

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: April 10, 2024

TO: Planning Commission

FROM: Planning Staff

SUBJECT: Consideration of an ordinance amending Chapter 22.5, Accessory Dwelling Units, of the Zoning Regulations to comply with recent changes to State law, adopt additional fire standards, and make minor amendments for clarity and consistency.

County File Number: PLN2023-00182 (County of San Mateo)

PROPOSAL

An ordinance amending the County’s adopted “Accessory Dwelling Units” regulations, Chapter 22.5 of the Zoning Regulations, to comply with recent changes to State law, adopt additional fire standards, and make minor amendments for clarity and consistency. These proposed amendments are specific to non-Coastal Zone Accessory Dwelling Units. Any changes to Chapter 22.5.1, Accessory Dwelling Units- Coastal Zone, shall be brought forward at a later date after consultation with the County Attorney’s Office and Coastal Commission staff.

RECOMMENDATION

That the Planning Commission recommend that the San Mateo County Board of Supervisors adopt an ordinance amending Chapter 22.5, Accessory Dwelling Units, of the Zoning Regulations, to comply with recent changes to State law, adopt additional fire standards, and make minor amendments for clarity and consistency.

BACKGROUND

Report Prepared By: Sam Becker, Project Planner, 650/382-4493

Applicant: San Mateo County Planning and Building Department

Public Notification: Ten (10) business day advanced notification for the hearing was provided via a 1/8th-page notice for the hearing posted in a newspaper (San Mateo County Times) of general public circulation.

Location: Countywide, excluding areas of the Coastal Zone

Environmental Evaluation: Per California Environmental Quality Act (CEQA) Guidelines Section 21080.17 and CEQA Guidelines Section 15282(h), adoption of ordinances relating to second units (accessory dwelling units) to implement specific Government Code sections (Sections 65852.1 and 65852.2) is exempt from California Environmental Quality Act.

DISCUSSION

A. KEY ISSUES

1. ADU Ordinance Updates Required by State Law

In 2019, and again in 2020, the Planning Commission recommended, and the Board of Supervisors adopted, various updates to the County's Accessory Dwelling Unit (ADU) regulations, Chapter 22.5 of the Zoning Regulations, consistent with State law, particularly Government Code Section 65852.2. These updates were intended to bring the County's regulations into compliance with State law and to facilitate production of ADUs in unincorporated San Mateo County.

Since those updates, there have been additional changes to State law pertaining to ADUs, including most substantially Assembly Bill (AB) 2221 and Senate Bill (SB) 897. These bills amended the Government Code Section 65852.2 and necessitate further updates to the County's regulations. Some of these legislative changes are minor adjustments to existing law with the intent to clarify language and intent of previous legislative updates and add further detail for local implementation of State law, and some are substantive new provisions, such as those that further reduce development standards and requirements that could hinder construction of an Accessory Dwelling Unit. The components of the recent legislation that require changes to the County's ADU regulations are summarized below:

AB 2221 (2022):

- (1) Prohibits a local agency from requiring front setbacks that do not permit at least an 800 square foot ADU that is at least sixteen (16) feet tall with four (4)-foot side and rear setbacks.
- (2) Prohibits a local agency from requiring off-street parking spaces to be replaced when a garage, carport, or covered parking structure is demolished in conjunction with construction of an ADU or converted into an Accessory Dwelling Unit.

SB 897 (2022):

- (1) Requires a local agency to review and issue a demolition permit for a detached garage that is to be replaced by an ADU at the same time as it reviews and issues the permit for the Accessory Dwelling Unit.
- (2) Expressly prohibits local agencies from denying an application to create an ADU or JADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that don't present a threat to public health or safety.
- (3) Clarifies that construction of an ADU does not provide a basis to require fire sprinklers in the existing primary dwelling.

2. County-Initiated Ordinance Updates

The implementation of the County's regulations since the last update has also identified various provisions in the regulations that may be confusing or difficult to administer. As a result, staff is recommending numerous changes, including the following:

- (1) Clarifying the definition of primary residence to include attached habitable/uninhabitable spaces.
- (2) Clarifying that ADU setbacks are measured from property lines.
- (3) Clarifying that daylight plane requirements are measured from required ADU setback, rather than the setback required by underlying zoning district. Various minor word changes for greater clarity.

In addition, in consultation with County Fire, staff proposes new requirements for ADUs that encroach on the minimum ADU 4-foot setback, including fire-rated walls, windows, eaves, and other architectural features on the encroaching side(s) of the Accessory Dwelling Unit. Proposed changes also include prohibiting parking exemptions in Wildland Urban Interface areas and areas where the fire engine access and turnaround space required by the California Fire Code is not provided, in order to reduce dependence of residents on driveway parking and facilitate use of the driveway for fire engine access and turnaround space.

3. Future Update of Ordinance for Coastal Zone

The regulations governing ADUs in the County's Coastal Zone differ from the regulations applicable outside of the Coastal Zone, due to the California Coastal Act, the County's Local Coastal Program, and the authority of the California Coastal Commission. As a result, updating the regulations

applicable within the Coastal Zone is distinct. Staff will bring forward any amendments to Chapter 22.5.1 Accessory Dwelling Units-Coastal Zone, after consultation with the County Attorney's Office and Coastal Commission staff.

4. Summary of Proposed Amendments

To comply with Government Code 65852.2, staff recommends the amendments shown in the attached ordinance. The most significant changes are:

- (1) Section 6426.6 Junior Accessory Dwelling Unit. To be amended to state that a junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing or proposed primary residence.
- (2) Section 6426.10. Stepback. To be amended to clarify that setbacks for ADUs are measured from applicable property line rather than outermost point of building at ground level.
- (3) Section 6426.7. Multifamily Dwelling. Definitions section to be amended to define a multifamily dwelling as two (2) or more attached dwellings on a single lot. In contrast, multiple detached single-unit dwellings on the same lot are not considered a multifamily dwelling.
- (4) Section 6426.11. Uninhabitable Space. Definitions section to be amended to clarify that uninhabitable space is space that is not developed to full standards of habitability.
- (5) Section 6429.1.4.a(2). Front Setbacks. To be amended to allow ADUs to encroach on the front setback the minimum distance necessary to allow creation of an ADU of at least eight hundred (800) square feet with side and rear setbacks of at least four (4) feet.
- (6) Section 6429.1.4.a(2). Front Setbacks. To be amended to state that in cases where accessory dwelling units are proposed to be built atop, or below an existing detached garage that is located within the required front setback, a conditional use permit shall be required unless the front setback provision would preclude the creation of an accessory dwelling unit of at least eight hundred (800) square feet.
- (7) Section 6429.1.8. Daylight Plane. To be amended to state that daylight plane shall be measured from the setback applicable to the ADU.

- (8) Section 6429.1.11. Fire Safety Requirements. To be amended to include a list of requirements for fire materials on walls, windows, eaves, and other architectural features on side(s) of an ADU that does not meet setback requirements of 6429.1.4.b.
- (9) Section 6429.1.14.b.(5). Parking Exemptions. To be amended to prohibit the granting of parking exemptions for properties: 1) located within Wildland Urban Interface areas and 2) where the fire engine access and turnaround required under the California Fire Code is not provided. This is in order to reduce use of the driveway for parking that could be impeding fire access
- (10) Section 6429.1.14.d. Garage Conversion. To be amended to state that if an existing attached or detached garage is converted to an ADU, the parking previously provided by that garage is no longer required to be replaced.
- (11) Section 6429.1.21. Creation of ADU Entirely within a Non-Conforming Primary Residence. To be amended to state that correction of existing non-conformities will not be required unless the non-conformities pose a threat to public health or safety.
- (12) Section 6429.4.1. JADU Location. To be amended to clarify that JADUs may be constructed within an attached garage.
- (13) Section 6439.4.4. JADU Internal Ingress and Egress. To be amended to require JADUs to have internally connecting doorways between the unit and primary residence if the JADU does not include a separate bathroom.
- (14) Section 6429.5. Standards for Multiple Accessory Dwelling Units on Properties with Existing or Proposed Multifamily Structures. To be amended to allow multiple ADUs on parcels with proposed multi-family structures, not just existing multi-family structures.
- (15) Section 6432. Home Improvement Exceptions. To be amended to state that ADUs covered by this section are also exempt from required Home Improvement Exception (HIE) findings of Section 6534.2(1) and (2).

B. ALTERNATIVES

The alternatives to a Planning Commission recommendation that the Board of Supervisors adopt the amended Chapter 22.5, Accessory Dwelling Unit Regulations, are a recommendation to adopt only the changes required to comply

with State Law, or a recommendation to adopt some modified form of amended regulations.

C. ENVIRONMENTAL REVIEW

Per CEQA Section 21080.17 and CEQA Guidelines Section 15282(h), adoption of ordinances relating to second units (accessory dwelling units) to implement specific Government Code sections (Sections 65852.1 and 65852.2) is exempt from California Environmental Quality Act.

D. REVIEWING AGENCIES

The County Attorney's Office has reviewed the regulations and adopting ordinance as to form.

ATTACHMENTS

- A. Recommendation
- B. Amended Ch. 22.5 Accessory Dwelling Unit (Second Unit) Regulations: Adopting Ordinance
- C. Ch. 22.5 Accessory Dwelling Unit (Second Unit) Regulations: redline of proposed changes

County of San Mateo
Planning and Building Department

RECOMMENDED ACTION

Permit or Project File Number: PLN2023-00182

Hearing Date: April 10, 2024

Prepared By: Sam Becker, Project Planner

For Adoption By: Planning Commission

RECOMMENDED ACTION

That the Planning Commission recommend the San Mateo County Board of Supervisors adopt an ordinance amending Chapter 22.5, Accessory Dwelling Units, of the Zoning Regulations, to comply with recent changes to State law, adopt additional fire standards, and make minor amendments for clarity and consistency.



County of San Mateo - Planning and Building Department

ATTACHMENT B

ORDINANCE NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * *

AN ORDINANCE AMENDING THE COUNTY ORDINANCE CODE, DIVISION VI, PART ONE (ZONING REGULATIONS) TO REVISE THE EXISTING CHAPTER 22.5 (ACCESSORY DWELLING UNITS) IN ORDER TO COMPLY WITH STATE LAW, TO ADOPT ADDITIONAL FIRE STANDARDS, AND MAKE MINOR AMENDMENTS FOR CLARITY AND CONSISTENCY.

The Board of Supervisors of the County of San Mateo, State of California,

ORDAINS as follows:

SECTION 1. The Board of Supervisors of the County of San Mateo (“County”) hereby finds and declares as follows:

WHEREAS, the Legislature of the State of California has recently enacted legislation further governing how local jurisdictions may regulate accessory dwelling units, codified at Government Code Section 65852.2; and

WHEREAS, amendments to the County’s accessory dwelling unit regulations are required in order to achieve consistency with current State law; and

WHEREAS, County Fire recommends additional fire standards for certain accessory dwelling units not meeting minimum setbacks and in particular high fire risk locations; and

WHEREAS, additional amendments to the regulations are needed to increase clarity and to increase consistency with other portions of the Zoning Regulations; and

WHEREAS, housing production in San Mateo County continues to lag behind the need for new housing, resulting in housing shortages and housing costs that are unaffordable for many County residents; and

WHEREAS, accessory dwelling units remain a type of housing that is often cheaper to build, more affordable to occupy, more environmentally sustainable, and less impactful on surrounding neighborhoods than other forms of housing; and

WHEREAS, the San Mateo County Board of Supervisors has recognized accessory dwelling units as a valuable source of new housing that can help meet the County's housing needs and goals; and

WHEREAS, Policy HE32 of the County's adopted Housing Element commits the County to update its accessory dwelling unit regulations in order to comply with State law, streamline permitting, standardize the County's regulations, and facilitate the development of accessory dwelling units; and

WHEREAS, the amendments to the Zoning Regulations, Chapter 22.5, will ensure that the County's accessory dwelling unit regulations are consistent with State law, will ensure that the regulations are easier to interpret and implement, will facilitate and promote the creation of accessory dwelling units, and will help fulfill the County's housing goals; and

WHEREAS, different standards for accessory dwelling units often apply within and outside of the County's Coastal Zone due to provisions of the California Coastal Act and the County's Local Coastal Program, and staff shall bring forward any amendments to Chapter 22.5.1 Accessory Dwelling Units- Coastal Zone, at a later date after consultation with California Coastal Commission.

NOW, THEREFORE, the Board of Supervisors of the County of San Mateo,
State of California, ordains as follows:

SECTION 2. The San Mateo County Ordinance Code (Zoning Regulations), Division
VI, Part One, Chapter 22.5 (Accessory Dwelling Units), is hereby amended to read as
follows:

* * * * *

CHAPTER 22.5. ACCESSORY DWELLING UNITS

SECTION 6425. PURPOSE. Accessory dwelling units are a residential use that provide an important source of housing. The purpose of this Chapter is to:

1. Increase the supply and diversity of the County's housing stock, in particular the number of smaller and more affordable units, by allowing accessory dwelling units to be built on existing residential properties, while preserving the neighborhood character.
2. Increase the housing stock of existing neighborhoods in a manner that has less impact on the environment than development of housing in undeveloped areas.
3. Allow more efficient use of existing residential areas and supporting infrastructure.
4. Provide a means for residents to remain in their homes and neighborhoods.
5. Provide opportunities for homeowners to earn supplemental income from renting an accessory dwelling unit.
6. Establish standards for accessory dwelling units to ensure that they are safe, habitable, and compatible with existing development.

SECTION 6426. DEFINITIONS.

1. **Accessory Dwelling Unit.** An "accessory dwelling unit" is a dwelling unit located or proposed to be located on a lot which contains, or will contain, a primary residence. Accessory dwelling units may be detached from or attached to the primary residence on the property. Accessory dwelling units may also be (1) efficiency units, as defined in Section 17958.1 of the California Health and Safety Code, or (2) manufactured homes, as defined in Section 18007 of the California Health and Safety Code. Accessory dwelling units are "accessory dwelling units" as that term is used in Government Code Section 65852.2. A "second unit" or "secondary unit" is an accessory dwelling unit. Accessory dwelling units are not "accessory buildings" as defined in Section 6102.19. Any secondary structure that provides independent facilities for living, sleeping, eating, cooking, and sanitation may be considered an accessory dwelling unit, at the discretion of the Director of Planning and Building, unless an applicant can provide compelling evidence to the contrary to the satisfaction of the Director of Planning and Building.
2. **Attached Accessory Dwelling Unit.** An "attached accessory dwelling unit" is a unit that is built as an addition to, extension of, or within the primary residence.
3. **Detached Accessory Dwelling Unit.** A "detached accessory dwelling unit" is a unit that is an independent structure, entirely separated from the structure of the primary residence. Accessory dwelling units constructed within, or as an

extension of an existing detached structure other than the primary residence are considered detached accessory dwelling units.

4. Efficiency Kitchen. An efficiency kitchen, as defined in Government Code Section 65852.22, is a kitchen that contains at least a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
5. Floor Area. For purposes of this Chapter, the “floor area” of an accessory dwelling unit is the area of each floor level included within the walls enclosing each dwelling unit. The floor area shall be measured from the outside face of the walls enclosing each dwelling unit including all closet space and storage areas contained within the unit, including habitable basements and attics, but not including unenclosed porches, balconies, or any enclosed garages or carports. For purposes of calculating allowable floor area of accessory dwelling units based on a proportion of the size of the primary residence, only the livable floor area of the primary residence shall be counted. The floor area of any other structures, for purposes of calculating total floor area, lot coverage, or other calculations, shall be calculated in the manner described in the relevant Zoning Regulations.
6. Junior Accessory Dwelling Unit. A “junior accessory dwelling unit” is an accessory dwelling unit built entirely within the walls of an existing or proposed primary residence, not exceeding five hundred (500) square feet in size, and including an efficiency kitchen, as described in Government Code Section 65852.22. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing or proposed primary residence.
7. Multifamily Dwelling. Two (2) or more attached dwellings on a single lot is considered a multifamily dwelling. Multiple detached single-unit dwellings on the same lot are not considered a multifamily dwelling.
8. Owner Occupancy. Owner occupancy is the condition and requirement that the owner of a parcel on which a junior accessory dwelling unit is constructed live in one (1) of the units on the property in perpetuity.
9. Primary Residence. A “primary residence” is the main residence, including attached habitable and unhabitable spaces, located or proposed to be located on the parcel on which an accessory dwelling unit(s) is located or proposed to be located.
10. Stepback. A setback above the ground floor, where the building is “stepped back” an additional distance from the applicable property line.
11. Uninhabitable space. Uninhabitable space is space that is not developed to full standards of habitability.

SECTION 6427. LOCATIONS PERMITTED. Accessory dwelling units shall be allowed in the R-1, R-2, R-3, PC, CMU-1, CMU-2, CMU-3, NMU, NMU-ECR, R-E, RH, RM and TPZ districts, and all other districts in which residential uses are permitted, regardless of any regulations that might otherwise prohibit accessory dwelling units in those districts.

SECTION 6428. APPROVAL. Accessory dwelling units meeting all of the applicable requirements of Section 6429.1, 6429.2, 6429.3, 6429.4, and 6429.5, shall be approved ministerially, without public notice, public hearing, or discretionary review.

Accessory dwelling units not meeting the applicable standards set forth in Section 6429.1, 6429.2, 6429.3, 6429.4, and 6429.5 will be considered a conditionally permitted use within the districts specified in Section 6427 and may be permitted by a conditional use permit pursuant to a public hearing before the Zoning Hearing Officer, as described in Section 6431.

SECTION 6429.1. DEVELOPMENT STANDARDS FOR ALL ACCESSORY DWELLING UNITS. New accessory dwelling units shall be subject to the requirements and standards described in this Chapter. Where not superseded by the specific requirements described in this Chapter, accessory dwelling units shall also be subject to the requirements applicable to any dwelling unit on the same parcel in the same district. Development standards applicable to all accessory dwelling units include the following:

1. **Minimum Lot Area.** Accessory dwelling units shall be exempt from the minimum lot area per dwelling unit provisions in the applicable district.
2. **Minimum Lot Size.** Accessory dwelling units shall be exempt from all minimum lot size requirements.
3. **Maximum Density of Development.** Accessory dwelling units shall be exempt from any and all provisions limiting the maximum density of development in the applicable district.
4. **Setbacks.** Notwithstanding the required setbacks in the applicable district, minimum setbacks for accessory dwelling units shall be:
 - a. **Front Setbacks.** With the exception of accessory dwelling units created entirely within the space of an existing structure, for all other accessory dwelling units regardless of height, the accessory dwelling unit may be located no closer to the front property line of the subject parcel than the lesser of:
 - (1) The front setback required by the relevant zoning district, or
 - (2) The distance from the front property line of the primary residence located or proposed to be located on that parcel. For purposes of this section, the primary residence includes attached garages.

In cases where the application of the setbacks described in (1) and (2) would preclude the creation of an accessory dwelling unit of at least eight hundred (800) square feet with side and rear setbacks of at least four (4) feet, the accessory dwelling unit may be located within the front setback but must be located as far as possible from the front property line.

In cases where an existing primary residence is closer to the front property line than the front setback normally required in the applicable district, the accessory dwelling unit shall also be allowed to be located as close to the front property line as the primary residence.

In cases where accessory dwelling units are proposed to be built atop, or below an existing detached garage that is located within the required front setback, a conditional use permit shall be required unless this provision would preclude the creation of an accessory dwelling unit of at least eight hundred (800) square feet.

- b. Side and Rear Setbacks. For accessory dwelling units created entirely within the space of an existing structure or constructed in the same location and to the same dimensions as an existing structure, side and rear setbacks shall be those already existing for that structure.

For all other accessory dwelling units regardless of height, the accessory dwelling unit may be located no closer to the property line than: Side: four (4) feet, Rear: four (4) feet.

- c. Stepbacks. Accessory dwelling units, whether attached or detached, exceeding sixteen (16) feet in height shall have the following stepbacks from the applicable property lines, located at a point no higher than sixteen (16) feet on the structure: Side: five (5) feet, Rear: ten (10) feet.
5. Floor Area. The allowable floor area of an accessory dwelling unit shall be calculated in the manner described in Sections 6429.1, 6429.2, 6429.3, 6429.4, and 6429.5, but in no case shall these regulations be applied in such a way as to preclude an attached or detached accessory dwelling unit of up to eight hundred (800) square feet that meets all other relevant standards.
 6. Lot Coverage. Accessory dwelling units shall count against the allowed lot coverage on a parcel, except that no lot coverage restriction shall preclude creation of an attached or detached accessory dwelling unit of up to eight hundred (800) square feet that meets all other relevant standards.

7. Height. The maximum height of an accessory dwelling unit shall be twenty-six (26) feet. Building height shall be measured as the vertical distance from any point on the lower of (a) finished grade, or (b) natural grade, to the topmost point of the building immediately above. Chimneys, pipes, mechanical equipment, antennae, and other similar structures may extend up to eight (8) feet beyond the building height, as required for safety or efficient operation. Accessory dwelling units built entirely within an existing building shall be subject to the greater of the height limit applicable to that building in the relevant district, or the maximum height of the existing primary residence, measured in the manner described in the Zoning Regulations of the relevant district.
8. Daylight Plane. Neither accessory dwelling units built above an existing detached or attached garage or accessory structure, nor detached accessory dwelling units taller than sixteen (16) feet in height, shall be subject to daylight plane requirements. Daylight plane applies to accessory dwelling units attached to or above existing single-family residences and taller than nineteen (19) feet in height, and those units are subject to daylight plane requirements, except daylight plane shall be measured from the setback applicable to the accessory dwelling unit.
9. Balconies and Decks. Accessory dwelling units that do not meet the setback requirements that would apply to a primary residence in the same district shall have no rooftop decks, and no portion of any balcony or deck shall be located above ten (10) feet in height, exclusive of railings, measured in the same manner as height in Section 6429.7, except on the side of the accessory dwelling unit facing the primary residence. Accessory dwelling units that meet the setback requirements that would apply to a primary residence in the same district may have rooftop decks and balconies to the extent otherwise allowed in the relevant district.
10. Windows. Accessory dwelling units that do not meet the setback requirements that would apply to a primary residence in the same district shall have no windows located above or extending above ten (10) feet on the accessory dwelling unit, measured from finished grade, except on: (1) the side(s) of the accessory dwelling unit facing the primary residence, and (2) the side(s) of the accessory dwelling unit that comply with the setback requirements of the district. On the sides of the accessory dwelling unit that do not meet the setback requirements of the district, clerestory windows located above ten (10) feet on the accessory dwelling unit shall be allowed, if they have a lower sill height of no less than six (6) feet from the nearest interior floor of the accessory dwelling unit, and a total window height no greater than twenty-four (24) inches. Skylights shall be allowed.

11. Fire Safety Requirements. Accessory dwelling units that do not meet the setback requirements of Section 6429.1.4.b are required to provide fire-rated walls, windows, eaves, and other architectural features on the side(s) of the accessory dwelling unit that encroach on the setback. No egress windows shall be allowed on the side(s) of accessory dwelling unit that do not meet the setback requirements of Section 6429.1.4.b
12. Ingress and Egress. Accessory dwelling units shall have an independently accessible entrance that does not require passage through the primary residence.
13. Required Facilities. With the exception of junior accessory dwelling units, which are subject to the requirements described in Section 6429.4, all attached or detached accessory dwelling units must include the following:
 - a. Independent facilities for living, sleeping, eating, cooking, and sanitation.
 - b. A kitchen area containing a refrigerator, sink, and permanently installed cooking appliance, which must include at least a fixed stovetop.
 - c. A fully plumbed bathroom including sink, shower, and toilet.
14. Parking Requirements
 - a. Required Parking. One (1) new covered or uncovered parking space, in addition to those already existing on the parcel, shall be provided on-site for each new attached or detached accessory dwelling unit.
 - b. Parking Exemptions. Accessory dwelling units meeting any of the following criteria shall not be required to provide any parking in addition to that already provided on the parcel, or in the case of a concurrent application for a new primary and accessory dwelling unit, shall not be required to provide any parking in addition to the parking required for the primary residence:
 - (1) Accessory dwelling units located within one-half (1/2) mile walking distance of a public transit stop or station. Public transit stops must be served by a transit line serving the public, and not solely by specialized, private, or limited population services such as school buses, privately run shuttles, or other services that cannot be used by all public riders.
 - (2) Accessory dwelling units located within a designated architecturally and historically significant historic district.

- (3) Accessory dwelling units that are part of the existing primary residence or an existing accessory structure, including attached or detached garages.
 - (4) Accessory dwelling units located within one (1) block of a car share vehicle pick-up/drop-off location.
 - (5) No parking exemption can be granted for properties (1) located within Wildland Urban Interface areas, which includes Emerald Lake Hills, Devonshire, and other areas designated by the Fire Department as Wildland Urban Interface areas, and (2) where fire engine access or turnaround space required by California Fire Code: Appendix D is not provided.
- c. Conversion of Covered Parking. Any covered parking removed in order to create an accessory dwelling unit is not required to be replaced, and if voluntarily replaced, may be replaced with uncovered parking of any type and configuration allowed by Section 6429.1.13(f), below. For purposes of this Section, conversion includes partial or full demolition of covered parking required to create an accessory dwelling unit.
- d. Garage Conversion. If an existing attached or detached garage is converted to an accessory dwelling unit, the parking previously provided by that garage is not required to be replaced, and if voluntarily replaced, may be replaced by uncovered parking of any type and configuration allowed by Section 6429.1.13(f), below, and no additional parking related to the accessory dwelling unit is required. For purposes of this Section, conversion includes partial or full demolition of the garage and partial or full replacement with an accessory dwelling unit.
- e. Use of Existing Parking. If the parking already existing on the parcel exceeds that required for existing development on the parcel, excess parking spaces shall be counted toward the new parking required for the accessory dwelling unit.
- f. Provision and Location of Parking. Parking spaces shall be provided in the following manner:
- (1) Pervious Surfaces. All new uncovered parking spaces created for the accessory dwelling unit must be provided on pervious surfaces. The maximum amount of impervious surfaces designated to satisfy the accessory dwelling unit parking requirement shall be no greater than the amount of impervious surfaces existing at time of application. Existing impervious

surface area may be used for parking and need not be converted to pervious surface.

- (2) Uncovered Parking. All parking required for the accessory dwelling unit may be uncovered.
 - (3) Front or Side Yard Parking. Up to three (3) parking spaces may be provided in the front or side yard setbacks. Not more than six hundred (600) square feet of the front yard area shall be used for parking.
 - (4) Tandem Parking. Required parking spaces for the primary residence and the accessory dwelling unit may be provided in tandem on a driveway. A tandem parking arrangement consists of one (1) car behind the other. No more than three (3) total cars in tandem may be counted toward meeting the parking requirement.
 - (5) Compact Spaces. All parking required for the accessory dwelling unit may be provided by compact parking spaces, as defined in Section 6118.a.
15. Requests for Parking Exceptions. If the required parking for an accessory dwelling unit cannot be met in accordance with this Chapter, an application may be submitted for a parking exception, as specified in Section 6120. For parking provided in accordance with the provisions of this Chapter, a parking exception shall not be required.
 16. Design Review. Accessory dwelling units shall not be subject to design review. Compatibility with applicable design standards for such units shall be determined by staff, at the discretion of the Director of Planning and Building.
 17. Architectural Review. Accessory dwelling units located in scenic corridors are not subject to architectural review.
 18. Concurrent Application for Development of Primary Residence and Accessory Dwelling Unit. In the case of a concurrent application for development of a new primary residence and new accessory dwelling unit on the same parcel, whichever unit is first issued a certificate of occupancy must conform to all applicable regulations for the primary residence in the relevant district.

19. Conversion of Existing Residence. An existing residence may be converted to an accessory dwelling unit in conjunction with development of a new primary residence, if the existing residence, once converted, will meet all the standards applicable to development of a new accessory dwelling unit described in this Chapter.
20. Conversion of Accessory Buildings. An accessory dwelling unit may be constructed within, above, or below an existing, detached accessory building, provided the resulting unit conforms to all applicable provisions of this Chapter.

Accessory dwelling units constructed within, above, or below an existing, detached accessory building that conforms to all applicable provisions of this Chapter shall not be required to obtain a use permit, regardless of the requirements of the applicable district.

Accessory dwelling units built within, above, or below existing or new garages are subject to the specific provisions of this Chapter regarding such units, regardless of any regulations to the contrary elsewhere in the Zoning Regulations.

21. Creation of Accessory Dwelling Unit Entirely Within a Non-Conforming Primary Residence. In the case of an existing primary residence that does not conform to one (1) or more provisions of the Zoning Regulations, creation of an accessory dwelling unit that will be entirely within the existing primary residence shall not, in itself, create a requirement that the nonconformities be rectified. No correction of existing nonconformities shall be required, unless they pose a threat to public health and safety.
22. Short Term Rental. Accessory dwelling units created pursuant to the provisions of this Chapter, if rented, shall only be rented for a term longer than thirty (30) days.
23. Impact Fees. Accessory dwelling units of less than seven hundred fifty (750) square feet in size shall be exempt from all impact fees. Accessory dwelling units of greater than seven hundred fifty (750) square feet in size shall only be charged impact fees in an amount equal to the standard impact fee for such a unit, multiplied by the proportion of the square footage of the accessory dwelling unit to the square footage of the primary dwelling unit.

SECTION 6429.2. STANDARDS FOR DETACHED ACCESSORY DWELLING UNITS.

Detached accessory dwelling units shall be subject to the requirements described in Section 6429.1, and to the following requirements:

1. Distance Between Detached Accessory Dwelling Units and Other Residential Structures. The distance required between a detached accessory dwelling unit and any other residential structure on the same parcel must be a minimum of five (5) feet, measured from foundation to foundation. If a separation distance greater than five (5) feet is required by any other section of the Zoning Regulations, it shall be disregarded, and the standards of this Chapter shall govern.

2. Floor Area of Detached Accessory Dwelling Units. Notwithstanding any floor area standards applicable to accessory dwelling units in the applicable district, the following floor area standards shall apply:
 - a. The floor area of a detached accessory dwelling unit shall not exceed eight hundred (800) square feet or thirty-five percent (35%) of the livable floor area of the existing or proposed primary residence, whichever is larger, up to a maximum of one thousand five hundred (1,500) square feet. The floor area of the primary residence shall be calculated in the manner described in the relevant base or overlay district Zoning Regulations.

 - b. The floor area of a detached accessory dwelling unit shall count against the total floor area allowed on a parcel, such that the total floor area of the accessory dwelling unit in combination with the square footage of the primary residence and other structures on or proposed to be on the parcel shall not exceed the maximum floor area allowed within the zoning district, with the following exception:
 - (1) Regardless of floor area limitations, a single eight hundred (800) square foot detached accessory dwelling unit shall be allowed on a parcel, so long as that accessory dwelling unit can meet the setback and stepback requirements described in Section 6429.1.

3. Detached Accessory Dwelling Units and Junior Accessory Dwelling Units. One (1) detached accessory dwelling unit may be built in combination with one (1) junior accessory dwelling unit on the same parcel, as long as both units comply with all relevant provisions of this Chapter. A detached accessory dwelling unit may not be built in combination with an attached accessory dwelling unit on the same parcel.

SECTION 6429.3. STANDARDS FOR ATTACHED ACCESSORY DWELLING UNITS.

Attached accessory dwelling units shall be subject to the requirements described in 6429.1, and to the following requirements:

1. Floor Area of Attached Accessory Dwelling Units. Notwithstanding any floor area standards applicable to accessory dwelling units in the applicable district, the following floor area standards shall apply:
 - a. The floor area of an attached accessory dwelling unit shall not exceed eight hundred (800) square feet or fifty percent (50%) of the livable floor area of the existing or proposed primary residence, whichever is larger, up to a maximum of one thousand five hundred (1,500) square feet. The floor area of the primary residence shall be calculated in the manner described in the relevant base or overlay district Zoning Regulations.
 - b. The floor area of an attached accessory dwelling unit shall count against the total floor area allowed on a parcel, such that the total floor area of the accessory dwelling unit in combination with the square footage of the primary residence and other structures on or proposed to be on the parcel shall not exceed the maximum floor area allowed within the zoning district, with the following exception:
 - (1) Regardless of floor area limitations, a single eight hundred (800) square foot attached accessory dwelling unit shall be allowed on a parcel, so long as that accessory dwelling unit can meet the setback and stepback requirements in Section 6429.1.
 - (2) For attached accessory dwelling units built entirely within the walls of an existing or proposed primary residence, an additional one-hundred fifty (150) square feet of floor area is allowed regardless of other floor area limitations, solely for the purpose of providing ingress/egress, and not for expanded living space. Such space for ingress and egress typically includes, but is not limited to, stairs, porches, foyers, and other similar areas.

2. Ingress and Egress for Attached Accessory Dwelling Units. With the exception of junior accessory dwelling units, attached accessory dwelling units shall only be allowed a connecting doorway or other permanent ingress or egress between the primary residence and the accessory dwelling unit with the approval of the Director of Planning and Building, at the Director's discretion. In all cases, such doorways must be independently securable from within the accessory dwelling unit and from within the primary residence.

For accessory dwelling units attached to the primary residence, any new entrances and exits may face the front of the parcel only if they are 1) located so as not to be visible from the front of the parcel, 2) unless otherwise required by clearance and or landing requirements, or 3) permitted by the Director of Planning and Building, at the Director's discretion.

3. Attached Accessory Dwelling Units and Junior Accessory Dwelling Units. One (1) attached accessory dwelling unit may be built in combination with one (1) junior accessory dwelling unit built on the same parcel, as long as both units comply with all relevant provisions of this Chapter. A detached accessory dwelling unit cannot be built on the same parcel as an attached accessory dwelling unit.

SECTION 6429.4. STANDARDS FOR JUNIOR ACCESSORY DWELLING UNITS.

Junior accessory dwelling units shall be subject to the requirements described in 6429.1, with the following exceptions: Location. Junior accessory dwelling units must be constructed entirely within the walls of an existing or proposed primary single-family residence, including within the walls of a garage attached to the primary residence, except that an additional one hundred fifty (150) square feet may be built solely for the purpose of providing ingress and egress for the junior accessory dwelling unit.

1. Floor area. The floor area of a junior accessory dwelling unit may be no greater than five hundred (500) square feet under any circumstance, except that an additional one hundred fifty (150) square feet may be created outside of the primary residence, solely for the purpose of providing ingress and egress for the junior accessory dwelling unit.
2. Required Facilities. Junior accessory dwelling units must have a sleeping area, sink, and efficiency kitchen as defined in Government Code Section 65852.22. Junior accessory dwelling units may share a bathroom with the primary residence.
3. Internal Ingress and Egress. Junior accessory dwelling units must have external ingress and egress, as described in Section 6529.1.11. However, junior accessory dwelling units may have an internal connecting doorway

between the junior accessory dwelling unit and the primary residence. The internal connecting doorway must be independently securable from both the junior accessory dwelling units and the primary residence. An internal connecting doorway between the junior accessory dwelling unit and the primary residence is required if the junior accessory dwelling unit does not include a separate bathroom.

4. Owner Occupancy. The owner(s) of the parcel on which a junior accessory dwelling unit is proposed shall be required to occupy one (1) of the units on the parcel. The owner(s) shall be required to record a deed restriction enforcing this requirement, which shall run with the land, and which shall be provided to the Planning and Building Department. The deed restriction shall also include a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
5. Parking. No additional parking shall be required for the creation of a junior accessory dwelling unit.

SECTION 6429.5. STANDARDS FOR MULTIPLE ACCESSORY DWELLING UNITS ON PROPERTIES WITH EXISTING OR PROPOSED MULTIFAMILY STRUCTURES. On parcels with existing or proposed multifamily structures, including multifamily structures with two (2) or more units, multiple accessory dwelling units shall be allowed, subject to the requirements described in Section 6429.1, and to the following requirements:

1. Attached Accessory Dwelling Units within Multifamily Structures:
 - a. Multiple accessory dwelling units may be created within the portions of existing or proposed 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 unit complies with State building standards for dwellings.
 - b. A minimum of one (1) accessory dwelling unit shall be allowed within an existing or proposed multifamily dwelling, and a maximum number of accessory dwelling units not exceeding twenty-five percent (25%) of the existing or proposed multifamily dwelling units on the parcel, if those accessory dwelling units meet all required standards of this Chapter.
2. Detached Accessory Dwelling Units on Parcels with Multifamily Structures. Up to two (2) detached accessory dwelling units shall be allowed on a parcel that has an existing or proposed multifamily dwelling, subject to the provisions of this Chapter.

SECTION 6430. DEVELOPMENT STANDARDS FOR UNPERMITTED ACCESSORY DWELLING UNITS.

1. Building permits may be issued for existing accessory dwelling units which were constructed without required permits, under the following conditions:
 - a. The accessory dwelling unit conforms to all applicable provisions of this Chapter, and all other applicable required standards for habitability.
 - b. All applicable fees for construction completed without permits have been paid.

Accessory dwelling units constructed without permits that do not meet the provisions of this Section may apply for a conditional use permit, as described in Section 6431.

SECTION 6431. REQUIREMENTS FOR CONDITIONALLY PERMITTED ACCESSORY DWELLING UNITS.

1. Accessory dwelling units not meeting all applicable standards of this Chapter, and which do not meet requirements of Section 6432, Home Improvement Exceptions, may be conditionally permitted, subject to a conditional use permit.
2. With the exception of accessory dwelling units described in 6431.3., below, the process for application for and issuance of a conditional use permit for an accessory dwelling unit shall be that set forth in Section 6503 of the Zoning Regulations, except that the granting of the permit shall be at the determination of the Zoning Hearing Officer. The determination of the Zoning Hearing Officer shall be appealable to the County Planning Commission only, subject to the procedures specified in Chapters 24 and Chapter 30 of the Zoning Regulations.
3. In the event that the creation or legalization of an accessory dwelling unit creates conflicts with standards specific to the base or overlay zoning of the parcel, or other standards for which specific exceptions are not provided in this Chapter, those conflicts must be addressed by whatever relief, if any, and through whatever procedures, are normally required by the regulations in which those standards are contained.
4. In the case of accessory dwelling units meeting all applicable standards of this Chapter except those related to parking requirements, a parking exception may be requested as provided in Section 6429.1.14(f), and a conditional use permit shall not be required.

SECTION 6432. HOME IMPROVEMENT EXCEPTIONS.

For accessory dwelling units that may be allowed contingent on approval of a Home Improvement Exception (HIE), as described in Section 6531, accessory dwelling units are exempt from the following requirements of Section 6531:

1. The improvement may not result in the creation of a new story. Accessory dwelling units permitted contingent on an HIE may result in creation of a new story.
2. At least seventy-five percent (75%) of the existing exterior walls (in linear feet) will remain. Accessory dwelling units may be permitted contingent on an HIE regardless of the percent of linear feet of existing walls remaining.
3. At least fifty percent (50%) of the existing roof (in square feet) will remain. Accessory dwelling units may be permitted contingent on an HIE regardless of the percent of existing roof remaining.
4. The addition will be located at least three (3) feet from a property line. In the case of accessory dwelling units located within an existing structure, as described in 6429.1.4, accessory dwelling units may be permitted contingent on an HIE regardless of setbacks.
5. The existing structure is located in an area with an average slope of less than twenty percent (20%). Accessory dwelling units may be permitted contingent on an HIE regardless of the average slope.

The aforementioned units are also exempt from the required HIE findings of Section 6534.2(1) and (2).

These exceptions to HIE standards are applicable only to the accessory dwelling unit or junior accessory dwelling unit, not to the primary residence or any other development on the subject parcel.

Home Improvement Exceptions may not be used to allow an accessory dwelling unit of greater floor area than that allowed by Section 6429.1.5., or a junior accessory dwelling unit of greater floor area than allowed by Section 6429.4.2.

SECTION 6434. DECISIONS. Applications for accessory dwelling units, except for those requiring a conditional use permit as specified in Section 6431, shall be approved or denied ministerially, on the basis of the objective criteria included in this Chapter and other applicable regulations. Consideration of other permits associated with development of the proposed accessory dwelling unit only, that might otherwise be discretionary, including but not limited to Tree Removal, Resource Management, Grading Permits, and Off-Street Parking Permit Exceptions shall also be ministerial, except as provided in Section 6431. No public notice or public hearing shall be required for review and approval or denial

of an accessory dwelling unit, unless an applicant requests exceptions to the standards set forth in this Chapter.

SECTION 6435. APPEALS. Decisions to approve or deny an application for an accessory dwelling unit that meets all relevant standards set forth in this Chapter shall not be subject to appeal.

SECTION 6436. APPLICABILITY IN SAN MATEO COUNTY COASTAL ZONE AND COASTAL DEVELOPMENT DISTRICT. These regulations shall only be applicable in areas outside San Mateo County's Coastal Zone.

SECTION 6437. APPLICABILITY OF COUNTY REGULATIONS. With the exception of specific standards and exemptions described in this Chapter, all accessory dwelling units must comply with all applicable provisions in the San Mateo County Ordinance Code, including the Zoning Regulations (Section 6100 et seq.) and the Building Code (Section 9000 et seq.).

SECTION 3. Adoption of this ordinance is exempt from environmental review, per CEQA Section 21080.17 and CEQA Guidelines Section 15282(h), which state that adoption of ordinances relating to accessory dwelling units to implement specific Government Code sections (Sections 65852.1 and 65852.2) is exempt from CEQA.

SECTION 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this ordinance.

SECTION 5. The Clerk shall publish this ordinance in accordance with applicable law.

SECTION 6. This ordinance shall be effective thirty (30) days from the passage date thereof.



County of San Mateo - Planning and Building Department

ATTACHMENT C

CHAPTER 22.5. ACCESSORY DWELLING UNITS

SECTION 6425. PURPOSE. Accessory dwelling units are a residential use that provide an important source of housing. The purpose of this Chapter is to:

1. Increase the supply and diversity of the County's housing stock, in particular the number of smaller and more affordable units, by allowing accessory dwelling units to be built on existing residential properties, while preserving the neighborhood character.
2. Increase the housing stock of existing neighborhoods in a manner that has less impact on the environment than development of housing in undeveloped areas.
3. Allow more efficient use of existing residential areas and supporting infrastructure.
4. Provide a means for residents to remain in their homes and neighborhoods.
5. Provide opportunities for homeowners to earn supplemental income from renting an accessory dwelling unit.
6. Establish standards for accessory dwelling units to ensure that they are safe, habitable, and compatible with existing development.

SECTION 6426. DEFINITIONS.

1. **Primary Residence.** A "primary residence" is the main residence, including attached habitable and unhabitable spaces, located or proposed to be located on the parcel on which an accessory dwelling unit(s) is located or proposed to be located.
2. **Accessory Dwelling Unit.** An "accessory dwelling unit" is a dwelling unit located or proposed to be located on a lot which contains, or will contain, a primary residence. Accessory dwelling units may be detached from or attached to the primary residence on the property. Accessory dwelling units may also be (1) efficiency units, as defined in Section 17958.1 of the California Health and Safety Code, or (2) manufactured homes, as defined in Section 18007 of the California Health and Safety Code. Accessory dwelling units are "accessory dwelling units" as that term is used in Government Code Section 65852.2. ~~An accessory dwelling unit includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code or a manufactured home as defined in Section 18007 of the Health and Safety code.~~ A "second unit" or "secondary unit" is an accessory dwelling unit. Accessory dwelling units are not "accessory buildings" as defined in Section 6102.19. Any secondary structure that provides independent facilities for living, sleeping, eating, cooking, and sanitation may be considered an accessory dwelling unit, at the discretion of the ~~Community Development Director~~ of Planning and

Building, unless an applicant can provide compelling evidence to the contrary to the satisfaction of the ~~Community Development~~ Director of Planning and Building.

3. Detached Accessory Dwelling Unit. A “detached accessory dwelling unit” is a unit that is an independent structure, entirely separated from the structure of the primary residence. Accessory dwelling units constructed within, or as an extension of an existing detached structure other than the primary residence are considered detached accessory dwelling units.
4. Attached Accessory Dwelling Unit. An “attached accessory dwelling unit” is a unit that is built as an addition to, extension of, or within the primary residence.
5. Junior Accessory Dwelling Unit. A “junior accessory dwelling unit” is an accessory dwelling unit built entirely within the walls of an existing or proposed primary residence, not exceeding five hundred (500) square feet in size, and including an efficiency kitchen, as described in Government Code Section 65852.22. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing or proposed structure or unit primary residence.
6. Efficiency Kitchen. An efficiency kitchen, as defined in Government Code Section 65852.22, is a kitchen that contains at least a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
7. Floor Area. For purposes of this Chapter, the “floor area” of an accessory dwelling unit is the area of each floor level included within the walls enclosing each dwelling unit. The floor area shall be measured from the outside face of the walls enclosing each dwelling unit including all closet space and storage areas contained within the unit, including habitable basements and attics, but not including unenclosed porches, balconies, or any enclosed garages or carports. For purposes of calculating allowable floor area of accessory dwelling units based on a proportion of the size of the primary residence, only the livable floor area of the primary residence shall be counted. The floor area of any other structures, for purposes of calculating total floor area, lot coverage, or other calculations, shall be calculated in the manner described in the relevant zoning Regulations.
8. Owner Occupancy. Owner occupancy is the condition and requirement that the owner of a parcel on which a junior accessory dwelling unit is constructed live in one (1) of the units on the property in perpetuity.
9. Stepback. A setback above the ground floor, where the building is “stepped back” an additional distance from the applicable property line. ~~from the outermost point of the building at the ground level.~~

10. Multifamily Dwelling. Two or more attached dwellings on a single lot is considered a multifamily dwelling. Multiple detached single-unit dwellings on the same lot are not considered a multifamily dwelling.
11. Uninhabitable space. Uninhabitable space is space that is not developed to full standards of habitability.

SECTION 6427. LOCATIONS PERMITTED. Accessory dwelling units shall be allowed in the R-1, R-2, R-3, PC, CMU-1, CMU-2, CMU-3, NMU, NMU-ECR, R-E, RH, RM and TPZ ~~d~~Districts, and all other districts in which residential uses are permitted, regardless of any regulations that might otherwise prohibit accessory dwelling units in ~~any~~ those ~~specific~~ districts.

SECTION 6428. APPROVAL. Accessory dwelling units meeting all of the applicable requirements of Section 6429.1, 6429.2, 6429.3, 6429.4, and 6429.5, ~~as applicable,~~ shall be approved ministerially, without public notice, public hearing, or discretionary review.

Accessory dwelling units not meeting the applicable standards set forth in Section 6429.1, 6429.2, 6429.3, 6429.4, and 6429.5 will be considered a conditionally permitted use within the districts specified in Section 6427 and may be permitted by a conditional use permit pursuant to a public hearing before the Zoning Hearing Officer, as described in Section 6431.

SECTION 6429.1. DEVELOPMENT STANDARDS FOR ALL ACCESSORY DWELLING UNITS. New accessory dwelling units shall be subject to the requirements and standards described in this ~~e~~Chapter. Where not superseded by the specific requirements described in this ~~e~~Chapter, accessory dwelling units shall also be subject to the requirements applicable to any dwelling unit on the same parcel in the same district. Development standards applicable to all accessory dwelling units include the following:

1. Minimum Lot Area. Accessory dwelling units shall be exempt from the minimum lot area per dwelling unit provisions in the applicable district.
2. Minimum Lot Size. Accessory dwelling units shall be exempt from all minimum lot size requirements.
3. Maximum Density of Development. Accessory dwelling units shall be exempt from any and all provisions limiting the maximum density of development in the applicable district.

4. Setbacks. Notwithstanding the required setbacks in the applicable district, minimum setbacks for accessory dwelling units shall be:

a. Front Setbacks. With the exception of accessory dwelling units created entirely within the space of an existing structure, for all other accessory dwelling units regardless of height, the accessory dwelling unit may be located no closer to the front property line of the subject parcel than the lesser of:

- (1) The front setback required by the relevant zoning district, or
- (2) The distance from the front property line of the primary residence located or proposed to be located on that parcel. For purposes of this section, the primary residence includes attached garages. In cases where the application of the setbacks described in (1) and (2) would preclude the creation of an accessory dwelling unit of at least eight hundred (800) square feet with side and rear setbacks of at least four (4) feet, the accessory dwelling unit may be located within the front setback, but must be located as far as possible from the front property line.

In cases where an existing primary residence is closer to the front property line than the front setback normally required in the ~~same~~ applicable district, the accessory dwelling unit shall also be allowed to be located as close to the front property line as the primary residence.

In cases where ~~an~~ accessory dwelling units are ~~is~~ proposed to be built atop, or below an existing detached garage that is located within the required front setback, a conditional use permit shall be required unless this provision would preclude the creation of an accessory dwelling unit of at least eight hundred (800) square feet.

b. Side and Rear Setbacks. For accessory dwelling units created entirely within the space of an existing structure, or constructed in the same location and to the same dimensions as an existing structure, side and rear setbacks shall be those already existing for that structure. ~~unless such setbacks present demonstrable safety issues.~~

For all other accessory dwelling units regardless of height, the accessory dwelling unit may be located no closer to the property line than: Side: four (4) feet, Rear: four (4) feet.

- c. Stepbacks. Accessory dwelling units, whether attached or detached, exceeding sixteen (16) feet in height shall have the following stepbacks from the applicable property lines, located at a point no higher than sixteen (16) feet on the structure: Side: five (5) feet, Rear: ten (10) feet.
5. Floor Area. The allowable floor area of an accessory dwelling unit shall be calculated in the manner described in Sections 6429.1, 6429.2, 6429.3, 6429.4, and 6429.5, but in no case shall these regulations be applied in such a way as to preclude an attached or detached accessory dwelling unit of at least up to eight hundred (800) square feet in size that meets all other relevant standards.
6. Lot Coverage. Accessory dwelling units shall count against the allowed lot coverage on a parcel, except that no lot coverage restriction shall preclude creation of an attached or detached accessory dwelling unit of up to at least eight hundred (800) square feet in size that meets all other relevant standards.
7. Height. The maximum height of ~~the~~ an accessory dwelling unit shall be twenty-six (26) feet. Building height shall be measured as the vertical distance from any point on the lower of (a) finished grade, or (b) natural grade, to the topmost point of the building immediately above. Chimneys, pipes, mechanical equipment, antennae, and other similar structures may extend up to eight (8) feet beyond the building height, as required for safety or efficient operation. Accessory dwelling units built entirely within an existing building shall be subject to the greater of the height limit applicable to that building in the relevant district, or the maximum height of the existing primary residence, measured in the manner described in the Zoning Regulations of the relevant district.
8. Daylight Plane. Neither accessory dwelling units built above an existing detached or attached garage or accessory structure, nor detached accessory dwelling units taller than sixteen (16) feet in height, shall be subject to daylight plane requirements. Daylight plane applies to accessory dwelling units attached to or above existing single-family residences and taller than nineteen (19) feet in height, except daylight plane shall be measured from the setback applicable to the accessory dwelling unit.
9. Balconies and Decks. Accessory dwelling units that do not meet the setback requirements that would apply to a primary residence in the same district shall have no rooftop decks, and no portion of any balcony or deck shall be located above ten (10) feet in height, exclusive of railings, measured in the same manner as height in Section 6429.7, except on the side of the accessory dwelling unit facing the primary residence. Accessory dwelling units that meet the setback requirements that would apply to a primary residence in the same district may have rooftop decks and balconies to the extent otherwise allowed in the relevant district.

10. Windows. Accessory dwelling units that do not meet the setback requirements that would apply to a primary residence in the same district shall have no windows located above or extending above ten (10) feet on the accessory dwelling unit, measured from finished grade, except on: (1) the side(s) of the accessory dwelling unit facing the primary residence, and (2) the side(s) of the accessory dwelling unit that comply with the ~~normal~~ setback requirements of the district. On the sides of the accessory dwelling unit that do not meet the ~~normal~~ setback requirements of the district, clerestory windows located above ten (10) feet on the accessory dwelling unit shall be allowed, if they have a lower sill height of no less than six (6) feet from the nearest interior floor of the accessory dwelling unit, and a total window height no greater than twenty-four (24) inches. Skylights shall be allowed.
11. Fire Safety Requirements. For accessory dwelling units that do not meet the setback requirements of Section 6429.1.4.b. are required to provide fire-rated walls, windows, eaves, and other architectural features on the side(s) of the accessory dwelling unit that encroach on the setback. No egress windows shall be allowed on the side(s) of accessory dwelling unit that do not meet the setback requirements of Section 6429.1.4.b.
12. Ingress and Egress. Accessory dwelling units shall have an independently accessible entrance that does not require passage through the primary residence.
13. Required Facilities. With the exception of junior accessory dwelling units, which are subject to the requirements described in Section 6429.4, all attached or detached accessory dwelling units must include the following:
 - a. Independent facilities for living, sleeping, eating, cooking, and sanitation.
 - b. A kitchen area containing a refrigerator, sink, and permanently installed cooking appliance, which must include at least a fixed stovetop.
 - c. A fully plumbed bathroom including sink, shower, and toilet.
14. Parking Requirements
 - a. Required Parking. One (1) new covered or uncovered parking space, in addition to those already existing on the parcel, shall be provided on-site for each new attached or detached accessory dwelling unit.
 - b. Parking Exemptions. Accessory dwelling units meeting any of the following criteria shall not be required to provide any parking in addition to that already provided on the parcel, or in the case of a concurrent application for a new primary and accessory dwelling unit, shall not be required to provide any parking in addition to the parking required for the primary residence:
 -

- (1) Accessory dwelling units located within one-half (1/2) mile walking distance of a public transit stop or station ~~measured as a direct line from the transit stop~~. Public transit stops must be served by a transit line serving the public, and not solely by specialized, private, or limited population services such as school buses, privately run shuttles, or other services that cannot be used by all public riders.
 - (2) Accessory dwelling units located within a designated architecturally and historically significant historic district.
 - (3) Accessory dwelling units that are part of the existing primary residence or an existing accessory structure, including attached or detached garages.
 - (4) Accessory dwelling units located within one (1) block of a car share vehicle pick-up/drop-off location.
 - (5) No parking exemption can be granted for properties (1) located within Wildland Urban Interface areas, which includes: Emerald Lake Hills, Devonshire and other areas designated by the Fire Department as Wildland Urban Interface areas, and (2) where fire engine access and turnaround space required by California Fire Code: Fire Appendix D is not provided.
- c. Conversion of Covered Parking. Any covered parking removed in order to create an accessory dwelling unit is not required to be replaced, and if voluntarily replaced ~~if required to be replaced~~, may be replaced with uncovered parking of any type and configuration allowed by Section 6429.1.13(f), below. For purposes of this Section, conversion includes partial or full demolition of covered parking required to create an accessory dwelling unit.
- d. Garage Conversion. If an existing attached or detached garage is converted to an accessory dwelling unit, the parking previously provided by that garage is not required to be replaced, and if voluntarily replaced, may be replaced by uncovered parking of any type and configuration allowed by Section 6429.1.13(f), below, and no additional parking related to the accessory dwelling unit is required. For purposes of this Section, conversion includes partial or full demolition of the garage and partial or full replacement with an accessory dwelling unit.
- e. Use of Existing Parking. If the parking already existing on the parcel exceeds that required for existing development on the parcel, excess parking spaces shall be counted toward the new parking required for the accessory dwelling unit.

- f. Provision and Location of Parking. Parking spaces shall be provided in the following manner:
- (1) Pervious Surfaces. All new uncovered parking spaces created for the accessory dwelling unit must be provided on pervious surfaces. The maximum amount of impervious surfaces designated to satisfy the accessory dwelling unit parking requirement shall be no greater than the amount of impervious surfaces existing at time of application. Existing impervious surface area may be used for parking and need not be converted to pervious surface.
 - (2) Uncovered Parking. All parking required for the accessory dwelling unit may be uncovered.
 - (3) Front or Side Yard Parking. Up to three (3) parking spaces may be provided in the front or side yard setbacks. Not more than six hundred (600) square feet of the front yard area shall be used for parking.
 - (4) Tandem Parking. Required parking spaces for the primary residence and the accessory dwelling unit may be provided in tandem on a driveway. A tandem parking arrangement consists of one (1) car behind the other. No more than three (3) total cars in tandem may be counted toward meeting the parking requirement.
 - (5) Compact Spaces. All parking required for the accessory dwelling unit may be provided by compact parking spaces, as defined in Section 6118.a.
15. Requests for Parking Exceptions. If the required parking for an accessory dwelling unit cannot be met in accordance with this Chapter, an application may be submitted for a parking exception, as specified in Section 6120. For parking provided in accordance with the provisions of this Chapter, a parking exception shall not be required.
16. Design Review. Accessory dwelling units shall not be subject to design review. Compatibility with applicable design standards for such units shall be determined by staff, at the discretion of the ~~Community Development~~ Director of Planning and Building.
17. Architectural Review. Accessory dwelling units located in scenic corridors are not subject to architectural review.
18. Concurrent Application for Development of Primary Residence and Accessory Dwelling Unit. In the case of a concurrent application for development of a new primary residence and new accessory dwelling unit on the same parcel, whichever unit is first issued a certificate of occupancy must conform to all applicable regulations for the primary residence in the relevant district.

19. Conversion of Existing Residence. An existing residence may be converted to an accessory dwelling unit in conjunction with development of a new primary residence, if the existing residence, once converted, will meet all the standards applicable to development of a new accessory dwelling unit described in this Chapter.
20. Conversion of Accessory Buildings. An accessory dwelling unit may be constructed within, above, or below an existing, detached accessory building, provided the resulting unit conforms to all applicable provisions of this Chapter.

Accessory dwelling units constructed within, above, or below an existing, detached accessory building that conforms to all applicable provisions of this Chapter shall not be required to obtain a use permit, regardless of the requirements of the applicable district.

Accessory dwelling units built within, above, or below existing or new garages are subject to the specific provisions of this Chapter regarding such units, regardless of any regulations to the contrary elsewhere in the Zoning Regulations.

21. Creation of Accessory Dwelling Unit Entirely Within a Non-Conforming Primary Residence. In the case of an existing primary residence that does not conform to one (1) or more provisions of the zoning regulations, creation of an accessory dwelling unit that will be entirely within the existing primary residence shall not, in itself, create a requirement that the nonconformities be rectified. ~~However, no other provisions that may require~~ No correction ~~rectification~~ of existing nonconformities shall be required, unless they pose a threat to public health and safety. ~~are waived merely due to approval of an accessory dwelling unit, unless specifically described in this Chapter.~~
22. Short Term Rental. Accessory dwelling units created pursuant to the provisions of this Chapter, if rented, shall only be rented for a term longer than thirty (30) days.
23. Impact Fees. Accessory dwelling units of less than seven hundred fifty (750) square feet in size shall be exempt from all impact fees. Accessory dwelling units of greater than seven hundred fifty (750) square feet in size shall only be charged impact fees in an amount equal to the standard impact fee for such a unit, multiplied by the proportion of the square footage of the accessory dwelling unit to the square footage of the primary dwelling unit.

SECTION 6429.2. STANDARDS FOR DETACHED ACCESSORY DWELLING UNITS.

~~New~~ Detached accessory dwelling units shall be subject to the requirements described in Section 6429.1, and to the following requirements:

1. Distance Between Detached Accessory Dwelling Units and Other Residential Structures. The distance required between a detached accessory dwelling unit

and any other residential structure on the same parcel must be a minimum of five (5) feet, measured from foundation to foundation. If a separation distance greater than five (5) feet is required by any other section of the Zoning Regulations, it shall be disregarded, and the standards of this Chapter shall govern.

Floor Area of Detached Accessory Dwelling Units. Notwithstanding any floor area standards applicable to accessory dwelling units in the applicable district, the following floor area standards shall apply:

- a. The floor area of a detached accessory dwelling unit shall not exceed eight hundred (800) square feet or thirty-five percent (35%) of the livable floor area of the existing or proposed primary residence, whichever is larger, up to a maximum of one thousand five hundred (1,500) square feet. The floor area of the primary residence shall be calculated in the manner described in the relevant base or overlay district Zoning Regulations.
- b. The floor area of a detached accessory dwelling unit shall count against the total floor area allowed on a parcel, such that the total floor area of the accessory dwelling unit in combination with the square footage of the primary residence and other structures on or proposed to be on the parcel shall not exceed the maximum floor area allowed within the zoning district, with the following exception:
 - (1) Regardless of floor area limitations, a single eight hundred (800) square foot detached accessory dwelling unit shall be allowed on a parcel, so long as that ~~second~~ accessory dwelling unit can meet the setback and stepback requirements described in Section 6429.1.

2. Detached Accessory Dwelling Units and Junior Accessory Dwelling Units. One (1) detached accessory dwelling unit may be built in combination with one (1) junior accessory dwelling unit ~~built~~ on the same parcel, as long as both units comply with all relevant provisions of this Chapter. A detached accessory dwelling unit may not be built in combination with an attached accessory dwelling unit on the same parcel.

SECTION 6429.3. STANDARDS FOR ATTACHED ACCESSORY DWELLING UNITS.

~~New~~ Attached accessory dwelling units shall be subject to the requirements described in 6429.1, and to the following requirements:

1. Floor Area of Attached Accessory Dwelling Units. Notwithstanding any floor area standards applicable to accessory dwelling units in the applicable district, the following floor area standards shall apply:
 - a. The floor area of an attached accessory dwelling unit shall not exceed eight hundred (800) square feet or fifty percent (50%) of the livable floor area of the existing or proposed primary residence, whichever is larger, up to a maximum of one thousand five hundred (1,500) square feet. The floor

area of the primary residence shall be calculated in the manner described in the relevant base or overlay district Zoning Regulations.

b. The floor area of an attached accessory dwelling unit shall count against the total floor area allowed on a parcel, such that the total floor area of the accessory dwelling unit in combination with the square footage of the primary residence and other structures on or proposed to be on the parcel shall not exceed the maximum floor area allowed within the zoning district, with the following exception:

- (1) Regardless of floor area limitations, a single eight hundred (800) square foot attached accessory dwelling unit shall be allowed on a parcel, so long as that ~~second~~ accessory dwelling unit can meet the setback and stepback requirements in Section 6429.1.
- (2) For attached ~~second~~ accessory dwelling units built entirely within the walls of an existing or proposed primary residence, an additional one-hundred fifty (150) square feet of floor area is allowed regardless of other floor area limitation, solely for the purpose of providing ingress/egress, and not for expanded living space. Such space for ingress and egress typically includes, but is not limited to, stairs, porches, foyers, and other similar areas.

2. Ingress and Egress for Attached Accessory Dwelling Units. With the exception of junior accessory dwelling units, attached accessory dwelling units shall only be allowed a connecting doorway or other permanent ingress or egress between the primary residence and the accessory dwelling unit with the approval of the ~~Community Development Director~~ of Planning and Building, at the Director's discretion. In all cases, such doorways must be independently securable from within the accessory dwelling unit and from within the primary residence. ~~Junior accessory dwelling units are permitted to have a connecting doorway or other permanent ingress or egress between the primary residence and the junior accessory dwelling unit, but such doorway must also be independently securable from within both the junior accessory dwelling unit and the primary residence.~~

For accessory dwelling units attached to the primary residence, any new entrances and exits may face the front of the parcel only if they are 1) located so as not to be visible from the front of the parcel, or 2) unless otherwise, required by clearance and or landing requirements, or 3) unless permitted by the ~~Community Development Director~~ of Planning and Building, at the Director's discretion.

3. No Combining of Attached Accessory Dwelling Units and Other Accessory Dwelling Units. ~~An attached accessory dwelling unit that does not meet the definition of, and comply with all relevant standards relating to, a junior accessory dwelling unit, may not be built in combination with any other attached or detached accessory dwelling unit on the same parcel.~~

3. Attached Accessory Dwelling Units and Junior Accessory Dwelling Units. One (1) attached accessory dwelling unit may be built in combination with one (1) junior accessory dwelling unit built on the same parcel, as long as both units comply with all relevant provisions of this Chapter. A detached accessory dwelling unit cannot be built on the same parcel as an attached accessory dwelling unit.

SECTION 6429.4. STANDARDS FOR JUNIOR ACCESSORY DWELLING UNITS.

New attached junior accessory dwelling units shall be subject to the requirements described in 6429.1, with the following exceptions:

1. Location. Junior accessory dwelling units must be constructed entirely within the walls of an existing or proposed primary single-family residence, including within the walls of a garage attached to the primary residence, except that an additional one hundred fifty (150) square feet may be built solely for the purpose of providing ingress and egress for the junior accessory dwelling unit.
2. Floor area. The floor area of a junior accessory dwelling unit may be no greater than five hundred (500) square feet under any circumstance, except that an additional one hundred fifty (150) square feet may be created outside of the primary residence, solely for the purpose of providing ingress and egress for the junior accessory dwelling unit.
3. Required Facilities. Junior accessory dwelling units must have a sleeping area, sink, and efficiency kitchen as defined in Government Code Section 65852.22. Junior accessory dwelling units ADUs may share a bathroom with the primary residence.
4. Internal Ingress and Egress. Junior accessory dwelling units must have external ingress and egress, as described in Section 6529.1.11. However, junior accessory dwelling units may have an internally connecting doorways between the junior accessory dwelling unit and the primary residence. The internally connecting doorway must be independently securable from both the junior accessory dwelling units and the primary residence. An internal connecting doorway between the junior accessory dwelling unit and the primary residence is required if the junior accessory dwelling unit does not include a separate bathroom.
5. Owner Occupancy. The owner(s) of the parcel on which a junior accessory dwelling unit is proposed shall be required to occupy one (1) of the units on the parcel. The owner(s) shall be required to record a deed restriction enforcing this requirement, which shall run with the land, and which shall be provided to the Planning and Building Department. The deed restriction shall also include a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

6. Parking. No additional parking shall be required for the creation of a junior accessory dwelling unit.

SECTION 6429.5. STANDARDS FOR MULTIPLE ACCESSORY DWELLING UNITS ON PROPERTIES WITH EXISTING OR PROPOSED MULTIFAMILY STRUCTURES.

On parcels with existing or proposed multi-family structures, including multi-family structures with two or more units, multiple accessory dwelling units shall be allowed, subject to the requirements described in Section 6429.1, and to the following requirements:

1. Attached Accessory Dwelling Units within Multi-family Structures:
 - a. Multiple accessory dwelling units may be created within the portions of existing or proposed multi-family 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 unit complies with sState building standards for dwellings.
 - b. A minimum of one (1) accessory dwelling unit shall be allowed within an existing or proposed multi-family dwelling, and a maximum number of accessory dwelling units not exceeding twenty-five percent (25%) of the existing or proposed multi-family dwelling units on the parcel, if those accessory dwelling units meet all required standards of this Chapter.
2. Detached Accessory Dwelling Units on Parcels with Multi-family Structures. ~~No more than~~ Up to two (2) detached accessory dwelling units shall be allowed on a parcel that has an existing or proposed multi-family dwelling, subject to the provisions of this Chapter.

SECTION 6430. DEVELOPMENT STANDARDS FOR UNPERMITTED EXISTING-SECOND ACCESSORY DWELLING UNITS.

1. Building permits may be issued for existing accessory dwelling units which were constructed without required permits, under the following conditions:
 - a. The accessory dwelling unit conforms to all applicable provisions of this Chapter, and all other applicable required standards for habitability.
 - b. All applicable fees for construction completed without permits have been paid.

Accessory dwelling units constructed without permits that do not meet the provisions of this Section may apply for a conditional use permit, as described in Section 6431.

SECTION 6431. REQUIREMENTS FOR CONDITIONALLY PERMITTED ACCESSORY DWELLING UNITS.

1. Accessory dwelling units not meeting all applicable standards of this Chapter, and which do not meet requirements of Section 6432, Home Improvement Exceptions, may be conditionally permitted, subject to a conditional use permit.
2. With the exception of accessory dwelling units described in 6431.3., below, the process for application for and issuance of a conditional use permit for an accessory dwelling unit shall be that set forth in Section 6503 of the ~~County~~ Zoning Regulations, except that the granting of the permit shall be at the determination of the Zoning Hearing Officer. The determination of the Zoning Hearing Officer shall be appealable to the County Planning Commission only, subject to the procedures specified in Chapters 24 and Chapter 30 of the Zoning Regulations.
3. In the event that the creation or legalization of an accessory dwelling unit creates conflicts with standards specific to the base or overlay zoning of the parcel, or other standards for which specific exceptions are not provided in this Chapter, those conflicts must be addressed by whatever relief, if any, and through whatever procedures, are normally required by the regulations in which those standards are contained.
4. In the case of accessory dwelling units meeting all applicable standards of this Chapter except those related to parking requirements, a parking exception may be requested as provided in Section 6429.1.14(f), and a conditional use permit shall not be required.

SECTION 6432. HOME IMPROVEMENT EXCEPTIONS.

~~Home Improvement Exceptions.~~ For accessory dwelling units that may be allowed contingent on approval of a Home Improvement Exception (HIE), as described in Section 6531, accessory dwelling units are exempt from the following requirements of Section 6531 that:

1. The improvement may not result in the creation of a new story. Accessory dwelling units permitted contingent on an HIE may result in creation of a new story.
2. At least seventy-five percent (75%) of the existing exterior walls (in linear feet) will remain. Accessory dwelling units may be permitted contingent on an HIE regardless of the percent of linear feet of existing walls remaining.
3. At least fifty percent (50%) of the existing roof (in square feet) will remain. Accessory dwelling units may be permitted contingent on an HIE regardless of the percent of existing roof remaining.

4. The addition will be located at least three (3) feet from a property line. In the case of accessory dwelling units located within an existing structure, as described in 6429.1.4, accessory dwelling units may be permitted contingent on an HIE regardless of setbacks.
5. The existing structure is located in an area with an average slope of less than ~~20-~~ twenty percent (20%). Accessory dwelling units may be permitted contingent on an HIE regardless of the average slope.

The aforementioned units are also exempt from the required HIE findings of Section 6534.2(1) and (2).

These exceptions to HIE standards are applicable only to the accessory dwelling unit, not to the primary residence or any other development on the subject parcel.

Home Improvement Exceptions may not be used to allow an accessory dwelling unit of greater floor area than that allowed by Section 6429.1.5.

SECTION 6434. DECISIONS. Applications for accessory dwelling units, except for those requiring a conditional use permit as specified in Section 6431, shall be approved or denied ministerially, on the basis of the objective criteria included in this Chapter and other applicable regulations. Consideration of other permits associated with development of the proposed accessory dwelling unit only, that might otherwise be discretionary, including but not limited to Tree Removal, Resource Management, ~~and~~ Grading Permits, and Off-Street Parking Exceptions shall also be ministerial, except as provided in Section 6431. No public notice or public hearing shall be required for review and approval or denial of an accessory dwelling unit, unless an applicant requests exceptions to the standards set forth in this Chapter.

SECTION 6435. APPEALS. Decisions to approve or deny an application for an accessory dwelling unit that meets all relevant standards set forth in this Chapter shall not be subject to appeal.

SECTION 6436. APPLICABILITY IN SAN MATEO COUNTY COASTAL ZONE AND COASTAL DEVELOPMENT DISTRICT. These regulations shall only be applicable in areas outside San Mateo County's Coastal Zone.

SECTION 6437. APPLICABILITY OF COUNTY REGULATIONS. With the exception of specific standards and exemptions described in this Chapter, all accessory dwelling units must comply with all applicable provisions in the San Mateo County Ordinance Code, including the Zoning Regulations (Section 6100 et seq.) and the Building Code (Section 9000 et seq.).

(Chapter 22.5 - Added by Ordinance No. 2876 - January 24, 1984)
(Section 6427 - Amended by Ordinance No. 3039 - June 18, 1985)
(Section 6427 - Amended by Ordinance No. 3057 - March 4, 1986)
(Section 6427.5 - Repealed by Ordinance No. 3039 - June 18, 1985)
(Section 6428 - Amended by Ordinance No. 3039 - June 18, 1985)
(Section 6428.2 - Amended by Ordinance No. 3537 - January 25, 1994)
(Section 6428.5 - Added by Ordinance No. 3039 - June 18, 1985)
(Section 6429 - Amended by Ordinance No. 3057 - March 4, 1986)
(Sections 6425 - 6434 repealed and replaced in their entirety by Ordinance No. 04768 -
January 10, 2017)
(Sections 6425 - 6436 repealed and replaced in their entirety by Ordinance No. 4811 -
March 26, 2019)
(Sections 6425 - 6437 repealed and replaced in their entirety by Ordinance No. 4834 -
September 15, 2020)