

ORDINANCE NO. 2023-13

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 the permitting of accessory dwelling units.

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 and junior 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. 2023-13 § 2, 2020-01 § 2, 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 a primary dwelling unit.
- (c) “Detached accessory dwelling unit” means an accessory dwelling unit detached from a primary dwelling unit.
- (d) “Internal conversion” means the establishment of an accessory dwelling unit or junior accessory dwelling unit within an existing or proposed primary dwelling unit or within an existing accessory building.
- (e) “Junior accessory dwelling unit” has the meaning set forth in Government Code Section 65852.22.

- (f) 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. 2023-13 § 2, 2020-01 § 2, 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 82-24.010; the development standards specified in Section 82-24.012; and all applicable building standards in Title 7 and all applicable sewage and water requirements.
- (b) An application for a permit to establish any of the following types of accessory dwelling units in a residential or mixed-use zoning district is not subject to the location requirements specified in Section 82-24.010 or the development standards specified in Section 82-24.012 and will be approved ministerially without discretionary review or public hearing.
- (1) One internal conversion that is either an accessory dwelling unit or a junior accessory dwelling unit on a lot with a proposed or existing single-family dwelling, if: 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. If the internal conversion is a junior accessory dwelling unit, it must comply with the requirements of Government Code section 65852.22. An internal conversion under this subsection (b)(1) may include an expansion of not more than 150 square feet beyond the physical dimensions of an existing building, but the expansion must be limited to accommodating ingress and egress.
- (2) One detached, new construction, accessory dwelling unit on a lot with a proposed or existing single-family dwelling, if: the side and rear setbacks are a minimum of four feet; the detached accessory dwelling unit does not exceed 800 square feet in size; the detached accessory dwelling unit does not exceed the applicable height limitations specified in Government Code section 65852.2(c)(2)(D); and the detached accessory dwelling unit meets all applicable building standards in Title 7 and all applicable sewage and water requirements. The detached accessory dwelling unit may be combined with a junior accessory dwelling unit permitted in subsection (b)(1).
- (3) One or more accessory dwelling units that are internal conversions within the non-livable space of an existing multiple-family dwelling, including but not limited to storage rooms, boiler rooms, passageways, attics, basement, or garages. Each internal conversion under this subsection must meet all applicable building standards in Title 7 and all applicable sewage and water requirements. The

number of internal conversions permitted within an existing multiple-family dwelling under this subsection (b)(3) may not exceed 25% of the number of existing multiple-family units in the dwelling.

- (4) One or two detached accessory dwelling units on a lot with a proposed or existing multiple-family dwelling, if: the side and rear setbacks are a minimum of four feet; the detached accessory dwelling unit does not exceed 800 square feet in size; the detached accessory dwelling unit does not exceed the applicable height limitations specified in Government Code section 65852.2(c)(2)(D); and the detached accessory dwelling unit meets all applicable building standards in Title 7 and all applicable sewage and water requirements. (Ords. 2023-13 § 2, 2020-01 § 2, 2017-25 § 2, 2017-11 § 2, 2011-05 § 2, 2003-17 § 3, 87-67 § 3.)

82-24.008 Applications.

- (a) An application for an accessory dwelling unit permit must be submitted to the Department of Conservation and Development before a building permit application is submitted to the county. An application for a junior accessory dwelling unit permit must be submitted in the same manner and form as an application for an accessory dwelling unit permit.
- (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 dwelling unit 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 dwelling unit and the proposed accessory dwelling unit.
 - (D) Floor plan configuration of the primary dwelling unit and the proposed accessory dwelling unit.
 - (E) All other existing improvements, including driveways and parking areas.

- (F) Exterior design of the primary dwelling unit and the proposed accessory dwelling unit. “Exterior design” includes exterior features, such as entrances, windows, and roof.
- (5) Location and description of water and sanitary services for both the primary dwelling unit and the proposed accessory dwelling unit.
- (6) A written legal description of the property. (Ords. 2023-13 § 2, 2020-01 § 2, 2017-11 § 2, 2003-17 § 3, 87-67 § 3.)

82-24.010 Location.

- (c) 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), a water recreation district (F-1), 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).
- (d) 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.
- (e) No subdivision rights are authorized that would result in the accessory dwelling unit being located on a separate lot. (Ords. 2023-13 § 2, 2020-01 § 2, 2017-11 § 2, 2011-05 § 3, 2006-19 § 2, 2003-17 § 3, 87-67 § 3.)

82-24.012 Development Standards.

- (a) Accessory Dwelling Unit Size.
 - (1) A detached accessory dwelling unit may not exceed the following sizes.
 - (A) A detached accessory dwelling unit may not exceed 1,000 square feet in any zoning district where an accessory dwelling unit is allowed, unless the accessory dwelling unit is located on a lot of 12,000 square feet or more, or in an agricultural district, or in the Kensington (-K) combining district.
 - (B) A detached accessory dwelling unit may not exceed 1,200 square feet on a lot of 12,000 square feet or more.
 - (C) A detached accessory dwelling unit may not exceed 1,200 square feet in an agricultural district.
 - (D) In the Kensington (-K) combining district, a detached accessory dwelling unit may not exceed 850 square feet if the accessory dwelling unit

provides one bedroom and may not exceed 1,000 square feet if the accessory dwelling unit provides more than one bedroom.

- (2) An attached accessory dwelling unit may not exceed the following sizes.
 - (A) Except as otherwise provided in subsection (B) below, an attached accessory dwelling unit may not exceed the sizes specified in this subsection (A).
 - (i) An attached accessory dwelling unit may not exceed 1,000 square feet in any zoning district where an accessory dwelling unit is allowed, unless the accessory dwelling unit is located on a lot of 12,000 square feet or more, or in an agricultural district, or in the Kensington (-K) combining district.
 - (ii) An attached accessory dwelling unit may not exceed 1,200 square feet on a lot of 12,000 square feet or more.
 - (iii) An attached accessory dwelling unit may not exceed 1,200 square feet in an agricultural district.
 - (iv) In the Kensington (-K) combining district, an attached accessory dwelling unit may not exceed 850 square feet if the accessory dwelling unit provides one bedroom and may not exceed 1,000 square feet if the accessory dwelling unit provides more than one bedroom.
 - (B) An attached accessory dwelling unit may not exceed 50 percent of the living area of the primary dwelling unit to which the accessory dwelling unit is attached, except that an attached accessory dwelling unit may exceed 50 percent of the living area of the primary dwelling unit to the extent necessary to permit an accessory dwelling unit of 850 square feet if the accessory dwelling unit provides one bedroom or 1,000 square feet if the accessory dwelling unit provides more than one bedroom.
- (b) 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.
- (c) Permanent Foundation. A permanent foundation is required for all accessory dwelling units.
- (d) 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.

- (e) **Architecture.** An accessory dwelling unit must have independent exterior access separate from that of the primary dwelling unit. The independent exterior access must be: located on the building side or building rear; or not visible from the street; or otherwise subordinate to the primary dwelling unit.
- (f) **Types of Accessory Dwelling Units.** An accessory dwelling unit may be attached to a primary dwelling unit or detached from a primary dwelling unit.
 - (1) If an accessory dwelling unit is attached to a primary dwelling unit, the accessory dwelling unit must be an internal conversion of an attached garage or other area within the primary dwelling unit, or an addition to the primary dwelling unit.
 - (2) If an accessory dwelling unit is detached from a primary dwelling unit, the accessory dwelling unit must be an internal conversion of a detached garage or other accessory building, or new construction. A detached accessory dwelling unit must be located on the same lot as the primary dwelling unit.
- (g) **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.
- (h) **Yards and Building Height.**
 - (1) 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 (h).
 - (2) A setback is not required for an accessory dwelling unit that is an internal conversion or that is constructed in the same location and to the same dimensions as an existing building.

- (3) A setback of four feet from the side and rear lot lines is required for an accessory dwelling unit that is not an internal conversion and is not constructed in the same location and to the same dimensions as an existing building.
- (4) An accessory dwelling unit and any portion of an accessory dwelling unit is subject to the applicable height limitations specified in Government Code section 65852.2(c)(2)(D) if it is located:
 - (A) Within a front, back, or side yard area applicable to residential construction in the zone in which the lot is located; or
 - (B) In the Kensington (-K) combining district.
- (i) 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, except as otherwise provided in this subsection (i). 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.
 - (2) Replacement parking spaces are not required if a garage, carport, or covered parking structure that provides off-street parking is demolished or converted in conjunction with the construction of an accessory dwelling unit.
 - (3) No additional off-street parking is required for an accessory dwelling unit in any of the following instances:
 - (A) The accessory dwelling unit is located within one-half mile walking distance of public transit.
 - (B) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (C) The accessory dwelling unit is an internal conversion.
 - (D) 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.

- (E) 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. (Ords. 2023-13 § 2, 2020-01 § 2, 2017-25 § 3, 2017-11 § 2, 2011-05 § 4, 2008-09 § 2, 2003-17 § 3, 87-67 § 3.)

82-24.014 Occupancy. No accessory dwelling unit or junior accessory dwelling unit may be rented or offered for rent for a term of less than 30 days. (Ords. 2023-13 § 2, 2020-01 § 2, 2017-25 § 4, 2017-11 § 2, 2003-17 § 3, 87-67 § 3.)

82-24.016 Deed Restrictions. Before obtaining a permit authorizing the establishment of an accessory dwelling unit or junior accessory dwelling unit, 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 or junior accessory dwelling unit shall not be sold separately, except in conformance with Government Code section 65852.26.
 - (2) The accessory dwelling unit or junior accessory dwelling unit is restricted to the maximum size allowed under the permit.
 - (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 (junior) 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 (junior) accessory dwelling unit separately, except in conformance with Government Code section 65852.26. The (junior) accessory dwelling unit is restricted to the maximum size allowed under the permit. The (junior) accessory dwelling unit may not be rented or offered for rent for a term of less than 30 days. The permit is available from the current owner

or from the Contra Costa County Department of Conservation and Development.”

(Ords. 2023-13 § 2, 2020-01 § 2, 2017-25 § 5, 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 dwelling unit is a legal nonconforming unit, an accessory dwelling unit or junior accessory dwelling unit may be constructed only if the nonconformity is not expanded and the accessory dwelling unit or junior accessory dwelling unit meets all current applicable zoning and building standards. (Ords. 2023-13 § 2, 2020-01 § 2, 2017-11 § 2, 2003-17 § 3, 87-67 § 3.)

82-24.020 Fees. Fees for accessory dwelling unit permits and junior accessory dwelling unit permits will be in amounts established by the board of supervisors in the Department of Conservation and Development’s fee schedule. To the extent permitted by state law, accessory dwelling units and junior accessory dwelling units are subject to all applicable fees for new development. (Ords. 2023-13 § 2, 2020-01 § 2, 2017-11 § 2, 2003-17 § 3, 87-67 § 3.)

SECTION III. 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 East Bay Times, a newspaper published in this County.

PASSED on June 27 2023 by the following vote:

AYES: John Gioia, Candace Andersen, Diane Burgis, Ken Carlson, Federal D. Glover

NOES: None

ABSENT: None

ABSTAIN: None

/s/ John Gioia, Board Chair

ATTEST: MONICA NINO, Clerk of the Board of Supervisors and County Administrator

By: /s/ June McHuen, Deputy Clerk