

ORDINANCE NO. 1228-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVALON AMENDING CHAPTER 9-5 RESIDENTIAL ZONES, ARTICLE 5 “LOW AND MODERATE INCOMING HOUSING” AND ARTICLE 6 “ACCESSORY DWELLING UNITS” OF TITLE 9 OF THE AVALON MUNICIPAL CODE AND ADOPTION OF EXEMPTION FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, pursuant to the authority granted to the City of Avalon (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designated to promote public convenience and general prosperity, as well as public health, welfare, and safety; and

WHEREAS, the City of Avalon is committed to implementation of the housing programs adopted as part of the 2021-2029 6th Cycle General Plan Housing Element, including Program #14 (Accessory Dwelling Units) and Program #15 (Adequate Sites for Lower Income Households on Nonvacant and Vacant Sites Previously Identified); and

WHEREAS, the City Council reviewed the proposed Ordinance, attached as Exhibits A and B, and the effects and demands of such regulations and other development on the City’s resources; and

WHEREAS, on September 3, 2025, the Planning Commission held a duly-noticed public hearing, at which time written and oral evidence was considered regarding the amendments to the development regulations for accessory dwelling units within residential zones of the City and for high-density affordable housing projects on the Tremont Street property (APN 7480-002-072) in the L/M zone; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 25-49 with recommendations to the City Council regarding adoption of the aforementioned amendments; and

WHEREAS, on September 16, 2025, the City Council held a duly-noticed public meeting and considered the recommendations of the Planning Commission, staff report, other supporting documents, and any public testimony concerning this ordinance; and

WHEREAS, the City Council finds that the proposed Ordinance is consistent with the City’s General Plan because the proposed amendments to the AMC will implement Program #14 and Program #15 of the City’s 2021-2029 6th Cycle General Plan Housing Element, and the proposed amendments implement Policy II-9 of the Land Use Element, which provides for infill of the City Center area and increasing the intensity of development on vacant and underutilized properties, in lieu of outward development, where appropriate; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings.

Section 2. Code Amendment. The City Council hereby adopts the proposed ordinance amending Article 5 of Chapter 9-5 of Title 9 of the Avalon Municipal Code to read as proposed in Exhibit A, entitled "Article 5 - (L/M) Low and Moderate Income Housing" and amending Article 6 of Chapter 9-5 of Title 9 of the Avalon Municipal Code to read as proposed in Exhibit B, entitled "Article 6 - Accessory Dwelling Units".

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, void, or invalid, such decisions shall not affect the validity of the remaining portion of this Resolution or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional, void, or invalid.

Section 4. CEQA Exemptions.

The ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Sections 15183(a) and 15601(b)(3) because it has no potential to have a significant effect on the environment and is not subject to CEQA.

The General Plan is a long-term policy guide for the development of the City but does not propose specific development that can be analyzed at a project-specific level. Therefore, the General Plan EIR is a Program EIR (State Clearinghouse No. 2011091042). A Program EIR provides a more general analysis of the General Plan that focuses on the overall effects of implementation of the General Plan. The 6th Cycle General Plan Housing Element was adopted in September 2022. An addendum to the Program EIR was prepared which concluded that the Housing Element updates do not result in any new or greater environmental impacts than were previously analyzed, disclosed, and mitigated.

Pursuant to Public Resources Code section 21083.3 and CEQA Guideline 15183(a), a project that is consistent with the development densities established in a General Plan for which an EIR was certified is not required to undergo additional environmental review "except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." As noted above, an EIR was certified for the General Plan. The amendments contained in the ordinance do not authorize construction and make minor changes to existing standards and land use limitations that apply to existing uses permitted in residential zones in the City and allow uses that are consistent with the residential uses currently permitted in such zones.

In addition, Guideline 15061(b)(3) states that a project is exempt from CEQA if the activity covered by the common sense exemption that CEQA only applies to projects which have the potential for causing a significant effect on the environment. The amendments provide standards for the approval of allowed growth within the parameters of existing General Plan and municipal code regulations. It does not authorize any changes to land use limitations or approve any new development project. Therefore, there is no reasonable possibility that the activity in question may have a significant effect on the environment.

Further, California Public Resources Code section 21080.17 provides that the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of Section 65852.1 or Section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 66313. Therefore, the component of the ordinance which implements state ADU law is statutorily exempt from CEQA.

Therefore, it can be seen with certainty that the ordinance has no potential to cause a significant effect on the environment, and the amendments themselves are categorically exempt from further review under CEQA pursuant to Sections 15183(a) and 15061 (b)(3) of the California Code of Regulations.

Section 5. Certification. The City Clerk of the City of Avalon shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

Section 6. Effective Date. This Ordinance shall become effective thirty days from its adoption.

INTRODUCED AND WAIVED at a regular meeting of the City Council of the City of Avalon on the 16th day of September 2025, by the following vote:

AYES: Mayor Marshall, Councilmembers De La Rosa, Lavelle, Ponce and Schickling.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Avalon on this 21st day of October 2025, by the following vote:

AYES: Mayor Marshall, Councilmembers De La Rosa, Lavelle, Ponce and Schickling.


NAYS: None.

ABSENT: None.

ABSTAIN: None.


Ann H. Marshall, Mayor

ATTEST:


Gabrielle Morones, City Clerk

APPROVED AS TO FORM:


Scott Campbell
Best Best & Krieger, LLP

EXHIBIT A

Avalon Municipal Code Title 9, Chapter 9-5, Article 5 - (L/M) Low and Moderate Income Housing

§ 9-5.501. Intent and Purpose.

The L/M zone is established to provide residential areas where multiple family dwelling units can be provided to meet the housing needs of the City's low and moderate income residents. This zone is also intended to meet the City's share of the Regional Housing Needs Assessment (RHNA).

§ 9-5.502. Principal Uses Permitted.

- (a) Low and moderate income housing as defined in Chapter 9-11.
- (b) Parks.
- (c) Mobile home parks.

§ 9-5.503. Accessory Uses Permitted.

Premises in the L/M zone may be used for accessory uses provided such uses are established on the same lot or parcel of land, are incidental to, and do not substantially alter the character of any permitted use, including, but not limited to:

- (a) Accessory buildings or structures, including private garages.
- (b) Domestic animals, not to exceed three over three months old.

§ 9-5.504. Uses Permitted by Conditional Use Permit.

- (a) Low and moderate income housing with density bonus.
- (b) Single room occupancies.

§ 9-5.504. Standards of Development.

Premises in this zone shall be subject to the development standards contained in this section, Chapter 9-7 (General Standards of Development) and, in the case of congregate housing construction or conversion, the standards of development, procedures and findings set forth in Chapter 9-13 of this title.

- (a) Maximum Permitted Density. The maximum permitted density shall be 40 units per acre.
- (b) Minimum Lot Area. None.
- (c) Minimum Lot Width. None.
- (d) Required Setbacks. No building shall be located closer than 10 feet from any street or project boundary line, nor closer than six feet to any other building.
- (e) Building Bulk.

(1) Maximum Permitted Heights.

- (i) For lots of 10° average slope or less: No portion of the building may exceed a height greater than 28 feet above the lot's natural surface and shall not be more than two stories;
- (ii) For lots of 20° or greater: No portion of the building may exceed a height greater than 14 feet above the upper lot line and 40 feet on any part of the lot's natural surface;
- (iii) For lots of 11° to and including 19° average slope: measurement of the applicable height envelope may be pursuant to (i) or (ii).

(f) Off-Street Parking. To be determined by the Commission.

(g) Trash Storage. Sufficient, enclosed off-street trash storage areas shall be required to serve the project, not less than the equivalent of 30 gallons per residence.

(h) Affordable Housing Contract. For new construction within this district (low/moderate), the provisions of this article shall be secured by a contract between the developer and the City.

§ 9-5.505. Housing Opportunity Site – Tremont Street Property (APN 7480-002-072).

(a) It is the purpose of this section to facilitate the development of qualifying affordable housing units by implementing Program 15 of the 6th Cycle City of Avalon Housing Element and codifying the statutory requirements found in California Government Code section 65583.2(c) governing the same.

(b) The 1.52-acre nonvacant site located on Tremont Street (APN 7480-002-072) has been identified as a housing element opportunity site intended to meet the City's share of the Regional Housing Needs Assessment (RHNA) in the 6th Cycle General Plan Housing Element.

(c) Residential development upon the Tremont Street (APN 7480-002-072) site shall be considered a by-right use and shall be processed pursuant to Government Code section 65583.2(i), without discretionary review, if all of the following requirements are met:

(1) The project site is located on a site that is listed in the 6th Cycle Housing Element pursuant to Government Code section 66583.2(a).

(2) At least 20 percent of the total units provided on-site (including all base density and density bonus units) shall be reserved for low or very low income households.

(3) Residential development shall have a minimum density of 30 units per acre.

(d) Residential developments approved pursuant to this section shall not be considered a project for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code, also known as the California Environmental Quality Act.

- (e) The project complies with all applicable objective City policies, development standards, and design standards established in the General Plan or Development Code. Where there is a conflict between other City requirements and this section, the provisions of this section shall apply.

EXHIBIT B

Avalon Municipal Code Title 9, Chapter 9-5, Article 6 - Accessory Dwelling Units

§ 9-5.601 Purpose.

The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

§ 9-5.602 Effect of Conforming.

An ADU or JADU that conforms to the standards in this section 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 9-5.603 below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

§ 9-5.603 Definitions.

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

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:

- (a) An efficiency unit, as defined by section 17958.1 of the California Health and Safety Code; and
- (b) A manufactured home, as defined by section 18007 of the California Health and Safety Code.

ACCESSORY STRUCTURE

Means a structure that is accessory and incidental to a dwelling located on the same lot.

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.

EFFICIENCY KITCHEN

Means a kitchen that includes all of the following:

- (a) A cooking facility with appliances.
- (b) A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

JUNIOR ACCESSORY DWELLING UNIT or JADU

Means a residential unit that satisfies all of the following:

- (a) It is no more than 500 square feet in size.
- (b) 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.
- (c) It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
- (d) 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.
- (e) It includes an efficiency kitchen, as defined in this subsection above.

LIVABLE SPACE

Means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

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.

NONCONFORMING ZONING CONDITION

Means a physical improvement on a property that does not conform with current zoning standards.

PASSAGEWAY

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

PROPOSED DWELLING

Means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

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. Access to the City of Avalon Seaside Transit (COAST) on-demand transit system shall also qualify as public transit for the purposes of this article.

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.

§ 9-5.604 Approvals.

The following approvals apply to ADUs and JADUs under this section:

(a) Building-permit Only. If an ADU or JADU complies with each of the general requirements in subsection 9-5.605 below, 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 9-5.604(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.
- d.** The JADU complies with the requirements of Government Code sections 66333 through 66339.

(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 **9-5.604(a)(1)** above), if the detached ADU satisfies each of the following limitations:

- a.** The side- and rear-yard setbacks are at least three 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 9-5.605(b) below.

(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 9-5.604(a)(3), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25% of the existing multifamily dwelling units.

(4) Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot with a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies all of the following limitations:

a. The side- and rear-yard setbacks are at least three feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the City will 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 9-5.605(b) below.

c. If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

(b) ADU Permit.

(1) Except as allowed under subsection 9-5.604(a) above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections 9-5.605 and 9-5.606 below.

(2) The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ADU-permit processing fee is determined by the Director of Community Development and approved by the City Council by resolution.

(c) Process and Timing.

(1) An ADU permit is considered and approved ministerially, without discretionary review or a hearing.

(2) The City 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 City has not approved or denied the completed application within 60 days, the application is deemed approved unless either:

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

b. 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 City may delay acting on the permit application for the ADU or JADU until the City acts on 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.

(3) If the City denies an application to create an ADU or JADU, the City must provide the applicant with 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. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection 9-5.604(c)(2) above.

(4) 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.

§ 9-5.605 General ADU and JADU Requirements.

The following requirements apply to all ADUs and JADUs that are approved under subsections 9-5.604(a) or 9-5.604(b) above:

(a) Zoning.

(1) An ADU or JADU subject only to a building permit under subsection 9-604(a) above may be created on a lot in a residential or mixed-use zone.

(2) An ADU or JADU subject to an ADU permit under subsection 9-5.604(b) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

(3) In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned for single-family residences.

(b) Height.

(1) Except as otherwise provided by subsections 9-5.605(b)(2) and 9-5.605(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 up to two 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 9-5.605(b)(4) may not exceed two stories.

(5) For purposes of this subsection 9-5.605(b), height is measured from existing legal grade or the level of the lowest floor, whichever is lower, 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 a requirement for fire sprinklers to be installed in the existing primary dwelling.

(d) Rental Term. No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

(e) No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, 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) ADUs created under this section on or after January 1, 2020 are not subject to any owner-occupancy requirement.

(2) As required by state law, all JADUs 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 9-5.605(g)(3) does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

(h) Deed Restriction. Prior to issuance of a building permit for 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 (or their designee) and filed with the Planning Department. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

(1) Except as otherwise provided in Government Code Section 66341, 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 or his or her designee 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 66330, the following requirements must be satisfied:

(1) 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.

(2) Within 90 days after each January 1 of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the owner is in violation of this Code, and the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

(j) Building & Safety.

(1) Must comply with building code. Subject to subsection 9-5.605(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 9-5.605(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.

§ 9-5.606 Specific ADU Requirements.

The following requirements apply only to ADUs that require an ADU permit under subsection 9-5.604(b) above.

(a) Maximum Size.

(1) The maximum size of a detached or attached ADU subject to this subsection 9-5.606 is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.

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

(3) Application of other development standards in this subsection 9-5.606, 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 9-5.606(a)(2) above or of an FAR, front setback, lot coverage limit, or open-space requirement may require the ADU to be less than 800 square feet.

(b) Floor Area Ratio (FAR). No ADU subject to this subsection 9-5.606 may cause the total FAR of the lot to exceed 45%, subject to subsection 9-5.606(a)(3) above.

(c) Setbacks.

(1) An ADU that is subject to this subsection 9-5.606 must conform to a 3-foot front-yard setback, subject to subsection 9-5.606(a)(3) above.

(2) An ADU that is subject to this subsection 9-5.606 must conform to 3-foot side- and rear-yard setbacks.

(3) No setback is required for an ADU that is subject to this subsection 9-5.606 if the ADU is constructed in the same location and to the same dimensions as an existing structure.

(d) Lot Coverage. No ADU subject to this subsection 9-5.606 may cause the total lot coverage of the lot to exceed 50%, subject to subsection 9-5.606(a)(3) above.

(e) Minimum Open Space. No ADU subject to this subsection 9-5.606 may cause the total percentage of open space of the lot to fall below 50%, subject to subsection 9-5.606(a)(3) above.

(f) Passageway. No passageway, as defined by subsection 9-5.603 above, 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 9-5.603 above.

(2) Exceptions. No parking under subsection 9-5.606(g)(1) is required in the following situations:

a. The ADU is located within one-half mile walking distance of public transit, as defined in subsection 9-5.603 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 9-5.604(a)(1) above.

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. 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 9-5.606(g)(2)a through e above.

g. When the resident or owner of an ADU does not operate or maintain an autoette pursuant to a valid resident vehicle permit, also referred to interchangeably as an autoette permit, pursuant to AMC Title 4, Chapter 4-4 Traffic, Article 17 Registration of Vehicles.

(3) No Replacement. When a garage, carport, or covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces 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 of those of the primary dwelling.

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

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

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

(5) No window or door of the ADU may have a direct line of sight to an adjoining

residential property. Each window and door must either be located where there is no direct line of sight or screened using fencing, landscaping, or privacy glass to prevent a direct line of sight.

(6) All windows and doors in an ADU 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 six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

(7) 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.

(i) Landscape Requirements. Landscaping shall comply with the objective requirements of the underlying zone.

(j) Allowed Stories. No ADU subject to this subsection 9-5.606 may have more than one story, except that an ADU that is attached to the primary dwelling may have the stories allowed under subsection 9-5.605(b)(4).

§ 9-5.607 Fees.

The following requirements apply to all ADUs that are approved under subsections **9-5.604(a)** or **9-5.604(b)** above.

(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 9-5.607(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 9-5.607(b)(1), converted ADUs on a single-family lot that are created under subsection 9-5.607(a)(1) above 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 9-5.607(b)(1), all ADUs that are not

covered by subsection 9-5.607(b)(2) require a new, separate utility connection directly between the ADU and the utility for any utility that is provided by the city. All utilities that are not provided by the city are subject to the connection and fee requirements of the utility provider.

- 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.

§ 9-5.608 Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

(a) Generally. The city will not deny an ADU or JADU application 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 2020.

(1) Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2020, 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 (AMC 9-5.6).

(2) Exceptions:

- a. Notwithstanding subsection 9-5.608(b)(1) above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2020, if the City makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code section 17920.3.
- b. Subsection 9-5.608(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.

§ 9-5.609 Nonconforming ADUs and Discretionary Approval.

Any proposed ADU or JADU that would otherwise be allowed under this this section but does not conform to the objective standards set forth in subsections 9-5.601 through 9-5.608 of this section may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.