has been approved for construction pursuant to Chapter 18.43. (Ord. 717 (part), 2022).

18.42.085 Termination of Permit and Use.

At the Planning and Building Director or their designee's discretion, they may grant an owner's request to terminate an ADU/JADU. As a condition of termination, the Planning and Building Director or their designee shall require the owner to make modifications to the property to comply with current building code requirements and remove the kitchen. The property owner shall apply for a building permit to remove the kitchen as required by the Town's building and fire codes. (Ord 727 (part), 2024; Ord. 703 (part), 2020).

18.42.090 Administration and Enforcement.

(a) Any exception request that does not comply with the prescribed limitations set

forth in this chapter shall require a variance, pursuant to Chapter 18.48.

(b) Nonconforming ADU.

(1) A nonconforming ADU previously granted a use permit or administrative approval may continue in use subject to the conditions of their original approval.

(c) Inactive applications. Consistent with state law, the Planning Department may administratively deny without prejudice any application which remains incomplete or inactive for a period of greater than ninety days or is continued at the applicant's request for more than sixty days.

(d) Violation. Except as set forth in Government Code Section 66332 and Section 18.42.040 related to unpermitted ADUs constructed prior to January 1, 2018, an illegal ADU is an ADU which is not an approved ADU, nonconforming ADU, or is in violation of the Declaration of Deed Restrictions or the Declaration of Rent Restrictions. The Town Manager is authorized to pursue any remedies provided by law against the owner of an illegal ADU or an ADU not maintained in conformance with this Chapter, including but not limited to:

- (1) General. Those remedies set forth in Chapters 9.04 and 18.64 of this code;
- (2) Costs. In any civil enforcement action, administrative or judicial, the Town is entitled to recover its attorneys' fees and costs from an owner who is determined to have an illegal ADU;
- (3) Revocation of the ADU Permit;
- (4) Citations issued pursuant to the Administrative Citation Procedure authorized by California Government Code, Section 53069.4;
- (5) Deed Restriction/Contract. Any liquidated damages or stipulated penalties authorized under any deed restriction or contract executed by the owner as a condition of the issuance of the ADU permit.

(e) Enforcement. Failure to comply in any way with the provisions of this chapter, approved plans, or conditions for application approval constitutes grounds for the town to immediately stop work related to the noncompliance until the matter is resolved or require that the noncompliance be remediated. Such violation will be subject to the enforcement penalties and procedures of Chapters 9.04 and 18.64 of this code. (Ord. 703 (part), 2020; Ord. 679 (part), 2017; Ord. 678 (part), 2016; Ord. 641 (part), 2013; Ord. 625 (part), 2011; Ord. 578 §8(part), 2003).