

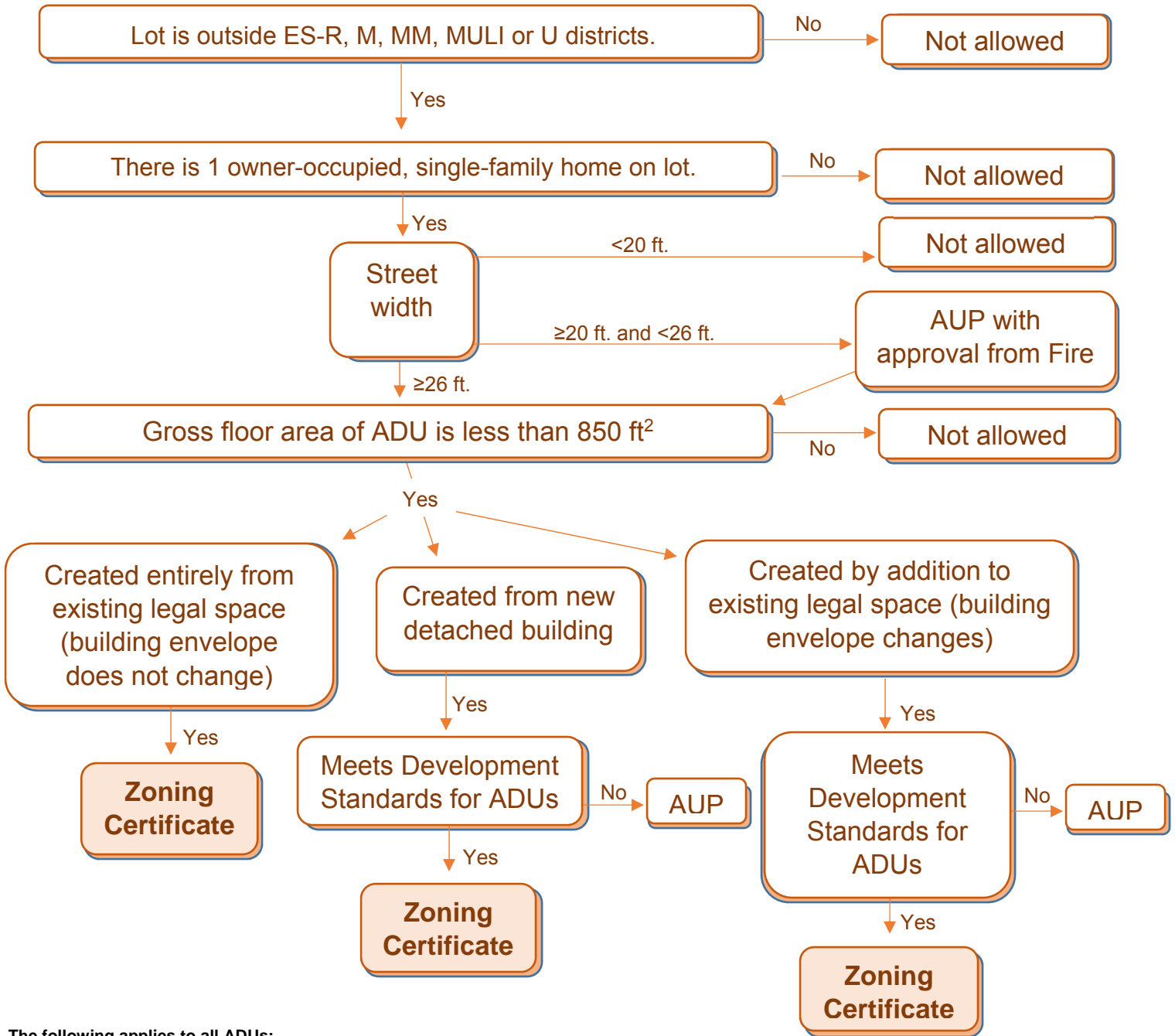


# ACCESSORY DWELLING UNITS (ADUs)

## Land Use Approval Process

1947 CENTER STREET, BERKELEY, CA 94704

JULY 2018



**The following applies to all ADUs:**

1. If ADU creation removes off-street parking for primary dwelling unit, replacement parking is required.
2. No off-street parking is required for ADU.
3. If primary dwelling unit has sprinklers, ADU must provide sprinklers.
4. If ADU is part of the primary dwelling unit, utility hook up and fees may not be required.
5. If ADU is detached, utility hook up and fees may apply, but must be proportional to burden/cost.

**By-right Development Standards for ADUs**

1. See district standards for open space.
2. See district standards for lot coverage.
3. Maximum height ≤14 feet.
4. 4' rear and side yard setbacks.
5. Not allowed in front yard setback.
6. Separate exterior entrance.
7. Maximum gross floor area ≤ 850 square feet.

KEY: AUP = Administrative Use Permit



# ACCESSORY DWELLING UNITS (ADUs)

## Development Standards

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<b>SUMMARY OF BY-RIGHT ACCESSORY DWELLING UNIT (ADU) REGULATIONS</b>			
<b>BMC 23C.24</b>			
<b>(Effective July 1, 2018)</b>			
ADUs that adhere to regulations outlined below are allowed by-right with a zoning certificate and building permit. See <i>BMC section 23C.24</i> for details.			
<b>Allowable Districts</b>	R-1, R-1A, R-2, R-2A, R-3, R-4, R-5, R-S, R-SMU, C-1, C-E, C-N, C-NS, C-SA, C-SO, C-T, C-W, MUR		
<b>Density</b>	One ADU allowed per lot with one primary dwelling unit.		
<b>Maximum Unit Size</b>	850 square feet		
<b>Open Space</b>	<b>New</b>	Comply with the open space requirement of the district.	
	<b>Existing<sup>1</sup></b>	N/A	
<b>Coverage</b>	<b>New</b>	Comply with the coverage requirement of the district.	
	<b>Existing</b>	N/A	
<b>Setbacks</b>	<b>Attached</b>	<b>New</b>	Comply with setback requirement of district OR 4' side, 4' rear and not in front yard setback – depends upon project design.
		<b>Existing</b>	N/A
	<b>Detached</b>	<b>New</b>	4' side, 4' rear and not in the front yard setback.
		<b>Existing</b>	N/A
<b>Height</b>	<b>Attached</b>	<b>New</b>	Comply with height requirement of district OR 14' maximum height for ground floor ADUs – depends upon project design.
		<b>Existing</b>	N/A
	<b>Detached</b>	<b>New</b>	Maximum height is 14'.
		<b>Existing</b>	N/A
<b>Entrance (Front Door)</b>	ADU entrance must be separate from primary dwelling unit entrance.		
<b>Off-street Parking</b>	Off-street parking is not required for newly created ADUs. Replacement off-street parking for primary dwelling units is required if newly created ADU occupies designated off-street parking for the primary dwelling unit.		
<b>Street Width</b>	Street width must be greater than 26'. If greater than 20' but less than 26', ADU may be approved with an Administrative Use Permit (AUP).		
<b>Tenancy</b>	Property owner must occupy either the primary dwelling unit or the ADU.		
<b>Fire Sprinklers<sup>2</sup></b>	Fire sprinklers are not required if they are not required for the primary dwelling unit.		
<b>Utility Connections/Fees</b>	ADUs shall not be considered new residential uses for the purposes of calculating utility connection fees or capacity charges.		

<sup>1</sup> “Existing” applies to ADUs created from existing, legal dwellings, accessory structures or buildings with no change to building massing (building footprint and roof height do not change).

<sup>2</sup> This is a Fire Dept. issue. To avoid surprises, we advise applicants to speak with the Fire Plan examiners.



# ACCESSORY DWELLING UNITS (ADUs)

## Frequently Asked Questions (FAQs)

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JULY 2018

*This document provides a list of common questions about Accessory Dwelling Units (ADUs) with answers based on amendments to the ADU Ordinance -- Berkeley Municipal Code (BMC) Section 23C.24 -- approved by Berkeley City Council on May 29, 2018 and enacted on June 29, 2018.*

### GENERAL QUESTIONS

#### **Q. What is an ADU?**

A. An ADU is a secondary unit with complete independent living facilities. An ADU can only be located on a lot that is occupied by a single-family home. See *BMC Section 23F.04.010* for details.

#### **Q. Why are ADUs important?**

A. ADUs offer increased housing options without changing neighborhood character. They provide affordable housing for long-term renters, a source of income for home-owners, and a source of housing for extended families, seniors, college students and others. ADUs represent a form of infill development that can be relatively affordable to construct, while offering innovative housing choices within existing neighborhoods.

#### **Q. How are ADUs created?**

A. ADUs can be created through conversion of existing living space in a single-family home or in an existing detached legal<sup>1</sup> structure. ADUs can also be created by addition of space to an existing single-family home or existing detached legal structure or by construction of a new detached legal structure.

#### **Q. What Zoning Districts allow an ADU?**

A. ADUs are allowed in all districts except for Environmental Safety-Residential (ES-R), Manufacturing (M), Mixed Manufacturing (MM), Mixed Use-Light Industrial (MULI), and Unclassified (U). For details on a specific property, see [http://www.ci.berkeley.ca.us/Planning\\_and\\_Development/Home/Zoning\\_by\\_Address.aspx](http://www.ci.berkeley.ca.us/Planning_and_Development/Home/Zoning_by_Address.aspx)

#### **Q. If the number of bedrooms on a parcel exceeds five due to the addition of an ADU, is a discretionary permit needed?**

A. No. ADUs are not subject to *BMC Section 23D.36.060 (Special Provisions: Addition of Bedrooms to Parcels)*.

#### **Q. Can a lot with a single-family home in a non-residential district have an ADU? For example, can a single-family home in C-SA (which goes by the R-4 standards) have an ADU?**

A. Yes. Refer to previous question for details.

#### **Q. Can an ADU be built on a lot developed with more than one unit?**

A. No. ADUs are allowed on lots that have one single-family home (also referred to as a "primary dwelling unit"). If a lot has more than one dwelling unit (e.g. duplex, triplex), it cannot have an ADU. See *BMC Section 23F.04.010* for details.

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<sup>1</sup> Legal buildings must have been constructed under the then-applicable zoning and building codes.



# ACCESSORY DWELLING UNITS (ADUs)

## Frequently Asked Questions (FAQs)

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**Q. How many ADUs are allowed on a lot?**

A. Only one ADU is allowed per lot. See *BMC Section 23F.04.010* for details.

**DEVELOPMENT STANDARDS**

**Q. What's the maximum size of an ADU?**

A. The gross floor area of an ADU cannot exceed 850 square feet. Gross floor area is defined as the horizontal areas of all floors of a building or enclosed structure. See *BMC Section 23C.24.050.B* for details.

**Q. Does an ADU need an exterior entrance?**

A. Yes. An ADU must have an exterior entrance that is separate from the entrance to the primary dwelling unit. See *BMC Section 23F.04.010* for details.

**Q. What are the required setbacks for a detached ADU?**

A. New detached ADUs and additions to existing legal detached accessory structures or buildings that create ADUs need to allow 4 foot side and rear setbacks and are not allowed in the front yard. If an existing legal accessory structure or building is located in the setbacks, it may be converted to an ADU, as long as there are no changes proposed to the building's massing (e.g. building footprint or roof height). See *BMC Section 23C.24.050.D* for details.

**Q. What are the required setbacks for an ADU created by an addition to the main dwelling?**

A. A newly constructed ADU that involves an addition to the primary dwelling unit is subject to the requirements of the applicable zoning district for residential additions. See *BMC Section 23D.16 through 23D.52* for details.

**Q. What is the maximum height allowed for ADUs?**

A. A newly constructed detached ADU and additions to a detached accessory structure or building that creates an ADU cannot exceed 14 feet in maximum height. An ADU created without massing modification to an existing legal accessory structure or building (no change in building footprint or roof height) can retain any pre-existing height exceedances. See *BMC Section 23C.24.050.C* for details. A newly constructed ADU created by an addition the main dwelling unit is subject to the requirements of the applicable zoning district for residential additions. See *BMC Section 23D.16 through 23D.52* for details.

**Q. Do open space and lot coverage requirements apply to ADUs created by conversion of existing legal accessory structures or buildings?**

A. ADUs created without massing modification to existing legal accessory structures or buildings (no change in building footprint or roof height) are not subject to open space and lot coverage requirements.



# ACCESSORY DWELLING UNITS (ADUs)

## Frequently Asked Questions (FAQs)

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**Q. Where can open space and coverage requirements be found?**

A. Districts have different standards for open space and coverage. See *BMC Section 23D.16 through 23D.52* for details.

**Q. What type of permit do I need if my ADU complies with development standards?**

A. ADUs that adhere to development standards and all other requirements in the Zoning Ordinance are allowed by-right (only a building permit is required).

### PARKING REQUIREMENTS

**Q. Is off-street parking required for ADUs?**

A. No, an off-street parking space is not required for a newly created ADU.

**Q: Is replacement off-street parking required for primary dwelling units when newly created ADUs occupy designated off-street parking spaces for primary dwelling units?**

A. Yes, if an ADU is created from a garage or an area that provides off-street parking for the primary dwelling unit, replacement parking for the primary dwelling unit is required. See *BMC Section 23C.24.050.G* for details.

### RENTAL AND RESALE

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

A. No. The owner of the property must record a deed restriction with Alameda County that restricts the sale of the ADU separately from the primary dwelling unit. See *BMC Section 23C.24.040.C* for details.

**Q. Does the property owner have to live onsite?**

A. Yes, the property owner is required to record an agreement that they will live in either the primary dwelling unit or the ADU. Non-occupancy by an owner for a period of up to three years is allowed before the property will be found to be in non-compliance. See *BMC Section 23C.24.040.D* for details.

**Q. Can ADUs be rented?**

A. Yes. All rentals must be registered through the Berkeley Rent Stabilization Board. ADUs cannot be rented as short term rentals if they were approved after April 1, 2017. See *BMC Section 23C.22* for details.

**Q. Can ADUs and the main dwelling be rented separately to different households?**

A. No. The main dwelling and the ADU must be rented out to a single household in the event of an owner's absence from the property.

### FIRE SAFETY AND UTILITY FEES

**Q. Do ADUs have to provide fire sprinklers?**

A. Sometimes. ADUs are not required to provide fire sprinklers if fire sprinklers are not required for the primary dwelling unit. See *BMC Section 23C.24.040.E* for details.



# ACCESSORY DWELLING UNITS (ADUs)

## Frequently Asked Questions (FAQs)

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**Q. How does road width affect approval of ADUs?**

A. For safety reasons, ADUs proposed on roads that are less than 20 feet in width are not allowed. ADUs proposed on streets between 20 and 26 feet in width must be approved by the fire department through the Administrative Use Permit (AUP) process<sup>2</sup>. See *BMC Section 23C.24.050.A* for details. You can find more about AUPs [here](#).

**Q. Do ADUs require new utility connections and payment of additional utility fees?**

A. Sometimes. ADUs created within the footprint of or in addition to the existing primary dwelling unit may not be required to install a new utility connection or pay additional utility fees. Otherwise, new utility hookups may be required. See *BMC Section 23C.24.040.F* for details.

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<sup>2</sup> Fire Department approval of ADUs is necessary on roadways of less than 26 feet in order to maintain citywide fire safety standards.