24-172. Accessory Dwelling Units and Junior Accessory Dwelling Units

A. Purpose. The unincorporated area of Butte County is predominantly rural and includes large areas of actively farmed agricultural land, as well as timber producing land. Only very limited areas adjacent to the City of Oroville are served by water and sewer service providers. Butte County allows second units in most zones that allow residences (see Section 24-172.2). This section establishes standards for the location and construction of accessory dwelling units and junior accessory dwelling units in conformance with Section 65852.2 and Section 65852.22 of the California Government Code, in areas provided with municipal water and sewer service. These standards are intended to allow for accessory dwelling units as an important form of affordable housing while preserving the character and integrity of residential areas within the county and maintaining public safety.

B. Permit Process:

1. A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially in the same manner as a building permit for a residence without discretionary review or a hearing, notwithstanding California Government Code Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits.

C. Location.

1. **Water and Sewer Service**. Accessory dwelling units and junior accessory dwelling units may only be permitted in areas within the boundaries of water and sewer service providers and when water and sewer service connections are available. Accessory dwelling units and junior accessory dwelling units are not allowed in areas of the county that are not served by water and sewer service providers. Second dwellings are permitted, with some exceptions, wherever residences are permitted regardless of whether an area is served by water and sewer service providers, provided there is an approved septic system and well (see Section 24-172.2, Second Units).
2. **Zones Allowing a Residential Use.** Accessory dwelling units and junior accessory dwelling units are allowed in all zones within the boundaries of water and sewer service providers that allow single-family or multi-family residential uses.
3. **Multi-Family Residential and Mixed Use Zones.**
   a. One or more accessory dwelling units and junior accessory dwelling units are allowed as internal conversions within the non-livable space of an existing multi-family structure, including but not limited to storage rooms, boiler rooms, passageways, attics, basements or garages, provided each unit complies with building code regulations. The number of internal conversions permitted within an existing multi-family structure under this section shall not exceed 25 percent of the number of existing multiple-family units within the structure.

b. Two detached accessory dwelling units area allowed on a lot with an existing multi-family structure, if: the side and rear setbacks are a minimum of four feet; the detached accessory dwelling unit does not exceed 800 square feet in size; the detached accessory dwelling unit does not exceed 16 feet in height; and, the detached accessory dwelling unit meets all applicable building code regulations.

D. Site Requirements.

1. Accessory Dwelling units and junior accessory dwelling units shall be permitted only on legally-created parcels. Accessory dwelling units and junior accessary dwelling units cannot be sold separately from the primary residence.

2. Accessory Dwelling Units and junior accessory dwelling units that conform to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

3. A local agency, special district or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit or a junior accessory dwelling unit that is less than 750 square feet. Any impact fee charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

4. Guest houses shall be excluded from the requirements of this section and shall be regulated pursuant to Section 24-156(g) (Accessory Uses and Structures).

5. Accessory dwelling units and junior accessory dwelling units that comply with all requirements of this section are permitted on a parcel containing a guest house.

E. Accessory Dwelling Unit Types and Sizes

1. **Junior Accessory Dwelling Unit:** A unit that complies with California Government Code Section 65852.22 and that is contained entirely within a proposed or existing single-family dwelling or accessory dwelling unit, but also accommodating exterior access. Junior accessory dwelling units may include separate sanitation facilities, or may share sanitation facilities within the existing structure. Existing space within the single-family dwelling may be expanded by up to 150 square feet to accommodate a junior accessory dwelling unit. Expansion outside of the single-family dwelling is limited to accommodating ingress and egress.
   a. **Size:** Shall be a minimum of 150 square feet and not exceed 500 square feet.

2. **Accessory Dwelling Unit, Detached:** An accessory dwelling unit is a secondary dwelling unit with complete independent living facilities for one or more persons. A detached accessory dwelling unit is detached from the proposed or existing primary dwelling and is located on the same lot as the primary dwelling.
   a. **Size**: Shall be a minimum of 150 square feet and not exceed 1,200 square feet.

3. **Accessory Dwelling Unit, Attached:** An accessory dwelling unit is a secondary dwelling unit with complete independent living facilities for one or more persons. An attached accessory dwelling unit is attached to a primary dwelling unit. An attached accessory dwelling unit may also occupy attached garages, storage areas, or similar spaces.
   a. **Size:** Shall be a minimum of 150 square feet and not exceed 50 percent of the floor area of the primary dwelling or structure.

F. Maximum Number Permitted.

1. For existing or proposed primary dwellings, one accessory dwelling unit or one junior accessory dwelling unit is allowed per parcel within the proposed space of the primary single family dwelling.
2. One detached, new construction, accessory dwelling unit is allowed per parcel, which may include a junior accessory dwelling unit, but no more than 3 units per parcel is allowed (i.e., one primary dwelling, one detached accessory dwelling, and one junior accessory dwelling unit). For multi-family and mixed-use zones, see section 24-172. (C)(3).
3. Accessory dwelling units are not allowed on parcels subject to Williamson Act contracts.
4. Agricultural Worker Housing approved by the State of California and Butte County shall not be considered an accessory dwelling unit or counted as a primary dwelling unit under this section.

G. Relationship to Primary Dwelling.

1. An accessory dwelling unit may be within, attached to, or detached from the primary dwelling. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.
2. An accessory dwelling unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
4. Junior accessory dwelling units must be within the primary dwelling and may include separate sanitation facilities, or may share sanitation facilities within the existing structure. Existing space within the single-family dwelling may be expanded by up to 150 square feet to accommodate a junior accessory dwelling unit. Expansion outside of the single-family dwelling is limited to 150 square feet and to accommodate ingress and egress.

H. Development Standards.

1. **Setbacks.** The following setbacks are applicable for all accessory dwelling units:
   a. An existing structure may be converted into an accessory dwelling unit or junior accessory dwelling unit without a setback. If the existing structure requires an

expansion of 150 square feet or less to accommodate an accessory dwelling unit or junior accessory dwelling unit, the setback shall be no less than 4 feet from side and rear property lines, or as otherwise required to provide for fire safety.

b. If the parcel cannot accommodate the setback imposed by the applicable zone, the setback maybe no less than 4 feet from side and rear property lines for new accessory dwelling units not developed within or converted from an existing structure.

2. **Height.** Height shall be the same as a primary dwelling as allowed under the zone, unless otherwise indicated under this chapter.

3. **Parking.** The following parking standards are applicable for all accessory dwelling units:
   a. A maximum of 1 space shall be provided per bedroom or per accessory dwelling unit, whichever is less.
   b. Tandem parking (i.e., when two or more vehicles are parked on a driveway or in any other location on a lot, lined up behind one another) within an existing driveway, and within setbacks is allowed unless specific site conditions and topography make tandem parking infeasible.
   c. No replacement parking is required for the conversion of an existing parking area such as a garage, carport or covered parking structure into an accessory dwelling unit.
   d. No parking shall be required for accessory dwelling units if any one of the following applies:
      1. The accessory dwelling unit is within one-half mile walking distance of public transit, including transit stops.
      2. The accessory dwelling unit is located on a site of historic significance.
      3. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

4. **Fire Hazard Reduction and Defensible Space Regulation.**
   a. **State Responsibility Area.** Accessory dwelling units or junior accessory dwelling units built within the State Responsibility Area (SRA) are required to comply with the defensible space regulation in California Code of Regulations Title 14. Natural Resources Division 1.5 Department of Forestry and Fire Protection Chapter 7. Fire Protection, subchapter 2, SRA Fire Safe Regulation (1276.01 Setbacks for structure defensible Space) and sub chapter 3 Fire Hazard, Article 3 (Fire Hazard reduction around building and Structures).

   b. **Fire Sprinklers.** Fire sprinklers shall not be required in an attached accessory dwelling unit or junior accessory dwelling unit unless they are required in the primary residence. Fire sprinklers shall be required in detached accessory dwelling units as per the Building Code.

c. **Drainage Improvements:** Construction of the accessory dwelling unit may require drainage improvements that are customary for a building permit. The extent and timing of the improvements shall be determined by the Department of Public Works and shall conform to the technical standards and specifications for drainage improvements as adopted by the Board of Supervisors.

5. **Rental Term**: Accessory dwelling units and junior accessory dwelling units shall be not be rented or offered for rent for a term of 30 days or less.

I. Deed Restrictions. Before obtaining a permit authorizing the establishment of an accessory dwelling unit or junior accessory dwelling unit, the applicant shall do the following:

a. Enter into an agreement of restrictions with the county that refers to the deed under which the property was acquired by the applicant and provides the following:
    1. The accessory dwelling unit or junior accessory dwelling unit shall not be sold separately.
    2. The accessory dwelling unit or junior accessory dwelling unit is restricted to the minimum and maximum size allowed under the permit.
    3. For accessory dwelling units located within the space of an existing or proposed primary dwelling, and junior accessory dwelling units Short-Term Rentals (30 days or less) are not allowed.
    4. The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action by the county against the property owner.

b. Record the agreement with the county recorder.

c. Prepare a disclosure statement that shall be included in any future offer or sale documents. The statement shall read as follows:

"You are purchasing a property with a permit for an (junior) accessory dwelling unit. This permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited from selling the (junior) accessory dwelling unit separately. The (junior) accessory dwelling unit is restricted to the maximum size allowed under the permit. The (junior) accessory dwelling unit may not be rented or offered for rent for a term of 30 days or less. The permit is available from the current owner or from or from the Butte County Department of Development Services."