

ORDINANCE NO. 499

AN ORDINANCE AMENDING CLAYTON MUNICIPAL CODE CHAPTER 17.47, SECTIONS 17.04.083 AND 17.44.030, AND SCHEDULE 17.37.030A PERTAINING TO ACCESSORY DWELLING UNITS (ZOA-02-2022), AND FINDING THAT SUCH AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.17

**THE CITY COUNCIL
City of Clayton, California**

The City Council of the City of Clayton DOES ORDAIN as follows:

Section 1. Recitals

- A. California state law governing construction of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) is contained in Government Code section 65852.2 and Government Code section 65852.22, which were most recently amended on September 28, 2022, by Senate Bill 897 and Assembly Bill 2221.
- B. Clayton Municipal Code (CMC) chapter 17.47, "Second Dwelling Units," was most recently amended in 2004 by adoption of Ordinance No. 373 and does not incorporate all of the provisions of Government Code sections 65852.2 and 65852.22.
- C. Government Code sections 65852.2 and 65852.22 establish allowances and provisions for construction of ADUs and JADUs for any California jurisdiction that does not have its own local ordinance that complies with state law.
- D. Government Code sections 65852.2 and 65852.22 also authorize cities and counties to adopt local ordinances with more refined standards that fall within the parameters of state law, or with more relaxed standards than those that are prescribed in state law.
- E. On March 22, 2021, the City Council established a set of goals for the City Council and staff to aim to accomplish in 2021/2022, and Land Use and Housing Goal 2 was to amend Clayton's ADU ordinance to establish local ADU and JADU permitting procedures and regulations in compliance with state law.
- F. CMC chapter 2.12 establishes a Planning Commission for the City of Clayton, and Government Code sections 65854 and 65855 require the Planning Commission to conduct a public hearing prior to making a recommendation to the legislative body (City Council) on a proposed amendment to the Zoning Ordinance (CMC Title 17).

- G. On February 28, 2023, the Clayton Planning Commission held a duly-noticed public hearing on the City-initiated Zoning Ordinance Amendment Application ZOA-02-2022 pertaining to the establishment of local permitting procedures and regulations for the construction of ADUs and JADUs in Clayton, and at that public hearing, the Commission received and considered spoken and written testimony and evidence on the matter prior to adopting Resolution No. 03-2023 recommending City Council adoption of the proposed amendments.
- H. In accordance with Government Code section and 65090, on or prior to March 10, 2023, notice of the Clayton City Council public hearing to consider the amendment to the City's adopted zoning regulations pertaining to ADUs and JADUs was published in the East Bay Times; was posted to the notice boards at Clayton City Hall and Clayton Community Library, and to Ohm's board in the Clayton Town Center; and was mailed electronically to interested parties who had requested such notice.
- I. On March 21, 2023, the Clayton City Council held a duly-noticed public hearing on the City-initiated Zoning Ordinance Amendment Application ZOA-02-2022 pertaining to the establishment of local permitting procedures and regulations for the construction of ADUs and JADUs in Clayton, and at that public hearing, received and considered spoken and written testimony and evidence on the matter.

Section 2. Findings

Based on the information in the Community Development Department files on this project, incorporated here by reference and available for review at City Hall, 6000 Heritage Trail in Clayton, the City Council finds that:

- A. The foregoing recitals are true and correct and are incorporated herein by reference.
- B. The proposed Zoning Ordinance Amendment is consistent with the General Plan, and specifically, Land Use Goals 2, 4 and 10; and Housing Element Policy Goal 2 and Policy 2.3. Together, these goals and policies encourage diversity in housing types and tenures, support appropriate development controls through zoning regulation, and encourage construction of accessory dwelling units. The proposed amendment would facilitate construction of smaller, more affordable and rentable ADUs and JADUs in addition to the predominant single-family residential housing type in Clayton. The proposed amendment would establish zoning regulations and standards governing size, floor area ratio, setbacks, off-street parking requirements, and architectural compatibility of ADUs to ensure that ADUs retain the visual character of the Clayton community while complying with the provisions and limitations specified in state law. The proposed amendment would implement Housing Element Program D1 by providing property owners and city staff with a clear path toward permitting of ADUs and JADUs that is in compliance with state

law. In addition to the foregoing, the proposed Zoning Ordinance Amendment is consistent with the General Plan as a matter of law pursuant to Government Code section 65852.2(a)(1)(C).

- C. The proposed Zoning Ordinance Amendment would serve the public necessity, convenience and general welfare. The proposed ordinance simplifies and presents the extensive and detailed provisions of state law in a more approachable format for residents and city staff, starting with classification of ADUs as Type 1, Type 2 or Site Plan Review projects. This more approachable organization of the statutory regulations of state law adds better clarity to the city's regulations, reducing questions and potential areas of confusion for residents interested in building ADUs/JADUs and their designers, and creating a clearer and more efficient path for city staff to process ADU and JADU permit requests. The proposed ordinance also offers additional flexibility to local property owners, expanding on the provisions in state law to allow for ADUs not otherwise conforming with statute subject to Site Plan Review permit approval, and not carrying forward a requirement for owner-occupancy of a property with Type 2 or Site Plan Review ADUs. ADUs in themselves offer opportunities for smaller and more affordable units that accommodate existing residents to age in place, and provide opportunities for new residents and newly-independent people to live in affordably-priced rental housing in the city. By providing rental income or opportunities to house extended family, ADUs can also reduce mortgage costs and eliminate the expenses of long-term care residential care, resulting in more affordable housing and cost savings for existing residential property owners, as well.
- D. Other revisions to CMC Title 17 are necessary to ensure consistency of these municipal code titles with the amended text of the ADU/JADU zoning regulations.
- E. This recommended amendment to Clayton Municipal Code is statutorily exempt from the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*), pursuant to Public Resources Code section 21080.17, Application of Division to Ordinances Implementing Law Relating to Construction of Dwelling Units and Second Units.

Section 3. Zoning Ordinance Amendment

Based on the findings and the authority set forth above, the City Council hereby amends Title 17 (Zoning) of the Clayton Municipal Code, as follows:

- A. **Deletion of Clayton Municipal Code Section 17.04.083.** That Clayton Municipal Code section 17.04.083 be hereby amended and restated as shown in underline/strike-through to read as follows:

“17.04.083 Dwelling Unit, Accessory or Second.

‘Accessory dwelling unit’ or ‘Second dwelling unit’ are synonymous and shall refer to

~~an Accessory Dwelling Unit as defined in section 17.47.020A. mean an attached or detached dwelling unit, which provides complete independent living facilities for one or more persons including, but not limited to the permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling unit also includes an efficiency unit and manufactured home, as defined in California Health and Safety Code §§ 17958.1 and 18007, respectively.”~~

- B. Amendment of the Off-Street Parking Space Requirements in Schedule 17.37.030A.** That the parking requirements for the residential use classification, “Second Dwelling Unit,” in Clayton Municipal Code schedule 17.37.030A be hereby amended and restated as shown in underline/strike-through to read as follows:

“Use Classification	Required Off-Street Parking Spaces
Second <u>Accessory Dwelling Unit</u>	See section 17.47.020.B <u>17.47.060.G</u> ”

- C. Amendment to Clayton Municipal Code Section 17.44.030.** That Clayton Municipal Code section 17.44.030 be hereby amended and restated as shown in underline/strike-through to read as follows:

“17.44.030 Exemptions.

Any new development meeting one of the following characteristics shall be exempt from a Site Plan Review Permit. Such exempt development may directly apply for a building permit which is administratively reviewed by staff.

- A. Construction not meeting one of the criteria listed above;
- B. Construction receiving specific design authorization pursuant to an approved:
 - 1. Development Plan Permit;
 - 2. Vesting Tentative Map;
 - 3. Development Agreement.
- C. ~~Second~~ Type 1 and Type 2 accessory dwelling units and junior accessory dwelling units administratively ministerially approved in accordance with Chapter 17.47; provided, that Type 2 accessory dwelling units shall also require an ADU Permit in accordance with the requirements of Chapter 17.47.”

- D. Amendment to Clayton Municipal Code Chapter 17.47.** That Clayton Municipal Code chapter 17.47 be repealed and replaced in its entirety to read as shown in the attached Exhibit A.

Section 4. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other

provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.


Section 5. Effective Date and Publication.

This Ordinance shall become effective 30 days from and after its passage. Within 15 days after the passage of the Ordinance, the City Clerk shall cause the Ordinance, with the names of those City Council members voting for and against it, to be posted in three public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause the amendments adopted in Section 3 of this Ordinance to be entered into the City of Clayton Municipal Code.


The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on March 21, 2023.

Passed, adopted and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on April 4, 2023, by the following vote:


- AYES: Mayor Wan, Vice Mayor Diaz, Councilmembers Cloven, Tillman and Trupiano.
- NOES: None.
- ABSENT: None.
- ABSTAIN: None.

THE CITY COUNCIL OF CLAYTON, CA


Jeff Wan, Mayor

ATTEST:


Janet Calderon, City Clerk

APPROVED AS TO FORM:


Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION:


Ron Bernal, Interim City Manager

I hereby certify that the foregoing Ordinance was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on April 4, 2023.



Janet Calderon, City Clerk

Chapter 17.04

DEFINITIONS

Sections:

17.04.010	Generally
17.04.020	Accessory Building or Structure
17.04.030	Accessory Use
17.04.040	Agriculture
17.04.045	Approving Body
17.04.050	Average Width
17.04.060	Building
17.04.062	Building Height
17.04.064	Building – Main or Principal
17.04.070	Cottage Food Operation
17.04.076	Day Care
17.04.077	Department
17.04.078	Director
17.04.080	District
17.04.081	Dwelling
17.04.082	Dwelling, Multiple-Family
17.04.083	Dwelling Unit, Accessory or Second
17.04.084	Dwelling, Single-Family
17.04.087	Dwelling, Two-Family (Duplex)
17.04.088	Dwelling Unit
17.04.089	Emergency Shelter
17.04.090	Employee Housing
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17.04.095	Fence
17.04.100	Home Occupation
17.04.104	Household Pets
17.04.110	Lot
17.04.115	Lot, Corner
17.04.120	Lot Depth
17.04.130	Lot Frontage
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17.04.136	Lot, Through
17.04.137	Manufactured Homes
17.04.138	Medical and Adult-Use Cannabis Uses.
17.04.139	Mixed Use
17.04.140	Mobilehome
17.04.141	Mobilehome Park
17.04.142	Mobile Food Vendor
17.04.143	Mobile Retail Vendor
17.04.144	Mobile Vendor
17.04.145	Non Conforming Use
17.04.146	Off-Street Loading Facility
17.04.147	Off-Street Parking Facility
17.04.150	Open Space
17.04.155	Parolee Home
17.04.156	Parolee
17.04.160	Permanently Uninhabited Land
17.04.165	Personal Property Sale
17.04.170	Qualified Applicant
17.04.180	Retail Business
17.04.186	Single Housekeeping Unit

17.04.185	Setback
17.04.187	Single Room Occupancy (SRO) Facilities
17.04.190	Story
17.04.200	Structure
17.04.205	Supporting Housing
17.04.206	Transitional Housing
17.04.210	Used

17.04.010 Generally. The definitions in this chapter and certain other chapters of this title govern the construction of this title unless the context otherwise requires. (Ord. 52, 1968)

17.04.020 Accessory Building or Structure. "Accessory building or structure" is a building or structure which is subordinate and incidental to that of the principal building on the same lot. (Ord. 154, 1976; Ord. 52, 1968; Ord 375, 2004)

17.04.030 Accessory Use. "Accessory use" means a use incidental and accessory to the principal use of a lot, or a use accessory to the principal use of a building located on the same lot. An accessory use generally means the following types of uses: detached garages, pool houses or cabanas, storage sheds and other small single story structures usually related to the single family residential unit. (Ord. 154, 1976; Ord. 52, 1968)

17.04.040 Agriculture. "Agriculture" means the tilling of soil, the raising of crops, horticulture, dairying, and the raising and managing of livestock, including all uses customarily incidental thereto but not including slaughterhouses, fertilizer yards, boneyards, plants for the reduction of animal matter, or any other industrial or agricultural use which may be objectionable because of odor, smoke, dust or fumes. (Ord. 52, 1968)

17.04.045 Approving Body. "Approving body" means the staff member, officer, commission, board, or entity responsible for decisions on the approval, approval with conditions, or denial of an application, entitlement, plan, or permit, including any party responsible for hearing appeals of decisions made by another party. (Ord. 408, 2007)

17.04.050 Average Width. "Average width" of a lot is the total area of the lot divided by the depth of the lot. (Ord. 52, 1968)

17.04.060 Building. "Building" means any structure with a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattels. A stable, barn, or any shelter for equestrian or agricultural livestock shall be considered a building in an R-40-H District. (Ord. 83, 1970; Ord. 52, 1968)

17.04.062 Building Height. "Building Height or Height" means the distance measured vertically from a point on the base plane to the highest point on the building or structure. The base plane is an imaginary plane created at the perimeter of the building or structure at the natural or finished grade, whichever is lower. Maximum height is measured from the base plane to an upper imaginary plane located parallel to the base plane and at the maximum allowable height above it. (Ord. 52, 1968; Ord 375, 2004)

17.04.064 Building – Main or Principal. "Main or Principal Building" means a building or buildings where the main or principal uses of the lot are conducted as well as uses allowed by a use permit. (Ord 375, 2004)

17.04.070 Cottage Food Operation. "Cottage Food Operation" means an enterprise that is operated by a cottage food operator and may have a maximum of one (1) full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home

where the cottage food operator resides and where cottage food products are prepared or packaged for direct or indirect sale to consumers, as defined in California Health and Safety Code section 113758, and is subject to all applicable regulations, standards, definitions, and requirements of the California Health and Safety Code. No more than one (1) employee may work at the cottage food operation at any one time. (Ord. 450, 2013).

17.04.076 Day Care. “Day Care” means a facility that provides non-medical care and supervision of individuals for periods of less than twenty-four (24) hours. These facilities include, but are not limited to the following, all of which are required to be licensed by the California State Department of Social Services, or as the licensing authority may be amended from time to time by the State of California.

- A. “Child day care center” means a commercial or non-profit child day care facility designed and approved to accommodate children, including an infant center, preschool, sick-child center, and school-age day care facility. A child day care center may be operated in conjunction with a school or church facility, or as an independent land use.
- B. “Large family day care home” means a home that provides family day care for seven (7) to fourteen (14) children, inclusive, including children under the age of ten (10) years who reside in the home, as provided by California Health and Safety Code Section 1596.78.
- C. “Small family day care home” means a home that provides family day care for eight (8) or fewer children, including children under the age of ten (10) years who reside in the home, as provided by California Health and Safety Code Section 1596.78.
- D. “Adult day care facility” means a day care facility that provides care and supervision for adult clients. (Ord. 410, 2007)

17.04.077 Department. “Department” means the Community Development Department of the City of Clayton. (Ord 375, 2004)

17.04.078 Director. “Director” means the Community Development Director of the City of Clayton, including his or her designated representatives. (Ord 375, 2004)

17.04.080 District. "District" is a portion of the city within which certain uses of land, buildings, and structures are permitted; certain other uses of land, buildings, and structures are not permitted; setbacks and other open spaces are required; and certain minimum lot areas and maximum heights are established for buildings and structures under the regulations of this title. (Ord 52, 1968; Ord 375, 2004)

17.04.081 Dwelling. “Dwelling” means a building designed or used exclusively for residential occupancy, including single-family, two-family (duplex), and multiple-family dwellings, but not including a hotel, motel, boardinghouse, or recreational vehicle. (Ord 373, 2004)

17.04.082 Dwelling, Multiple-Family. “Multiple-family dwelling” means a building designed or used for more than two (2) dwelling units sharing common walls or being otherwise attached, including tri-plexes, four-plexes and apartments. (Second dwelling units are exempt from this definition). (Ord 373, 2004)

17.04.083 Dwelling Unit, Accessory or Second. ‘Accessory dwelling unit’ or ‘Second dwelling unit’ are synonymous and shall refer to an Accessory Dwelling Unit as defined in section 17.41.020A. (Ord 499, 2023, Ord 373, 2004)

17.04.084 Dwelling, Single-Family. “Single-Family. “Single-family dwelling” means a

building on one lot designed or used for one dwelling unit. (Second dwelling units are exempt from this definition.) In keeping with the intent of state law, manufactured housing shall be recognized as a detached single-family dwelling, and shall be allowed by valid building permit in the Agricultural (A) District, Single-Family Residential (R) Districts, and the Planned Development (PD) District (if permitted by an approved development plan) when the manufactured home unit complies with the following: (Ord 373, 2004)

- A. It is to be occupied only as a residence;
- B. It meets all development standards of the applicable zoning district, including parking requirements;
- C. It is certified under the National Mobile Home Construction and Safety Act of 1974 and any subsequent revisions, and meets all fire, safety and insulation codes of the city, county and state;
- D. It is installed on a permanent foundation system in accordance with Title 15 of the Municipal Code;
- E. It is covered with an exterior material customarily used in new conventional single-family residential structures in the surrounding area;
- F. The exterior covering material must extend to the ground consistent with the Uniform Building Code; a solid concrete or masonry perimeter foundation shall be used; no conventional mobile home skirting shall be allowed;
- G. The roofing material is of a material customarily used in new conventional single-family residential structures in the surrounding area;
- H. The covering material of the garage or carport is the same as used on the manufactured home unit;
- I. The roof overhangs, siding and roofing material have been approved by the Planning Commission; the exterior materials must be found compatible with neighboring residences. (Ord 373, 2004)

17.04.087 Dwelling, Two-Family (Duplex). “Two-family (duplex) dwelling” means a building on one lot designed or used for two (2) dwelling units sharing common walls or being otherwise attached. (Second dwelling units are exempt from this definition.) (Ord 373, 2004)

17.04.088 Dwelling Unit. “Dwelling unit” means one or more habitable rooms served by a single common kitchen, designed for occupancy by one family for living and sleeping purposes. (Second dwelling units are exempt from this definition). (Ord 373, 2004)

17.04.089 Emergency Shelter. As defined by the California Health and Safety Code Section 50801(e) “emergency shelter” is housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter in this facility because of an inability to pay. However, emergency shelter providers are not obligated to accept individuals if the shelter is at maximum capacity. (Ord. 449, 2013)

17.04.090 Employee Housing. “Employee Housing” means housing as defined in California Health and Safety Code Section 17008 as it may be amended or modified. (Ord. 466, 2016).

17.04.092 Family. “Family” means one person or more living together in a building or part of it designed for occupation as a residential domestic unit as distinguished from a hotel, club, fraternity or sorority house, dormitory, or boardinghouse. A family includes servants employed by the family. (Ord. 440, 2012) (Ord. 466, 2016).

17.04.095 Fence. “Fence” means any structure forming a physical barrier by means of vegetation, wood, wire, masonry, metal, synthetic, or other comparable materials. (Ord 375, 2004)

17.04.100 Home Occupation. A “Home Occupation” is a limited commercial activity customarily conducted entirely within a residential dwelling, by a person residing in the dwelling unit, which is clearly a subordinate and incidental use of such dwelling as a residence. (Ord 357, 2001)

17.04.104 Household Pets. “Household pets” mean small domesticated or caged animals commonly kept indoors and primarily for pleasure, including dogs, cats, pot bellied pigs, mice, fish, birds, small reptiles, and similar animals. Household pets shall not include dangerous or potentially dangerous animals as determined under Article 416-12.4 of the Contra Costa County Code and for which a permit has not been issued under Section 416-12.408 thereof. The number of larger animals kept on a single lot shall be limited to: no more than five (5) of any combination of dogs or three (3) pot bellied pigs over six (6) months of age shall be allowed. (Ord. 395, 2006).

17.04.110 Lot.

- A. "Lot" is a parcel or area of land occupied or to be occupied by a building and buildings accessory thereto, or by a group of dwellings and buildings accessory thereto, together with such open spaces and setbacks as are required by the provisions of this title, having an area not less than the minimum area required by the provisions of this title for a building site in the district in which such lot is situated. (Ord 375, 2004)
- B. In computing the area of a lot, those portions lying within the exterior boundaries of an existing or proposed public road, street, highway, right-of-way, or easement owned, dedicated, or used for purposes of vehicular or pedestrian access shall not be included in order to satisfy minimum area, setback, or dimensional requirements. (Ord, 52, 1968; Ord 375, 2004)

17.04.115 Lot, Corner. “Corner lot” means a lot located at the intersection of two or more streets (or vehicular access easement serving more than three lots), which has an angle not exceeding 135 degrees. (Ord 375, 2004)

17.04.120 Lot Depth. "Depth of a lot" is the distance normal to the frontage to the point of the lot farthest from the frontage. (Ord. 52, 1968)

17.04.130 Lot Frontage. "Lot frontage" is the distance measured between the two points on the principal road, street, or access that are farthest apart. (Ord. 52, 1968).

17.04.135 Lot Line. “Lot line” means any boundary of a lot.

- A. “Exterior lot line” means any lot line, other than the front lot line, abutting a street or vehicular access easement. (Ord 375, 2004)
- B. “Front lot line” means, on an interior lot, the lot line abutting a street (or vehicular access easement), or, on a corner lot, either of the lot lines abutting a street (or vehicular access easement) designated as the primary frontage or, on a through lot, the lot line abutting the street (or vehicular access easement) providing the primary means of access to the lot, or, on a flag lot, the interior lot line most parallel to and nearest the street (or vehicular access easement) from which the means of access is obtained, except that where the average width of a flag lot exceeds its average depth and the longer dimension is considered the depth, the front lot line will be the property line from which the front setback is measured. (Ord 375, 2004)
- C. “Interior lot line” means any lot line not abutting a street or vehicular access easement. (Ord 375, 2004)
- D. “Rear lot line” means the lot line not intersecting a front lot line which is most distant from

and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line. (Ord 375, 2004)

E. "Side lot line" means any lot line which is not a front or rear lot line. (Ord 375, 2004)

17.04.136 Lot, Through. "Through lot" means a lot, other than a corner lot, having frontage on two parallel, or approximately parallel streets (or vehicular access easements). (Ord 375, 2004)

17.04.137 Manufactured Home. A Manufactured Home@ means a single-family dwelling transportable in one or more sections constructed to a federally preemptive standard (Ord. 425, 2009).

17.04.138 Medical and Adult-Use Cannabis Uses. A facility or location where marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 (Proposition 215). (Ordinance No. 448, 2013, Ordinance 479, 2017)

A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

B. "Cannabis dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, wither individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of retail sale.

C. "Cannabis manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis products or labels or relabels its container.

D. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

E. "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and

(2) Registered with the State Department of Public Health. (Ordinance No. 461, 2016)

17.04.139 Mixed Use. A Mixed Use@ means properties on which various uses, such as residential, commercial, or institutional, are combined in a single building or on a single site (including contiguous lots) in a development project with significant functional interrelationships

and an integrated physical design. (Ord. 402, 2007)

17.04.140 Mobilehome. A Mobilehome@ means a moveable dwelling retaining an axle with no permanent foundation, but connected to utility lines and set more or less permanently at a location (Ord. 425, 2009).

17.04.141 Mobilehome Park. A Mobilehome Park@ means any area or tract of land where one or more mobilehome lots are rented or leased or held out for rent or lease to accommodate mobilehomes used for human habitation (Ord. 425, 2009).

17.04.142 Mobile Food Vendor. “Mobile Food Vendor” means any vehicle, pushcart, trailer, wagon, portable stand or temporary location, designed or used or intended to be used, by or for any one or more of, but not limited to, the following persons and/or uses: bakery distributor, fish or meat peddler, food salvage distributor, fruit, nut and/or vegetable distributor, grocery distributor, commercial or industrial catering, food cooking and/or preparation unit, and itinerant restaurant. It includes, but is not limited to, any vehicle, pushcart, trailer, wagon, portable stand or temporary location, from which animal food, bakery products, fish, shell fish, seafood, fruits and nuts, vegetables, meats, poultry, preserves, jelly, relish, milk or any other dairy products, fresh, frozen or non-perishable food or food products, ice cream, shaved ice or yogurt products, ice or beverages, whether in bulk, canned, wrapped, bottled, packaged, or any other form, are sold or kept for sale at retail, or are distributed to the consumer. See Section 17.36.084 for permits required and regulations. (Ord. 458, 2015)

17.04.143 Mobile Retail Vendor. “Mobile Retail Vendor” means any vehicle, pushcart, trailer, wagon, portable stand or temporary location, designed or used or intended to be used, by or for any one or more of, but not limited to, the following persons and/or uses: sales of non-perishable goods, items or merchandise, new or used, including but not limited to art or art objects, auto parts or equipment, candles, electronic equipment, handmade crafts, housewares, household goods, flowers, flags, furniture, jewelry, landscape plants and goods, rugs, sports equipment or memorabilia, yard ware and yard accessories, or other similar items which are sold or kept for sale at retail, or are distributed to the consumer. See Section 17.36.84 for permits required and regulations. (Ord. 458, 2015)

17.04.144 Mobile Vendor. Means any business, person or use defined as either a Mobile Food Vendor or as a Mobile Retail Vendor. (Ord. 458, 2015)

17.04.145 Nonconforming Use. A Nonconforming Use. A Nonconforming use@ means a use of land, building, or structure on land that does not conform to this title for the district in which it is situated. (Ord. 52, 1968) (Ord. 458, 2015)

17.04.146 Off-Street Loading Facility. “Off-street loading facility” means that portion of a site which is not located on a street and is devoted to the loading or unloading of a motor vehicle or trailer, including a loading space, aisle, and driveway. (Ord. 408, 2007)(Ord. 458, 2015)

17.04.147 Off-Street Parking Facility. “Off-street parking facility” means that portion of a site which is not located on a street and is devoted to the parking of a motor vehicle, including a parking space, aisle, and driveway. (Ord. 408, 2007)(Ord. 458, 2015)

17.04.150 Open Space.

A. “Active open space” means an outdoor area on the ground, roof, balcony, deck, or porch which is designed and used for outdoor living, recreation, pedestrian access, or landscaping. The area shall not be for the use of parking, vehicular movements, or storage.

B. "Passive open space" means an area which provides visual relief to developed areas, exclusive of any area devoted to parking, vehicular movements, storage, private use (unless subject to development restrictions by a conservation easement), or any other area which does not significantly lend itself to the overall benefit of either the particular development or surrounding lands. (Ord 402, 2007)

17.04.155 Parolee Home. "Parolee Home" means any residential or commercial building, structure, unit or use, including a hotel or motel, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses two or more parolees, that is not operated as a single housekeeping unit, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee. (Ord. 483, 2018)

17.04.156 Parolee. "Parolee" shall include probationer, and shall mean any of the following:

- (1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer;
- (2) an individual who is serving a period of supervised community custody, as defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division;
- (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and
- (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer.

As used herein, the term "parolee" includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future. (Ord. 483, 2018)

17.04.160 Permanently Uninhabited Land. "Permanently uninhabited land" is any uninhabited parcel of land dedicated for public use, whether publicly or privately owned, i.e., parks, recreational areas and golf courses. (Ord. 83, 1970; Ord. 52, 1968)

17.04.165 Personal property sale. includes garage and yard sales and shall mean a sale conducted at the residence of the owner's used goods or products produced or made on the premises. Any such sale shall comply with the provisions of Sections 17.16.020 E or 17.28.060 as applicable. (Ord. 420, 2009).

17.04.170 Qualified Applicant. "Qualified applicant" is any person or firm, or authorized agent having written authority to act, having a freehold interest in the subject land; or having a possessory interest entitling him to exclusive possession; or having a contractual interest which may become a freehold or exclusive possessory interest and is specifically enforceable. (Ord. 52, 1968)

17.04.180 Retail Business. "Retail business" means the sale, barter, and exchange of retail goods, wares, merchandise, or other personal property or any interest in them for profit or livelihood. (Ord. 414, 2008)

17.04.185 Setback. “Setback” means a required open space on a lot which is unoccupied by buildings and unobstructed by structures from the ground upward, except for uses and structures allowed by the provisions of this Title. Setbacks shall be measured as the shortest distance between a property line and the nearest vertical support or wall of the building or other structure.

- A. “Front setback” means a setback measured into a lot from the front lot line, extending the full width of the lot between the side lot lines intersecting the front lot line.
- B. “Rear setback” means a setback measured into a lot from the rear lot line, extending the full width of the lot between the side lot lines intersecting the rear lot line.
- C. “Side setback” means a setback measured into a lot from a side lot line, extending between the front setback (or front lot line where no front setback is required) and the rear setback (or rear lot line where no rear setback is required). An exterior side setback is a side setback measured from an exterior side lot line; an interior side setback is a side setback measured from an interior side lot line. (Ord 483, 2018)

17.04.186 Single Housekeeping Unit. “Single housekeeping unit” means that the use of the dwelling unit satisfies each of the following criteria:

- 1. The residents have established ties and familiarity and interact with each other.
- 2. Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.
- 3. Residents share meals, household activities, expenses, and responsibilities.
- 4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit; and they each have access to all common areas.
- 5. If the dwelling unit is rented, each adult resident is named on and is a party to single written lease that gives each resident joint use and responsibility for the premises.
- 6. Membership of the household is determined by the residents, not by a landlord, property manager, or other third party.
- 7. The resident activities of the household are conducted on a nonprofit basis.
- 8. Residents do not have separate entrances or separate food-storage facilities, such as separate refrigerators, food-prep areas, or equipment. (Ord 483, 2018)

17.04.187 Single-Room Occupancy (SRO) Facilities. “Single-Room Occupancy” or “SRO” means a type of residential hotel offering one-room units for long-term occupancy by one or two people. SROs may have kitchen or bath facilities (but not both) in the room. (Ord. 440, 2012)

17.04.190 Story. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above the basement or cellar is more than six feet above grade at any point, such basement or cellar shall be considered a story. (Ord. 52, 1968).

17.04.200 Structure. "Structure" means anything constructed or erected and permanently attached to land, other than a building as defined in this chapter, except sidewalks, pipes, meters, meter boxes, manholes, mailboxes, poles and wires and appurtenant parts of all devices for the

transmission and transportation of electricity and gas for light, heat or power, devices for the transmission of telephone and telegraphic messages, and devices for the transportation of water. (Ord. 52, 1968)

17.04.205 Supportive Housing. “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (Ord. 440, 2012)

17.04.206 Transitional Housing. “Transitional housing” and “transitional housing development” means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. (Ord. 440, 2012)

17.04.210 Used. "Used" includes arranged, designed, constructed, altered, converted, rented, leased, or intended to be used. (Ord. 52, 1968)

Chapter 17.37

OFF-STREET PARKING AND LOADING REGULATIONS

Sections:

- 17.37.010 Purpose
- 17.37.020 General Requirements
- 17.37.030 Parking and Loading Space Requirements
- 17.37.040 Bicycle Parking
- 17.37.050 Accessible Parking Spaces
- 17.37.060 Reciprocal Parking Facilities.
- 17.37.070 In-Lieu Parking Fees
- 17.37.080 Parking Space Design Standards
- 17.37.090 Parking Lot Design Standards
- 17.37.100 Loading Space Design Standards

17.37.010 Purpose.

The purpose of the off-street parking and loading regulations are to:

- A. Ensure that off-street parking and loading facilities, where appropriate are provided for new land uses and for major alterations of existing uses in proportion to the need for such facilities created by each use and change.
- B. Establish parking standards for land uses consistent with need and with the feasibility of providing parking on specific sites throughout the city, including the more urban character of the Town Center.
- C. Promote compatibility among adjacent land uses and enhance the appearance of the City through appropriate design and aesthetic standards related to parking.
- D. Promote the development of retail and restaurant uses in the Town Center and encourage the public use of privately-owned off-street parking spaces during time periods when on-site businesses are not operating.
- E. Provide businesses with options for satisfying their off-street parking requirements.
- G. Ensure that off-street parking and loading facilities are designed in a manner that will ensure efficiency, protect the public safety, and, where appropriate, insulate surrounding land uses from adverse impacts.

17.37.020 General Requirements.

A. When Required.

1. **Residential Uses.** Required off-street parking facilities for residential uses shall be provided at the time of construction of on-site building(s) and/or addition(s), which individually or cumulatively have a floor area of 500 square feet or greater. The approving body may waive this requirement upon approval of written findings that adequate off-street parking is provided on-site and the project would not adversely impact on-street parking and traffic circulation in the vicinity of the project.
2. **Non- Residential Uses.** Required off-street parking facilities for non-residential uses shall be provided at the time when any of the following activities would increase the required number of off-street parking spaces by ten (10) percent or more: construction of a building, alteration of a building, expansion of an existing use, or use change of a site. A change in occupancy is not considered a change in use unless the new occupancy is in a different use classification than the former occupancy (e.g., retail vs. office). For existing buildings as of June 26, 2007 with a history of various retail, office, and/or restaurant uses, where a proposed change will result in expansion of retail and/or restaurant use which would otherwise require additional or reconfigured off-street parking spaces, the Director may reduce or waive such requirement, upon balancing the need for increased parking and the benefits to the City through enhanced retail or restaurant opportunities upon an express written finding by the Director that the purposes of this chapter are being advanced.

B. **Uniform Application.** Provisions of this chapter shall apply uniformly throughout the city according to the specific land usage and shall be without regard to zoning district classification, except as noted in this chapter.

C. **Non-Conforming Parking or Loading.** No existing use of a building or land shall be required to conform to this chapter solely because of the lack of off-street parking or loading facilities required by this chapter; provided, that facilities being used for off-street parking and loading to meet the requirements of this chapter as of June 26, 2007 shall not be reduced, except to achieve compliance with state or federal requirements regarding parking for disabled persons.

D. **Common Parking Facilities.** Off-street parking facilities for any use shall not be considered as providing parking spaces for any other use except in accordance with the on-site parking provisions of subsection 1 below, the off-site parking provisions of subsection 2 below, or the reciprocal parking facility provisions of Section 17.37.060. No use shall be allowed if the number of required parking spaces is diminished unless substitute off-street parking facilities are provided.

1. **On-Site Parking.** Parking required to serve a residential use shall be on the same site as the residence served. Parking required to serve a non-residential use may be on the same site as the use served. If more than one use is located on a site, the number of off-street parking spaces to be provided shall be equal to the sum of the requirements prescribed for each use, including fractions. This requirement applies to multiple uses under separate ownership on a site as well as multiple uses under the same ownership on a site. If

multiple properties are involved, a written agreement between the property owners, subject to the requirements of subsection 17.37.020.F, shall be provided to the city.

2. Off-Site Parking. Parking required to serve a non-residential use may be on a different parcel under the same or different ownership as the use served; provided, that the parking shall be within 300 feet of the use served, as measured from the near corner of the off-street parking facility to the main public entrance of the use served via the shortest pedestrian route. If multiple properties are involved, a written agreement between the property owners, subject to the requirements of subsection 17.37.020.F, shall be provided to the city.
- E. Common Loading Facilities. The off-street loading facilities requirements of this chapter may be satisfied by the permanent allocation of the prescribed number of loading spaces for each use in a common loading facility; provided, that the total number of loading spaces shall not be less than the sum of the individual requirements, including fractions. If the gross floor area of individual uses on the same site is less than that for which a loading space would be required by Section 17.37.030, but the aggregate gross floor area of all uses is greater than the minimum for which a loading space would be required, the aggregate gross floor area shall be used in determining the required number of loading spaces. No use shall be continued if the number of required loading spaces is diminished unless substitute off-street loading facilities are provided prior to the change. If multiple properties are involved, a written agreement between the property owners, subject to the requirements of subsection 17.37.020.F, shall be provided to the city.
- F. Written Agreement. Off-street parking or loading facilities involving multiple properties shall be memorialized by a written agreement between the property owners which is satisfactory to the City Attorney. The agreement must include provisions between the property owner(s) for access to and use of the respective parking or loading facilities and a provision that the agreement will be recorded in the county recorder's office. The agreement shall be for the duration of the use requiring the parking or loading, provided, that the Director may waive the restriction upon an express written finding that substitute parking or loading facilities meeting the requirements of this chapter are provided. The Director shall require a new written agreement if the substitute parking or loading facilities are located on a property which is separate from the use.
- G. Computation of Spaces Required. When the calculation of the required number of parking, loading, or bicycle spaces results in a fractional number, a fraction of one-half or more shall be adjusted to the next higher whole number of spaces, and a fraction of less than one-half shall be disregarded.
- H. Use of Parking Facilities.
1. A parking space may not be used for any purpose other than for the temporary parking of a vehicle, which is licensed for operation on public highways.
 2. Overnight parking of vehicles in excess of twenty-one (21) feet in length or seven (7) feet in height or trailers is prohibited in non-residential districts, unless specifically permitted by other provisions of this Code.

- I. Administrative Relief. Subject to the following requirements, administrative relief from the terms of this chapter may be granted for matters regarding dimensions and square footage, as well as design standards for parking spaces, loading spaces, and parking lots.
 1. The Director makes express written findings that the requirements of this chapter are impractical as applied to the project; and
 2. Measures are incorporated into the project and the Director expressly finds in writing that the measures advance the purposes of this chapter; and
 3. The City Attorney reviews and approves the Director's action as complying with all applicable laws.

17.37.030 Parking and Loading Space Requirements.

- A. Parking and Loading Space Schedules. Off-street parking spaces shall be provided in accordance with Schedule 17.37.030A. Off-street loading spaces shall be provided for non-residential uses in accordance with Schedule 17.37.030B or as required by the Planning Commission. References to spaces per square foot are to be computed on the basis of gross floor area unless otherwise specified, and shall include allocations of shared restroom, halls and lobby area, and mechanical equipment or maintenance areas, but shall exclude area for vertical circulation (e.g., stairs, elevators).
- B. Parking Schedule with Public Parking Easement. In lieu of the parking space requirements provided in Schedule 17.37.030A, the number of off-street parking spaces required for projects meeting all of the criteria listed in subsections 1-3 below shall be in accordance with Schedule 17.37.030C.
 1. The parcel is located within the planning area of the Town Center Specific Plan (as amended).
 2. The project involves new construction and/or addition(s) of retail, restaurant, service, or office uses.
 3. The City Council accepts an offer of a public parking easement from the property owner. The public parking easement allows the general public to park in the off-street parking facility when any business establishment operating on the property is not open for business.
- C. Waiver Period. In order to encourage development of retail, restaurant, office, and personal service uses in the Town Center before June 30, 2022, a waiver period extending through June 30, 2022 is established during which the number of off-street parking and loading spaces required for projects meeting all of the criteria listed in subsections 1-4 below is reduced in accordance with Schedule 17.37.030.D. (Ord. 446)(Ord 462)(Ord 488;2019).
 1. The parcel is located within the planning area of the Town Center Specific Plan (as amended).

2. The project involves construction, establishment, and/or addition(s) of retail, restaurant, office, or personal services uses.
 3. A building permit (if required) for the project has been issued within two (2) years of project approval. Construction and a final building permit inspection are completed within one (1) year of the issuance of the building permit. These time periods may be extended once up to six (6) months by the Planning Commission upon a showing of good cause (Ord. 428).
 4. City Council approval is granted for any individual project in which the requirement for more than seventy-five (75) parking spaces is waived.
- D. Monitoring of Spaces During Waiver Period. The Director shall monitor the amount of retail, restaurant, office, and personal service development within the planning area of the Town Center Specific Plan (as amended) during the waiver period. The Director shall determine the number of parking spaces which would have been required in accordance with Schedule 17.37.030A. Upon determining that new retail, restaurant, office, and personal service development has occurred or has been proposed, or other reductions in parking space requirements have been granted for which the aggregate number exceeds 200 reduced spaces, a report shall be presented to the Planning Commission. The Planning Commission shall review the report and make any appropriate recommendations for consideration by the City Council. This report shall include an assessment of the existing parking conditions in the planning area of the Town Center Specific Plan with respect to the availability of public parking, patterns of utilization, and parking needs of future commercial development in Town Center.
- E. Director Determination. Where the proposed use classification is not specified herein, the Director shall determine the probable use and the number of parking and loading spaces required. In order to make this determination, the Director may require the submission of survey or other data from the applicant or have data collected at the applicant's expense.

**SCHEDULE 17.37.030A
OFF-STREET PARKING SPACE REQUIREMENTS**

Use Classification	Required Off-Street Parking Spaces
Residential	
Single-Family Dwelling	4 per unit (2 must be fully-enclosed and 2 may be tandem).
Small Lot (<4,000 sq. ft. net lot area, Multifamily General Plan designation)	2 per unit (2 must be fully-enclosed and 1 may be tandem). 0.5 per guest parking per unit.
Duplex Dwelling	2 per unit (1 must be covered and 1 may be tandem). 0.5 guest parking per unit.
Multiple-Family Dwelling	
Studio	1 per unit (covered).
1 Bedroom	1.5 per unit (1 must be covered).
2+ Bedroom	2 per unit (1 must be covered).
Guest Parking	0.5 per unit.
Accessory Dwelling Unit	See Section 17.47.060.G
Group Residential	1 per sleeping room plus 1 per 100 sq. ft. used for assembly purposes or common sleeping areas.
Commercial – Retail	
Building / Garden / Pool Supplies and Sales	1 per 500 sq. ft. of floor area.
Food / Beverage Sales	1 per 250 sq. ft.
Furniture, Appliance, & Household Equipment Sales	1 per 500 sq. ft.
Restaurant and/or Bar:	
On-Site Eating and/or Drinking	Greater of 1 per 75 sq. ft. or 1 per 3 seats.
Take-Out Service	1 per 150 sq. ft.; plus queue space for 5 cars for drive-up service.
Combination On-Site / Take-Out Service	1 per 400 sq. ft. behind counter, plus greater of 1 per 75 sq. ft. in front of counter or 1 per 3 seats.
Entertainment or Dancing	1 per 50 sq. ft of public assembly area.
Outdoor Seating	No additional spaces for the first 12 seats; 1 additional space per 3 seats for more than 12 seats.
Retail Sales (not listed under another Use Classification)	1 per 250 sq. ft.

**SCHEDULE 17.37.030A
OFF-STREET PARKING SPACE REQUIREMENTS**

Use Classification	Required Off-Street Parking Spaces
Commercial – Services	
Animal Services (Grooming, Hospital, Boarding)	1 per 400 sq. ft.
Automotive Services: Repairs Rentals Service Stations Vehicle Storage Washing / Detailing	4 per service bay. 1 per 400 sq. ft. plus 2 storage spaces. 3 per service bay plus 1 per each employee. 1 per 500 sq. ft. 1 per 200 sq. ft. of office / lounge area; plus queue for 5 cars.
Catering Services	1 per 400 sq. ft.
Dry Cleaning Services	2 plus 1 per employee
Maintenance and Repair Services	1 per 400 sq. ft.; plus 1 per 500 sq. ft. of outdoor storage area.
Personal Services (Barber, Beauty Shop)	1 per 250 sq. ft.
Commercial – Office	
Offices: Business and Professional Medical and Dental Financial Services	1 per 250 sq. ft. 1 per 250 sq. ft. 1 per 250 sq. ft. plus 1.5 spaces per ATM.
Commercial – Other	
Mini-Storage	3 for customer parking at office.
Recreation Facilities: Video Arcades Dance / Music Studio Fitness Studio Other Facilities Tennis/Racquetball Theaters	1 per 400 sq. ft. 1 per 600 sq. ft. 1 per 250 sq. ft. As specified by approving body. 4 per court. 1 per 3 fixed seats, or 1 per 50 sq. ft. of assembly area if seats are not fixed.
Visitor Accommodations: Bed and Breakfast Inns	1 per guest room, in addition to spaces for the primary residential use.

**SCHEDULE 17.37.030A
OFF-STREET PARKING SPACE REQUIREMENTS**

Use Classification	Required Off-Street Parking Spaces
Hotels / Motels	1 per guest room plus 2 spaces for guest registration plus 1 per 50 sq. ft. banquet seating area.
Care Facilities	
Congregate Care / Convalescent Facilities	0.5 per sleeping room or as specified by use permit.
Day Care Family Day Care – Small Family Day Care – Large Day Care Center	No spaces. See Section 17.45.030.B.7. 1 per employee, plus 1 for first 5 children, plus 1 for each additional 10 children thereafter.
Emergency Shelter	As specified by <u>Section 17.36.082.</u>
Residential Care Homes	1 per 3 beds (or as specified by use permit) plus spaces for the primary residential use.
Public and Quasi-Public Facilities	
Clubs and Lodges	1 per 50 sq. ft. used for assembly purposes.
Emergency Medical Facilities	1 per 200 sq. ft.
Government Offices	1 per 250 sq. ft. or as specified by use permit.
Museums, Libraries, Cultural Facilities, Community Centers	1 per 300 sq. ft. or as specified by use permit.
Public Park and Recreation Facilities	As specified by use permit.
Public Safety, Service, and Maintenance Facilities	As specified by site plan review permit or use permit.
Religious Assembly	1 per 3 fixed seats (20” of bench equals 1 seat) or 1 per 50 sq. ft. of assembly area if seats are not fixed.
Schools, Public or Private	1 for each employee; plus 1 for every 100 sq. ft. of classroom.
Utility Facilities	As specified by use permit.

(Ord. 499, 2023, Ord. 408, 2007; Ord. 410, 2007)

SCHEDULE 17.37.030B OFF-STREET LOADING SPACES REQUIRED	
Gross Floor Area (Sq. Ft.)	Off-Street Loading Spaces / Size (Width x Length x Vertical Clearance)
Less than 10,000	0
10,000 to 50,000	1 Space (10 ft. x 35 ft. x 14 ft.)
Over 50,000	2 Spaces (12 ft. x 45 ft. x 14 ft.)

SCHEDULE 17.37.030C OFF-STREET PARKING SPACES REQUIRED WITH PUBLIC PARKING EASEMENT	
Use Classification	Required Off-Street Parking Spaces
Retail Sales – 1 st and/or 2 nd Floor	1 per 400 sq. ft.
Restaurant and/or Bar – 1 st and/or 2 nd Floor On-Site Eating and/or Drinking Entertainment or Dancing	Greater of 1 per 125 sq. ft. or 1 per 5 seats. 1 per 75 sq. ft of public assembly area.
Office – 2 nd Floor	1 per 350 sq. ft.
Commercial Services– 2 nd Floor	1 per 350 sq. ft.

SCHEDULE 17.37.030D REDUCTION OF REQUIRED PARKING AND LOADING SPACES DURING WAIVER PERIOD		
Parcel Area*	Use Classification	Reduction
≤ 10,000 sq ft	Retail Sales / Restaurant – 1 st and/or 2 nd Floor	100%
	Office or Personal Services – 2 nd Floor	100%
> 10,000 sq ft	Retail Sales / Restaurant – 1 st and/or 2 nd Floor	75%
	Office or Personal Services – 2 nd Floor	25%

* Parcel Area is that shown on the Assessor’s Maps of the Contra Costa County Assessor’s Office as of January 1, 2007 (termed “Original Parcels”). Development projects located on parcels created by any subsequent division of the Original Parcels must comply with the requirements applicable to the parcel areas of the Original Parcels.

17.37.040 Bicycle Parking.

Bicycle parking spaces shall be provided as required by this section. Bicycle parking shall be in addition to the automobile parking spaces.

A. Number of Spaces Required.

1. Commercial and Public/Quasi-Public Use Classifications: One plus ten (10) percent of the requirement for automobile parking spaces, or as required by the Planning Commission.
2. The bicycle parking requirements may be reduced or waived by the approving body pursuant to the approval of a site plan review permit or development plan permit upon the finding that:
 - a. The configuration of the parking lot, and/or the location of the building preclude a feasible location for bicycle parking; or
 - b. That the pedestrian circulation would be significantly disrupted by the addition of required bicycle parking; or
 - c. The provision of bicycle parking spaces can be provided collectively in an off-site location that is within close proximity, not to exceed a walking distance of 200 feet. A written agreement exists between the property owner(s) conforming with the requirements of subsection 17.37.020.F.

B. Bicycle Parking Design Requirements. For each bicycle parking space required, a stationary object shall be provided to which a user can secure both wheels and the frame of a bicycle with a six-foot cable and lock. The stationary object may be either a freestanding bicycle rack or a wall-mounted bracket. Bicycle parking shall be provided in a manner which does not interfere with pedestrian or vehicular circulation, yet is located in such a manner which encourages the use of bicycles by being convenient to the entry to the building or facility. Such parking may be located on the public right-of-way subject to issuance of an encroachment permit.

17.37.050 Accessible Parking Spaces.

All parking facilities shall comply with state requirements regarding parking for disabled persons, as per Chapters 11A and 11B of the California Building Code.

17.37.060 Reciprocal Parking Facilities.

A reciprocal parking facility is a common off-street parking facility shared by two (2) or more uses which have peak demands for parking which do not overlap in time. The total number of off-street parking spaces required for a project or use using a reciprocal parking facility may be reduced upon the granting of a use permit in accordance with the provisions of Chapter 17.60 and confirmation of all of the following findings:

- A. The spaces to be provided will be available as long as the uses requiring the spaces are in operation;

- B. The peak hours of parking demand from all uses do not coincide and the number of spaces to be provided is adequate to accommodate the peak demand for parking at all times;
- C. The adequacy of the quantity and efficiency of parking provided will equal or exceed the level that can be expected if collective parking is not provided; and
- D. A written agreement exists between the property owner(s) and the City which is satisfactory to the City Attorney and includes:
 - 1. A provision that there will be no substantial alteration in the uses that will create a greater demand for parking;
 - 2. A provision which allows for access to and use of the reciprocal parking facilities by the employees and customers of the subject uses;
 - 3. A provision that the City may require parking facilities in addition to those originally approved upon a finding by the Planning Commission that adequate parking to serve the use(s) has not been provided;
 - 4. A provision that the agreement will be recorded in the county recorder's office upon issuance of the use permit.
 - 5. No use shall be continued if the number of required parking spaces is diminished unless substitute parking facilities are provided prior to the change.

An applicant for a use permit for a reciprocal parking facility may be required to submit survey data substantiating a request for reduced parking requirements. Alternatively the Director may have survey data collected at the applicant's expense. A use permit for a reciprocal parking facility shall describe the limits of any area subject to the reduced parking requirements and the reduction applicable to each use.

17.37.070 In-Lieu Parking Fees.

At the discretion of the City, all or a portion of the required off-street parking requirements for a commercial use within the planning area of the Town Center Specific Plan (as amended) may be met by payment of in-lieu parking fees to the City in an amount determined in accordance with then existing law. In-lieu parking fees shall be as established by resolution of the City Council and may be amended from time to time. Any in-lieu parking fees due to the City shall be paid prior to issuance of a land use entitlement or a building permit, whichever occurs later. In-lieu parking fees collected by the City shall be used for the provision and maintenance of public parking spaces in the Town Center.

17.37.080 Parking Space Design Standards.

A. Parking Space Dimensions. Required parking spaces shall have the following minimum dimensions:

Type of Space	Size of Space (Width x Length in Feet)
Standard	9 x 19
Compact	8 x 16
Parallel	9 x 23

B. Standard and Compact Spaces. For residential uses, all required resident spaces and at least 90 percent of the required guest spaces shall be standard spaces. For non-residential uses, at least 90 percent of the required spaces shall be standard spaces. Compact spaces shall be clearly marked. The approving body may allow a smaller percentage of standard spaces upon a determination that special circumstances applicable to the subject property due to its size, shape, topography, location or surroundings preclude the owner from providing at least 90 percent standard spaces.

C. Garages. A new garage or alteration to an existing garage serving a single-family dwelling shall conform to the following minimum dimensions:

1. Single-car garage: 10 feet by 20 feet (nine-foot wide door opening).
2. Double-car garage: 20 feet by 20 feet (16-foot wide door opening).

No interior door shall open into a garage space unless the door will fully open without encroaching into the above specified areas. A pre-existing garage that does not meet these dimensional requirements is not deemed a non-conforming use solely because of this non-conformity.

D. Spaces Adjacent to Obstructions. Each parking space bordered on the side by a wall, column, or other obstruction higher than 0.5 feet shall be increased by two (2) feet on each obstructed side. Columns shall not encroach into parking spaces, nor shall they be located within two (2) feet of an aisle when adjacent to a parking space. If a column is located adjacent to the first three (3) feet of a parking space or is between two (2) and four (4) feet from the aisle end of a parking space, the additional two (2) foot width is not required.

E. Vertical clearance. Vertical clearance for parking spaces shall be seven (7) feet, and the front five (5) feet of a parking space serving a residential use may be reduced to four and one-half (4.5) feet.

F. Wheel stops. All spaces shall have curbs or permanently-anchored wheel stops three (3) feet from a fence, wall, or walkway. When a parking space abuts a landscaped planter less than six (6) inches high, the front two (2) feet of the required length for a parking space may extend into the planter. This standard is not applicable to single-family dwellings.

G. Cross Slopes. No parking space shall have a cross slope greater than four (4) percent.

17.37.090 Parking Lot Design Standards.

- A. Location. No portion of a parking lot or parking space shall be located in a required setback, with the following exceptions.
1. Single-Family Dwellings. Parking spaces on paved driveways up to twenty-seven (27) feet in width or circular driveways with a second curb cut may be located in the setbacks of a parcel occupied by a single-family dwelling, provided that at least seventy-five (75) percent of the balance of the front and exterior side setback is landscaped.
 2. Duplexes and Multiple-Family Dwellings. Parking spaces may be located in interior side or rear setbacks of a parcel occupied by a duplex or multiple-family dwelling.
 3. Driveways. Driveways may be located in a setback.
- B. Parking Angle and Aisle Dimensions. Dimensions of required off-street parking spaces and aisles shall be as listed below. The minimum aisle width may be reduced, subject to review by the City Engineer. The aisle width exceptions shall only be allowed where the decrease will not create a hazardous traffic condition, and where the reduction is necessary to provide for additional parking where existing parking does not meet current standards.

Parking Angle	Space Width	Space Depth	Curb Length	Aisle Width
0° (Parallel)	9'	--	23'	12'
30°	9'	17'3"	18'	11'6"
45°	9'	19'9"	12'9"	13'6"
60°	9'	21"	10'6"	18'9"
90°	9'	19'	9'	25'

C. Parking Lot Circulation.

1. All spaces in a parking lot shall be accessible without re-entering a public right-of-way unless it is physically impossible to provide for such access. No backing into streets is permitted except for a detached single-family dwelling or a duplex dwelling where each unit is served by an individual driveway.
2. Each day care center or private school located in a residential district, shall include a drop-off area that may be adjacent to a primary access or aisle.

D. Driveways.

1. Location. Driveways shall be designed and located in such a manner as to ensure proper visibility to on-street traffic. A new driveway serving a single-family dwelling shall not be placed on an arterial street unless other alternatives are not available.
2. Visibility. Visibility at driveway entrances shall be clear of any obstacles such as signs, landscaping and structures. (See Chapter 17.36 for fencing standards at driveways.)
3. Joint Use of Driveways. For non-residential uses, joint use of driveways with adjacent properties may be required to reduce the total number of driveways along streets, enhance

pedestrian travel, minimize loss of on-street parking, improve the flow of traffic, and lower the accident potential.

4. Driveway Widths.

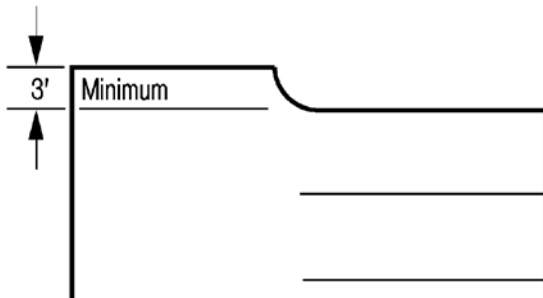
Driveways to any parking area shall have the following minimum widths, plus a minimum of one (1) foot additional clearance on each side of a vertical obstruction exceeding 0.5 foot in height.

Minimum Driveway Widths		
Use	One Way	Two Way
One single family dwelling	10 Feet	10 Feet
Two single family dwellings	10 Feet	16 Feet
All other uses	12 Feet.	20 Feet.

The City Engineer or Fire Protection District may require driveways in excess of the above widths where unusual traffic, grade, or site conditions prevail. The City Engineer also may approve narrower driveways to accommodate pre-existing conditions and allow for adaptive reuse of older buildings.

5. Curb Returns. The City Engineer may require driveways to be constructed with full curb returns and handicapped ramps as opposed to a simple curb depression.

E. Parking Space Access. Parking spaces must be designed and maintained in a manner that an automobile may enter every space with no backup movements and exit the space with one continuous backup movement. In order to provide an adequate area for backup maneuvers at the end of a parking lot with four (4) or more parking spaces, an aisle or driveway providing access to the end parking space shall extend at least three (3) feet beyond the required width of the parking space, or the aisle or driveway shall have a minimum width of thirty (30) feet.



Parking Space Access

(This diagram is for illustration purposes only and has not been adopted as part of the Zoning Ordinance.)

F. Screening. A parking lot or carport with five (5) or more required spaces shall comply with the requirements of subsections 1 and 2 below. The Director may require a higher fence and a landscaped berm, where the off-street parking facility would have an adverse impact on an adjacent use due to a high turnover of spaces or noise due to the location of service vehicle access and loading space(s).

1. The parking facility shall be screened from an adjoining residential district by a solid wood fence or masonry wall six (6) feet in height (or seven (7) feet in height, as allowed by the fencing regulations in Section 17.36.075), except that the height of a fence or wall adjoining a front setback in a residential district shall not exceed thirty (30) inches within ten (10) feet of the front property line.
 2. If the parking facility abuts a street separating the parking facility from a residential district, the parking facility shall be screened from the residential district by a fence or landscaped berm (not steeper than a 4:1 slope) not less than thirty-six (36) inches in height above the parking surface. The interior slope of the berm may be eliminated by use of a retaining wall on the parking facility side of the berm.
- G. Lighting. Outdoor parking lot lighting shall not employ a light source higher than ten (10) feet in residential districts or fifteen (15) feet in non-residential districts; shall create no cone of direct illumination greater than 60 degrees from a light source higher than six (6) feet, and shall not directly shine onto an adjacent street or property. Illumination at ground level shall not exceed three footcandles in a non-residential district or 0.5 footcandles in a residential district. Additional illumination for safety purposes may be required by the approving body.
- H. Landscaping. New or re-configured parking lots with more than five (5) spaces must provide planting areas in accordance with the following standards. This standard is not applicable to single-family dwellings.
1. Perimeter planting areas along public right-of-ways and interior property lines must be provided. At least one tree (minimum 24" box) must be provided per 150 square feet of perimeter planting area.
 2. Internal planting areas equal to at least ten (10) percent of the total parking lot must be provided in parking lots greater than 6,000 square feet.
 3. Planting areas must have a minimum area of twenty-five (25) square feet and a minimum width of five (5) feet, exclusive of curbs.
 4. The end of each row of parking spaces must be separated from driveways and aisles by a planting area, sidewalk, or other means.
 5. A minimum of one tree (minimum 24" box) for every three parking spaces must be distributed evenly throughout the parking lot. Trees provided pursuant to subsection 1, above shall be credited toward this standard.
 6. Planting areas located adjacent to parking spaces, aisles, driveways, or loading areas must be protected with concrete curbs or wheel stops. Alternative treatments may be considered, subject to the approval of the approving body.
 7. Permanent and automatic irrigation systems must be provided for all planted areas.
 8. The property owner must enter into a written landscaping and maintenance agreement with the City, in a form satisfactory to the City Attorney.
 9. Innovative landscape designs may be substituted for the above standards, subject to the approval of the approving body.

- I. Drainage. Surface water shall be discharged to natural or engineered off-site drainage facilities and may not drain off or across public or private sidewalks, pedestrian walkways, or areas not designed as drainage facilities. Stormwater drainage and treatment facilities shall be provided in accordance with the stormwater management requirements of Chapter 13.12 and all applicable federal and state laws.
- J. Paving. Driveways, aisles, and parking spaces shall be paved with concrete or asphaltic concrete, subject to the approval of the City Engineer, so as to provide a durable and dust-free surface. Driveways and parking spaces serving single-family dwellings may also be paved with water-pervious surfacing material, subject to the approval of the City Engineer.
- K. Striping, Signs, Marking, and Curb Painting. All parking and loading spaces shall be striped. Double-striping of parking spaces is encouraged and may be required by the City Engineer based upon site conditions such as “high turnover” spaces or restricted maneuvering space. Driveways and aisles shall be marked and maintained with directional arrows and striping to expedite traffic movements. Any area not intended for parking shall be signed as such, or in areas where a curb exists, the curb may be painted red in lieu of signs. All striping, signs, markings, and curb painting shall be in conformance with applicable City standards. All striping and markings shall be applied with a minimum of two coats of material. It shall be the responsibility of the property owner to ensure that all striping, signs, markings, and curb paintings are maintained in a legible condition. The striping, sign, marking, and curb painting standards are not applicable to single family or duplex dwellings, unless necessary for safety purposes as determined by the City Engineer. This standard is not applicable to single-family dwellings.
- L. Sales or Storage. A parking lot may not be used for automobile sales, storage, repair work, dismantling, or outdoor open sales displays, except as authorized by a temporary use permit issued in accordance with Chapter 17.70.
- M. Reserved Spaces Prohibited. Parking spaces shall not be reserved for tenants or customers of individual businesses. Notwithstanding this provision, parking spaces may be reserved for tenants in residential uses.

17.37.100 Loading Space Design Standards.

Required off-street loading spaces shall be on the site of the use served or on an adjoining site. Required loading spaces must have adequate driveways and shall at all times have access to a public street. Required loading spaces shall be accessible without backing a truck across a public right-of-way line unless the approval body determines that provision of turnaround space is infeasible and approves alternative access. An occupied loading space shall not prevent access to a required off-street parking space. A loading space shall not be located in a required front or exterior side setback.

Except in the Town Center, a loading space visible from a street shall be screened by a building or solid fence at least six (6) feet in height. (Ord. 408, 2007)

Chapter 17.44

SITE PLAN REVIEW

Section:

17.44.010	Purpose
17.44.020	Site Plan Review Permit Required
17.44.030	Exemptions
17.44.040	Standards of Review

17.44.010 Purpose. The purpose of the Site Plan Review is to ensure that the design of all new development is compatible with Clayton's character and that the design and location of new development does not impose significant negative impacts on neighboring property owners and/or occupants. To achieve this purpose, the community's character and any specific neighborhood impacts shall be balanced with an owner's right to develop property. (Ord. 311, 1994; Ord 325, 1996)

17.44.020 Site Plan Review Permit Required. A Site Plan Review Permit shall be required in any zoning District for the design of all new development within the City (new construction, remodeling, additions, etc.) that meets any of the following criteria:

- A. Construction, whether to a single-story or a multi-story single-family residence (enclosed or unenclosed) over 16 feet in height except for an extension of an existing single-story roofline (Ord. 421, 2009).
- B. Construction (enclosed or unenclosed) encompassing an area greater than 750 square feet;
- C. Construction (enclosed or unenclosed) proposed on a front and/or exterior side elevation measuring over 12 feet in height or encompassing an area of 500 square feet or greater;
- D. Construction over four (4) feet in height (other than fences) encompassing an area of ten (10) square feet or greater located within the upper two-thirds of a slope which exceeds either:
 - 1. A grade equal to or greater than 1 foot vertical to 4 feet horizontal, or
 - 2. A grade change greater than ten (10) feet; (Ord. 375, 2004)
- E. Any balcony, deck, or other similar structure, whose floor elevation is over 4 feet in height from the underlying grade encompassing an area of 10 square feet or greater;
- F. Retaining walls needing a building permit and observable from public streets and/or sidewalks;
- G. Construction that, in the judgment of the Community Development Director, does not comply with the purpose of this Chapter as stated above or with the standards of review as stated herein. (Ord. 311, 1994, Ord. 375, 2004, Ord. 325, 1996, Ord. 419, Ord. 421, 2009)”

17.44.030 Exemptions. Any new development meeting one of the following characteristics shall be exempt from a Site Plan Review Permit. Such exempt development may directly apply for a building permit which is administratively reviewed by staff.

- A. Construction not meeting one of the criteria listed above;
- B. Construction receiving specific design authorization pursuant to an approved:
 - 1. Development Plan Permit;
 - 2. Vesting Tentative Map;

3. Development Agreement. (Ord. 311, 1994)

C. Type 1 and Type 2 accessory dwelling units and junior accessory dwelling units ministerially approved in accordance with Section 17.47; provided, that Type 2 accessory dwelling units shall also require an ADU Permit in accordance with the requirement of Chapter 17.47. (Ord. 499, 2023, Ord 325, 1996; Ord 373, 2004)

17.44.040 Standards of Review. The factors to be reviewed by the Planning Commission (or City Council upon appeal) shall include, but are not limited to:

A. Conformity with the General Plan and any applicable Specific Plan (e.g. Town Center, Marsh Creek Road).

B. Conformity with any applicable City adopted architectural and/or design standards (e.g. Oakhurst Country Club, Oakwood Subdivision, Clayton Station).

C. Preservation of general safety (e.g. seismic, landslide, flooding, fire, traffic).

D. Maintenance of solar rights to adjacent properties.

E. The reasonable maintenance of the privacy of adjacent property owners and/or occupants.

F. The reasonable maintenance of existing views of adjacent property owners and/or occupants.

G. The new development, taken as a whole, need not be identical, but should be complementary with the adjacent existing structures in terms of materials, colors, size, and bulk. (Ord. 325, 1996; Ord. 311, 1994, Ord 325, 1996)

H. Design standards for manufactured homes shall be in accordance with Section 17.36.078 of the Municipal Code (Ord. 425, 2009).

Chapter 17.47 Accessory Dwelling Units

Sections

17.47.005	Purpose
17.47.010	Effort of Conforming
17.47.020	Definitions
17.47.030	Permits Required
17.47.040	Process and Timing
17.47.050	General ADU and JADU Requirements
17.47.060	Development Standards
17.47.070	Fees
17.47.080	Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures
17.47.090	Nonconforming ADUs and Discretionary Approval

17.47.005 - Purpose.

The purpose of this chapter is to allow, regulate and establish procedures for permitting of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code sections 65852.2 and 65852.22.

17.47.010 - Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will not be:

A. Deemed to be inconsistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered in the application of any local ordinance, policy, or program to limit residential growth.

D. Required to correct a nonconforming zoning condition, as defined in subsection G of section 17.47.020. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

17.47.020 - Definitions.

As used in this chapter, terms are defined as follows:

A. "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 residence. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined by section 17958.1 of the California Health and Safety Code; and

2. A manufactured home, as defined by section 18007 of the California Health and Safety Code.

B. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

C. "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.

D. "Efficiency kitchen" means a kitchen that includes all of the following:

1. A cooking facility with appliances.

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

E. "Junior accessory dwelling unit" or "JADU" means a residential unit that satisfies all of the following:

1. It is no more than 500 square feet in size.

2. It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.

3. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.

4. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.

5. It includes an efficiency kitchen, as defined in subsection D above.

F. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

G. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

H. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

I. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

J. "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.

K. "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.

17.47.030 – Permits Required.

The following permitting requirements apply to ADUs and JADUs under this chapter:

A. Type 1 ADU - Building Permit Only. If an ADU or JADU complies with each of the general requirements in section 17.47.050, it is allowed with only a building permit in the following scenarios:

1. Converted on Single-family Lot. One ADU as described in this subsection A.1 and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or, in the case of an ADU only, within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

b. Has exterior access that is independent of that for the single-family dwelling; and

c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes; and

d. The JADU complies with the requirements of California Government Code section 65852.22.

2. 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 A.1 above), if the detached ADU satisfies each of the following limitations:

a. The side- and rear-yard setbacks are at least 4 feet.

b. The total floor area is 800 square feet or smaller.

c. The peak height above grade does not exceed the applicable height limit in subsection B of section 17.47.050.

3. 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 dwellings. Under this subsection A.3, at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies both of the following limitations:

a. The side- and rear-yard setbacks are at least 4 feet. If the existing multifamily dwelling has a rear or side yard setback of less than 4 feet, then the Director shall not require any modification to the multifamily dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in subsection B of section 17.47.050.

B. Type 2 ADU - Administrative ADU Permit Required. An ADU that does not qualify as a Type 1 ADU (as set forth in subsection A above) may be constructed with Director approval of a building permit and an ADU Permit in compliance with the standards set forth in sections 17.47.050 and 17.47.060. An application for an ADU Permit shall be submitted on a form prescribed by the Community Development Department and be accompanied by any ADU Permit application processing fee established by City Council resolution.

17.47.040 – Process and Timing.

A. Applications for Type 1 and Type 2 ADUs (under subsections A and B of section 17.47.030, respectively) will be considered and approved ministerially, without discretionary review or a hearing.

B. The Director must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the Director has not approved or denied the completed application within 60 days, the application is deemed approved unless either of the following occurs:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the Director may delay acting on the permit application for the ADU or JADU until the Director approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

C. If the Director denies an application to create an ADU or JADU, the Director must provide the applicant with a full set of comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. The Director must provide the applicant with the notice of the denial and the corresponding comments within the 60-day time period established by subsection B above.

D. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

17.47.050 – General ADU and JADU Requirements.

The following requirements apply to all Type 1 and Type 2 ADUs and JADUs that are approved under section 17.47.030:

A. Zoning.

1. A Type 1 ADU or JADU subject only to a building permit under subsection A of section 17.47.030 may be created on a lot in a residential or mixed-use district.

2. A Type 2 ADU or JADU subject to an ADU permit under subsection B of section 17.47.030 may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

B. Height.

1. Except as otherwise provided by subsections B.2 and B.3 below, a detached ADU created on a lot with an existing or proposed single-family or multifamily dwelling unit may not exceed 16 feet in height.

2. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half 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, and the ADU may be to 2 additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

3. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

4. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the

foregoing, ADUs subject to this subsection B.4 may not exceed two stories.

5. For purposes of this subsection B, height is measured above existing legal grade to the peak of the structure.

C. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. The construction of an ADU does not trigger the requirement for fire sprinklers to be installed in the existing primary dwelling.

D. Rental Term. No Type 1 ADU or JADU may be rented for a term that is shorter than 30 days.

E. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 65852.26, 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).

F. Septic System. If the ADU or JADU will connect to an onsite wastewater 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 10 years.

G. Owner Occupancy.

1. Owner occupancy is not required on a property on which an ADU has been created.
2. As required by state law, properties on which a JADU has been created are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement in this subsection G.2 does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

H. Deed Restriction. Prior to final inspection for occupancy of 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 Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the Director and must provide that:

1. Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
2. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
3. The deed restriction runs with the land and may be enforced against future property owners.
4. 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 of the Director, 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.
5. The deed restriction is enforceable by the Director 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.

I. Income Reporting. 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, with the building permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU. Notwithstanding the foregoing, the requirements of this subsection shall only apply to properties for which the ADU or JADU is being built to satisfy affordable inclusionary housing requirements of a development or is subject to an affordable housing agreement between the City and the property owner.

J. Building & Safety.

1. Compliance with building code. Subject to subsection J.2 below, all ADUs and JADUs must comply with all local building code requirements.

2. No change of occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in

section 310 of the California Building Code, unless the building official or code enforcement officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection J.2 prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

17.47.060 - Development Standards. The following requirements apply only to Type 2 ADUs that require an ADU permit under subsection B of section 17.47.030.

A. Maximum Size.

1. The maximum size of a detached or attached ADU subject to this section is 1,200 square feet.

2. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.

3. Application of other development standards in this section 17.47.060, 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 A.2 above or of an FAR, lot coverage limit, minimum front yard setback or open-space requirement may require the ADU to be less than 800 square feet.

B. Floor Area Ratio (FAR). Subject to subsection A.3 above, no ADU subject to this section may cause the floor area ratio of all residential and accessory structures on a lot to exceed the maximum FAR as specified according to the following schedule:

Net Parcel Area (square feet)	Maximum FAR
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Up to 7,000	0.55
7,001 to 8,000	0.53
8,001 to 9,000	0.51
9,001 to 10,000	0.49
10,001 to 11,000	0.47
11,001 to 12,000	0.45
12,001 to 13,000	0.43
13,001 to 14,000	0.41
14,001 to 15,000	0.39
15,001 to 16,000	0.37
Over 16,000	0.35

C. Setbacks.

1. An ADU that is subject to this section must conform to the following minimum front-yard setbacks, subject to subsection A.3 above:

- a. R-10, R-12, R-15 and All Multiple Family Residential Districts: 20 feet
- b. R-20 District: 25 feet
- c. R-40 and R-40-H Districts: 40 feet

2. An ADU that is subject to this section must conform to minimum 4-foot side- and rear-yard setbacks.

3. No setback is required for an ADU that is subject to this section if the ADU is constructed in the same location and to the same dimensions as an existing structure.

D. Lot Coverage. Subject to subsection A.3 above, no ADU subject to this section may cause the total lot coverage of the lot to exceed either:

- a. 50 percent on a lot with an area less than 15,000 square feet; or
- b. 35 percent on a lot with an area of 15,000 or more square feet.

E. Minimum Open Space. No ADU subject to this section may cause the total percentage of open space of the lot to fall below 35 percent, subject to subsection A.3.

F. Passageway. No passageway, as defined by subsection H of section 17.47.020, is required for an ADU.

G. Parking.

1. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection K of section 17.47.020 above.

2. Exceptions. No parking under subsection G.1 above is required in the following situations:

a. The ADU is located within one-half mile walking distance of public transit, as defined in subsection J of section 17.47.020 above.

b. The ADU is located within an architecturally and historically significant historic district.

c. The ADU is part of the proposed or existing primary residence or an accessory structure under subsection A of section 17.47.040.

d. When on-street parking permits are required but not offered to the occupant of the ADU.

e. When there is an established car share vehicle stop located within one block of the ADU.

f. For an ADU constructed as an efficiency unit as defined by section 17958.1 of the California Health and Safety Code.

g. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot; provided, that the ADU or the lot satisfies any other criteria listed in subsections a through f, above.

3. No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces within the garage, carport, or covered parking structure are not required to be replaced.

H. Architectural Requirements.

1. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design elements of those of the primary dwelling.

2. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.

3. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.

4. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.

5. The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of 7 feet.

6. Windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.

7. All windows and doors in an ADU that are less than 30 feet from a property line that is not a public right-of-way line must either be (for windows) clerestory with the bottom of the glass at least 6 feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

I. Landscape Requirements. Evergreen landscape screening must be planted and maintained between the ADU and the side and rear lot lines of the property, as follows:

1. At least one 15-gallon size tree shall be planted for every 15 linear feet of exterior wall, or at least one 15-gallon size shrub shall be planted for every 10 linear feet of exterior wall.

2. Plant specimens must be capable of reaching a height of at least 6 feet tall at maturity.

3. Notwithstanding the foregoing, a solid fence of at least 6 feet in height may be installed in lieu of landscaping where the distance between the ADU and property line is less than 5 feet.

4. All landscaping must be low water use and drought-tolerant.

J. Historical Protections. An ADU that is on or within 300 feet of real property that is listed in the California Register of Historic Resources must do both of the following:

1. Comply with the objective ministerial standards for Preservation, Rehabilitation, Restoration, or Reconstruction in the Secretary of the Interior's Standards for the Treatment of Historic Properties, as applicable.

2. Be located so as to not be visible from any public right-of-way.

17.47.070 - Fees.

The following requirements apply to all ADUs that are approved under section 17.47.030 of this chapter.

A. Impact Fees.

1. No impact fee is required for an ADU that is less than 750 square feet in size. For purposes of this subsection A, "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. 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 ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)

B. Utility Fees.

1. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility, and payment of the normal connection fee and capacity charge for a new dwelling are required.

2. Except as described in subsection B.1 above, converted ADUs on a single-family lot that are created under subsection A.1 of section 17.47.030 are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.

3. Except as described in subsection B.1, all ADUs that are not covered by subsection B.2 require a new, separate utility connection directly between the ADU and the utility.

a. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU 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.

b. The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

17.47.080 – Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures

A. Generally. The Director will not deny an application to construct an ADU or JADU due to a nonconforming zoning condition, building code violation or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs constructed before 2018.

1. Permit to Legalize. As required by state law, the Director may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

a. The ADU violates applicable building standards; or

b. The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance (chapter 17.47).

2. Exceptions.

a. Notwithstanding subsection B.1 above, the Director may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the Director makes a finding that correcting a violation is necessary to protect the health and safety of the public or of the occupants of the structure.

b. Subsection B.1 above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

17.47.090 - Nonconforming ADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in sections 17.47.005 through 17.47.080 of this chapter may be allowed by the City with a Site Plan Review Permit, in accordance with chapter 17.44 of this title.