

ORDINANCE NO. 2017-11

ACCESSORY DWELLING UNITS

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends Chapter 82-24 of the County Ordinance Code to comply with Government Code Section 65852.2, as amended, which governs accessory dwelling units (formerly designated as residential second units). This ordinance also amends Chapter 84-74 to amend the review procedures for permit applications to establish accessory dwelling units in the Kensington (-K) combining district.

SECTION II. Chapter 82-24 of the County Ordinance Code is amended to read:

Chapter 82-24
ACCESSORY DWELLING UNITS

82-24.002 Purposes. The purposes of this chapter are to authorize accessory dwelling units; to establish a procedure for reviewing and approving their development to ensure and maintain healthy and safe residential living environments; to establish location and development standards for accessory dwelling units; and to comply with Government Code Section 65852.2, which requires local agencies to consider applications for accessory dwelling unit permits ministerially without discretionary review or a public hearing. (Ords. 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

82-24.004 Definitions. For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Accessory dwelling unit” has the meaning set forth in Government Code Section 65852.2.
- (b) “Attached accessory dwelling unit” means an accessory dwelling unit attached to an existing primary residence.
- (c) “Detached accessory dwelling unit” means an accessory dwelling unit detached from an existing primary residence.
- (d) “Internal conversion” means the establishment of an accessory dwelling unit within an existing building.
- (e) Whenever the term “residential second unit” is used in any ordinance, resolution, order, directive, or regulation of the county, it means “accessory dwelling unit.” (Ords. 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

82-24.006 Permitting Procedure.

- (a) Except as otherwise provided in this section, an application for a permit to establish an accessory dwelling unit will be approved ministerially without discretionary review or public hearing if the accessory dwelling unit meets: the location requirements specified in Section 82-24.008; the development standards specified in Section 82-24.012; and all applicable building standards in Title 7.
- (b) An application for a permit to establish an accessory dwelling unit that is an internal conversion within an existing single-family residence or accessory building will be approved ministerially without discretionary review or public hearing if: the existing residence or building is located in a single-family residential district; the internal conversion has independent exterior access; the side and rear setbacks are sufficient for fire safety; and the internal conversion meets all applicable building standards in Title 7 and all applicable sewage and water requirements. An internal conversion that meets the requirements of this subsection is not subject to the location requirements specified in Section 82-24.008 or the development standards specified in Section 82-24.012.
- (c) An application for a permit to establish an accessory dwelling unit that does not meet one or more of the development standards specified in subsections (a), (i), (j), and (k) of Section 82-24.012 and is not an internal conversion that meets the requirements of subsection (b) of this section will be considered under the administrative decision procedure specified in Article 26-2.21. A discretionary accessory dwelling unit permit will not be issued unless:
 - (1) The accessory dwelling unit meets the location requirements specified in Section 82-24.008, the development standards specified in subsections (b) through (h) of Section 82-24.012, and all applicable building standards in Title 7; and
 - (2) The zoning administrator makes the findings specified in Section 26-2.2006 and finds all of the following:
 - (A) The accessory dwelling unit is compatible with the surrounding neighborhood in terms of its location, size, height, and design;
 - (B) The accessory dwelling unit maintains the community's property values and does not substantially impair the value and enjoyment of neighboring properties; and
 - (C) The accessory dwelling unit promotes the health, safety, and general welfare of the community. (Ords. 2017-11 § 2, 2011-05 § 2, 2003-17 § 3, 87-67 § 3).

82-24.008 Location.

- (a) One accessory dwelling unit may be located on any lot in a single-family residential district (R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65, and R-100), planned unit district (P-1) for residential uses, or a multiple-family residential district (M-6, M-9, M-12, M-17, and M-29).
- (b) One accessory dwelling unit may be located on any lot in an agricultural district (A-2, A-3, A-4, A-20, A-40, and A-80). If an accessory dwelling unit is proposed for a lot under a Williamson Act contract, an accessory dwelling unit will be allowed subject to the provisions of this chapter unless the Williamson Act contract prohibits an accessory dwelling unit or a residential second unit on the property.
- (c) No subdivision rights are authorized that would result in the accessory dwelling unit being located on a separate lot. (Ords. 2017-11 § 2, 2011-05 § 3, 2006-19 § 2, 2003-17 § 3, 87-67 § 3).

82-24.010 Applications.

- (a) An application for an accessory dwelling unit permit must be submitted to the Department of Conservation and Development prior to the submittal to the county of a building permit application.
- (b) An application for an accessory dwelling unit permit must be made in writing and contain the following information:
 - (1) Name(s) and address(es) of applicant(s) and property owner(s).
 - (2) Address and assessor's parcel number for the lot.
 - (3) Size, indicating dimensions and square footage of the primary residence and the proposed accessory dwelling unit.
 - (4) A legible scale drawing, showing:
 - (A) A north arrow to indicate lot orientation.
 - (B) Lot dimensions and labels for all property lines.
 - (C) Siting and location of the primary residence and the proposed accessory dwelling unit.

- (D) Floor plan configuration of the primary residence and the proposed accessory dwelling unit.
 - (E) All other existing improvements, including driveways and parking areas.
 - (F) Exterior design of the primary residence and the proposed accessory dwelling unit. “Exterior design” includes architectural style and exterior features, such as trim, windows, and roof.
- (5) A description of the building and roof materials of the primary residence and accessory dwelling unit, and a sample board of the colors of the primary residence and accessory dwelling unit.
 - (6) Color photographs of the primary residence and surrounding properties taken from each of the property lines of the project site.
 - (7) Location and description of water and sanitary services for both the primary residence and the proposed accessory dwelling unit.
 - (8) Property owner’s consent to physical inspection of the premises.
 - (9) A written legal description of the property. (Ords. 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

82-24.012 Development Standards.

- (a) Lot Size. The minimum size of a lot with a primary residence and an accessory dwelling unit is 6,000 square feet, except in the Kensington (-K) combining district. The minimum size of a lot located in the Kensington (-K) combining district with a primary residence and an accessory dwelling unit is 10,000 square feet. Section 82-10.002(c) does not apply to an application for an accessory dwelling unit permit.
- (b) Accessory Dwelling Unit Size. An accessory dwelling unit may not exceed the following size:
 - (1) One thousand square feet in any zoning district where an accessory dwelling unit is allowed; except on a lot of five acres or more, or in an agricultural district, or in the Kensington (-K) combining district.
 - (2) One thousand two hundred square feet on a lot of five acres or more.
 - (3) One thousand two hundred square feet in an agricultural district.

(4) Six hundred square feet or 60 percent of the floor area of the primary residence, whichever is smaller, in the Kensington (-K) combining district.

(c) Lot Coverage.

- (1) In single-family residential districts, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed 40 percent. In multiple-family residential districts, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed 25 percent in the M-6 through M-17 districts or 35 percent in the M-29 district.
- (2) In P-1 planned unit districts where an approved final development plan specifies maximum total structural lot coverage, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed the specified percentage. In P-1 planned unit districts where an approved final development plan does not specify maximum total structural lot coverage, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed 40 percent.

(d) Living Provisions. An accessory dwelling unit must provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(e) Permanent Foundation. A permanent foundation is required for all accessory dwelling units.

(f) Sewage and Water. If a private sewage disposal system, water system, or both are proposed to be used, it must meet all applicable county regulations and be approved by the health officer before an accessory dwelling unit may be established. Verification that the standard has been met is required prior to final inspection.

(g) Architecture. The exterior appearance of the accessory dwelling unit must be architecturally compatible with the primary dwelling unit or with the surrounding neighborhood. “Exterior appearance” includes architectural style, colors, and exterior features, such as building materials, trim, windows, and roof design. The accessory dwelling unit must have a separate entrance. The separate entrance must be: located on the building side or building rear; or not visible from the street; or otherwise subordinate to the primary residence.

(h) Attached Accessory Dwelling Unit. An attached accessory dwelling unit must be an internal conversion of a garage or other area within the existing primary residence, or an addition to the existing primary residence. The floor area of an attached accessory dwelling unit may not exceed the size limitations in Section 82-24.012(b) or 50 percent of the existing living area of the primary residence, whichever is less.

- (i) Detached Accessory Dwelling Unit.
 - (1) A detached accessory dwelling unit must be located on the same lot as the existing primary residence.
 - (2) A garage may be attached to a detached accessory dwelling unit. A garage attached to a detached accessory dwelling unit may not exceed the following sizes:
 - (A) Five hundred square feet on lots 20,000 square feet or less in all zoning districts where an accessory dwelling unit is allowed, except in an agricultural district.
 - (B) Six hundred square feet on lots larger than 20,000 square feet and smaller than five acres in all zoning districts where an accessory dwelling unit is allowed, except in an agricultural district.
 - (C) Eight hundred square feet on a lot of five acres or more.
 - (D) Eight hundred square feet in an agricultural district.
- (j) Yards and Building Height.
 - (1) In single-family and multi-family residential districts, an accessory dwelling unit must comply with all requirements relating to yards (front setbacks, side, and rear) and building height that are generally applicable to residential construction in the zone in which the property is located, except as otherwise provided in this subsection (j).
 - (2) In P-1 planned unit districts where an approved final development plan specifies requirements relating to yards (front setbacks, side, and rear) and building height, an accessory dwelling unit must comply with the requirements specified in the plan. In P-1 planned unit districts where an approved final development plan does not specify requirements relating to yards and building height, an accessory dwelling unit must comply with all requirements relating to yards and building height that are generally applicable to residential construction in the R-6 zone.
 - (3) An accessory dwelling unit permitted in the Kensington (-K) combining district may not exceed fourteen feet in height.
 - (4) A setback is not required for an existing garage that is converted to an accessory

dwelling unit.

- (5) A setback of five feet from the side and rear lot lines is required for an accessory dwelling unit that is constructed above a garage.
- (k) Off-Street Parking.
 - (1) A lot containing an accessory dwelling unit must provide an additional off-street parking space to serve the accessory dwelling unit. The additional space may be within a setback area or in tandem, unless specific findings are made that parking in a setback area or in tandem is not feasible based on site or regional topographical or fire and life safety conditions. The exemption under Section 84-4.1202 does not apply to lots for which an accessory dwelling unit permit is issued.
 - (2) The off-street parking requirement in subsection (1) does not apply to an accessory dwelling unit in any of the following instances:
 - (A) The accessory dwelling unit is located within one-half mile of public transit.
 - (B) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (C) The accessory dwelling unit is located within a permit-parking area designated pursuant to Chapter 46-10 but an on-street parking permit is not available under that chapter to the occupant of the accessory dwelling unit.
 - (D) A car share vehicle pick-up location is within one block of the accessory dwelling unit. A “car share vehicle” has the same meaning as in Vehicle Code Section 22507.1.
 - (3) If a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, the parking space must be replaced if necessary to comply with the off-street parking requirements applicable to the primary dwelling unit. The replacement parking space may be located in any configuration on the same lot as the accessory dwelling unit but must otherwise comply with the off-street parking requirements applicable to the primary dwelling unit. (Ords. 2017-11 § 2, 2011-05 § 4, 2008-09 § 2, 2003-17 § 3, 87-67 § 3).

82-24.014 Occupancy. The owner of a lot with an accessory dwelling unit shall occupy either the primary dwelling unit or the accessory dwelling unit. (Ords. 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

82-24.016 Deed Restrictions. Before obtaining an accessory dwelling unit permit, the applicant shall do the following:

- (l) Enter into an agreement of restrictions with the county that refers to the deed under which the property was acquired by the applicant and provides the following:
 - (1) The accessory dwelling unit shall not be sold separately.
 - (2) The accessory dwelling unit is restricted to the maximum size allowed under Ordinance Code Section 82-24.012.
 - (3) The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action by the county against the property owner.
- (m) Record the agreement with the county recorder.
- (n) Prepare a disclosure statement that shall be included in any future offer or sale documents. The statement shall read as follows:

“You are purchasing a property with a permit for an accessory dwelling unit. This permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited from selling the accessory dwelling unit separately. The accessory dwelling unit is restricted to the maximum size allowed under County Ordinance Code Section 82-24.012. The owner of the property shall occupy either the primary dwelling unit or the accessory dwelling unit. The permit is available from the current owner or from the Contra Costa County Department of Conservation and Development.”

(Ords. 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

82-24.018 Nonconforming Units. Notwithstanding the provisions of Ordinance Code Section 82-8.006, if the existing primary residence is a legal nonconforming unit, an accessory dwelling unit may be constructed only if the nonconformity is not expanded and the accessory dwelling

unit meets all current applicable zoning and building standards. (Ords. 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

82-24.020 Fees. Fees for accessory dwelling unit permits will be in amounts established by the board of supervisors in the Department of Conservation and Development's fee schedule. Accessory dwelling units are subject to all new development fees, including but not limited to development impact fees, park fees, and assessment district assessment allocations. (Ords. 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

SECTION III. Section 26-2.2102 of the County Ordinance Code is amended to read:

26-2.2102 Decisions without public hearing. Unless otherwise required by this article, the zoning administrator may, without public hearing, decide applications for any of the following:

- (a) Variance permits pursuant to subsection 26-2.1204(1).
- (b) Minor subdivisions pursuant to subsection 26-2.1204(3) including applications for improvement exceptions.
- (c) After zoning administrator determination on it, any involved small lot application pursuant to subsection 82-10.002(c).
- (d) An accessory dwelling unit permit that does not meet one or more of the development standards specified in subsections 82-24.012(a), (i), (j), and (k).
- (e) Wireless facility access permits pursuant to Chapter 88-24. (Ords. 2017-11 § 3, 2016-11 § 3, 2011-05 § 5, 95-51 § 3, 80-87 § 2; See Gov. C. § 65901).

SECTION IV. Section 84-14.402 of the County Ordinance Code is amended to read:

84-14.402 Uses—Allowed. The following uses are allowed in the R-20 district:

- (1) A detached single-family dwelling on each lot and the accessory structures and uses normally auxiliary to it;
- (2) Crop and tree farming, and horticulture;
- (3) A temporary stand for the sale of agricultural products grown on the premises, with two and one-half acres per stand, set back at least thirty-five feet from the front property line, and operated not more than three months in any calendar year;

- (4) Small farming, including the raising of poultry and rabbits or other grain-fed rodents, primarily for home consumption thereon;
- (5) Keeping livestock on lots forty thousand or more square feet in area (with at least forty thousand square feet for each two head of livestock) and all contiguous and in one fee ownership;
- (6) Publicly owned parks and playgrounds;
- (7) A residential care facility for the elderly, operated by a person with all required state and local agency approvals or licenses, where not more than six persons reside or receive care, not including the licensee or members of the licensee's family or persons employed as facility staff;
- (8) A family day care home where care, protection, and supervision of twelve or fewer children in the provider's own home are provided for periods of less than twenty-four hours per day, while the parents or guardians are away;
- (9) Aviaries, which shall be not over twelve feet high nor exceeding one square foot (not over 1600) in area for each fifty square feet of net land area per lot, and unless otherwise provided herein, shall be set back at least twenty-five feet from the front property line or any street line and at least ten feet from any side or rear property line, and shall be maintained in a sanitary manner as determined by the county health department;
- (10) Accessory dwelling units complying with the provisions of Chapter 82-24. (Ords. 2017-11 § 4, 86-43 § 4, 78-83 § 2, 77-51 § 8, 68-25 § 2, 2033, 2032, 1768 § 2: prior code § 8146(a): Ord. 1269, 1179 § 8, 382 § 4V).

SECTION V. Subsection (h) of Section 84-74.404 of the County Ordinance Code is amended to read:

- (h) “Gross floor area” means the total horizontal area in square feet of each floor inclusive of the exterior walls of all buildings on a parcel, as measured at the exterior face of the enclosing wall. Gross floor area includes attached and detached primary and accessory buildings, accessory dwelling units, interior courtyards, garages and carports with roof covering. Gross floor area does not include the area in attics, crawl spaces, basements, and uncovered balconies, decks, and patios.

(Ords. 2017-11 § 5, 2004-46 § 2).

SECTION VI. Section 84-74.604 of the County Ordinance Code is amended to read:

84-74.604 Exemptions. The following developments are exempt from the requirements of this chapter:

- (a) Commercial buildings, churches, public buildings, or schools that meet all applicable code requirements.
- (b) One story accessory buildings with an area of less than one hundred twenty square feet sited within the applicable setbacks.
- (c) Repair or replacement of legally constructed residences destroyed or damaged by fire, explosion, act of God or the public enemy, or other accident or catastrophe, if both of the following conditions are satisfied:
 - (1) The siting and envelope are the same; and
 - (2) The application for repair or replacement is submitted within two years of the destruction.
- (d) Developments within the -K District for which application was accepted as complete before the effective date of this chapter.
- (e) Development within an existing building or structure that does not expand its envelope.
- (f) Accessory dwelling units subject to the provisions of Chapter 82-24. (Ords. 2017-11 § 6, 2011-05 § 7, 2004-46 § 2).

SECTION VII. Section 84-74.606 of the County Ordinance Code is deleted in its entirety.

SECTION VIII. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

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PASSED on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: DAVID J. TWA,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

KCK:

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