



United Way
Monterey County



Monterey Bay
ECONOMIC PARTNERSHIP

Strengthening ADU Policies and Practices in Monterey County

Prepared for elected officials, planning and housing staff, homeowners, builders, architects, contractors, lenders, and housing advocates in Monterey County by the United Way of Monterey and Monterey Bay Economic Partnership.

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TABLE OF CONTENTS

Introduction	2
2020 State Law: Key Takeaways	3
Cost Savings	3
ADUs subject to minimal local limits	4
Multifamily Buildings	4
2020 State Law: Clarifications	6
Size of ADUs	6
Water Safety Issues - Unincorporated Monterey County	6
Coastal Zones - Unincorporated Monterey County	8
Policy Differences for Various Types of ADUs	9
What counts as a Single Family Dwelling (SFD)?	11
Jurisdiction-Level Policies	11
Develop and Adopt an ADU Ordinance	12
Establish an ADU-Friendly, Fair Housing Element	13
Adopt Pro-ADU Policies	14
Jurisdiction-Level Best Practices	19
Establish Pre-Approved Plans	19
Encourage Sustainable Building Practices	19
Develop a Finance Guide & Innovative Financing Models	21
Provide Continual Homeowner Education & Resources	21
Closing	22

Introduction

Accessory Dwelling Unit (ADU) development has emerged as a leading strategy for increasing the supply of housing in Monterey County. As the appetite and energy for this type of “missing middle” housing steadily increases, it is critical that we are prepared to support homeowners through low-barrier and simple planning processes. ADUs can be a low-cost and readily implementable approach to infill development, particularly in high-cost cities characterized by little to no vacant land and an abundance of low-density development. However, a variety of barriers including a lack of ADU financing products, land use and zoning regulations, permitting bureaucracy, and overall high construction costs restrict the widespread development of ADUs in the region.

On January 1st, 2020, new updates to ADU state laws impacting ADUs came into effect. These laws have had a tremendous impact on the restrictions, cost, and limitations on ADU construction in the state of California. Further, they made any existing ordinances prior to 2017 null and void.

In 2018, the Monterey Bay Economic Partnership (MBEP) partnered with [Envision Housing](#) to publish a [Housing Policy White Paper](#), outlining several ways local governments can increase housing production, one of which is to encourage comprehensive pro-ADU production policies. In 2019, MBEP partnered with United Way Monterey County (UWMC) and others to establish an [ADU Initiative](#) and Advisory to support the development of pro ADU policies and production county-wide. Since then, UWMC has published a homeowners survey, co-hosted three ADU workshops, and developed a centralized resource hub to support homeowners, housing staff, planners, builders, housing advocates and others in the advancement of ADU projects and policies. UWMC oversees and convenes the ADU Advisory group on a regular basis to provide capacity building, technical assistance, and industry material to share with their constituents. MBEP continues to play an advisory role and teamed up with UWMC to co-write this white paper on ADUs to help strengthen ADU policies and practices in Monterey County.

The first section of this policy guide is designed to be an accessible, concise explanation of state law updates, highlighting key takeaways and clarifying key points of confusion within the new laws. The second section offers policies and practices that can support local governments, residents and other stakeholders involved in the creation of ADUs to strengthen the local ADU market. We hope these guidelines will assist readers in understanding what is permissible and how to make ADU development a much more efficient and effective process as they approach ADU projects across the county.

Senate Bill 9: Impacts on ADU Development¹

Senate Bill 9, passed in 2021, has provided some further reaching policy enhancements to 2020 State Law.

- SB 9 requires cities to approve construction of two units on Single Family residential lots, via ministerial² approval, without requirement for affordable housing or CEQA review

¹ Sources:

<https://www.perpetualhomesadu.com/what-californias-new-sb9-housing-law-means-for-single-family-zoning-in-your-neighborhood>

<https://www.livablecalifornia.org/sb-9-allows-8-units-on-all-single-family-lots-california-would-kill-single-family-zoning/>

² “Ministerial approval” refers to a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project.

- “Two residential units” provision of SB9, sometimes known as the “duplex” provision, allows for a single family lot to be split in two to allow for two residential units, and therefore allowing for a limit of 4 total units (2 residential units and 2 ADUs)
- Single lots can be parsed into two lots, allowing for two residential units on each lot, four residential units in total. However, provisions allow cities to not allow for additional ADUs to be built, so check with your city to ensure that building an ADU on an SB9 parsed lot is allowed.³

2020 State Law: Key Takeaways

I. Cost Savings

ADU applications must be approved by the jurisdiction Planning Department within 60 days, without a government hearing or subjective review.

No development impact fees are required for ADUs under 750 sq ft; proportional fees apply to larger ADUs. Impact fees include sewer fees, development fees, fire department fees, but NOT local school district fees, which can still be charged to the homeowner.

What is an impact fee?⁴

- Impact fees are fees levied by local agencies (city, school district, department, etc) in order to mitigate the impacts of any new building in the community. Sometimes these fees are known as “mitigation fees” i.e. park mitigation would also be an impact fee. But which fees apply to ADUs and which do not?
 - School impact fees: Schools are permitted to charge impact fees to any ADU above 500 square feet (e.g. MPUSD charges fees for units above 500 sq ft).
 - ADUs > 750 Square feet: At this point, local agencies are permitted to charge impact fees at a proportional rate. According to the California Department of Housing and Community Development:
 - “Proportionately” is some amount that corresponds to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square foot primary dwelling with a proposed 1,000 square foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. In all cases, the impact fee for the ADU must be less than the primary dwelling. Otherwise, the fee is not calculated proportionately. When utilizing proportions, careful consideration should be given to the impacts on costs, feasibility, and ultimately, the creation of ADUs. In the case of the example above, anything greater than 50 percent of the primary dwelling could be considered a constraint on the development of ADUs.⁵

A city/county must **delay code enforcement** on an unpermitted ADU to allow it to be legalized.

Single-family **HOAs must allow development of ADUs**, subject to reasonable standards. In other words, a homeowners association, CC&R, or other neighborhood groups cannot outright prohibit ADUs. Any deed and document prohibiting ADUs outright is considered null and void. If a lot

³ <https://www.jdsupra.com/legalnews/sb-9-it-s-not-a-duplex-bill-it-s-a-2431534/>

⁴ [How to ADU](#)

⁵ [HCD](#)

legally qualifies for an ADU under all other provisions, a neighborhood group cannot prevent an ADU from being built on that lot.

The bill does not eliminate all restrictions on homeowners associations. They can still impose certain limitations, like exterior finishes and color, provided that they don't unreasonably increase the cost of construction for homeowners.

II. **ADUs subject to minimal local limits**

Cities/counties must generally approve attached or detached ADUs under 1,200 sqft unless they adopt local development standards. If adopted, local standards have the following limitations:

- No minimum lot size requirement
- No maximum unit size limit less than 1,000 sqft for a two-bedroom ADU
- No height limit under 16 feet or side/rear setback requirements greater than 4 feet
- Design standards must be objective and are assessed by staff, not elected officials
- FAR (Floor Area Ratio) and similar restrictions must be relaxed to allow development of an 800 sq ft ADU, and ADUs can't cause a property to exceed its FAR

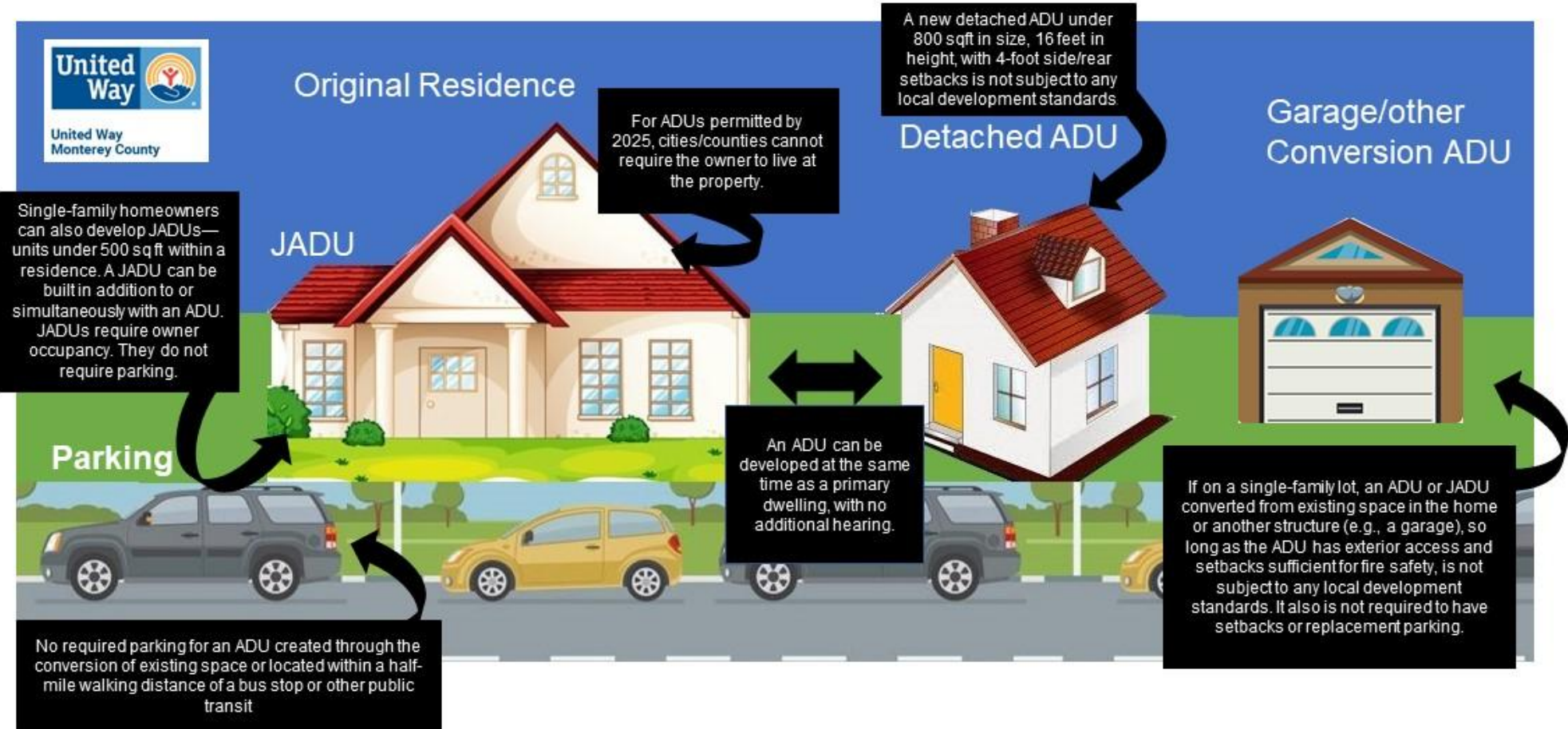
III. **Multifamily Buildings**

The following types of residential units can be added to **multifamily buildings**, with no local limits:

- **New units within the existing non-living space of a building** (conversion of storage rooms, basements, garages, etc.), with one new internal unit allowed for every four existing units
- **Two new detached units**, with 4-foot side/rear setbacks, up to 16 feet in height

Below is a shareable infographic that summarizes these changes that took place in 2020:

2020 State Laws - Key Takeaways



2020 State Law: Clarifications

I. Size of ADUs

Common question: *When is an ADU not to exceed 50% of existing primary residence vs. not to exceed 1,200 sq ft?*

- A homeowner can ALWAYS build an 800 sq foot ADU, no matter the size of the primary dwelling.
- JADUs can be no larger than 500 sq ft
- Attached ADUs follow the 50% rule - new construction that is physically attached cannot exceed 50% if that 50% is over 800 sq ft
- In addition to the 50% rule, a 1200 sq ft max size applies no matter what, unless the city has set it at 1000 - some cities can do this (check with your city or county to find out)
- Detached do not abide by the 50% rule - the maximum size for a detached unit is 1200 square feet.
- Conversion ADU - you can convert as much space as you want - internal /accessory conversions count as subdivision E ADU - cities cannot oppose this type of construction
 - Subdivision E ADUs are Conversions of Lawfully Pre-Existing Space. This would include garage conversions, carriage house conversions, pool house conversions - whatever accessory dwelling you can imagine can be converted to an ADU as long as it has an inground foundation and proper drainage. There are other requirements to ensure that these conversions are up to building code. This includes ensuring fire safety, water and electrical requirements, and safety requirements.⁶

II. Water Safety Issues - Unincorporated Monterey County

Potability of Water

The County recognizes that some ADUs could be located on properties served by a non-municipal water source or a water system with an excess of contaminants such as nitrate, arsenic, fluoride or chromium VI. The County affirms in its ordinance that all tenants of ADUs have a right to safe drinking water, and therefore requires that should there be an excess of these contaminants in the water, the installation of a POE (Point of Entry) or POU (Point of Use) treatment system meeting the following criteria prior to construction approval (the following is adapted from Monterey County Municipal Code)⁷:

- Prior to approval of a construction permit, the applicant must submit plans for review and acceptance of a private POU or POE treatment device that will produce water that meets primary water quality standards. The approved POU or POE treatment device must be installed on **each dwelling unit** on the property.
- The POU or POE treatment device must be selected from the California State Water Resources Control Board [list of approved devices](#).
- The applicant shall provide a copy of the real property's legal description and a copy of the grant deed for the subject property to the Director of the Monterey County Health Department. The Director will prepare the deed restriction form to be signed and recorded by the property owner. The purpose of the deed restriction is to notify the current and future owners of the property that a POU or POE water treatment system has been

⁶ [HCD ADU handbook](#)

⁷ [Monterey County Code of Ordinance: Public Services: POU & POE Water Treatment Systems](#)

installed on the property, that the water treatment system is necessary to meet primary water quality standards, and that the property owner is responsible to operate and maintain the system in accordance with the manufacturer's specifications.

- Prior to final inspection of a construction permit, the applicant shall submit water quality analysis results of a treated water sample to demonstrate that each installed Director-approved water POU or POE treatment system is producing water that meets primary water quality standards.
- Prior to County issuance of final occupancy, the applicant shall provide documentation to the MCHD that the Director-prepared deed restriction has been signed and recorded in the Office of the Recorder of the County of Monterey.

Please contact the [County Health Department](#) for more information on water treatment systems or how to install [point-of-use \(POU\) or point-of-entry \(POE\)](#) water treatment devices as a viable affordable option for impacted water systems.

Wastewater Disposal and Septic

State ADU Law states that: “(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling” and “For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.”⁸

However, onsite wastewater treatment systems (OWTS, commonly referred to as septic systems) in Monterey County are subject to local ordinance and the Monterey County Local Agency Management Program for Onsite Wastewater Treatment Systems (LAMP). Adequacy of an OWTS is dependent on two primary factors: design capacity of the existing system and nitrogen loading from wastewater. The number of bedrooms in a dwelling dictate the design capacity of an OWTS serving residential development. All new ADU and some JADU will increase the estimated volume of wastewater generated on the property, and may necessitate expansion of the existing OWTS. In an effort to prevent contamination of local groundwater supplies, the LAMP specifies that nitrogen loading from OWTS shall not exceed the proportionate quantity of 40 grams Nitrogen per acre of land (called the nitrogen limit). Even when an OWTS has met this criteria, it may be necessary to incorporate a supplemental treatment unit into the OWTS to reduce the amount of nitrogen in the treated wastewater before it is disposed of in the subsurface dispersal system.⁹

Local jurisdictions may adopt sewer connection fees by ordinance, if desired. If denied, we advise that the homeowner should request that the jurisdiction should provide proof that septic cannot handle a new ADU - they should provide their own test results and prove that it is not feasible. Outright denial for this reason is not necessarily legal and could be subject to litigation.¹⁰

⁸ [AB-68 Land Use: Accessory Dwelling Units](#)

⁹ Monterey County Health Department

¹⁰ [AB-68 Land Use: Accessory Dwelling Units](#)

For homeowners with an existing OWTS or wanting to develop one for ADU/JADU conversions, permits are processed ministerially per Government Section 65852.2(b) but still must meet EHB requirements as described [here](#) and in more detail, [here](#).

III. Coastal Zones - Unincorporated Monterey County

Coastal Zones in Monterey County are subject to different rules than the rest of the county. Any jurisdiction that contains coastal zones is required to create a separate Coastal ordinance with its own specifications. The legislature specifically states that 2020 statute is not to “supersede or in any way alter or lessen the effect or application of the California Coastal Act . . . except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.¹¹ Coastal provisions must be developed by each jurisdiction that has coastal property and these provisions must be brought into alignment with state ADU law to the fullest extent possible.

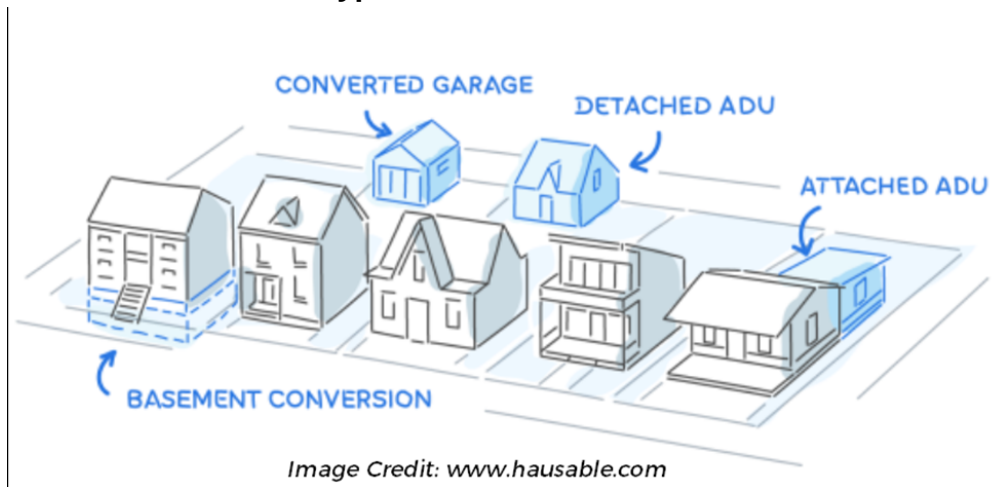
Key takeaways:

- ADU development on Coastal Zones are reviewed on a case-by-case basis, and the county requires that any development be assessed in accordance with its history. The county or jurisdiction is instructed to look at the property’s coastal development permit (CDP) history, and determine whether any past CDP have restrictions or limits. These restrictions or limits can also apply to future ADU development projects.
- Any projects that do not alter the size or intensity of a structure, or in other words, alter the foundation, walls, or roof of a house are not considered development projects, and should not be subject to additional restrictions in coastal zones. Such projects do not require a CDP waiver.¹²
- *Exempt improvements:* Additions to single family dwellings are generally exempt from Coastal Act permitting requirements, unless they have a possibility of having adverse environmental effects. In order to be exempt, an ADU project must be an internal conversion or an attachment to the main structure. Detached ADUs cannot be exempt. Any improvements located on a beach, wetland, seaward of the mean high tide line, in an environmentally sensitive habitat, in a certified land use plan scenic area, or within 50 feet of the edge of a coastal bluff, can be exempt.
- Projects that do not fit the above requirements are subject to review if a CDP is necessary.
- For further information, please read the CCC memos: [here](#), [here](#), and [here](#).

¹¹ [HCD CA Coastal Commission Guidance Memo RE: New ADU Legislation](#)

¹² [HCD CA Coastal Commission Guidance Memo RE: New ADU Legislation](#)

IV. Policy Differences for Various Types of ADUs



Junior ADUs, Detached, Accessory Conversion, and Attached or Interior Conversion ADUs have different requirements. To determine which construction is right for your project, please consult the table below for information regarding the differences between requirements for these four different types of units.

	Junior ADU (JADU)	Attached or Interior Conversion ADU
Kitchen	Must meet "Efficiency Kitchen" requirements: <ul style="list-style-type: none"> • The required kitchen sink (16"x16" max.) should have a small drain line (1.5" diameter max.) • No appliances that require natural or propane gas • A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU • Appliances that do not require electrical service greater than 120 volts 	Full kitchen permissible
Bathroom	May have a separate bathroom or shared with the single family dwelling.	Must have its own bathroom
Parking	Not required	Parking requirements for ADUs apply
Separate Entry	Exterior access (a separate entrance for the JADU) is required from the proposed or existing single family dwelling	Exterior access is required from the proposed or existing single family dwelling
Size	500 sq ft max	Cannot exceed 50% of the primary residence
Location	Must be within a proposed or existing single family dwelling or attached garage or carport	Must be within a proposed or existing single family dwelling or accessory

Additional ADU	One is permissible	Not permissible, additional JADU permissible
Expansion	May include an expansion of up to 150 sq ft beyond the footprint of the existing structure, but this expansion is limited to accommodating ingress and egress	Regular size rules apply - cannot exceed 50% of main dwelling
Water Meter	Not required	Sub meter required for attached ADU, but not for conversions

Conversions and Detached ADUs offer different benefits. Detached ADUs offer more privacy, separation from the secondary unit, and flexibility in terms of size; however, a conversion of an existing structure enjoys certain benefits such as not requiring a water sub meter. Consult the table below to understand the difference in requirements between these two types of units.

	Conversion of Accessory Structure (E.g. Garage Conversion, pool house conversion, carriage house conversion, etc.)	Detached ADU
Kitchen	Full kitchen permissible	Full kitchen permissible
Size	Cannot exceed the size of the original structure or 1200 square feet, whichever is larger.	Maximum size must be no more than 1200 square feet
Setbacks	State law setbacks apply (4 ft)	State law setbacks apply (4 ft)
Height	Cannot exceed height of original structure	16 ft max
Parking	Parking requirements for ADUs apply	Parking requirements for ADUs apply
Bathroom	Must have its own bathroom	Must have its own bathroom
Location	Must be within a proposed or existing attached or non-attached building, garage or accessory structure	Must be separated from the original residence
Additional ADU	Additional JADU permissible	Additional JADU permissible
Expansion	May include an expansion of up to 150 sq ft beyond the footprint of the existing accessory structure, but this expansion is limited to accommodating ingress and egress	Not applicable
Water Meter	Not required	Sub meter required

Separate Entry	Exterior access is required from the proposed or existing single family dwelling	Exterior access is required from the proposed or existing single family dwelling
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V. What counts as a Single Family Dwelling (SFD)?

If there is a duplex on the property and one shared carport, can the carport be converted to an ADU? In the case of Gonzales, the answer is yes, and that is because Gonzales’ City Code defines “SFD – Attached” to include “duplex” and “triplex”.

It’s more likely to be a *two-family* property vs. single-family with ADU if¹³:

- The unit has its own separate mailing address
- The unit has its own separate utilities and meter
- The unit has more than two bedrooms
- The attached or interior additional dwelling unit has its own private entrance
- A two-family dwelling is legal under the current zoning
- Zoning allows the unit to be rented
- The additional dwelling unit is currently and legally used as a rental unit
- The property generates additional revenues or income from its occupants in addition to unit rental income, such as additional rent for parking, car storage, or coin laundry
- The property has been marketed in the past as a two-family
- The main dwelling and additional unit(s) are mostly conforming to the neighborhood as a two-family
- The predominant use for similarly configured properties in the market area is two-family

It’s more likely to be a *single-family with ADU* vs. two-family property if:

- The unit was an attic, basement, or garage conversion for the purpose of providing additional living space to a family member
- The detached unit is built to characteristically mimic the primary structure’s architectural style and design
- The detached unit is subordinate in size to the primary structure
- The accessory unit does *not* have its own separate utilities
- Zoning requires the primary structure to be occupied by the property owner as a permanent and principal residence
- The main dwelling and additional unit(s) are mostly conforming to the neighborhood as a single-family with ADU
- The predominate use for similarly configured properties in the market area is single-family with ADU

Jurisdiction-Level Policies

An **ADU Ordinance** and a **Housing Element** are two local policy documents that are essential to promoting development of ADUs and JADUs as both are able to codify pro-ADU sentiment both from community members and elected officials. The benefits of zoning reform, fee waivers, outreach processes, and other tools that are outlined in these documents are already taking place in a few

¹³ [How to Identify a Single-Family with ADU vs. Two-Family Property](#)

Cascadian cities like Portland, Seattle, and Vancouver according to a study by the Turner Center for Housing Innovation. The study also indicates that by comparison, cities in California are off to a “slow start.”¹⁴

As described in the previous section, the State of California has enacted legislation intended to incentivize and lower barriers to ADU development and continues to explore this unique housing solution during and outside of legislative sessions. Increased state action, however, does not merit a decrease in local efforts. Like most housing policy issues, growing local markets for ADU development is incumbent upon both state and local governments.

Planning for ADUs should be conducted on a continuous basis by city and county governments, however, there are two major local planning documents that are critical to establishing overarching guidelines and milestones over a set period of time: the ADU ordinance and the Housing Element which is adopted by municipalities as part of the General Plan. Both documents are critical to the reformation of local zoning regulations and easing of land use regulations, which are proven to be one of the biggest motivators for homeowners to start an ADU project.¹⁵

I. Develop and Adopt an ADU Ordinance

The most commonly known and implemented document is an **ADU ordinance**. Under California state law (AB 1866), cities and counties are required to allow second units on both single-family lots and multi-family lots through a by-right process; however, they are not required to adopt ADU and JADU ordinances. If a municipality does decide to adopt a local ordinance, it may be more permissive, but no less permissive than what is outlined in the state ADU law. In other words, a local ordinance has the ability to go beyond what the state requires local governments to allow for and can further encourage the creation of ADUs and JADUs.¹⁶

The Center for Community Innovation (CCI) at UC Berkeley introduced an [ADU scorecard](#) that aims to evaluate the robustness of ADU ordinances in over 200 CA jurisdictions based on an A to F grading system. The standardized grading method allows cities to compare their ADU laws with other cities, and better understand the homeowner experience in building ADUs within their jurisdictions. The ADU scorecard accounts for 15 different ADU requirements, assessing their compliance with state law and user-friendliness for homeowners.¹⁷ A valuable tool for policymakers, the ADU scorecard can help cities shape ADU requirements by teaching about ADU ordinance practices in ‘good-grade’ jurisdictions. These provide important examples as cities must revise their ordinances again in coming years to comply with new state laws. [An interim report on the ADU Scorecard](#) provides examples of model ordinances in the state such as Berkeley, Eureka, Sebastopol and San Diego.

The County of Monterey adopted an ADU ordinance on September 15, 2020. Specific ADU/JADU regulations can be found [here](#). The City of Gonzales has an ADU ordinance that is compliant with state-level legislation, and could serve as an example for other jurisdictions in Monterey County. A local ADU ordinance displays a city’s support for pro-ADU policies, promotes and encourages the

¹⁴ [Turner Center for Housing Innovation](#)

¹⁵ [Turner Center for Housing Innovation](#)

¹⁶ [HCD](#)

¹⁷ [UC Berkeley Center for Community Innovation](#)

creation of accessory dwelling units in the most straightforward way possible in order to meet the communities' housing needs and to realize other benefits of ADUs/JADUs. It can help residents understand and navigate state law, and streamline any questions hopefully reducing the workload for staff as well. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistent with Government Code, Section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.¹⁸ See [United Way's ADU page](#) for more information on local ordinances.

A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to HCD within 60 days after adoption. After the adoption of an ordinance, the Department may review and submit written findings to the local agency as to whether the ordinance complies with this section. (Gov. Code, § 65852.2, subd. (h)(1).) Local governments may also submit a draft ADU ordinance for preliminary review by HCD. This provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with the new state ADU law.¹⁹

II. **Establish an ADU-Friendly, Fair Housing Element**

The California State Department of Housing and Community Development (HCD) requires that all local governments plan to meet the housing needs of everyone of all income levels in the community. This is done through the adoption of a **Housing Element** which is passed as part of the city or county General Plan, which is also required by the state. These planning documents serve as a local government's "blueprint" for development of housing over an eight year period, and outline plans to meet RHNA numbers²⁰ distributed by HCD to all Council of Governments (COG) in the state. The Association of Monterey Bay Area Governments (AMBAG) is the COG for Monterey and Santa Cruz counties, and is in the [planning phase for the 2023-2031 Regional Housing Need Allocation \(RHNA\) period](#) also known as the 6th Cycle RHNA.

Following adoption of the RHNA plan and approval of that plan by HCD, local jurisdictions must update their Housing Elements as necessary to accommodate the regional housing allocations by assuring that adequate sites and zoning capacity are available to accommodate at least the number of units allocated. The Housing Elements are reviewed for approval by HCD. In some cases, funding from state/federal housing programs can only be accessed if the jurisdiction has a compliant housing element.²¹ The Housing Element must include a description of zoning available to permit ADUs, including development standards and analysis of development constraints. It also must include plans to incentivize and promote the creation of ADUs that can be affordably rented to very-low, low-, or moderate income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs.²²

¹⁸ [HCD ADU Handbook](#)

¹⁹ [HCD ADU Handbook](#)

²⁰ [HCD](#)

²¹ [HCD Housing Elements](#)

²² [HCD ADU Handbook](#)

ADUs and JADUs can count toward a jurisdiction's RHNA. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition, and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey, can be credited toward the RHNA based on the appropriate income level. The housing element or Annual Progress Report (APR) must include a reasonable methodology to demonstrate the level of affordability. Local jurisdictions can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other applications.²³

ADUs/JADUs are critical to achieving Affirmatively Furthering Fair Housing, which seeks to "combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access in order to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all Californians".²⁴ The passage of AB 686 in 2018 created new requirements that applied to all housing elements due for revision on or after January 1, 2021. Public agencies must now examine existing and future policies, plans, programs, rules and practices and make proactive changes to promote more inclusive communities. ADUs can provide an important housing choice for persons with disabilities or care providers, including independent, intergenerational and/or integrated living situations for students, teachers, hospitality workers, etc.

Programs to incentivize ADUs can be targeted as new opportunities in high resource areas or as place-based revitalization strategies to promote 'missing middle' housing supply, choices and affordability in areas outside of areas of concentrated poverty. Jurisdictions can now leverage new state laws such SB 9 to increase the number of ADUs per site. More information on AB 686's new obligations can be found in [Part 1 of the AFFH Guidance Memo](#).

For more information on Housing Elements, please visit [HCD's Housing Element page](#) and the [Monterey Bay Economic Partnership's Housing Element Advocacy and Education page](#).

III. **Adopt Pro-ADU Policies**

The State of California's ADU Policy already limits the extent to which local governments can regulate measurement and design standards for ADUs built within their jurisdictions. If a city or county decides to adopt a local ADU ordinance, however, there are a number of ways to lower barriers of development even further. Additional guidance, resources and technical assistance can be found in HCD's new [Accessory Dwelling Unit Handbook](#).

The guide below is not comprehensive nor intended to be a one-size-fits-all set of recommendations. It is still strongly recommended that cities and counties ease all requirements and incentivize ADU development to the greatest possible extent by meeting or exceeding the following measures:

- ***Extend Shorter Approval Periods***

²³ [HCD ADU Handbook](#)

²⁴ [HCD AFFH](#)

- Before the 2020 rule changes, the approval period for ADUs was 120 days. Now, cities in the state of California must provide ministerial approval or denial within 60 days of receiving the application and complete building plans (i.e., note requiring further corrections).
- ***Reduce or Eliminate Setback Requirements***
 - Setbacks must not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU.
 - A local agency may also allow the expansion of a detached structure being converted into an ADU when the existing structure does not have four-foot rear and side setbacks.
 - A local agency may also allow the expansion area of a detached structure being converted into an ADU to have no setbacks, or setbacks of less than four feet, if the existing structure has no setbacks, or has setbacks of less than four feet.
 - A local agency shall not require setbacks of more than four feet for the expanded area of a detached structure being converted into an ADU.
 - A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude a statewide exemption ADU and must not unduly constrain the creation of all types of ADUs.
- ***Reduce or Eliminate Lot Size Requirements***
 - While local governments may impose standards on ADUs, these standards shall not include minimum lot size requirements. Lot coverage requirements cannot preclude the creation of a statewide exemption ADU (800 square feet ADU with a height limitation of 16 feet and 4 feet side and rear yard setbacks). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area or open space requirements.
- ***Reduce or Eliminate Owner Occupancy Requirements***
 - Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, § 65852.2, subs. (a)(6) & (e)(4).)
 - The updates to state ADU law removed the owner-occupancy allowance for newly created ADUs effective January 1, 2020. The new owner-occupancy exclusion is set to expire on December 31, 2024. Local agencies may not retroactively require owner occupancy for ADUs permitted between January 1, 2020, and December 31, 2024.
 - Should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU, or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. (Gov. Code, § 65852.2, subd. (a)(2).)
- ***Reduce or Eliminate Design Requirements***
 - A local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the

California Register of Historic Resources. However, these standards shall be sufficiently objective to allow ministerial review of an ADU. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

- ADUs created under subdivision (e) of Government Code 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.

- ***Reduce or Eliminate Bedroom Maximum Requirements***

- State ADU law does not allow for the limitation on the number of bedrooms of an ADU. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs.

- ***Minimize Size Requirements***

- Local governments may not establish a maximum size for an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom. (Gov. Code § 65852.2(c)(2)(B).)

- ***Maximize Height Restrictions***

- Local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).)

- ***Reduce or Eliminate Parking Requirements***

- Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- Guest parking spaces shall not be required for ADUs under any circumstances.
- Local agencies may choose to eliminate or reduce parking requirements for ADUs such as requiring zero or half a parking space per ADU.
- No requirement for replacement parking when a parking garage is converted into an ADU
- No required parking for an ADU created through the conversion of existing space or located within a half-mile walking distance of a bus stop or other public transit

- ***Reduce or Eliminate Development Fees***

- An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit. Visit HCD's ADU Handbook for how they are defining "proportionately".
- The Cities of Gonzales and Salinas adopted an ordinance to exempt ADUs from development impact fees for a five-year period. This can save applicants over \$8,000 dollars in fees.
- The City of Salinas adjusted the public facilities impact fee schedule to be based on square footage of a unit (instead of number of units) which helps reduce the cost for smaller ADUs.
- The City of Salinas implemented a fee holiday that exempts ADUs from development impact fees for a five-year period (March 2019-2024).
- The City of Seaside modified the City's 2019-2020 fee schedule to eliminate the plan check fees for any application that is using a pre-approved architectural design.

- ADUs less than 500 square feet are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs, ensuring appropriate nexus studies and appropriate fees to facilitate construction or reconstruction of adequate school facilities.

- ***Incentivize Deed Restricted Affordable Units***

- A declaration of restrictions can preserve the affordability of ADU/JADU units. Deed restrictions may include income restrictions, owner-occupancy requirements, prohibition of sale and short-term rentals, etc. The City of Hayward offers a [Declaration of Restrictions template](#).
- Homeowners can be offered tax relief to offset the effects of deed restrictions.
- Some cities have amnesty programs (non-historic properties) that provide owners of an existing unpermitted ADU with an opportunity and streamlined process to bring their unit into compliance without code enforcement action, if the ADU is deed restricted as affordable. Cities can then count the existing unit towards its RHNA allocation.
- Allowing the conversion of a Single Family zoned property to convert to a duplex if and only if an ADU or JADU is simultaneously developed as a deed restricted affordable unit.
- Homeowners who deed restrict an ADU/JADU can qualify for state and local funding opportunities. The finance section of this paper has more examples.
 - Santa Cruz County's [ADU Forgivable Loan Program](#) offers forgivable loans up to \$40,000 to homeowners who rent ADUs to low-income households at affordable rents for up to 20 years.
 - Marin County's Rental Rehab Loan program provides technical assistance and loans of \$25,000 or \$30,000 based on whether or not it is to fix up an existing rental unit or build a new unit for the creation of legal rental units for Section 8 voucher holders.
 - LA County has a pilot program where the county will provide up to \$75,000 to build 2-3 new ADUs and up to \$50,000 to preserve 2-3 unpermitted ADUs in the form of a forgivable loan with the commitment to rent the ADU to low income families or individuals. Many organizations, such as LA Mas, tackle outreach and provide financial assistance to participate in the Backyard Homes project. Homeowners are required to rent to a Section 8 tenant for a minimum of 5 years.
 - The City of LA developed the LA ADU Accelerator Program to provide financial incentives to build ADUs. In 2018, Bloomberg philanthropies donated \$1 million dollars which the City of LA financially matched to help build ADUs and give grants to homeowners of between \$10,000-\$30,000 if they agree to let the units be used to keep people off the streets for 3-5 years.
 - Multnomah Idea Lab (MIL) and Enhabit, a nonprofit housing agency, developed a pilot that built ADUs in four private backyards for homeless families to live in, rent-free for five years in the County of Multnomah, Portland.²⁵

- ***Prioritize Water for ADU Development***

- An ADU constitutes a water service connection in the County of Monterey whereas a JADU does not. An applicant is required to demonstrate the water source that will serve the

²⁵ [Oregon Humanities: New Foundations](#)

proposed ADU meets both quantity and quality standards. More information on domestic water supply requirements for ADUs/JADUs can be found [here](#).

- Local agencies, special districts or water corporations can waive impact and any other fees for ADUs. Also, local agencies may use fee deferrals for applicants.
- Jurisdictions should prioritize new water supply as it becomes available for lower-income affordable housing projects, and deed restricted ADUs/JADUs.
- Expand water conservation and greywater systems. Water technology standards should be reviewed periodically to update requirements and voluntary incentives with the best available technology, recognizing that trade-offs can exist between efficiency and adoption rates.
 - Water districts could offer higher rebates for installation of greywater irrigation systems or offer direct installation. Greywater system installation should be considered together with appliance/fixture decisions. For example, if half of the Monterey Peninsula's single family detached or ADUs implemented greywater reuse, it could save 562 acre feet annually. More information on the nexus between water and housing specific to the Monterey Peninsula can be found in MBEP's 'blue' paper [here](#).
- Jurisdictions could partner with water districts to fund a program to survey existing houses or new ADUs and install basic water-saving devices, such as sink aerators, new shower heads, or hose nozzles. Such a program could operate as a green job program for high school students, whereby they are trained and certified in installation, and they go door-to-door to survey and offer installation for existing residents.

- ***Legalize Tiny Homes on Wheels (THOW)***

- More and more cities are considering THOWs as a type of ADU that may be installed on a property with a single-family home, subject to complying with Zoning Code standards and obtaining a building permit.
- City of San Luis Obispo updated its Zoning Regulations which included provisions for a THOW on a site with an owner-occupied single-family residence. Check out [their website](#) for requirements and limitations.
- City of San Jose provides [a checklist](#) to make sure a THOW project complies with the development standards of the City's Zoning Code and as a guide to the permit process.
- In Fresno County, tiny homes are considered legal, detached ADU structures from the primary dwelling (usually in the backyard) and are independent living quarters for one household. THOWs fall under their 'Backyard Cottage' category, and must meet [six main conditions](#).
- In July 2020, the City of San Diego became the first in their region to allow homeowners to install movable "tiny houses" in their backyards. City Council members said before unanimously approving a [tiny houses ordinance](#) that "tiny houses will help solve the local housing crisis by creating another affordable option for low-income residents that doesn't require a taxpayer subsidy. Movable tiny houses also could help homeowners cover their mortgage payments by creating a new revenue stream for them."²⁶ Regulations can be found [here](#).

²⁶ [San Diego Union Tribune: San Diego approves region's first tiny houses law to help solve housing crisis](#)

- THOWs are also referred to as Recreational Vehicles (RV) according to HCD, and are required to receive certification from the American National Standards Institute (ANSI) and registration by the Department of Motor Vehicles (DMV).

Jurisdiction-Level Best Practices

I. Establish Pre-Approved Plans

Pre-approved plans are pre-architected, pre-engineered, pre-designed, pre-approved by the city, and covered by California's code. They can save homeowners time and money during ADU development as well as reduce staff workload.

Below is a list of a few pre-approved programs that cities can turn to as a guide:

- City of Seaside developed [pre-approved plans](#) for not only Seaside homeowners to use but others in the county as well to save costs on designing a detached ADU.
- City of San Jose's [ADU Program](#) provides [pre-approved ADU plans](#), support for ADU construction, and [financing](#).
- City of Danville offers [free pre-approved, permit-ready ADU plans](#) to incentivize the construction of quality ADUs that meet Danville's design and neighborhood compatibility standards.
- City of Sonoma has a [comprehensive guide](#) that jurisdictions in Monterey County can replicate and customize to meet their unique needs.
- With grant funds secured from HUD (SB 2 "Building Homes and Jobs Act"), the [City of Chico](#) had a series of ADU plans designed (13 design variations), plan checked and are [now available "pre-approved"](#) to the public for use free of charge.
- To encourage infill residential development, City of Clovis established an [Old Town Cottage Home Program](#) consisting of plans that may be utilized on properties having alley access. These home plans (<450 square feet of livable area) are intended to face onto alleys and provide for a unique pedestrian street environment.
- City of Del Mar used SB 2 funding to incentivize ADUs by developing [three ADU floor plans & 3D renderings](#) to be licensed to the City for public use. All three plans adhere to both State mandates and the Del Mar Municipal Code and were developed by a single architect. They vary in size from 446 sq ft, to 955 sq ft, and are all designed to be fully ADA accessible.
- City of Stockton offers [pre-approved plans](#) for [studios](#), [1 bedroom](#) and [2 bedroom](#) units.
- San Diego County's [pre-approved plans](#) are available to the public that covers all California construction codes.

II. Encourage Sustainable Building Practices

More states and local governments are taking action to incorporate green building techniques into their planning and policy framework as a foundation for resource efficiency, a green economy, and sustainable development. According to a report by the [University of Delaware's Center for Energy and Environmental Policy](#), seventeen states have adopted legislation to promote green building and design. The report also cites examples of cities that have adopted green building policy platforms to encourage construction of LEED-certified buildings and structures that maximize energy efficiency, conserve water, manage or recycle waste, and preserve local environments. Another report, [The Green Building City Briefs](#), displays examples of sustainability, building energy use and climate change policy for other cities to learn from and adopt specific to

their communities own needs. We recommend jurisdictions in our region refer to these reports to use as case studies and policy making guidelines.

Given the compact size of accessory dwelling units (ADUs), lifetime CO2 emissions can be reduced by as much as 40%, according to a 2010 [Oregon Department of Environmental Quality report](#). The California Building Standards Code was updated on January 1, 2020. In Title 24, Part 6, the California Energy Commission included new methods to meet net-zero electricity guidelines. To meet these, a property must have a solar energy system.

The [California Solar Mandate](#) makes the state the first in the nation to require solar photovoltaic systems, which offset electrical usage enough to meet the new guidelines. Please refer to the CEC on this matter. For more information, see the CEC's website www.energy.ca.gov. CEC memos can also be found on HCD's website [here](#).

The smaller the square footage of a home, the less energy it uses. An ADU can have a positive environmental impact on many levels, including: waste generation, resource depletion, land use, renewable energy use, respiratory effects, and more. Additionally, ADUs have a lower environmental impact because the infrastructure is already there. Sprawl tends to increase residential energy use, traffic, and pollution, while ADUs typically feed off existing infrastructures. Households with an ADU tend to rely less on automobiles. Urban sprawl in California has led to long commute times, high greenhouse gas emissions, and development of new land with more subdivisions to accommodate population demand. ADUs provide an alternative to building outward.

The University of Miami has a [library of comprehensive resources](#) for sustainable building envelopes, water systems, HVAC, energy and green interiors a lot of which can be applied to homeowners anywhere. This repository should inspire our local institutions and/or cities/counties to create something similar specific to our region.

We recommend homeowners and developers take on an integrated and comprehensive approach to green building, which can take place during all or any one phase of the building process: construction, operation, maintenance, and decommissioning. The following [five principles](#) of green building practices are organized around the life cycle performance of green buildings:

- *Sustainable Siting* - this approach optimizes land use and development to reduce adverse impacts and minimize the building's ecological footprint.
- *Energy Efficiency* - this technique focuses on the establishment of performance targets that account for intended use, occupancy and other energy operations for new construction and renovation projects.
- *Water Efficiency* - this technique emphasizes the value of decreasing demands for freshwater and reducing the generation of wastewater through optimized landscaping, integrated rainwater catchments, gray water recycling, and wastewater treatment systems.
- *Building Materials* - by using sustainable construction materials and resources, green building materials have aided the reduction of extraction, processing, transportation, solid waste, and consumption.
- *Healthy Indoor Environmental Quality* - these processes have enhanced the sustainable communities through ventilation and thermal comfort, moisture control, daylighting,

environmental tobacco smoke control, and protecting indoor air quality during construction.

III. Develop a Finance Guide & Innovative Financing Models

The California Health and Safety Code (HSC), Section 65583(c)(7), requires that cities and counties develop a plan that incentivizes and promotes the creation of ADUs that can be offered at affordable rent for very-low to moderate-income households. We recommend jurisdictions create a cost and financing guide specific to their community to support homeowner ADU goals that align with the city's housing element goals.

There are several factors that can influence the cost of an ADU. While some costs are unavoidable, hard and soft costs and fees can be greatly influenced by the following considerations at the beginning of the planning process:

- **Conversion ADUs are the least expensive option** both in terms of permit fees and in terms of actual construction costs. Conversion of existing habitable space will be less expensive than the conversion of existing non-habitable space (e.g. storage area or garage).
- **Building the ADU as an addition to the existing home** (attached ADU) may be more cost effective than building a new stand-alone structure, but this will depend on the age and construction of the existing home.
 - The size of the attached ADU can trigger the requirement for fire sprinklers – if the ADU exceeds 50% of the size of the habitable area of the existing home, the project may require installation of fire sprinklers. Consult with the City before finalizing.
- **Building a new, free-standing ADU is the most expensive** type of ADU, both in terms of construction and permitting fees, but it may be the only or best option for your project depending on your site and your goals.
- **Utilizing a manufactured home or prefab construction** may be more cost effective as well. The ADU and its placement on your site should comply with local zoning and building codes. Be sure to factor in soft costs such as shipping, additional site prep and finished work.
- ADUs that are less than 500 sq ft fall below the threshold for paying school impact fees.

For an ongoing, collaborative list of funding opportunities, programs and guides, please [click here](#). We encourage you to add to this list if you have or know of a program that serves Monterey County and is not already highlighted in the document by providing the name, link and a brief description of the program as a 'comment'.

IV. Provide Continual Homeowner Education & Resources

- Create a comprehensive Homeowner Guide specific to local laws (e.g. [City of Los Angeles](#), [City of San Diego](#), [City of San Jose](#), [Marin County](#), [Santa Cruz County](#), [San Mateo County](#))
- Provide an easily navigable ADU Zoning flowchart (e.g. City of Santa Cruz' [Applicable Zoning Standards for ADUs](#))
- Develop an ADU website & FAQs (e.g. [City of Gonzales](#), [Silicon Valley ADUs](#), [City of Salinas](#))
- Revisit and update your local ADU ordinance every 3-5 years to stay current with new and/or updated state laws; and study industry standards and market trends

- Provide homeowner outreach, workshops and promotional materials regarding ADU/JADU opportunities, incentives and updates to new policies/programs (e.g. Homeowner Workshop ([United Way](#)), Pacific Grove, Seaside, Salinas ([Homeowner](#), [Technical](#)))
- Create more public-private partnerships with local businesses, nonprofits, architects, contractors, builders, legal entities, lenders, home match programs, etc. Additional vetted resources could be provided to homeowners who commit to renting at below market rates.
 - [Home Match Monterey](#) helps Home Providers with available ADU/JADU's market their space and secure "Seekers" for their units based on a free, comprehensive screening & compatibility-based matching process.
 - [R3 \(Rehabilitation, Restoration and Respite\)](#) is a local nonprofit dedicated to developing micro home housing communities for housing our homeless, parolees, farmworkers, veterans, students and others on very limited incomes in very affordable housing while providing and coordinating wrap-around support services that produces stability, security and hope.
- Create a profile of ADU/JADU success stories and track processes that should be replicated
- Track ADU creation, loss, affordability and occupancy certificates to identify potential opportunities and constraints towards the development of ADUs
- Ensure content encompasses Limited English Proficiency (LEP) languages specific to each region. For language assistance services for individuals with limited English proficiency, please visit the [LEP website](#).

Closing

These policy and program recommendations are meant to help educate residents, jurisdictions and other stakeholders involved in ADU development on new state laws in addition to ADU benefits, opportunities, and resources that are available to them. Please visit the [United Way Monterey County ADU Initiative website](#) for more information on ADU policies, programming, resources, jurisdiction referrals & ordinances, updates, how to get involved and more. This document is open for continuous feedback and comments. Please contact United Way Monterey County or the Monterey Bay Economic Partnership for questions and/or presentations.