17.103.080 - One-Family Dwelling with Secondary Unit Residential Facilities.

The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted, as specified in each individual zone:

A. Regulations Applying to All Secondary Units.

1. Ministerial Approval. An application for a Secondary Unit shall be granted ministerial approval when it complies with all applicable zoning regulations, including but not limited to all provisions in this Section (17.103.080).

2. Occupancy Requirement. Occupancy of a Secondary Unit shall be on a thirty (30) days or longer basis only.

3. Sale of Unit. A Secondary Unit shall not be sold separately from the existing One-Family Dwelling Facility on the same lot.

4. Parking Configuration. If a covered parking structure is demolished to construct a Secondary Unit, any required replacement parking may be located in any configuration (including covered, uncovered, tandem or mechanical lift).

5. Fire Sprinklers. A Secondary Unit shall not be required to provide fire sprinklers if they are not required for the existing One-Family Dwelling Facility on the same lot.

6. Compliance with Building and Fire Codes. Unless specified otherwise, a Secondary Unit shall comply with all code and permit requirements imposed by other affected departments, including but not limited to, the requirement for a building permit.

B. Category One: Secondary Units Entirely within an Existing One-Family Dwelling Facility or Existing Detached Accessory Structure.

1. Definition. Category One Secondary Units are those that are located entirely within a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017; and involve no expansion of the existing building envelope. Other defining characteristics of Category One Secondary Units are: a) independent exterior access from the existing One-Family Dwelling Facility, and b) existing side and rear setbacks sufficient for fire safety.

2. Exemption from Nonconformity Regulations. An application for a Category One Secondary Unit shall be granted ministerial approval when it is entirely within the building envelope of a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017, regardless of the normally required prohibition on residential living quarters within a detached accessory structure located in a minimum Yard or Court in Subsection K. of Section 17.108.130; and regardless of any existing nonconformity as to setback or height of the detached accessory structure or primary dwelling facility.

3. Utility Connections. A new or separate utility connection shall not be required directly between a Category One Secondary Unit and the utility, and no related connection fee or capacity charge shall be required.

4. Parking. Regardless of any provisions to the contrary in the applicable individual zone regulations and in Chapter 17.116, no additional parking shall be required for a Category One Secondary Unit.

C. Category Two: All Other Secondary Units.

1. Definition. Category Two Secondary Units are those that: a) are not entirely within the building envelope of a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017; and b) involve either construction of a new structure, or an exterior addition to an existing structure.

2. Maximum Permitted Floor Area. The floor area of a Category Two Secondary Unit shall not exceed eight hundred (800) square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less.

3. Required Parking. Except as specified in Subsection a. below, the minimum parking requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations and in Chapter 17.116. Tandem parking may be permitted according to the regulations in Section 17.116.240.

    a. Secondary Units that are located on sites within: (i) one-half (½) mile of a public Transit Stop; (ii) an Area of Primary Importance (API) or Area of Secondary Importance (ASI), as defined in the Historic Preservation Element of the General Plan; (iii) an area where on-street parking permits are required but not offered to the occupant of a Secondary Unit; or (iv) one (1) block of a dedicated car share parking space shall have no additional parking requirement.

4. Setbacks. Except as specified in Subsections a. and b. below, the minimum setback requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations:

    a. A detached Category Two Secondary Unit that conforms to the provisions in Subsection U. of Section 17.108.130 is allowed to project into or locate within the minimum side or rear yard, but no closer than four (4) feet from the side or rear lot line, and only if the facility also conforms to the following restriction in the first paragraph of Section 17.108.130:

        i. In no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by facilities, other than trees, that extend more than six (6) feet above grade.

    b. A Category Two Secondary Unit located above a garage and conforming with maximum height and all other applicable regulations shall not be required to have a side or rear setback of more than five (5) feet.

5. Emergency Access—Multiple Vehicular Outlets. A Category Two Secondary Unit shall only be permitted on a lot which has frontage on a through street, or a dead-end street that has a total length of less than six hundred (600) feet. For the purposes of this Subsection, the total length of a dead-end street shall be the distance from the intersection with the nearest through street to the farthest opposite end of the street right-of-way, or private access easement (as defined by Section 16.32.010 of the Oakland Municipal Code) if the private access easement is connected to said dead-end street.

6. Emergency Access—Minimum Pavement Width. A Category Two Secondary Unit shall only be permitted if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least twenty (20) feet.

7. Architectural Compatibility. A Category Two Secondary Unit shall be clearly subordinate to the primary dwelling unit in size and location. Also, the exterior materials of a Category Two Secondary Unit shall match or be visually compatible with that of the primary dwelling unit, including the siding material, roof shape and/or pitch, roofing material, trim material and design, and window types.

8. Review Procedure. An application for a Category Two Secondary Unit shall be granted ministerial approval within one hundred twenty (120) days of receipt upon confirmation of compliance with all applicable zoning regulations, including but not limited to, all provisions in this Section.

9. Utility Connections. If a new or separate utility connection is required directly between a Category Two Secondary Unit and the utility, the related connection fee or capacity charge must be proportional to the burden of the Secondary Unit upon the water or sewer system.

(Ord. No. 13435, § 4(Exh. A), 5-2-2017; Ord. No. 13357, § 3(Exh. A), 2-16-2016; Ord. No. 13172, § 3(Exh. A), 7-2-2013)