

CITY OF BERKELEY LAND USE PLANNING

ADU INFORMATION

FOR LOTS IN ALL DISTRICTS THAT PERMIT RESIDENTIAL USE

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GENERAL INFORMATION

An **Accessory Dwelling Unit (ADU)** is an attached or detached secondary dwelling unit that contains permanent places for living, sleeping, and cooking. The minimum size of an ADU is 150 square feet.

A **Junior Accessory Dwelling Unit (Junior ADU)** is a secondary unit that is contained within the habitable floor area of a single-family dwelling. It may share a bathroom with the primary dwelling unit.

ADU and Junior ADUs are allowed with an approved building permit, and are not subject to discretionary review. They must meet all applicable codes, including the objective standards in the zoning code.

This handout offers general guidelines effective November 9, 2023, and is not intended to be comprehensive.

MORE INFORMATION

[Berkeley Webpage](#)

ADU ZONING CODE

[CHAPTER 23.306](#)

CALIFORNIA GOVERNMENT CODE

[§65852.2, §65852.22](#)

PROPERTY LOOKUP MAP

[GIS PORTAL](#)

ADU DEVELOPMENT STANDARDS

Type	One Single-Family Dwelling	More than one Single-Family Dwelling or Group Living Accommodation	Duplex or Multi-Family	
			Detached ADU	Conversion ADU ¹
Max. Per Lot (# ADU, Junior ADU)	1 ADU and 1 Junior ADU	1 ADU, no Junior ADU	2 detached ADUs and 25% of the # of existing dwelling units	
Max. Unit Size¹ (sq ft)	<ul style="list-style-type: none"> Junior ADU: 500 sq ft Studio or 1 bedroom: 850 sq ft 		<ul style="list-style-type: none"> 2+ bedrooms: 1,000 sq ft 	
Max. Height (ft)	<ul style="list-style-type: none"> Conversion: Same as existing structure New construction, detached: 20 ft New construction, attached: 25 ft² 			Same as existing structure
Min. Setbacks^{3,4} (ft)	Front of Interior Lot	Same as underlying district ³		N/A
	Front of Through Lot	Same as underlying district or 10 ft on the secondary frontage as determined by the Zoning Officer		
	Rear, Interior, and Street Side	Additions, new construction: 4 ft ³		
Min. Building Separation for Detached ADU (ft)	Outside the Hillside Overlay	Additions, new construction: 5 ft		
	Within the Hillside Overlay	Additions, new construction: 8 ft ⁵		
Parking⁶	Outside the Hillside Overlay	None required		
	Within the Hillside Overlay	1 space per ADU, unless the parcel satisfies the criteria in subdivision (d) of Government Code Section 65852.2		
Projections	Outside the Hillside Overlay	Architectural features are permitted to project 2 ft into required front and side setbacks, so long as there remains at least a 2 ft setback from property lines ⁷		
	Within the Hillside Overlay	Not permitted		
Roof Decks	Outside the Hillside Overlay	Permitted		
	Within the Hillside Overlay	Not permitted		
Entrance	Exterior or independent entrance required			
Kitchen (min. requirements)	ADU: Full kitchen; Junior ADU: Efficiency kitchen			
Bathroom (min. requirements)	ADU: Full bathroom; Junior ADU: May share with primary dwelling			

1 ADUs created entirely through conversion are not subject to maximum unit size requirements. An ADU converted from a legally built accessory building or structure can maintain a non-conformity in the same location and dimensions. A physical addition of up to 150 square feet may also be constructed as part of the conversion.

2 Attached ADUs with height up to 25 ft. are allowed with a Zoning Certificate (see page 3).

3 See the ADU FAQ Sheet (page 3) for information about ADUs sited within front setbacks.

4 Detached ADUs: If there is a lesser setback allowed by right in 23.304.060-Accessory Buildings and Enclosed Accessory Structures for a comparable accessory building or accessory structure in the underlying zoning district, that setback shall apply.

5 Detached ADUs in the Hillside Overlay: A minimum 8-foot building separation is required, except where such separation would preclude an ADU of 800 square feet, in which case the minimum separation can be reduced to 5 feet.

6 No parking required for Junior ADUs. Replacement parking is allowed in any configuration on the lot, including the front setback.

7 Architectural features include: Chimneys, water heater enclosures, flues, heating and cooling equipment, eaves, cornices, canopies, awnings, bay windows, and balconies.



ADU FREQUENTLY ASKED QUESTIONS

This resource provides guidance on Berkeley’s local Accessory Dwelling Unit (ADU) Ordinance ([BMC Chapter 23.306](#)). The guide is organized in the following eight sections, and corresponding pages:

- 1. **General Information (pg 2)**
- 2. **Permit Process and Fees (pg 2-3)**
- 3. **ADU Considerations (pg 3)**
- 4. **Junior ADU Considerations (pg 4)**
- 5. **Definitions and Measurements (pg 4)**
- 6. **Conversions of Existing Structures (pg 4)**
- 7. **Parking (pg 5)**
- 8. **Rental and Ownership (pg 5)**

Referenced links can be found on page 6.

The California Department of Housing and Community Development’s [Accessory Dwelling Unit Handbook](#) provides additional information about ADU’s and Junior Accessory Dwelling Units (Junior ADU’s).

The [Permit Service Center](#) can help direct questions related to the California Building Code, Fire Prevention, Building Permit Processing, Public Works Engineering, and Traffic Engineering.

GENERAL INFORMATION

1. What is an ADU?

An attached or detached secondary dwelling unit that contains permanent places for living, sleeping, and cooking. The minimum size of an ADU is 150 square feet.

2. What is a Junior ADU?

A secondary unit that is contained within the walls of an existing or proposed single-family dwelling or a single family dwelling unit’s attached garage. A Junior ADU must include a separate exterior entrance and, at minimum, an [efficiency kitchen](#). It may share a bathroom with the main dwelling unit.

3. Which zoning district standards apply to my lot?

Find your zoning district using the [Community GIS Portal](#). The property and planning view contains zoning information.

4. Are ADUs subject to lot size requirements, lot coverage and gross floor area, or density limitations?

Lot size: Any lot that is zoned to allow residential use and has an existing or proposed dwelling unit is eligible for an ADU.

Lot coverage and floor area: Up to 800 square feet is excluded from both lot coverage and gross floor area calculations. (See BMC Section 23.106.020(B) and BMC 23.106.030(D)).

Density: ADUs do not count towards density maximums or minimums of the underlying lot.

5. Are ADUs subject to the Creeks Ordinance ([BMC Chapter 17.08](#)) and the Coast Live Oak Ordinance ([BMC Chapter 6.52](#))? Yes, ADUs are subject to both.

Creeks: If construction of the ADU takes place over or near an open or culverted creek, please review the [Creek Protection Instructions](#).

Coast Live Oaks: Removal or excessive pruning is prohibited. Please review the [Tree Protection Instructions](#).

6. Are ADU’s subject to the City’s Natural Gas Prohibition Ordinance ([BMC Chapter 12.80](#)) and the Electrification Reach Code ([BMC Chapter 19.36](#))? Yes, for new construction.

PERMIT PROCESS AND FEES

1. Which type of permit is required?

All ADUs and Junior ADUs require a [building permit](#). A zoning permit, such as an Administrative Use Permit (AUP) or Use Permit (UP), is not required, except in certain circumstances, such as if the existing building is non-conforming. Compliance with the ADU zoning and development standards is reviewed as part of the building permit process. Submit applications through [Permits Online](#) or by making an in-person appointment for the [Permit Service Center](#).

2. How much are the permit and impact fees?

There is a \$460 zoning plan check fee, as well as a \$460 neighbor noticing fee, both assessed at the time of building permit submittal. Land Use Planning does not assess impact fees. Building permit fees are based on the valuation of the project, which can be estimated using the [fee estimator tool](#).

Residential developments of more than 500 square feet will be assessed one-time Developer Fees, known as School Facility Fees, by the Berkeley Unified School District. Visit [Berkeley Unified School District’s webpage](#) to learn more about fees for residential development. Proof of payment must be provided to the Permit Service Center before issuance of a building permit.

3. What are the neighbor notification requirements?

When a building permit application is submitted, City staff mail out a notice of the application to tenants of the subject property (if any) and owners and tenants of adjacent, confronting, and abutting properties within 10 working days of application submittal. A fee of \$460 neighbor noticing fee is collected with the building permit application. If you received a notice of an ADU application in the mail, you can check the permit status on [Permits Online](#). These are courtesy notices alerting neighbors to ADU construction; ADUs are not appealable.

4. Do I need to obtain a separate address for an ADU? A Junior ADU?

An ADU requires a separate address. Please submit the [Address Assignment Request](#) with the building permit application. An



ADU FREQUENTLY ASKED QUESTIONS

address will be assigned to the ADU as part of the building permit process.

A Junior ADU cannot have a separate address because it does not meet the definition of a separate dwelling unit under the Building Code.

5. How do I record a deed restriction? A deed restriction must be filed with the Alameda County Recorder for all **ADUs** and **Junior ADUs**. Both deed restrictions prohibit the use of the ADU or Junior ADU as a short-term rental, and limit the separate sale of accessory dwellings from the primary unit. The deed restriction must be recorded prior to issuance of the building permit. Please contact the **Clerk Recorder's Office of Alameda County** for more information on how to record a deed restriction, including recording instructions and fees.

6. How can I legalize an existing unpermitted ADU? Unpermitted ADUs are reviewed and considered as a new construction for zoning purposes and are subject to the current ADU development standards.

ADU DESIGN CONSIDERATIONS

1. Can I place my ADU within the front setback of my lot? An ADU cannot be within the front setback unless the setback requirement precludes an ADU of 800 square feet. In such cases, the ADU shall maintain a minimum 10-foot setback from the front lot line, unless a 10-foot setback would still preclude an ADU of 800 square feet.

If a 10-foot setback would preclude an ADU of 800 square feet, the ADU shall maintain a 5-foot setback from the front lot line.

If a 5-foot setback would preclude an ADU of 800 square feet, the ADU may be sited up to the front lot line.

2. Can I build a front porch as part of the ADU? Yes. The porch is not considered gross floor area, but it cannot project into any required setback.

3. Can the main dwelling unit be connected to an attached ADU? Yes, an internal connection is allowed if the connection is fire rated and secure.

4. Can I build a roof deck on an ADU in the Hillside Overlay?

Decks and balconies (or other usable open space) may not be located on a roof (**BMC Section 23.306.030(D)**).

Decks and balconies associated with ADUs *outside of the Hillside Overlay* are subject to the applicable maximum height limit – 20 feet for detached and 25 feet for attached.

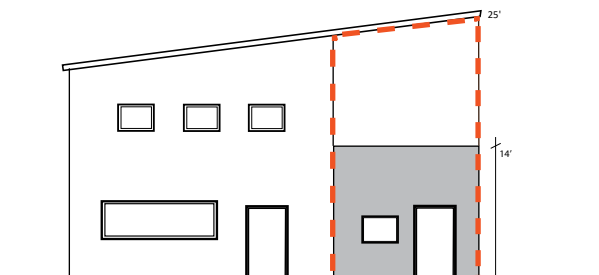
5. Does the 'bedroom ordinance' apply to construction of an ADU and Junior ADU? No. ADUs and Junior ADUs are not subject to the requirements of the "Bedroom Ordinance" (**BMC Section 23.202.030(B)**).

6. What kind of permit do I need to build an ADU as an addition to my house? An addition of up to 25 ft. is permitted with a Zoning Certificate (ZC). See **Figure 1** to see configurations permitted with a ZC.

FIGURE 1
Permitted with a Zoning Certificate (ZC)



Requires Administrative Use Permit (AUP)





ADU FREQUENTLY ASKED QUESTIONS

JUNIOR ADU DESIGN CONSIDERATIONS

1. Where can I build a Junior ADU?

A Junior ADU may be located within the walls of an existing or proposed single family dwelling, which includes attached garages, and have no more than 500 square feet of floor area. It must have, at minimum, an **efficiency kitchen**. If a Junior ADU is constructed within an attached garage, replacement parking is required on parcels within the Hillside Overlay.

2. Are there any design requirements that apply for a Junior ADU?

A Junior ADU must have its own separate exterior entrance and, if the Junior ADU shares a bathroom with the main dwelling, an interior entry to the main dwelling is required.

DEFINITIONS AND MEASUREMENTS

1. How is an attached ADU defined?

An ADU is considered attached if it shares a common wall with a primary dwelling.

2. What is an efficiency kitchen?

A cooking facility with appliances, such as a microwave, toaster oven, or hot plate, and food preparation counter space and cabinets.

3. How is maximum height measured?

Maximum height is measured from finished grade to the highest point of the roof or parapet walls, as described in the Maximum Height Instructions (see **BMC Section 23.106.090(B)**).

4. How is building separation measured?

It is the distance between the surfaces of a main building or ADU's outer wall and the outer wall surface of the closest building (See **BMC Section 23.106.080(A)**).

For multifamily lots, the two detached ADUs may be attached to each other.

CONVERSIONS OF EXISTING STRUCTURES

1. Can I convert an existing, legally non-conforming Accessory Building or Accessory Structure to an ADU?

Yes. The non-conforming conditions may be maintained in the same location and dimensions as existing accessory building or accessory structure, provided that the ADU meets fire and safety regulations in California Building Standards Code (adopted locally in **BMC Title 19**). Any physical additions to the existing building or structure must comply with the ADU development standards.

2. Can I convert existing space into an ADU if that space exceeds the maximum allowable size?

Yes. An ADU created entirely through conversion of existing space with no modifications to the existing building envelope that exceeds the maximum allowable size is allowed. A physical addition of up to 150 square feet may also be constructed as part of the conversion, as long as the addition complies with ADU standards for maximum height and setbacks.

3. Can I add new windows, doors, or other openings to a conversion ADU within a required setback or greater than the maximum height limit?

Yes; as long as the alterations are to a lawful, nonconforming existing structure or building that was converted or will be converted into an ADU, you can add new windows, doors, or other openings with a Zoning Certificate.

4. Can I convert existing space into an ADU if it requires excavating within a required setback?

Yes. The first step is to obtain an Administrative Use Permit (AUP) to allow an extension or alteration of a building within a non-conforming setback (**BMC Section 23.324.050(D)(2)**). After the AUP is approved and effective, apply for a building permit. See the **Berkeley ADU website** for more information about the permit process when there are lawful non-conforming conditions.

5. Can I convert non-habitable space within a duplex or multifamily building (e.g., garage, basement, attic, storage space) into an ADU?

Yes, provided that the conversion of these spaces does not conflict with existing lease agreements and that the amenity space is associated with the residential units.

6. Can I convert an existing commercial space within a mixed-use structure into an ADU?

No, conversion of existing space is only allowed if that space is associated with a residential use or the residential portion of a mixed-use structure.



ADU FREQUENTLY ASKED QUESTIONS

PARKING

1. Is parking required?

Parking is not required for ADUs and Junior ADUs located in Residential Districts outside of the Hillside Overlay, Commercial Districts, or Manufacturing Districts.

Within the Hillside Overlay, 1 parking space per ADU is required, unless the parcel satisfies the criteria in [subdivision \(d\) of Government Code Section 65852.2](#):

- (A) Distance to public transit.
- (B) Architecturally and historically significant historic district.
- (C) Part of proposed or existing primary residence or accessory structure.
- (D) On-street parking permit requirements.
- (E) Proximity to car share vehicle.
- (F) Submitted with a permit application to create a new dwelling on the same lot, provided that one of the above criteria is also met.

2. How can I determine whether my lot is within 0.5 mile walking distance of public transit?

Per [GOV 65852.2\(j\)\(11\)](#), public transit is defined as *"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."*

The Association of Bay Area Governments and Metropolitan Transportation Commission produced [a map that shows all primary transit routes for the San Francisco Bay Region](#).

3. When parking is not required, can I provide replacement parking?

In cases where parking is not required, replacement parking is allowed when a garage, carport, covered parking structure, or designated uncovered parking space is physically replaced by an ADU. An uncovered replacement parking space is allowed by-right and does not need to comply with the Parking Maximums ([BMC Section 23.322.070](#)) nor Parking Layout and Design ([BMC Section 23.322.080](#)).

The uncovered parking space may be located in any configuration, including within the front setback. A replacement parking space that would require construction of a new accessory structure is subject to the requirements of [BMC Section 23.304.060](#). If parking is provided that does not meet the characteristics of a replacement space, then it is subject to the parking maximum and parking layout and design regulations.

RENTAL AND OCCUPANCY

1. Can I rent the primary dwelling unit(s) and the ADU to different parties?

Yes, the primary dwelling unit and the ADU may be rented to different parties.

2. Does the property owner have to live onsite?

If the property contains an ADU, the owner does not have to live onsite; however, if the property contains a Junior ADU, the owner must live in either the primary dwelling unit or the Junior ADU.

3. Can an ADU or Junior ADU be rented on a short-term basis?

No, except for ADUs established before April 1, 2017 that meet certain criteria (please see [BMC Section 23.314.040\(D\)](#)).

4. Can an ADU be sold separately from the primary dwelling unit?

No, except as provided in [Government Code Section 65852.26](#).

5. Is it possible to rescind and replace a notice of limitation regarding owner-occupancy for ADUs?

Berkeley's prior local ADU ordinance required owner-occupancy of either the ADU or the main dwelling. Recent changes in State law and the local ADU ordinance removed the requirement for owner occupancy to increase flexibility and the availability of different housing types.

Owners may opt to rescind and replace the original ADU Notice of Limitation (NOL), in compliance with the current codes that exist at the time of the change, to remove the owner-occupancy requirement, which requires the written consent of the Zoning Officer.

Junior ADUs still have owner-occupancy requirements.

Complete and submit the [Application to Remove Deed Restriction](#). Land Use Planning staff will review the submittal and prepare the Notice of Rescission of Prior Restriction and new NOL. Then, the owner must sign, notarize and record the documents with the Alameda County Recorder and provide copies to the Land Use Division.



ADU INFO SHEET REFERENCED LINKS



ABAG/MTC TRANSIT ROUTES (2020) MAP - <https://opendata.mtc.ca.gov/datasets/MTC::transit-routes-2020/explore?location=37.874918%2C-122.279388%2C13.04>



COMMUNITY GIS PORTAL - https://berkeleyca.gov/city-services/community-gis-portal?config=config_PlanningandProperty.json



ACCESSORY DWELLING UNIT HANDBOOK - <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>



CREEK PROTECTION INSTRUCTIONS - <https://berkeleyca.gov/sites/default/files/2022-02/Creek-Protection-Instructions.pdf>



ADDRESS ASSIGNMENT REQUEST - <https://berkeleyca.gov/sites/default/files/2022-02/Address-Assignment-Request.pdf>



FEE ESTIMATOR TOOL - <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-process/estimate-permit-fees>



APPLICATION TO REMOVE DEED RESTRICTION - https://berkeleyca.gov/sites/default/files/documents/2020-02-26_Application%20to%20Remove%20Deed%20Restriction.pdf



GOVERNMENT CODE SECTION 65852.2 - https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65852.2



BUILDING PERMIT - <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-types/building-permits>



GOVERNMENT CODE SECTION 65852.22 - https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65852.22



CITY OF BERKELEY ADU WEBSITE - <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-process/residential-additions-and>



PERMIT FORMS - <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-types/permit-forms>



CLERK RECORDER'S OFFICE OF ALAMEDA COUNTY - <https://www.acgov.org/auditor/clerk/>



PERMIT SERVICE CENTER - <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-process/permit-service-center>