

ORDINANCE NO. 2024 - 634

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WOODSIDE AMENDING CHAPTER 153, SECTION 153.211 OF THE WOODSIDE MUNICIPAL CODE TO ALIGN THE TOWN'S ZONING REGULATIONS RELATED TO ACCESSORY DWELLING UNITS WITH AMENDED PROVISIONS IN CALIFORNIA GOVERNMENT CODE SECTION 65852.2 (STATE ASSEMBLY BILL 2221 AND SENATE BILL 897) (FILE NO. ZOAM2023-0002)

WHEREAS, California Assembly Bill 2221 (AB2221) and Senate Bill 897 (SB897), both enacted in 2022 and effective January 1, 2023, amended the provisions in California Government Code 65852.2 related to the regulation and permitting of Accessory Dwelling Units (ADUs) in local jurisdictions;

WHEREAS, the Town's ADU regulations codified in Municipal Code Section 153.211, were last amended in 2021;

WHEREAS, to ensure that the Town's Municipal Code remains consistent with updated California State law, Woodside Municipal Code Section 153.211 must be amended to reflect changes made by AB 2221 and SB 897; and

WHEREAS, on November 15, 2023, the Planning Commission conducted a duly noticed public hearing to initiate the amendment to Section 153.211 and formally recommended by Resolution No. 2023-015, that the Town Council approve the amendments to be enacted through this Ordinance.

IT IS HEREBY ORDAINED by the Town Council of the Town of Woodside as follows:

SECTION ONE: The recitals set forth above are true and correct and are hereby incorporated herein by this reference as if fully set forth in their entirety.

SECTION TWO: Title XV, Chapter 153, Section 153.211 of the Woodside Municipal Code is hereby amended as shown in **Exhibit A** hereto, with text to be added shown in underline and text to be removed shown with ~~strikethrough~~.

SECTION THREE: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SECTION FOUR: Town Council find the amendments to the Municipal Code enacted through this Ordinance are exempt from the California Environmental Quality Act (CEQA),

pursuant to Section 15061(b)(3) (no significant impact on the environment pursuant to the California Legislature), of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).


SECTION FIVE: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect 30 days after its passage.

SECTION SIX: The Town Clerk shall cause this Ordinance to be published in accordance with the requirements of Section 36933 of the Government Code of the State of California.

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance is a full, true and correct copy of Ordinance No. 2024-634 of the Town of Woodside entitled as above; that it was introduced on the 23rd day of January 2024, and was passed and adopted by the Town Council on the 13th day of February 2024, by the following vote:

AYES, Councilmembers: Brown, Dombkowski, Goeld, Shaw, and Mayor Pro Tempore Fluet
NOES, Councilmembers:
ABSENT, Mayor Wall
ABSTAIN, Councilmembers:


Clerk of the Town of Woodside

APPROVED:

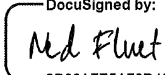
DocuSigned by:

9D88AF55A70D421...
Mayor of the Town of Woodside

EXHIBIT A

Title XV, Chapter 153, Section 153.211

153.211 ACCESSORY DWELLING UNITS

(A) Requirements applicable to all accessory dwelling units.

All *accessory dwelling units* whether internal, attached to, or detached from the *main dwelling* unit, shall conform to the following requirements:

- (1) **Building and fire safety, and septic.** Conformance with all applicable building, housing, zoning, and site development laws, codes, and regulations shall be required, as applicable to *accessory dwelling units*. *Accessory dwelling units* shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection. The construction of an accessory dwelling unit shall not require installation of fire sprinklers in an existing primary residence structure, subject to State regulations.
- (2) **Parking and driveway access.** Off-road parking spaces shall be provided in accordance with the requirements of Sections 153.221 through 153.225, as applicable to *accessory dwelling units*; and specifically as follows:
 - (a) **Parking requirements.** Parking requirements for *accessory dwelling units* shall be one parking space per *accessory dwelling unit* that has one or more bedrooms. No parking spaces shall be required for units that do not have a separate bedroom, such as a studio *accessory dwelling unit*. Off-street parking shall be permitted in *setback* areas in locations determined by the *Town*, or through tandem parking, unless specific findings are made that parking in *setback* areas or tandem parking is not feasible based upon specific site or regional topographic or fire and life safety conditions.
 - (b) **Parking waiver.** Parking requirements for accessory dwelling units are not required in the following instances:
 1. The *accessory dwelling unit* is located within one-half mile walking distance of public transit, including transit stations and bus stops;
 2. The *accessory dwelling unit* is located within an architecturally and historically significant historic district;
 3. The *accessory dwelling unit* is part of the existing primary residence or an existing *accessory structure*;
 4. The *accessory dwelling unit* is located in an area where parking permits are required, but are not offered to the occupant of the *accessory dwelling unit*; or
 5. The *accessory dwelling unit* is located within one block of a car share vehicle.
 6. The accessory dwelling unit is included in an application to create a new single-family or multifamily dwelling on the same lot and the proposed accessory dwelling unit meets one or more of the criteria for a parking waiver listed above.
 - (c) **Driveway access.** The *principal access driveway* shall be used as the primary access for any proposed *accessory dwelling unit*, unless, pursuant to Municipal Code Section 151.44, a *second driveway exception* is approved.
- (3) **Application review.** All plans for *accessory dwelling units* shall be subject to ministerial review and approval or denial by the *Planning Director* within 60 days of receiving a complete application. However, if an *accessory dwelling unit* is proposed in conjunction with the construction of a new *main dwelling*, the *Planning Director* need not act on the *accessory dwelling unit* prior to the issuance of the permit for the *main dwelling*.
- (4) **General accessory dwelling unit regulations.** All requirements related to *accessory buildings* contained in the Municipal Code, including, but not limited to: *height, setbacks, floor area, lot coverage, natural*

state, environmentally sensitive areas, slopes in excess of 35 percent, second driveways, grading, and landscaping shall apply. The following ministerial exceptions shall apply to *accessory dwelling units*:

(a) **Exceptions to setbacks.**

1. **Detached accessory dwelling units.** New detached *accessory dwelling units* may have a side and/or rear setback of no less than four feet from the side and rear property lines ~~(no exceptions to the required front setback are permitted by this Section).~~
2. **Attached accessory dwelling units.** New *accessory dwelling units* attached to the main residence may have a side and rear setback of four feet from the side and rear property lines, but no portion of the main residence may be located within the required setbacks outlined in Municipal Code Section 153.207(A)(Table H) ~~(no exceptions to the required front setback are permitted by this Section).~~ Portions of attached *accessory dwelling units* located within the required setbacks outlined in ~~Municipal Code~~ Section 153.207(A)(Table H) shall have an 11-foot maximum plate height and a 17-foot maximum overall height, except as permitted by ~~Municipal Code~~ Section 153.211(A)(10) and (11).
3. **Two accessory dwelling units.** Properties with two *accessory dwelling units*, attached or detached, may only have one unit with a side and/or rear setback of four feet. A second *accessory dwelling unit* shall comply with the required setbacks outlined in Municipal Code Section 153.207(A)(Table H).
4. **Size Limitation.** An ADU Notwithstanding Section 153.211(A)(6) and (7) below, an accessory dwelling unit that does not comply with basic setback requirements outlined in Section 153.207(A) with the minimum four-foot side and rear yards shall be limited to 800 square feet of floor area within the required basic setbacks.

(b) **Exceptions to height regulation.**

1. **Detached accessory dwelling units.** New detached *accessory dwelling units* may be up to 18 feet in height if the existing or proposed primary structure is a multistory multifamily dwelling. New detached *accessory dwelling units* may also be up to 18 feet in height, or up to 20 feet in height to match the roof pitch of the primary residence structure, if located within one half mile walking distance of a major transit stop or high-quality transit corridor, as defined in Section 21155 of the Public Resources Code.

(cb) **Exceptions to WMC Regulations.** If it is not feasible to comply with all regulations of the Municipal Code to construct one 800 square foot *accessory dwelling unit* on a property, the applicant shall provide all necessary information requested by the *Town* (e.g., a topographic survey, septic feasibility study, etc.) to demonstrate that it is infeasible to construct one 800 square foot *accessory dwelling unit* while complying with all applicable regulations for review by the *Town*. Once the complete feasibility study is reviewed by the *Town*, the *Planning Director* shall determine which Municipal Code regulations may be reduced and/or waived by evaluating feasible locations for the *accessory dwelling unit* that create the fewest impacts to environmentally sensitive areas such as stream corridors, wetlands, and steep slopes.

(de) **Exceptions for dormers.** An *accessory dwelling unit ADU* above a detached *garage* that complies with the *basic setbacks* in 153.207(A)(Table H), may include *dormer(s)* up to 65 percent of the horizontal length of each side of the roof to provide for increased interior head *height*.

(ed) **Noticing requirements for exceptions.** *Accessory dwelling units* which utilize any of the ministerial exceptions in Section 153.211(A)(4)(a) ~~through and/or~~ Section 153.211(A)(4)(cb) shall be noticed to any property *owner* of property adjacent to the proposed *accessory dwelling unit*, including *lots* located across an abutting public or private *road*. The notice shall be sent within five business days of receipt of the application and shall clearly state that an *accessory dwelling unit* application is ministerial and therefore there are no appeal rights.

- (5) **Number of accessory dwelling units allowed.** No more than two *accessory dwelling units*, including *accessory dwelling units* in *barns* and *junior accessory dwelling units*, are permitted on a *parcel* subject to Table L-1.

TABLE L-1: Number of Accessory Dwelling Units Allowed	
Parcel Size or Zoning	Number of Accessory Dwelling Units Allowed
Equal to, or greater than, 1.5 acres	A maximum of two, whether attached or detached.
Equal to, or greater than, 1.0 acre; but less than 1.5 acres	A maximum of one detached and one attached.
Less than 1.0 acre	No more than one, whether attached or detached, and one <i>junior accessory dwelling unit</i> .
In the R-1 District	No more than one, whether attached or detached, and one <i>junior accessory dwelling unit</i> .

- (6) **Attached accessory dwelling units.** The *floor area* of an attached *accessory dwelling unit* shall not exceed 50 percent of the size of the main residence, including the *accessory dwelling unit*, or 1,500 square feet, whichever is less.
- (7) **Detached accessory dwelling units.** The *floor area* of a detached *accessory dwelling unit*, including the *floor area* of any attached *garage*, shall not exceed 1,500 square feet.
- (8) **Basement accessory dwelling units.** Basement area used for an *accessory dwelling unit*, or a portion thereof, shall be limited to the unit sizes prescribed in divisions (A)(6) and (A)(7) of this section.
- (9) **Rental accessory dwelling units.** *Accessory dwelling units* which are rented shall not be rented for less than 30 consecutive days.
- (10) **Existing detached garages and other existing accessory structures converted to accessory dwelling units.** No new *setback* shall be required for an existing detached *garage* or other *existing accessory structure* that is converted to an *accessory dwelling unit* and a *setback* of no more than four feet or the *setback* of the existing detached *garage*, whichever is greater, from the side and *rear lot lines* shall be required for an *accessory dwelling unit* that is constructed above an existing detached *garage*, as long as access and egress requirements, as prescribed by the Building Code and Municipal Code *height* requirements are met.
- (11) **Existing attached garages converted to accessory dwelling units.** No new *setback* shall be required for an existing attached *garage*, *storage area*, or *similar attached and enclosed area*, that is converted to an *accessory dwelling unit* and a *setback* of no more than four feet or the *setback* of the existing attached *garage*, whichever is greater, from the side and *rear lot lines* shall be required for an *accessory dwelling unit* that is constructed above an existing attached *garage*, as long as access and egress requirements, as prescribed by the Building Code and Municipal Code *height* requirements are met.
- (12) **Processing requirements:**
- (a) **Accessory dwelling units within an existing structure.** An *accessory dwelling unit* within an *existing structure* (including the primary *residence structure*, attached or detached *garage*, or other *accessory structure*) shall be permitted ministerially with a *building permit*, and a *demolition permit, if applicable*, within 60 days of *the submittal of a complete* application, in compliance with other standards within the chapter, if complying with the following codes and requirements:
1. Building and safety codes;
 2. Independent exterior access from the existing residence;
 3. Sufficient *side* and *rear setbacks* for fire safety, as set forth in the Building Code; and,

4. A minimum four-foot *setback* for a second-story *accessory dwelling unit* above an existing nonconforming *garage*.
 5. Construction of a new access stair located a minimum of five feet from the side or rear property line, or the existing *setback of the building*, whichever is greater, to access a new *accessory dwelling unit* ~~ADU~~ built above an existing, legal nonconforming *garage* is allowed. An existing *garage* located at the required *setback* shall be allowed an access stair which may encroach a maximum of five feet into the required *setback*.
- (b) **Denial.** In order to deny an *accessory dwelling unit*, the *Planning Director* shall find that the *accessory dwelling unit* would be detrimental to the public health and safety and shall transmit in writing to the applicant a full set of comments explaining the reasons for the denial within 60 days of the submittal of a complete application.
- (c) **Nonconforming Conditions.** The *Town* shall not deny an application to create an *accessory dwelling unit* due to the existence of, or failure of the property owner to correct, nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and would not be affected by the construction of the *accessory dwelling unit*. The *Planning Director* shall not condition the approval of a permit to create an *accessory dwelling unit* on the correction of existing nonconforming zoning conditions.

(B) Requirements applicable to accessory dwelling units within barns.

In addition to the requirements applicable to all *accessory dwelling units*, any such *accessory dwelling units* located within *barns* shall conform to the following additional requirements:

- (1) No more than one *accessory dwelling unit* within a *barn* shall be permitted on a *parcel* with the following exception: up to two *accessory dwelling units* may be permitted within a *barn* located on a property containing a *Town-approved professional stable*. Such additional *accessory dwelling units* shall only be permitted after approval of a *conditional use* permit by the *Planning Commission*, in accordance with applicable *conditional use* permit procedures.
- (2) The *floor area* of the *accessory dwelling unit* within a *barn* shall be no greater than 50 percent of the *footprint area* of the *barn*, or 1,200 square feet, whichever is less, but in no instance will such an *accessory dwelling unit* ~~ADU~~ be limited to less than 850 square feet or 1,000 square feet for *accessory dwelling units* that include more than one bedroom.
- (3) The *accessory dwelling unit* and the *barn* shall contain an automatic fire sprinkler system, and the *accessory dwelling unit* shall be separated from the other portions of the *barn* with a one-hour firewall, in accordance with the *Town's Building Code*.
- (4) An *accessory dwelling unit* in a *barn* may be located on either a first or second floor, of that portion of the *barn* that adheres to required *setbacks*.

(C) Requirements applicable to junior accessory dwelling units.

A *junior accessory dwelling unit* is a unit that is no more than 500 square feet in size, is contained entirely within an existing or proposed *main dwelling structure*, includes an *efficiency kitchen*, has a separate exterior entry from the *main dwelling*, and maintains an interior connection to the main living area of the *main dwelling*. *Junior accessory dwelling units* shall conform to the following requirements:

- (1) Only one *junior accessory dwelling unit* is allowed per *lot*.
- (2) Owner-occupancy is required in any residence that contains a *junior accessory dwelling unit*. The owner may reside in either the remaining portion of the *structure* or in the newly created *junior accessory dwelling unit*. Owner-occupancy shall not be required if the owner is a governmental agency, land trust, or housing organization.

- (3) A junior accessory dwelling unit shall be constructed within the existing walls of the structure, including attached garages, attached storage areas, and other similar attached and enclosed areas and shall include an existing bedroom.
- (4) A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- (5) A junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A junior accessory dwelling unit may include a second interior doorway for sound attenuation.
- (6) A junior accessory dwelling unit shall have an efficiency kitchen, which shall include all of the following:
 - (a) A cooking facility with appliances; and,
 - (b) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- (7) A junior accessory dwelling unit does not require additional parking.
- (8) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.
- (9) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The Planning Director shall approve or deny any application and the Town shall issue a building permit shall be issued within 60 days of submission of a complete application for a permit pursuant to this section. The Town A local agency may charge a fee to reimburse ment the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.
- (10) For the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit the Town a city, county, city and county, or other local public entity from adopting an ordinance or regulation_s relating to fire and life protection requirements within a single-family residence and that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly applying those ordinances and regulations to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.
- (11) For the 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.
- (12) This section shall not be construed to prohibit the Town a local agency from adopting an ordinance or regulation_s related to parking or a service fee or a connection fee for water, sewer, or power, that applies to a single-family residence and that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly applying those ordinances and regulations to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.