



Community Development Department  
**MEMORANDUM**

**Date:** March 30, 2023  
**To:** Planning Staff and File  
**From:** Suzanne Thorsen, AICP, Community Development Director  
**Subject:** Clarification of Provisions for Cooking and Sanitation

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### **Background**

An accessory dwelling unit (ADU), also referred to as a “second unit” or “in-law unit”, is a self-contained living unit on the same property as a primary residential building. These units can be detached from or attached to a primary dwelling and may be established by converting an accessory structure, garage or existing space in a home into a separate living unit.

Occasionally, applicants submit permit applications that are not identified as ADUs but which include some of the characteristic features. In addition to certain local and State requirements for ADUs, habitable areas are subject to specific life safety requirements under the California Residential Code, such as the installation of fire-rated walls between the unit and the primary home, smoke/carbon monoxide detectors and egress. Such requirements are imperative to ensuring the safety of permanent living spaces.

To provide consistency in the identification and permitting of ADUs, this interpretation clarifies existing language in the Benicia Zoning Ordinance concerning provisions for cooking and sanitation.

### **Existing Zoning Standards**

Consistent with California Government Code section 65282.2(j), the Benicia Zoning Ordinance classifies an Accessory Dwelling Unit as “An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit and a manufactured home, as defined in California Health and Safety Code Section 18007.” (BMC 17.16.080). This use classification includes a variety of ADU types (detached, attached, and Junior ADUs).

As provided in BMC section 17.70.060 governing Accessory Dwelling Units, a kitchen in a Junior ADU includes, at minimum, a cooking facility with appliances and at least three linear feet of food preparation counter space and three linear feet of cabinet space.

### **Interpretation of “Provisions for Cooking”**

Permanent provisions for cooking (“cooking facilities” or “kitchen”) shall mean a wet bar, efficiency kitchen or other similar facility that provides a sink, three or more linear feet of counter space and three or more linear feet of cabinet space and can accommodate appliances that include the one or more of following:

- Refrigerator exceeding six cubic feet capacity;
- Oven or microwave oven;
- Stove or hot plate;
- Dishwasher;
- Garbage disposal.

### **Interpretation of “Provisions for Sanitation”**

Permanent provisions for sanitation (“sanitation facilities”) shall mean a room (bathroom) that includes a toilet, water-closet, sink, lavatory, wash basin, shower and/or tub.

### **Appeal**

This interpretation may be appealed pursuant to Benicia Municipal Code Chapter 1.44. Any interested person may file an appeal. Please be advised that the decision is final ten (10) business days from the date of publication. The deadline to file an appeal is 5:00 PM on April 13, 2023.