

**ORDINANCE NO. 992**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA  
ADOPTING AMENDMENTS TO TITLE 18 OF THE CORTE MADERA  
MUNICIPAL CODE TO (1) AMEND CHAPTERS 18.04 – DEFINITIONS, 18.18 –  
SPECIAL PURPOSE OVERLAY DISTRICTS, & 18.20 – OFF-STREET PARKING AND  
LOADING, AND TO (2) REPEAL AND REPLACE CHAPTER 18.31 – ACCESSORY  
DWELLING UNITS**

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

**WHEREAS**, accessory dwelling units (“ADUs”) offer lower cost housing to meet the needs of existing and future residents while ensuring that they remain compatible with the existing neighborhood; and

**WHEREAS**, the 2009 General Plan, and 2011 and 2015 Housing Element updates included policies and programs to support and create affordable housing, a diverse range of housing types, including accessory dwelling units, and implementation through the adoption of amendments to the Corte Madera Zoning Ordinance; and

**WHEREAS**, the State of California has established that a local agency may, by ordinance, provide for the creation of accessory dwelling units in single family and multi-family residential zones and that ordinances shall designate areas within the jurisdiction of the local agency where ADUs may be permitted and the designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units 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**, it is the intent of the Town Council to adopt amendments to the existing accessory dwelling unit ordinance which has the effect of providing for the creation of ADUs and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs in zones in which they are authorized by local ordinance; and

**WHEREAS**, the State of California has made several 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**, on December 6, 2016, in response to state legislation, the Town Council of the Town of Corte Madera adopted substantial amendments to the Town’s ADU regulations to comply with state legislation adopted at that time and added provisions for the development of junior accessory dwelling units (“JADUs”); and

**WHEREAS**, the Town adopted the Christmas Tree Hill Overlay District in 1994 (as set forth in Section 18.18 of the Town of Corte Madera Municipal Code (“CMMC”)) and, at that time recognized the unique development conditions of Christmas Tree Hill, which create a potential for public safety hazards. The unique development conditions of Christmas Tree Hill include:

- (1) The roads on Christmas Tree Hill are steep, narrow and winding;
- (2) There are many small developed lots with severely limited off-street parking;
- (3) Christmas Tree Hill is heavily vegetated and developed with numerous older, wooden structures resulting in high fuel loading and severe fire hazard;
- (4) The road configuration and proliferation of on-street parking limit emergency access to all Christmas Tree Hill residents and property, as well as evacuation of residents in the event of fire, natural disaster, or other emergency;

(5) Infrastructure facilities, including drainage and roads, are limited in their ability to accommodate additional development, including, but not limited to, residential expansions, new residential units and accessory dwelling units; and

**WHEREAS**, in acknowledgement of these unique conditions, CMMC Sections 18.18.405 and 18.18.410 limit the number of ADUs within Christmas Tree Hill to avoid jeopardizing the safety of persons residing in the area related to traffic flow, fire hazards and emergency evacuation, and infrastructure capacity; and

**WHEREAS**, state law restricts the Town's ability to limit ADUs located within an existing structure or to the development of JADUs, but no such restriction exists for attached or detached ADUs; and

**WHEREAS**, to retain the intent of the ADU capacity limit regulations of the Christmas Tree Hill Overlay District to the extent permissible under state law, and regulate the number of attached and detached ADUs permitted on Christmas Tree Hill, the Town Council has determined it is necessary to require that new additions or detached structures not proposed as an ADU, be in existence for a minimum of five years before such addition or detached structure may be considered an existing structure for the purposes of creating a new ADU pursuant to provisions of state law permitting ADUs within existing structures. This requirement is intended to protect public safety by eliminating a potential loophole in the ADU capacity limit regulations of the Christmas Tree Hill Overlay District that would otherwise exist; and

**WHEREAS**, the proposed Zoning Code amendments comply with California Government Code Section 65852.2 which establishes standards for the development of ADUs so as to increase the supply of smaller and more affordable housing while ensuring that they remain compatible with the existing neighborhood; and

**WHEREAS**, the amendments are exempt from the California Environmental Quality Act (CEQA) under statutory exemption 15282(h) since the proposed ordinance implements California Government Code Section 65852.2; and

**WHEREAS**, based on the record, the Town Council finds that the Zoning Ordinance amendments are consistent with and facilitate the implementation of the Housing Element and the General Plan; and

**WHEREAS**, the Planning Commission discussed proposed amendments to Chapter 18.31 (Accessory Dwelling Units) on May 14, 2019 and August 13, 2019; and

**WHEREAS**, on October 11, 2019, notice of the Corte Madera Planning Commission public hearing on the proposed Zoning Ordinance amendments was sent by email to all those who signed up for the ADU interested parties list and the Planning and Building Weekly Newsletter newsflash item, was posted at the Town's fire station, Town Hall, library and post office, and was posted to the Town's website and on Nextdoor; and

**WHEREAS**, on October 11, 2019, notice of the Planning Commission public hearing was published in the *Marin Independent Journal* in compliance with California Government Code Section 65090 and posted in public places throughout Town; and

**WHEREAS**, on October 22, 2019, the Planning Commission held a public hearing, received the staff report and reviewed a presentation from the Planning Department and received comments from the public and interested parties; and

**WHEREAS**, by Resolution No. 19-021, the Planning Commission did consider and recommend, by a vote of 4-0, with one Commissioner absent, that the Town Council adopt amendments to the Town of Corte Madera Zoning Ordinance; and

**WHEREAS**, on November 22, 2019, notice of the Corte Madera Town Council public hearing on the proposed Zoning Ordinance amendments and the proposed amendment to the Town's Master Fee Schedule was sent by email to all those who signed up for the ADU interested parties list and the Planning and Building Weekly Newsletter newsflash item, was posted at the Town's fire station, Town Hall, library and post office, and was posted to the Town's website and on

Nextdoor; and

**WHEREAS**, on November 23, 2019, notice of the Town Council public hearing was published in the *Marin Independent Journal* in compliance with California Government Code Section 65090 and posted in public places throughout Town; and

**WHEREAS**, on December 3, 2019, the Town Council of the Town of Corte Madera conducted a public hearing on the item, and considered all oral and written comments submitted to the Town regarding the item prior to taking its actions on the item.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.      Recitals**

The foregoing recitals are true and correct and are incorporated into the findings herein.

**Section 2.      Record**

The Record of Proceedings (“Record”) upon which the Town Council makes its recommendation includes, but is not limited to:

(1) the 2009 General Plan, (2) the FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) the Housing Element update adopted by the Town Council in 2015, including the adopted environmental determination (4) all staff reports, Town files and records and other documents prepared for and/or submitted to the Town Council related to the adoption of Zoning Ordinance amendments.

**Section 3.      Compliance with the California Environmental Quality Act (CEQA)**

Based on the Record, the Town Council finds the ordinance and amendments are not subject to the California Environmental Quality Act (CEQA). The ordinance and amendments are exempt from CEQA under statutory exemption 15282(h) to allow implementing regulations for accessory dwelling units consistent with Government Code Section 65852.2.

**Section 4.      General Plan Consistency**

The Town Council of the Town of Corte Madera hereby finds that the proposed Zoning Ordinance amendments to Chapter 18.04, 18.18, 18.20 and 18.31, are in the best interest of the Town because they further establish goals, policies and implementation programs of the General Plan to promote housing opportunities, maintain a diverse range of housing options, provide infill housing that is potentially affordable, encourage the improvement of existing housing stock while preserving quality of life in residential zones. The ordinance amendments also implement specific policies of the Housing Element by modifying and improving the existing accessory dwelling unit provisions to ensure consistency with state code.

The amendments specifically are consistent with and implement the following General Plan and Housing Element policies and programs:

*Goal H-2 Use land efficiently and sustainably. Develop a variety of housing to meet community needs and to promote sustainability.*

*Policy H-1.4 Variety of housing choices. In response to the broad range of housing needs in Corte Madera, the Town will strive to achieve a mix of housing types, densities, affordability levels and designs. The Town will work with developers of nontraditional and innovative housing approaches in financing, design, construction and types of housing to meet local housing needs.*

*Policy H-2.1 Housing to meet local needs. Provide for the development of new housing to meet the diverse economic and physical needs of existing residents and projected population capacity by planning for adequate sites and supporting programs to achieve Corte Madera’s Regional Housing Needs Allocation.*

*Policy H-2.15 Second dwelling units. Encourage well designed, legal second units in all*

residential neighborhoods.

*Policy H-2.16 Second dwelling units in new development. Require new second units as part of new detached single family dwelling subdivision development where five or more new units are proposed.*

*Implementation Program H-2.15.a Second unit ordinance. Continue to implement the second unit ordinance.*

*Implementation Program H-2.15.c Second unit fees. Encourage the development of second units by waiving or reducing fees as follows: consider waiver or reduction of the second unit permit application fee. Work with special districts, e.g. water and sanitary, to reduce or waive connection and/or service fees.*

**Section 5.      Amendment To The Corte Madera Municipal Code.** Subsection 18.04 is amended, as shown in strike-out (deleted) and underline (added text, as follows):

18.04.007 – Accessory Dwelling Unit  
“Accessory Dwelling Unit” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

~~18.04.007 – Accessory Dwelling Unit~~  
~~“Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated.~~

18.04.392 – Junior Accessory Dwelling Unit  
“Junior Accessory Dwelling Unit” shall have the same meaning as defined in California Government Code Section 65852.22, as amended from time to time.

~~18.04.392 – Junior Accessory Dwelling Unit~~  
~~“Junior Accessory Dwelling Unit” means a housing unit that is no more than 500 square feet in size and contained entirely within an existing single family structure, including the utilization of an existing bedroom. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. A junior accessory dwelling unit must include an efficiency kitchen with all of the following: a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances that do not require electrical service greater than 120 volts, propane or gas, and a food preparation area that is of reasonable size in relation to the size of the unit.~~

**Section 6.      Amendment To The Corte Madera Municipal Code.** Subsection 18.18.405(3)(K) and Subsection 18.18.410 is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

18.18.405(3)(K)  
Consistent with the recognition of the unique physical constraints on Christmas Tree Hill, as described in Section 18.18.400, this section seeks to limit and distribute additional dwelling units ~~accessory dwelling units~~ on the Hill, acknowledging that, if overdeveloped, ~~additional dwelling units~~ accessory dwelling units will jeopardize the health and safety of persons residing in the area. “Overloading the capacity of the neighborhood” is defined as the number of ~~additional dwelling units~~ accessory dwelling units exceeding ten percent of the total number of primary residential units existing in the area on the date this section becomes effective. Christmas Tree Hill has been divided into capacity districts. In each capacity district, the percentages of the total allowable ~~units~~ accessory dwelling units are as follows:

Capacity District	Percent
1	10
2	7
3	7

4	8
5	7
6	11
7	7
8	8
9	8
10	14
11	13

Example: With two hundred fifty dwelling units on Christmas Tree Hill, a total of twenty-five ~~second units~~ accessory dwelling units are permitted. Capacity District 4, with eight percent of the total dwelling units, is allowed two ~~second units~~ accessory dwelling units.

#### 18.18.410

(a) In recognition of the approximate pattern of town-approved ~~additional dwelling units~~ accessory dwelling units to date, to minimize impacts of ~~additional dwelling units~~ accessory dwelling units in any particular area, and to provide for an even, equitable distribution of these ~~additional dwelling units~~ accessory dwelling units, capacity districts have been delineated as shown on the Christmas Tree Hill capacity map (See Figure 16).

(b) ~~Additional dwelling units~~ Accessory dwelling units on parcels greater than twenty thousand square feet in size shall not be considered overloading the capacity of the neighborhood, and therefore shall not be included in calculating the maximum allowable number of ~~dwelling units~~ accessory dwelling units.

(c) Interior accessory dwelling units and junior accessory dwelling units as defined in Chapter 18.31 shall not be included in calculating the maximum allowable number of accessory dwelling units per capacity district.

~~(e)(d)~~ The allowed maximum total number of ~~additional dwelling units~~ accessory dwelling units shall include existing legal ~~additional dwelling units~~ accessory dwelling units and future ~~additional dwelling units~~ accessory dwelling units, except those excluded above. If a capacity district already contains more than its allotted number, by virtue of the existence of legal conforming and legal nonconforming ~~additional dwelling units~~ accessory dwelling units, these units shall not be rendered illegal by the provisions of this section.

**Section 7. Amendment To The Corte Madera Municipal Code.** Subsection 18.20.030 is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

#### 18.20.030 - Required number of parking spaces.

Use	Requirement
<u>Accessory Dwelling Unit</u>	<u>Unless otherwise specified in Chapter 18.31 or as required by state law, one on-site parking space shall be required for the accessory dwelling unit in addition to those required for the primary residence. The required parking space for the accessory dwelling unit shall be provided in a location permitted pursuant to Chapter 18.31.</u>
<u>Accessory Dwelling Unit</u>	<p><del>One parking space shall be required for each bedroom of the proposed accessory dwelling unit in addition to those required for the primary unit.</del></p> <p><del>The required parking spaces for the accessory dwelling unit may be uncovered. If an accessory dwelling unit requires two additional on-site parking spaces, they may be uncovered and in tandem with each other.</del></p> <p><del>Parking for an accessory dwelling unit shall not be in tandem with parking for the primary unit on the site. With the approval of the town engineer, one of the parking spaces for an accessory dwelling unit may be located within the front setback between an existing driveway and the closest side of the property line if the slope of the site is ten percent or less.</del></p> <p><del>When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered</del></p>

	<p><del>spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.</del></p> <p><del>–Onsite parking is not required for an accessory dwelling unit in any of the following instances:</del></p> <p><del>(1) The accessory dwelling unit is located within one-half mile of public transit.</del></p> <p><del>(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.</del></p> <p><del>(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.</del></p> <p><del>(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.</del></p> <p><del>(5) When there is a car share vehicle located within one block of the accessory dwelling unit.</del></p>
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**Section 8.      Amendment To The Corte Madera Municipal Code.** Subsection 18.31 is repealed and replaced as follows:

**Chapter 18.31 - ACCESSORY DWELLING UNITS/JUNIOR ACCESSORY DWELLING UNITS**

**18.31.010 - Purpose.**

The purpose of this chapter is to establish the procedures and development standards for the ministerial, non-discretionary processing of applications for new accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) in compliance with California Government Code Section 65852.2 and Section 65852.22 and consistent with the policies, goals and programs of the Housing Element of the General Plan. ADUs and JADUs increase the overall supply of housing within established residential neighborhoods or as part of new residential subdivisions, while maintaining the existing character of the neighborhood. Such units are intended to increase the supply of smaller, more affordable housing within existing residential neighborhoods and provide independent living units for prospective and current residents, including family members, students, local employees, the elderly, in-home health and childcare providers, and single adults, among others.

The intent of the Town in adopting the code section is to ensure that the Town’s ordinance has the effect of providing for the creation of ADUs and JADUs and that the provisions in this ordinance relating to matters including size, parking, and other development standards are not arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs or JADUs consistent with state law intended to promote their development.

**18.31.020 - Definitions.**

"Accessory dwelling unit" shall have 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 as defined in this chapter.

“Efficiency unit” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Efficiency kitchen” shall have the same meaning as defined in California Government Code Section 65852.22, as amended from time to time.

“Existing structure” means an existing permitted or otherwise legal single family residence, including all fully enclosed areas such as a partial basement, an attached garage, or an accessory structure that can be made safety habitable under building codes.

“Junior accessory dwelling unit” shall have the same meaning as defined in California Government Code Section 65852.22, as amended from time to time.

“Kitchen” means a room or portion thereof containing permanent facilities designed and used for food preparation, cooking, eating and dish washing. A kitchen shall include all of the following: a sink with hot and cold running water; a stove-top/cook-top or an oven; a refrigerator; and built-in dish and utensil storage spaces. In addition to the aforementioned improvements, a kitchen may also include any of the following: microwave, convection oven, hot plate or automatic dishwasher.

“Living area” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Local agency” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Neighborhood” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Non-conforming zoning condition” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Passageway” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Proposed dwelling” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

“Public transit” means a location, including but not limited to, a bus stop or train station, where the public may access buses, trains, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. Public transit does not include school bus stops associated with bus routes operated seasonally or only during school hours for the intended purpose of serving students, even if the general public may access such bus service; or school bus routes provided by a school district for the exclusive use of students.

“Tandem parking” shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

**18.31.030 – Permit required – detached and attached ADUs.**

An ADU permit is required for the creation of an attached or detached ADU as defined in Section 18.31.020 above, except as provided below:

- (1) The ADU is a detached structure that has a floor area no greater than 800 square feet and maintains a minimum 4 foot side yard and rear yard setback.
- (2) The ADU(s) is located on a parcel with an existing multi-family building.

Detached and attached ADUs not subject to the ADU permit procedures shall comply with Section 18.31.050 regarding submittal of a building permit application and an Accessory Dwelling Unit Checklist.

**18.31.035 – ADU Application – detached and attached ADUs.**

For all ADU permits, an application shall be submitted to the Planning Department on prescribed forms that demonstrates that the ADU complies with the requirements contained in this chapter.

**18.31.040 – Procedures for detached and attached ADUs.**

The Zoning Administrator or his/her designee shall issue an ADU permit as a ministerial permit. The application shall be processed within the timelines established by California Government Code Section 65852.2. In addition to an ADU permit, the applicant shall also be required to obtain a building permit prior to the construction of a detached or attached ADU.

**18.31.045 – Notice.**

A courtesy notice that includes a description of the project shall be provided for all attached and detached ADUs as defined in Section 18.31.020 above at least ten days prior to a decision by the Zoning Administrator. The notice shall be mailed to all owners within 300 feet of the project site. No public hearing shall be required.

**18.31.050 – Procedures for Interior ADUs and JADUs.**

- (1) An ADU permit shall not be required if a proposed unit meets all of the following conditions:



- a) The unit is fully contained within an existing structure as defined in Section 18.31.020 above or increases the gross floor area of an existing accessory structure by no more than 20 percent or 150 square feet, whichever is greater.
  - b) The unit is located on a parcel that permits residential uses.
  - c) The unit has an exterior access independent from the existing residence. Access from the public right-of-way to the unit may be provided through the front yard, side yard or rear yard of the primary residence.
  - d) The unit has side and rear setbacks sufficient for fire safety as determined by the Fire Marshal.
- (2) Any structure that does not require an ADU permit may submit a building permit application directly to the Building Department. An Accessory Dwelling Unit Checklist on the Town form shall be submitted to the Planning Department at the same time of building permit submittal to ensure that the above requirements are met.
  - (3) A JADU is exempt from an ADU permit and may submit for a building permit application directly to the Building Department. A Junior Accessory Dwelling Unit Checklist on the Town form shall be submitted to the Planning Department at the same time of building permit submittal to ensure that the above requirements are met.

**18.31.060 - Deed restriction required – JADUs.**

All JADUs are subject to deed restriction requirements. The Town shall require the property owner to record a deed restriction in the official records of Marin County, California in a form approved by the Town Attorney. The deed restriction shall run with the land, and shall be binding on future owners, heirs, or assigns. Proof of recordation shall be submitted to the Planning Department prior to issuance of a building permit.

**18.31.070 –General requirements – ADUs/JADUs.**

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

- (1) Allowable units on residential lots with a proposed or existing single-family dwelling:
  - a) One ADU or one JADU may be constructed within an existing or proposed single family dwelling or within an accessory structure; and
  - b) One detached, new construction, ADU consistent with Section 18.31.080, except as provided in Section 18.31.110. The detached, new construction, ADU may be combined with a JADU described in Section 18.31.070(1)(a) above.
- (2) ADU(s) shall be allowed on a parcel with an existing multi-family dwelling consistent with state law.
- (3) Owner Occupancy.
  - a) Owner Occupancy (ADU) – owner occupancy is not required for either the primary residence or the ADU.
  - b) Owner Occupancy (JADU) – owner occupancy is required for either the JADU or the remaining portion of the single family residence.
- (4) 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.
- (5) The ADU/JADU shall not be sold independently of the primary dwelling on the parcel.
- (6) The ADU/JADU shall not be rented for less than 30 consecutive days.
- (7) Permanent Foundation. A permanent foundation shall be required for all ADUs.
- (8) Adequate Services. The proposed method of water supply and sewage disposal via the Sanitary District No. 2 for the ADU/JADU must be provided, as well as service availability from any associated electric and gas provider for the lot. Letters of service availability must be provided by the appropriate utilities service provider(s) for the lot. The property owner must also demonstrate existing or future legal access.
- (9) Survey. The owner shall be required to respond to the Town of Corte Madera's annual survey regarding the occupancy and monthly rent charged for the ADU/JADU and any other information as deemed necessary by the Director of Planning and Building.

**18.31.080 – Development standards - ADUs.**

- (1) Separate Entry, Kitchen and Bathroom. All ADUs shall contain a separate entrance, kitchen and bathroom independent of the primary residence.



- (2) Zoning Conformance. All ADUs shall meet all development standards of the Zoning District in which it is located except as modified by this section.
- (3) Location. Detached ADUs shall be separated from the primary dwelling and any accessory structures by a minimum of 3 feet.
- (4) Height. An attached ADU or detached ADU shall not exceed 16 feet in height; or, when more than 50% of the gross floor area of an ADU is located above an existing or proposed garage, the entire combined structure shall not exceed 25 feet in height.
- (5) Bedrooms. All ADUs are limited to a maximum of two bedrooms.
- (6) Size.

ADUs shall be subject to all of the following requirements related to size.

- a) ADUs shall be limited to the following maximum sizes:

Fewer than two bedrooms	850 square feet of gross floor area
Two bedrooms	1,000 square feet of gross floor area

- b) ADUs may exceed the above maximum unit sizes following submittal of an application and approval of a discretionary Design Review application by the Planning Commission. In no case shall the ADU exceed 1,200 square feet of gross floor area.
  - c) The gross floor area of attached or interior ADUs shall not exceed 50% of the existing living area (as defined in California Government Code Section 65852.2, as amended from time to time) of the primary residence. Notwithstanding the prior sentence, the attached or interior ADU may contain at least 800 square feet of gross floor area.
  - d) The minimum allowable gross floor area of an ADU shall be the minimum size permitted by the Building Code at the time of application, but in no case shall it preclude a minimum sized efficiency unit.
- (7) Lighting. All exterior lighting, including landscape lighting, must be dark sky compliant and/or have a BUG (Backlight, Uplight, Glare) rating of B5 or less, U0 or less and G5 or less. All new exterior lighting must be designed and installed so that the filaments, light sources or lenses are shielded with opaque materials in such a way that they will not be visible at property lines. The exterior lights shall have a color temperature of 3500 Kelvin or lower (warm not cool).
  - (8) Landscaping. Any tree over 30 inches in circumference removed in conjunction with the construction of an ADU must be replaced by a minimum 24 inch box tree on the project site, unless it is determined by the Fire Marshal that replacement planting is not feasible. If a tree permit is required to remove a tree, then a tree permit shall be obtained pursuant to the tree permit requirements set forth in Chapter 15.50 of the Municipal Code.
  - (9) Windows.
    - a) All windows that face a side yard adjoining a side yard or rear yard of an adjacent property and are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU.
    - b) All windows that face a rear yard adjoining a rear yard or side yard of an adjacent property that are located within 15 feet of the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height), except that this standard does not apply if a structure on the adjacent property does not have any non-clerestory windows on the building elevation that faces the ADU.
  - (10) Grading. The site grading associated with the construction of an ADU, including associated site work, shall not exceed 50% of the volume of the structure. The volume of the structure shall not include area above the height of perimeter walls, such as the volume of attic space associated with a pitched roof.
  - (11) Setback for a structure converted to an ADU. No setback shall be required for an existing living area or accessory structure that is fully or partially converted to an ADU, or for a structure constructed in the same location and to the same dimensions as an existing living area or accessory structure that is fully or partially converted to an ADU.

- (12) Flood Plain. An attached or detached ADU located in the flood plain shall comply with Title 16 of the CMMC.
- (13) Prior Discretionary Approvals. The ADU shall be compliant with any other requirements associated with prior land use entitlements (e.g. Design Review) granted for the subject property, unless such requirements have been amended through required approval processes.
- (14) Permits from Other Agencies. As part of the application for an ADU permit or building permit, the applicant shall provide approved permits from the appropriate agency(cies) or written statements that a permit is not required from the local, state or federal agencies with jurisdictions over construction activities at the project site.
- (15) Notwithstanding the above development standards, an attached or detached ADU may reduce the applicable rear yard or side yard setback requirements to 4 feet, and may exceed applicable lot coverage and floor area ratio, pursuant to state law. The maximum allowable size of any ADU that exceeds standards related to lot coverage or floor area ratio, or reduces rear or side setback beyond otherwise applicable standards, is 800 square feet of gross floor area.

#### **18.31.090 – Development standards - JADUs.**

JADUs are subject to the following objective standards.

- (1) Entryways. A JADU must include a separate entrance from the main entrance to the primary residence, and may include an interior entry to the main living area. If an interior entry to the main living area is provided, then the JADU may include a second interior doorway for sound attenuation.
- (2) Location. The JADU must be created within the existing walls of an existing single family residence and must include an existing bedroom.
- (3) Kitchen. The JADU shall include an efficiency kitchen as defined in California Government Code Section 65852.22.
- (4) Bathroom. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- (5) 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.
- (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.

#### **18.31.100 – Parking.**

- (1) Unless otherwise specified in Section (2) below, one on-site parking space in a location permitted pursuant to this chapter shall be required for an attached or detached ADU as defined in Section 18.31.020 above. This parking space is in addition to those spaces required for the primary residence. The parking space for the ADU may be uncovered.
- (2) 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 as defined in Section 18.31.020 above.
  - b) The ADU is located within an architecturally and historically significant historic district.
  - c) The ADU is contained entirely within an existing structure as defined in Section 18.31.020 above.
  - 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.
- (3) The required parking space for the 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, or tandem spaces, or by the use of mechanical automobile parking lifts. With approval of the Public Works Director or his/her designee, the required parking space for the ADU may be located within the required front yard setback within the existing driveway or proposed expanded driveway. Alternatively, with the approval of the Public Works Director or his/her designee, the required parking space for the ADU may be located within the front setback between an existing driveway and the closest side property line.
- (4) 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.

**18.31.110 – ADUs & JADUs in the Christmas Tree Hill Overlay District.**

Sections 18.18.400 – 18.18.425 of the Municipal Code establishes limits on the number of ADUs that can be created within the Christmas Tree Hill Overlay Zone. These limitations are in place because of the public safety issues that arise due to the unique physical constraints on Christmas Tree Hill. The number of ADUs in Christmas Tree Hill is limited to ten percent of the total number of primary residential units. The total number of ADUs in the Christmas Tree Hill Overlay district shall not exceed the total number permitted by Sections 18.18.405(3)(K) and 18.18.410 of this title. However, the limitations set forth in Section 18.18.405(3)(K) shall not apply to an interior ADU contained within an existing structure or a JADU. To protect the capacity districts established in the Christmas Tree Hill Overlay District, any new square footage of an attached addition or new square footage of a detached structure shall be in existence for five years before the space can be converted to an ADU. The start of the five-year period shall begin on the date when the building permit is signed-off by the Building Official or his/her designee.

**18.31.120 – Review of the record.**

The decision of the Zoning Administrator granting or denying an ADU permit is a ministerial decision as required by state law, and shall not be subject to a public hearing. Following the decision of the Zoning Administrator, a request for a review of the record must be filed within ten calendar days of the date of the decision with the Town Clerk. Within ten calendar days after receipt of the request for review of the record, the Town Manager, or his/her designee, shall conduct a review of the record based on all documents submitted as part of the application and review process. For the purpose of calculating the ten days for review of the record, the request for review will be deemed to be received on the first day Town Hall is open to the public after receipt of the request. The fee to request a review shall be a flat fee of \$300. The ADU applicant and individual(s) filing for the review shall be notified in writing of the decision and such decision shall be final.

**18.31.130 – Termination of permit and use.**

At his/her discretion, the Planning Director or his/her designee may grant an owner's request to terminate an ADU/JADU. As a condition of termination, the Planning 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 Town's building and fire codes.

**Section 9. Severability**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

**Section 10. Effective Date**

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

**Section 11. Posting**

The Town Clerk shall cause a summary of this ordinance to be published in the Marin Independent Journal within 5 days prior to passage and within 15 days after passage.

\* \* \* \* \*

This ordinance was introduced on the 3<sup>rd</sup> day of December, 2019, and adopted on the 21<sup>st</sup> day of January, 2020 by the following vote:

AYES: Councilmembers: Andrews, Bailey, Ravasio

NOES: Councilmembers: - None -


ABSTAIN: Councilmembers: - None -

ABSENT: Councilmembers: - None -

RECUSED: Councilmembers: Beckman, Kunhardt

  
JAMES H. ANDREWS, MAYOR

ATTEST:

  
REBECCA VAUGHN  
TOWN CLERK

