

ORDINANCE NO. 893

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTATI ADOPTING AMENDMENTS TO TITLE 17 OF THE COTATI MUNICIPAL CODE TO REGULATE ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN ACCORDANCE WITH STATE LAW BY REPEALING AND REPLACING SECTION 17.42.170 (SECOND UNITS AND CARRIAGE UNITS) AND AMENDING CHAPTERS 17.22 (ALLOWABLE LAND USES), 17.26 (STREET AND STREETScape STANDARDS), 17.31 (AFFORDABLE HOUSING REQUIREMENTS), 17.36 (PARKING AND LOADING), 17.42 (STANDARDS FOR SPECIFIC USES), 17.51 (RESOURCE CONSERVATION), 17.52 (GROWTH MANAGEMENT), AND 17.90 (DEFINITIONS)

WHEREAS, the availability and affordability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout California; and

WHEREAS, accessory dwelling units (ADUs) provide housing for family members, students, elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods; and

WHEREAS, homeowners who create ADUs can benefit from added income and an increased sense of security; and

WHEREAS, the 2015 General Plan and 2015 Housing Element updates include policies and programs to support and create affordable housing with a priority on in-fill development; and

WHEREAS, the State of California has established that a local agency may, by ordinance, provide for the creation of ADUs in single-family and multifamily residential zones and that ordinances shall designate areas within the jurisdiction of the local agency where ADUs may be permitted and the designation of such areas may be based on criteria that include the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety; and

WHEREAS, state laws related to the review and approval of ADUs apply whether or not a local agency has adopted a local ordinance; and

WHEREAS, the State of California has made numerous legislative changes since 2016 intended to increase the supply of ADUs by limiting a local jurisdiction's ability to impose certain standards, review processes, and fees, as codified in California Government Code Section 65852.2 and 65852.22; and

WHEREAS, the proposed Zoning Code amendments comply with California Government Code Sections 65852.2 and 65852.22, which established the standards for the development of ADUs and Junior ADUs (JADUs) so as to increase the supply of smaller and more affordable housing while ensuring that they remain compatible with the existing neighborhood; and

WHEREAS, on January 21, 2020, the Cotati Planning Commission held a duly noticed public hearing, received the staff report and reviewed a presentation from the Planning Division, and received comments from the public and interested parties; and

WHEREAS, by Resolution No. PC-2020-2 the Planning Commission did consider and recommend, by a vote of 4-0, that the City Council adopt amendments to the City of Cotati Zoning Ordinance; and

WHEREAS, on February 25, 2020, the City Council of the City of Cotati held a duly noticed public hearing, received the staff report and reviewed a presentation from the Planning Division, and considered all oral and written comments submitted to the City regarding the item prior to taking its action on the item.

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

Section 1. Recitals.

The above recitals constitute a part of the findings made by the City Council in adopting this Ordinance.

Section 2. Record

The Record of Proceedings (“Record”) upon which the City Council makes its decision includes, but is not limited to: 1) the 2015 General Plan, 2) the FEIR certified for the 2015 General Plan, 3) the Housing Element adopted by the City Council in 2015, and 4) all staff reports, City files and records and other documents prepared for and/or submitted to the City Council related to adoption of the Zoning Ordinance amendments.

Section 3. Compliance with the California Environmental Quality Act.

The City Council finds that this Ordinance amendment is exempt from the California Environmental Quality Act pursuant to subdivision 15282(h) of the State CEQA Guidelines, which exempts adoption of an ordinance regarding ADUs in a single-family or multifamily residential zone by a city or county to implement the provisions of Section 65852.2 of the California Government Code as set forth in Section 21080.17 of the Public Resources Code.

Section 4. Amendment to the Cotati Municipal Code. Section 17.42.170 is repealed and replaced as follows:

17.42.170 Accessory Dwelling Units/Junior Accessory Dwelling Units

This section establishes procedures and development standards for the ministerial, non-discretionary processing of applications for new accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”), where allowed by Chapter 17.22

(Allowable Land Uses) of this title, and in compliance with California Government Code Sections 65852.2 and 65852.22.

A. General requirements – ADUs/JADUs

All ADUs/JADUs shall be subject to the following standards:

1. One ADU and/or one JADU may be developed on a residentially zoned parcel with a proposed or existing single-family dwelling.
2. Not more than two detached ADUs may be located on a lot with an existing multifamily dwelling. The detached ADUs shall not exceed 16 feet in height and shall be setback at least four feet from the side and rear property lines.
3. Multiple ADUs may be developed within portions of existing multifamily structures that are not used as livable space, including storage rooms, passageways, attics, basements or garages, if each unit complies with state building standards for dwellings. The number of ADUs allowed within existing multifamily structures is limited to 25% of the existing number of units on the property, except that at least one is allowed.
4. Any ADU/JADU may be rented separately from the primary residence, but shall not be sold independently of the primary residence, except as provided for in Section 65852.26 of the California Government Code.
5. Any ADU/JADU shall not be rented for less than 30 consecutive days.
6. Owner-occupancy. Owner-occupancy of an ADU/JADU or its primary residence is not required.
7. Street addresses shall be assigned to all ADUs to assist in emergency response. Address creation for a JADU may be required depending on the configuration of the unit, and subject to the Fire Marshal's recommendation.
8. ADUs/JADUs are not required to install fire sprinklers if they are not required for the primary residence.
9. ADUs/JADUs shall not be included in density calculations to determine the number of housing units per gross acre for residential properties.
10. ADUs/JADUs are not required to install new or separate utility connections directly between the ADU and the utility, and shall not be subject to connection fees or capacity charges for utilities, including sewer and water.
11. ADUs of 750 square feet or less shall not be subject to development impact fees. ADUs larger than 750 square feet may, as determined by the City Council by resolution, be subject to impact fees charged proportionately in relation to the square footage of the primary dwelling unit. "Impact fee" has the same meaning as the term "fee" defined in Section 66000 of the California Government Code, except that it also includes the fees specified in Section 66477 of the California Government Code.
12. A permit application for an ADU/JADU shall be ministerially approved within 60 days from the date the City receives a complete application if there is an existing single-family or multifamily dwelling on the lot unless

the application is submitted with an application to create a new single-family or multifamily dwelling on the lot.

B. Development Standards – ADUs

1. Zoning Conformance. All ADUs shall meet all development standards of the Zoning District in which it is located except as modified by this section.
2. Permanent Foundation. A permanent foundation shall be required for all ADUs.
3. Separate Entry, Kitchen and Bathroom. All ADUs shall contain a separate entrance, kitchen and bathroom independent of the primary residence. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
4. Location. Detached ADUs are subject to the following location standards:
 - a. Detached ADUs shall be separated from the primary dwelling and any accessory structure by a minimum of five (5) feet.
 - b. Setbacks. All ADUs shall be subject to the following setback requirements:
 - i. No ADUs shall be constructed within the front setback.
 - ii. Attached or detached ADUs that are 16 feet in height or less shall be setback a minimum of four feet from the rear and side property lines.
 - iii. Attached or detached ADUs that exceed 16 feet in height shall be subject to the same minimum front, side and rear setback requirements as the primary residence.
 - iv. No setback shall be required for a legally existing living space, garage or accessory structure which is fully or partially converted to an ADU, or for a structure constructed in the same location and to the same dimensions as a legally existing living area, garage or accessory structure which is fully or partially converted to an ADU.
 - v. An ADU constructed above a garage shall be setback a minimum of five (5) feet from the rear and side property lines.
5. Height. If the ADU is located in conformance with the setback requirements of the primary residence the height shall be limited to the height limits of the primary residence. If the ADU is located within the setback areas applicable to the primary residence the attached or detached ADU shall not exceed 16 feet in height.
6. Size. ADUs shall be subject to the following requirements related to size.
 - a. ADUs on lots less than 0.5 acre (21,780 square feet) in size shall be limited to the following maximum sizes:

| | |
|------------------------|---------------------------------------|
| Less than two bedrooms | 850 square feet of gross floor area |
| Two bedrooms | 1,000 square feet of gross floor area |

- b. ADUs on lots less than 0.5 acre in size may exceed the above maximum sizes following submittal of an application and approval of a discretionary Design Review application.
 - c. In no case shall any ADU exceed 1,200 square feet in size.
 - d. The gross floor area of an attached or interior ADU shall not exceed 50% of the existing gross floor area of the primary residence. Notwithstanding the existing gross floor area of the primary residence, an ADU may contain at least 800 square feet of gross floor area.
 - e. An interior ADU proposed within the space of an existing single-family residence or accessory structure may include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing structure if the expansion is limited to accommodating ingress and egress.
 - f. The minimum allowable gross floor area of an ADU shall be the minimum size permitted by the California Building Code, but in no case shall it preclude a minimum sized efficiency unit.
- 7. Lot coverage. An ADU shall comply with the lot coverage requirements of the applicable zoning district; however, notwithstanding the existing and proposed lot coverage, an ADU may contain at least 800 square feet of gross floor area.
 - 8. Architectural style. The architectural style, exterior materials, and colors of the ADU shall be compatible with the primary dwelling unit.
 - 9. Windows. For an ADU located within the required setbacks of the primary residence, all windows along the wall facing the adjoining property line within the required setback shall be clerestory (minimum of 6.5 feet above the finished floor) or shall have permanently obscured glazing. Windows that vary from this standard may be allowed following the submittal of an application for approval of discretionary Design Review.

C. Development standards - JADUs.

JADUs are subject to the following objective standards.

- 1. Location. A JADU must be created within the walls of a proposed or existing single-family residence.
- 2. Size. The size of a JADU shall not exceed 500 square feet of gross floor area. The gross floor area of a shared sanitation facility shall not be included in the maximum gross floor area of the unit.
- 3. Entryways. A JADU must include a separate entrance from the main entrance to the primary residence. An expansion of not more than 150 square feet beyond the same physical dimensions of an existing structure shall be allowed if the expansion is limited to accommodating ingress and egress.
- 4. Kitchen. The JADU shall include an efficiency kitchen as defined in California Government Code Section 65852.22.
- 5. Bathroom. A JADU may include separate sanitation facilities, or may share sanitation facilities with the primary residence.

6. Zoning Conformance. Any exterior improvements associated with the development of a JADU shall conform to zoning regulations and any existing land use entitlements on the property.
7. Deed Restriction. The junior accessory dwelling unit shall not be offered for sale apart from the principal unit. A deed restriction, which shall run with the land, shall be filed with the City and shall include both of the following:
 - a. 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; and
 - b. A restriction on the size and attributes of the junior accessory dwelling unit that conforms to this section.
8. No minimum parking requirement shall be required for a JADU.

D. Parking

1. Unless otherwise specified below, one on-site parking space shall be required for an attached or detached ADU. This parking space is in addition to those spaces required for the primary residence(s). On-site parking is not required for an ADU in any of the following instances:
 - a. The ADU is located within one-half mile walking distance of public transit.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of the proposed or existing primary residence or accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the ADU.
 - e. When there is a car share vehicle located within one block of the ADU.
2. The required parking space for an ADU may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, tandem parking spaces, or by the use of mechanical automobile parking lifts.
3. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or is converted to an ADU, the space(s) eliminated from that structure are not required to be replaced elsewhere on the lot.

- E. Termination of permit and use. At his/her discretion, the Community Development Director or his/her designee may grant an owner's request to terminate an ADU/JADU. As a condition of termination, the Director or his/her designee shall require the owner to make modifications to the property to comply with current building code requirements, and remove the kitchen. The property owner shall apply for a building permit to remove the kitchen as required by the City's building and fire codes.

Section 5. Amendments to the Cotati Municipal Code. Section 17.22.020, Tables 2-2, 2-3, and 2-4 are amended, as shown in strike-out (deleted) and underline (added) text, as follows:

17.22.020

Table 2-2: Allowed Land Uses and Permit Requirements for Low Density and Neighborhood Zones

| Land Use | Permit Required by District | | | | | | | |
|--|-----------------------------|----------|----------|----------|----------|----------|----------|--------------------------|
| | OSC | OSR | RR | RVL | NL | NM | NU | Specific Use Regulations |
| Residential Uses | | | | | | | | |
| Second <u>Accessory dwelling unit or carriage house</u> | - | - | P | P | P | P | P | 17.42.170 |
| <u>Junior accessory dwelling unit</u> | <u>-</u> | <u>-</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>-</u> | <u>-</u> | <u>17.42.170</u> |

17.22.020

Table 2-3: Allowed Land Uses and Permit Requirements for Mixed Use Corridors and Districts

| Land Use | Permit Required by District | | | | | | |
|--------------------------------|-----------------------------|----------|----------|----------|----------|----------|--------------------------|
| | CE | CG | CD | CI | IG | PF | Specific Use Regulations |
| Residential Uses | | | | | | | |
| <u>Accessory dwelling unit</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>=</u> | <u>=</u> | <u>=</u> | <u>17.42.170</u> |

17.22.020

Table 2-4: Allowed Land Uses and Permit Requirements for Downtown Specific Plan Districts

| Land Use | Permit Required by District | | | | |
|-------------------------|-----------------------------|----|----|----|--------------------------|
| | HC | LP | NG | CA | Specific Use Regulations |
| Residential Uses | | | | | |
| Accessory dwelling unit | P | P | P | P | 17.42.170 |

Section 6. Amendment to the Cotati Municipal Code. Subsection 17.26.030.C is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

17.26.030.C

Alley. An alley provides slow speed secondary access to the rear of parcels, and to garages and ~~second~~ accessory dwelling units, as well as easy access to utilities and sanitation facilities, and additional access for emergency response.

Section 7. Amendment to the Cotati Municipal Code. Subsection 17.31.030.D. is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

17.31.030.D.

An ~~second~~ accessory dwelling unit

Section 8. Amendment to the Cotati Municipal Code. Section 17.36.050, Table 3-7, is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

17.36.050

Table 3-7: Parking Requirements by Land Use

| | |
|--|--|
| <u>Second Accessory dwelling unit or Junior accessory Dwelling unit</u> <u>carriage house</u> | See Section 17.42.170 (Second Accessory Dwelling Units/Junior Accessory Dwelling Units <u>and carriage houses</u>). |
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Section 9. Amendments to the Cotati Municipal Code. Section 17.42.160 and subsection 17.42.160.E.4. are amended, as shown in strike-out (deleted) and underline (added) text, as follows:

17.42.160

17.42.160 Residential accessory uses and structures

This section provides standards for residential accessory uses and structures, where allowed by Chapter 17.22 (Allowable Land Uses) of this title. These requirements do not apply to residential ~~second~~ accessory dwelling units and junior accessory dwelling units, which are instead regulated by Section 17.42.170 (~~Second Accessory Dwelling Units/Junior Accessory Dwelling Units~~and carriage houses) of this chapter.

17.42.160.F.4

4. Guesthouses. Guesthouses shall comply with the requirements for ~~second units~~ attached or detached residential accessory structures in Sections ~~17.42.170~~ 17.42.160.D and 17.42.160.E of this chapter.

Section 10. Amendment to the Cotati Municipal Code. Subsection 17.51.010.B. is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

17.51.010.B

This land use code includes a variety of standards, in addition to those in, or referenced by this chapter, that interact to implement resource conservation goals. These standards provide for: development that is mixed use and walkable; housing for diverse family types (including ~~second~~ accessory dwelling units); street widths that are the minimum necessary to accommodate safe and convenient transportation; and the preservation of habitat, wetlands, and other environmental resources.

Section 11. Amendment to the Cotati Municipal Code. Subsection 17.52.020.B.2. is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

17.52.020.B.2

2. An ~~second~~ accessory dwelling unit in compliance with Section 17.42.170 (~~Second Accessory dwelling Units/Junior Accessory Dwelling Units and carriage houses~~) of this title.

Section 12. Amendments to the Cotati Municipal Code. Subsections 17.90.020.A, 17.90.020.C, 17.90.020.E, 17.90.020.F, 17.90.020.J, 17.90.020.L, 17.90.020.P, 17.90.020.S, and 17.90.020.T are amended, as shown in strike-out (deleted) and underline (added) text, in alphabetical order, as follows:

17.090.020.A

"Accessory dwelling unit" has the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

"Accessory dwelling unit - attached" means an accessory dwelling unit that is constructed as a physical expansion (i.e. addition) of the primary dwelling unit and shares a common wall with the primary dwelling unit.

"Accessory dwelling unit - detached" means an accessory dwelling unit that is constructed as a separate structure from the primary dwelling unit.

"Accessory dwelling unit – interior" means an accessory dwelling unit that is created within an existing structure.

17.090.020.C.

~~Carriage House. See "Second unit or carriage house."~~

17.090.020.E.

"Efficiency unit" has the same meaning as defined in Section 17958.1 of the California Health and Safety Code, as amended from time to time.

17.090.020.F.

"Floor area" means the sum of the gross area of all floors in a building on a site, measured from the exterior faces of the exterior walls, but excluding:

1. All unenclosed horizontal surfaces, including balconies, courts, decks, porches, terraces;
2. Detached accessory structures not designed for and/or used for habitable space;
3. All garages and floor area that is required to meet minimum parking standards;
4. Exterior wall thickness of greater than six inches, where the additional wall thickness results in greater energy efficiency (e.g., straw bale construction or earthen wall construction), as demonstrated by the applicant and subject to the approval of the Director; and

5. Bay windows.
6. The floor area of stairways, elevators, and other vertical accesses, is included in the total floor area only as to the "footprint" (area at the base) of the vertical access, and is not counted at each floor of a building. In order to qualify as an unenclosed horizontal surface, at least one of the longest wall planes of the space shall be kept open with the exception that railings with a surface area that is at least fifty percent open and unobstructed by structural elements and that are necessary for safety or convenience purposes may be allowed within the open wall plane.

17.090.020.J

"Junior accessory dwelling unit" has the same meaning as defined in California Government Code Section 65852.22, as amended from time to time.

17.090.020.L

"Living area" means the interior habitable area of a dwelling unit, including finished basements and attics, but does not include garages or any accessory structure.

17.090.020.P

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of an accessory dwelling unit.

"Public transit" has the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

17.090.020.S

~~"Second unit or carriage house" means a second permanent dwelling that is accessory to a primary dwelling on the same site. A second unit or carriage house provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, sanitation, and parking, and if attached to the primary dwelling, is provided exterior access separate from the primary dwelling. A carriage house is a second unit located on an upper floor above the detached garage of a single family dwelling. Includes guesthouses.~~

17.090.020.T

"Tandem parking" means two or more automobiles parked on a driveway or other location on a lot, lined up behind one another.

SECTION 13: Construction and severability.

It is the intent of the City Council of the City of Cotati to supplement applicable state and federal law and not to duplicate or contradict such law, and this ordinance shall be construed consistently with that intent. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or

circumstance. The City Council of the City of Cotati hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 14: Effective date.

This ordinance shall take effect thirty (30) days after its adoption pursuant to California Government Code.

SECTION 15: Publication. The city clerk shall cause this ordinance to be published and/or posted as required in Section 36933 of the California Government Code.

IT IS HEREBY CERTIFIED that the foregoing ordinance was introduced at a regular meeting of the Cotati City Council held on February 25th, 2020, by the following vote, to wit:

02/25/20 Cotati City Council INTRODUCED

Meeting recessed at 9:05 pm

Meeting resumes at 9:10 pm

RESULT: INTRODUCED [UNANIMOUS] Next: 4/14/2020 7:00 PM

MOVER: Mark Landman, Councilmember

SECONDER: John C. Moore, Vice Mayor

AYES: Skillman, Moore, Harvey, Landman, Dell'Osso

IT IS HEREBY CERTIFIED that the foregoing ordinance was duly adopted at a regular meeting of the City Council of the City of Cotati held on April 14th, 2020, by the following vote, to wit:

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: John A. Dell'Osso, Councilmember

SECONDER: Susan Harvey, Councilmember

AYES: Skillman, Moore, Harvey, Landman, Dell'Osso

Approved: _____

Mayor


Attest: _____

Lauren Berges, City Clerk

Approved as to form:

John Bakker, City Attorney

This document is a true and correct copy of Ordinance Number 893 and has been published or posted pursuant to law. *California Government Code § 40806*



Lauren Berges, City Clerk