

ORDINANCE NO. 2017-25

ACCESSORY DWELLING UNITS IN KENSINGTON AND COUNTYWIDE

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 and Chapter 84-74 of the County Ordinance Code to amend the review procedures for permit applications to establish accessory dwelling units in the Kensington (-K) combining district and authorizes 1,200-square-foot accessory dwelling units on lots of 12,000 square feet or larger countywide.

SECTION II. Section 82-24.006 of the County Ordinance Code is amended to read:

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, except within the Kensington (-K) combining district, 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 pursuant to this subsection (c) 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.
- (d) An application for a permit to establish an accessory dwelling unit within the Kensington (-K) combining district that does not meet one or more of the development standards specified in subsections (a), (b), (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 Chapter 84-74. (Ords. 2017-25 § 2, 2017-11 § 2, 2011-05 § 2, 2003-17 § 3, 87-67 § 3).

SECTION III. Section 82-24.012 of the County Ordinance Code is amended to read:

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.**
 - (1) A detached accessory dwelling unit may not exceed the following size:
 - (A) 1,000 square feet in any zoning district where an accessory dwelling unit is allowed; except on a lot of 12,000 square feet or more, or in an agricultural district, or in the Kensington (-K) combining district.
 - (B) 1,200 square feet on a lot of 12,000 square feet or more.
 - (C) 1,200 square feet in an agricultural district.

- (D) In the Kensington (-K) combining district, 600 square feet or 60 percent of the floor area of the primary residence, whichever is smaller; except that a discretionary accessory dwelling unit permit may be issued pursuant to subsection (d) of Section 82-24.006 to establish an accessory dwelling unit of up to 1,000 square feet on a lot of 10,000 square feet or more in the Kensington (-K) combining district.
 - (2) An attached accessory dwelling unit may not exceed the size limitations specified in subsection (1) of this subsection (b), or 50 percent of the existing living area of the primary residence, whichever is smaller.
- (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) Types of Accessory Dwelling Units. An accessory dwelling unit may be attached to a primary residence or detached from a primary residence.
 - (1) If an accessory dwelling unit is attached to a primary residence, the 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.
 - (2) If an accessory dwelling unit is detached from a primary residence, the accessory dwelling unit must be located on the same lot as the existing primary residence.
- (i) Garage Attached to a Detached Accessory Dwelling Unit. If a garage is attached to a detached accessory dwelling unit, the garage may not exceed the following sizes:
 - (1) 500 square feet on lots of 20,000 square feet or less in all zoning districts where an accessory dwelling unit is allowed, except in an agricultural district.
 - (2) 600 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.
 - (3) 800 square feet on lots of five acres or more.
 - (4) 800 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 14 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) of this subsection (k) 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. 2017-25 § 3, 2017-11 § 2, 2011-05 § 4, 2008-09 §

2, 2003-17 § 3, 87-67 § 3).

SECTION IV. Section 82-24.014 of the County Ordinance Code is amended to read:

82-24.014 Occupancy. All or any part of an accessory dwelling unit and all or any part of a primary dwelling unit located on the same lot may not be rented, or offered for rent, at the same time. (Ords. 2017-25 § 4, 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

SECTION V. Section 82-24.016 of the County Ordinance Code is amended to read:

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

- (a) 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.
- (b) Record the agreement with the county recorder.
- (c) 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. All or any part of the accessory dwelling unit and all or any part of the primary dwelling unit may not be rented, or offered for rent, at the same time. The permit is available from the current owner or from the Contra Costa County Department of Conservation and Development.”

(Ords. 2017-25 § 5, 2017-11 § 2, 2003-17 § 3, 87-67 § 3).

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. (Ords. 2017-25 § 6, 2017-11 § 6, 2011-05 § 7, 2004-46 § 2).

SECTION VII. Section 84-74.606 is added to the County Ordinance Code, to read:

84-74.606 Accessory Dwelling Units. The provisions of this section govern the review of an application for a permit to establish an accessory dwelling unit within the -K District.

- (a) An application for a permit to establish an accessory dwelling unit that meets the location requirements and development standards specified in Chapter 82-24 and all applicable building standards in Title 7 is exempt from the requirements of Chapter 84-74 and will be approved ministerially pursuant to subsection (a) of Section 82-24.006.
- (b) An application for a permit to establish an accessory dwelling unit that is an internal conversion that meets the requirements of subsection (b) of Section 82-24.006 is exempt from the requirements of Chapter 84-74 and will be approved ministerially pursuant to

subsection (b) of Section 82-24.006.

- (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), (b), (i), (j), and (k) of Section 82-24.012, and is not an internal conversion that meets the requirements of subsection (b) of Section 82-24.006, will be reviewed under the procedure specified in this chapter. If a hearing is not required under Section 84-74.1006, the application will be approved pursuant to Section 84-74.1202. If a hearing is required under Section 84-74.1006, the application will be considered pursuant to Article 84-74.12. (Ords. 2017-25 § 7, 2017-11 § 7, 2011-05 § 7).

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.

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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