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MEMORANDUM

DATE: JULY 19, 2018

TO: PLANNING COMMISSION

FROM: IGNACIO GONZALEZ, PLANNING AND BUILDING SERVICES
JESSE DAVIS, PLANNING AND BUILDING SERVICES

SUBJECT: OA_2018-0006: CHAPTER 20.164 - ACCESSORY USE REGULATIONS (SECOND RESIDENTIAL / ACCESSORY DWELLING UNITS)

OVERVIEW

On April 10, 2018, the Mendocino County Board of Supervisors directed staff to amend the County Inland Zoning Code (Title 20 – Division 1 of the Mendocino County Code), Chapter 20.164 - Accessory Use Regulations with regard to 'Second Residential Units/Accessory Dwelling Units'. As directed by the Board of Supervisors, OA_2018-0006 complies with this directive, and serves as the local complement to actions recently undertaken by the State of California to address housing affordability via Senate Bill 1069 (SB1069), Assembly Bill 2299 (AB2299), and Assembly Bill 2406 (AB2406).

INTRODUCTION

Accessory Dwelling Units (ADUs), commonly referred to as secondary dwelling units, in-law apartments, or granny flats, are an important housing resource for the State of California and the County of Mendocino. Per the *Mendocino County Housing Element: 2014-2019 Update,* "The County of Mendocino seeks…to publicize the opportunities for and encourage the production of second residential units for full time occupancy…and promote the development of second units." [1]

ADUs are typically created through the conversion of existing living space in a single-family home to a separate dwelling unit, the addition of space to an existing home (for example, an apartment over a garage) or a detached structure in the rear yard. Over the last two decades, the State of California has adopted a number of laws that encourage ADUs and limit the requirements imposed by some localities to preclude their development. ADUs are generally regarded as an effective way to increase housing options without substantially altering neighborhood character or aesthetic, but still increasing residential density. [2]

These accessory structures can effectively provide affordable housing for renters, a source of income for homeowners, and respite for extended families, seniors, college students, and others. By aligning County regulations with recently passed state laws, this ordinance amendment would provide clarity to those developing accessory residential structures within Mendocino County.

ACCESSORY RESIDENTIAL STURCTURES: CALIFORNIA AND MENDOCIO COUNTY

In January 2017, Senate Bill 1069 (SB1069) and Assembly Bill 2299 (AB2299), which pertain to accessory dwelling units, went into effect. These laws were intended to address California's ongoing housing affordability crisis by reducing local regulatory barriers to construct new ADUs. Additionally, Governor Brown signed Assembly Bill 2406 (AB2406), which pertains to creation of Junior Accessory Dwelling Units (JADU).

[1] County of Mendocino, (2015). *Mendocino County Housing Element: 2014-2019 Update.* Department of Planning and Building Services. Ukiah, CA: Department of Housing and Comunity Development.
[2] Barnett, J., & Blaesser, B. W. (2017). Reinventing development regulations. Cambridge, MA: Lincoln Institute of Land Policy.

Historically, California has demonstrated strong interest in reducing regulatory barriers to promote the development of ADUs. Government Code Section 65852.2 (a.k.a. second-unit law), which was initially enacted in 1982 has been amended five times (1986, 1990, 1994, 2002 & 2016) to encourage the creation of ADUs while maintaining local flexibility for unique circumstances and conditions.[3]

Given shared residential land use patterns, increasing the number of single-family homes that include an ADU could meaningfully address California and Mendocino County's housing shortage. Across the state, single-family detached units make up 56.4 percent of the overall housing stock,[4] while here in Mendocino County single-family detached units constitute approximately 75.3 percent.[5] From 2015-2016, a total of 92 building permits were issued for Single-Family Residences, while a total of 46 Second Residential Units permits were issued within unincorporated, Inland Mendocino County.[6] Given the limited construction of 'Single-Family' and 'Multi-Family Dwellings', ADUs have the potential to create needed housing supply and diversity throughout the County, providing additional equity and income for homeowners facing displacement or similar economic pressures.

Presently, within unincorporated Mendocino County, ADU's are allowed throughout the Inland Zoning Division in all zoning districts that permit a single-family dwelling. ADUs are a critical form of infill-development that can offer important housing choices within existing neighborhoods. While existing County regulations already align with much of the recently passed State legislation, updates can be made to ensure greater consistency and encourage the development of ADUs for Mendocino County residents.

Under AB 2299 and SB 1069, proposed changes to the *County Inland Zoning Code (Title 20 – Division 1 of the Mendocino County Code), Chapter 20.164 - Accessory Use Regulations,* include updating and aligning important terminology, clarifying parking requirements and establishing fire and size restrictions for ADUs. Previously, Mendocino County did not specifically regulate the size of detached ADUs, instead home-owners designated their primary or accessory residence based upon the square footage and land capacity. AB 2299, however, limits the total area of floor space for a detached accessory dwelling unit to 1,200 square feet, and constrains attached ADUs as well.

Additionally, with regard to Assembly Bill 2406, it is necessary to clarify the permitting process for Junior Accessory Dwelling Units (JADUs) by adding a new paragraph to *Chapter 20.164*. Currently, JADUs are not described within any County regulation or policy. Adoption of a JADU ordinance is optional, but JADUs have been incorporated by neighboring localities, including Sonoma County, and present a useful pathway to diversify Mendocino County's limited housing stock. The JADU is to be considered part of the single-family residence, and therefore would be allowed in addition to a primary Single-Family Dwelling, 'Accessory Dwelling Unit', and 'Guest Cottage'/'Detached Bedroom' accessory residential structure allotment.

Even with this updated regulatory package, prohibitive factors to developing accessory residential housing remain. The lack of utility services and supporting infrastructure within unincorporated Mendocino County is a substantial and consistent barrier to the development of new residential units, no matter the type. The recent State legislation limits the ability of "local agencies" to collect water and sewer connection fees for new ADUs. However, it defines "local agencies" as cities and counties, and does not directly regulate independent water and sewer districts, which constitute the majority of service providers within Mendocino County. Because the County itself does not regulate related fees or entities, the drafted regulations do not expressly prohibit them.

Water and sanitation constraints in Redwood Valley exemplify many of these infrastructure limitations. Presently, when developing accessory residential structures within Redwood Valley, applicants are unable to seek a second domestic water connection, due to a current moratorium on second-residential connections.[7] The County will continue to work with local water districts to encourage fee waivers and fee reductions for ADUs. Additionally, per the *Mendocino County Housing Element: 2014-2019 Update*, the County will, "Work with public water and sewer service districts to coordinate service capabilities with land

[3] Cathy E. Creswell, D. D. (2003). *Second-Unit Legislation Effective January 1, 2003 and July 1, 2003* . Sacramento, CA: Department Of Housing And Community Development.
[4] Historical Census of Housing Tables. October 31, 2011; www.census.gov/hhes/www/housing/census/historic/units
[5] County of Mendocino, (2015). *Mendocino County Housing Element: 2014-2019 Update.* Department of Planning and Building Services. Ukiah, CA: Department of Housing and Comunity Development. Pg. 5-73.
[6] Department of Planning and Building Services. (2015-2017). *Trackit Report: 3 Years of Building Permits-Residential Development (Units Per Year).* Mendocino County.
[7] Redwood Valley County Water District. (Water Rates) Domestic Water Rates. 06.10.18: http://www.rvcwd.org/html/rates.html

use designations that allow medium and high residential densities as set forth in the General Plan." Nothing in this regulatory update regarding ADUs shall be construed to transfer responsibility for water and sewer services to the County from any utility district or zone or supersede the regulatory authority of any utility district or zone.

The Coastal Zone faces similar land capacity challenges, as well as a more complicated legal environment. In 1985, the Board of Supervisors of Mendocino County reluctantly concluded that the development of accessory dwelling units in the unincorporated Coastal Zone, in excess of those allowed by the Coastal Element may have adverse impacts on the public health, safety, and welfare, including water supply, septic capability and traffic. Staff continues to work with the California Coastal Commission to determine how best to address the County's housing challenges along the coastline. It is expected that OA_2018-0006 will inform some updates to County Coastal Zoning Code (Title 20 – Division II of the Mendocino County Code). While this Ordinance Amendment does not address regulations within the Coastal Zone, it is expected that with additional guidance and clarification from the California Coastal Commission, the County can move forward with developing a coordinated approach across the County for Accessory Dwellings.

Finally, staff is mindful of the need to remain responsive with regard to housing related issues, and recognizes that the broad approach presented here may require refinement as ADUs become more prevalent. For example, policies regarding the use of ADUs by short-term renters may need to be revisited, or it may be determined that select community areas should provide further input on the dimensional characteristics of ADUs to help maintain neighborhood or community character. For now, however, the County seeks a broad framework that follows the Board of Supervisor's direction and complies with Senate Bill 1069 (SB1069), Assembly Bill 2299 (AB2299), and Assembly Bill 2406 (AB2406).

PROPOSED CHANGES

- Update the Mendocino County Code, Division I, to align with aspects of Senate Bill 1069 (SB1069), Assembly Bill 2299 (AB2299), and Assembly Bill 2406 (AB2406).
- Update and clarify the definition of an 'Accessory Dwelling Unit' (currently referenced as 'Second Residential Unit.
- Per AB2406, add the 'Junior Accessory Dwelling Unit' Residential Unit as an allowed 'Accessory Use', and amend relevant definitions or improvements for internal consistency.
- Per AB2299, limit the total area of floor space for a detached accessory dwelling unit to 1,200 square feet or less.
- Per SB1069, clarify that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.
- Per SB1069, clarify 'Parking Requirements for 'Accessory Dwelling Units' and 'Junior Accessory Dwelling Units' and include 'Parking Exemptions'. Off-street parking cannot be required for units meeting any of the following criteria:

    - The unit is within one-half mile of public transit
    - The unit is within a designated historic district
    - The unit is entirely within the principal residence and results in no net increase in habitable floor area on the property
    - The unit is in an area where on-street permit parking is required, but such permits are not available to the tenant
    - The unit is within one block of a car-share vehicle

CEQA RECOMMENDATION

Pursuant to CEQA Guidelines Section 15282(h), "the adoption of an ordinance regarding second units in a single-family or multi-family zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code", is statutorily exempt from CEQA, based on Public Resources Code section 21080.17.

GENERAL PLAN CONSISTENCY ANALYSIS

The Housing Element of the General Plan contains the following policies related to 'Accessory Residential/Second Residential Units:

- ***POLICY 3.1*** *Encourage the development of an adequate supply of housing and range of housing densities and types to meet the diverse needs of County residents.*

- ***POLICY 3.2*** *Promote the development of second units.*

Staff finds that the proposed amendments are consistent with the 2009 Mendocino County General Plan, as well as the 2014 Housing Element. The amendments align with the County's intention of encouraging and facilitating the development of an adequate supply of housing. The allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan.

RECOMMENDED MOTION FOR THE PLANNING COMMISSION

Adopt resolution making the Planning Commission's report and recommendation to the Board of Supervisors on a proposed amendment to the County Inland Zoning Code (Title 20 – Division 1 of the Mendocino County Code), Chapters 20.008 – Definitions and 20.164 - Accessory Use Regulations with regard to 'Second Residential Units/Accessory Dwelling Units', finding that the actions are statutorily exempt pursuant to Public Resources Code section 21080.17.

ATTACHMENTS

A. Fact Sheet: CA HCD: Summary Changes ADU State Laws
B. Fact Sheet: CA HCD: Frequently Asked Questions ADUs
C. Fact Sheet: CA HCD: Frequently Asked Questions JADUs
D. Fact Sheet: CA HCD: State Standards Checklist

Ordinance – Redline

Ordinance – Clean

Resolution of the Planning Commission

Summary of Recent Changes to ADU Laws



Courtesy of Karen Chapple, UC Berkeley

The California legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs.

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, the disabled, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the Department has prepared this guidance to assist local governments in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a brief summary of the changes for each bill.

SB 1069 (Wieckowski)

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of provisions that go into effect January 1, 2017.

Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Fees

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

Fire Requirements

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

AB 2299 (Bloom)

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.

- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

Impact on Existing Accessory Dwelling Unit Ordinances

AB 2299 provides that any existing ADU ordinance that does not meet the bill's requirements is null and void upon the date the bill becomes effective. In such cases, a jurisdiction must approve accessory dwelling units based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

AB 2406 (Thurmond)

AB 2406 (Chapter 755, Statutes of 2016) creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance. Adoption of a JADU ordinance is optional.

Required Components

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

Prohibited Components

This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.

Fire Safety Requirements

AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke alarms. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

JADUs and the RHNA

As part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a JADU toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit which is fairly flexible. Local government count units as part of reporting to DOF. JADUs meet these definitions and this bill would allow cities and counties to earn credit toward meeting their RHNA allocations by permitting residents to create less costly accessory units. See additional discussion under JADU frequently asked questions.

Frequently Asked Questions: Accessory Dwelling Units

Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

(a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units 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 accessory dwelling units in zones in which they are authorized by local ordinance.

Are Existing Ordinances Null and Void?


Courtesy of Karen Chapple, UC Berkeley

Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply "state standards" (See Attachment 4 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to "state standards" and cannot include additional requirements such as those in an existing ordinance.

Are Local Governments Required to Adopt an Ordinance?

No, a local government **is not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 4). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does “Public Transit” Include within One-half Mile of a Bus Stop and Train Station?

Yes, “public transit” may include a bus stop, train station and paratransit if appropriate for the applicant. “Public transit” includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of “public transit” such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, "…including, but not limited to, covered spaces, uncovered spaces, or tandem spaces, or…." Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, "within the existing space" includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) **"Manufactured home,"** for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD's Information Bulletin at http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf .

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to "local agencies" which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

Frequently Asked Questions: Junior Accessory Dwelling Units

Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

ADUs and JADUs

REQUIREMENTS	ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum
Kitchen	Yes	Yes
Bathroom	Yes	No, Common Sanitation is Allowed
Separate Entrance	Depends	Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions	No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy *May* Be Required	Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes	Yes
Prohibition on Sale of ADU	Yes	Yes

Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

> A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

Are JADUs Subject to Connection and Capacity Fees?

No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.

Attachment 4: State Standards Checklist (As of January 1, 2017)

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.	65852.2(a)(1)(D))ii)
	Accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.	65852.2(a)(1)(D)(iv)
	Total area of floor space for a detached accessory dwelling unit dies not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage.	65852.2(a)(1)(D)(vii)
	(Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)

* Other requirements may apply. See Government Code Section 65852.2

ORDINANCE NO.

ORDINANCE AMENDING CHAPTERS 20.008 AND 20.164 OF THE MENDOCINO COUNTY CODE AMENDING DEFINITIONS AND REQUIREMENTS RELATED TO ACCESSORY DWELLING UNITS

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Section 20.008.020 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.008.020 – Definitions (A).

(A) "Accessory building" means a detached subordinate structure, the use of which is incidental to the established primary use or main structure located on the same lot or building site; i.e., private garage, storage shed, farm out buildings, etc. In no case shall such accessory structure dominate, in area, extent or purpose, the principal lawful structure or use. Accessory buildings shall not contain any sleeping quarters or kitchen facilities and are therefore not intended for human occupancy. See Chapter 20.164 Accessory Use Regulations.

(B) "Accessory Dwelling Unit." An attached or detached residential dwelling unit in compliance with Sec. 20.164.015, which provides complete independent living facilities for one (1) or more persons, and includes separate permanent provisions for entry, living, sleeping, eating, cooking and sanitation on the same parcel as a single-family dwelling. *See Chapter 20.164 Accessory Use Regulations.*

(~~B~~C) Accessory Structure. See Accessory Building.

(~~C~~D) "Accessory use" means a use of land or of a structure incidental or subordinate to the principal use located upon the same lot.

(~~D~~E) "Administrative Permit" means a permit granted pursuant to Chapter 20.192 by an agency of Mendocino County or the Zoning Administrator for a use of a temporary nature, a second residential unit, or farm employee housing.

(~~E~~F) Agricultural Employee. See Farm Employee.

(~~F~~G) "Airport" means any area of land, water or a structure which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(~~G~~H) "Alley" means a public or private way permanently reserved as a secondary means of access to abutting property.

(~~H~~I) "Amendment" means any change, modification, deletion, or addition to

the wording, text or substance of the Zoning Code, or any change, modification, deletion, or addition to the application of the Zoning Code to property within Mendocino County, including any alteration in the boundaries of a zone, when adopted by ordinance passed by the Board of Supervisors in the manner prescribed by law.

(~~I~~J) "Animals, large" is limited to bovine and equine animals, sheep, goats, swine and similar animals.

(~~J~~K) "Animals, small" means dogs, cats, birds, poultry, rabbits, chinchillas, hamsters, and other small domesticated animals other than a large animal.

(~~K~~L) "Apartment" means a portion of a building which is designed and built for occupancy by three (3) or more families living in separate dwelling units.

(~~L~~M) "Automobile wrecking" means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of three (3) or more motor vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of an automobile wrecking yard.

(~~M~~N) "Affordable Housing" means housing capable of being purchased or rented by a household with extremely low, very low, low, or moderate income based on a household's ability to make payments necessary to obtain housing. Housing is considered affordable when a household pays less than 35% of its gross monthly income for housing.

(~~N~~O) "Affordable Housing Unit" means a dwelling unit which meets the standards in Section 20.238 of this Code and is affordable to households having extremely low, very low, low, or moderate income.

(~~O~~P) "Antenna" means a device used in communications designed to radiate and/or capture electromagnetic signals.

(~~P~~Q) "Antenna, building-mounted" means any antenna attached to and supported by a building or other structure more than ten (10) feet tall, other than an antenna tower, i.e., the exterior walls of a building, an existing parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign.

(~~Q~~R) "Antenna, roof-mounted" means an antenna directly attached to the roof of an existing building, water tank, tower or structure other than an antenna tower.

(~~R~~S) "Antenna tower" means any pole, tower, or other structure, over ten (10) feet tall, erected for the purpose of supporting one or more antennas.

Section 2: Section 20.008.027 of the Mendocino County Code is hereby amended to read as

follows:

Sec. 20.008.027 – Definitions (E).

(A) "Efficiency Kitchen" means a small food preparation area for a junior accessory dwelling unit that includes the following:

(1) A sink with a maximum waste line diameter of 1.5 inches.

(2) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

(3) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(~~A~~B) "Emergency shelter" means a facility for the temporary shelter and feeding of indigents, disaster victims, or homeless persons that is limited to occupancy of six (6) months or less, as defined in Section 50801(b) of the California Health and Safety Code.

(~~B~~C) "Equity Sharing" means an agreement by which appreciation on the value of an affordable unit from the time of original purchase at an affordable price to the time of resale shall be shared between the owner and the County or its designated agency. Such an agreement will be a condition of financial assistance for income qualified households to purchase Affordable Housing Units.

Section 3. Section 20.008.036 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.008.036 – Definitions (J).

(A) "Junior Accessory Dwelling Unit." A living space not exceeding five hundred (500) square feet in size and contained entirely within a fully permitted single-family dwelling. A junior accessory dwelling unit shall include an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing structure. *See Chapter 20.164 Accessory Use Regulations.*

(~~A~~B) "Junkyard" means any land, lot or portion thereof where there is more than: (1) one hundred (100) square feet for parcels less than forty thousand (40,000) square feet; or (2) four hundred (400) square feet for parcels greater than forty thousand (40,000) square feet of waste, discarded or salvaged materials bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, and including used furniture and household equipment yards, house wrecking yards, used lumber yards, and the like; excepting a site on which such uses are conducted within a completely enclosed structure.

Section 4. Section 20.008.052 of the Mendocino County Code is hereby amended to read as

follows:

Sec. 20.008.052 – Definitions (S).

(1) "School" means a building or group of buildings which are used or intended to be used for occupancy and use by teachers and students engaged in the process of learning and the pursuit of knowledge. A public school is a free tax supported school controlled by a governmental authority.

(2) "Seat" or "seating area" means the actual seating capacity of an area based on the number of seats or one (1) seat per eighteen (18) inches on a bench or pew.

~~(3) "Second residential unit (implementation of SB 1534)" means either a detached or attached dwelling unit, including a mobile home, which provides complete independent living facilities for one (1) or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel or parcels as the primary unit is situated.~~

(~~4~~3) "Setback" means a required, specified distance between a building or structure and a lot line or lines, measured perpendicularly to the lot line in a horizontal plane extending across the complete length of said lot line or lines.

(~~5~~4) "Setback, front yard" means the building or structure setback applicable in the front yard of a lot.

(~~6~~5) "Setback, rear yard" means the building or structure setback applicable in the rear yard of a lot.

(~~7~~6) "Setback, side yard" means the building or structure setback applicable in the side yard of a lot

(~~8~~7) "Shopping center" means any combination of three (3) or more separately owned or leased and operated retail businesses on a single or commonly owned or leased parcel, or a commercial complex including five (5) or more uses occupying a site of at least two (2) acres. A group of contiguous retail stores, service facilities and related uses utilizing common facilities such as parking, landscaping, signing and loading areas. This group does not necessarily have to be in one (1) ownership.

(~~9~~8) "Sign" means any metal, wood, paper, cloth, plastic, paint, material, structure or part thereof, device or other thing whatsoever which is located upon, placed, erected, constructed, posted, painted, tacked, nailed, glued, stuck, carved, fastened or affixed to any building or structure, on the outside or inside of a window or on any awning, canopy, marquee or similar appendage, or on the ground or on any tree, wall, bush, rock, post, fence or other thing whatsoever in such mariner as to be visible out-of-doors and which displays or includes any numeral, letter,

word, model, banner, emblem, insignia, symbol device, light, illuminated device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, attention arrester, direction, warning, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry. "Sign" shall include any portable sign.

(~~10~~9) "Sign area" means the entire area within the smallest parallelogram, triangle, circle, or combination thereof, which can be delineated so as to encompass the extreme limits of all elements comprising an integral part of a sign display, including any frame or border, but not including essential structural elements, unless it is determined that such structural elements are an integral part of the total sign display; provided, however, that where the surface or face of a sign is curved, spherical, cylindrical or any other similar form, the area of such sign shall be computed on the basis of the projected configuration of that surface or face. The area of any double-faced sign shall be the area of the single face, unless otherwise provided. All other multiple-faced signs shall be the total area of all faces or panels. Sign area as it pertains to sign copy shall mean and be computed as the entire area within the smallest continuous perimeter of not more than eight (8) straight lines encompassing the extreme limit of all of the sign copy of a sign. In the case of a sign composed of individual letters or other devices mounted on a building wall, the copy area of such sign shall be the sum of the areas of the smallest rectangles encompassing each of the individual letters or other devices which comprise the sign copy.

(~~11~~10) "Sign face" means the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

(~~12~~11) "Sign, freestanding" means any sign mounted upon its own standard which is supported wholly by structural anchorage to the ground, or mounted upon any accessory structure which does not constitute a building; provided, however, that any such sign which projects over the roof of a building shall be considered to be a freestanding sign.

(~~13~~12) "Sign height" means the highest point of any sign face or structural support members, whichever is the greater.

(~~14~~13) "Sign, nonconforming" means a sign lawfully erected, established, and maintained prior to the effective date of the code codified in this Division, which because of the application of this Division, does not conform to applicable regulations.

(~~15~~14) "Sign, off-site" means any sign as herein defined other than an on-site sign.

(~~16~~15) "Sign, on-site" means any sign which pertains and is accessory to a business or industrial use located on the same lot or which offers a lot or portion thereof for sale or lease.

(~~17~~16) "Sign, portable" means a sign and its supporting structure not permanently affixed to the ground or any structure, or a sign located upon a vehicle or trailer placed or parked so as to be visible from the public right-of-way, for the basic purpose of providing advertisement of products or directing people to a business or activity. Portable signs shall not include business identification signs on vehicles, the primary purpose of which is identifying the business owning or operating the vehicle.

(~~18~~17) "Sign, projecting" means any sign other than a wall sign which is attached to and projects from the wall or face of a building or structure including a marquee sign.

(~~19~~18) "Sign, roof" means any sign erected, painted upon, against, or directly above a roof or on top of or above the parapet of a building, and which is supported wholly or in part by said building. Any sign mounted upon its own standard which is supported wholly by structural anchorage to the ground, or mounted upon any accessory structure which does not constitute a building, shall be considered a roof sign where such sign projects over the roof of a building.

Any roof, the slope of which varies not more than forty-five (45) degrees from a vertical plane, shall be considered wall space for the purpose of placement of wall signs.

(~~20~~19) "Sign, wall" means any sign painted or mounted on a wall or of solid construction located as to be approximately parallel with the face of a building not to extend eighteen (18) inches from the face of a building or structure.

(~~21~~20) Single-Family Residence. See Dwelling, Single-Family.

(~~22~~21) "Stable" means a stable used for the boarding, breeding, training, or raising of horses, including horses not owned by the occupants of the premises.

(~~23~~22) "Stable, public" means a stable or arena used for the riding, training and performing of horses by other than the occupants of the premises or their nonpaying guests, but excluding boarding or breeding stables.

(~~24~~23) Standard Mobile Home Park. See Mobile Home Park, Standard.

(~~25~~24) "Storage of nonoperating vehicles." The storage of "nonoperating motor vehicles" shall not include automobile wrecking. The presence on any lot or parcel of land of three (3) or more motor vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which no parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of the storage of nonoperating motor vehicles.

(~~26~~25) "Street" means a County road, State highway, public road, street or alley, or private thoroughfare or easement not less than ten (10) feet in width

connecting with a County road, State highway, public road, street or alley which affords primary access to an abutting lot.

(~~27~~26) "Structural alterations" means any change in the supporting members of a building such as bearing walls, columns, beams or girders and floor joists, ceiling joists or roof rafters.

(~~28~~27) "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground; excepting tents, recreational vehicles and fences less than six (6) feet in height.

(~~29~~28) "Structure, nonconforming" means a building, structure or facility, or portion thereof, which was lawfully erected or altered or maintained, but which, because of the application of this ordinance to it, no longer conforms to the specific regulations applicable to the zone in which it is located.

(~~30~~29) "Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, as defined in California Government Code Section 65582, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, as defined in Section 50675.14 of the California Health and Safety Code. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

(~~31~~30) "Swap lot" means a building, structure, enclosure lot or other area into which persons are admitted to display, exchange, barter, sell or bargain for new or used merchandise.

(~~32~~31) "Swimming pool" means a pool, pond, or open tank, capable of containing water to a depth greater than one and one-half (1½) feet at any point and designed or used for wading or swimming.

Section 5. Section 20.164.015 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.164.015 - Residential and Agricultural Use Types.

Subject to the restrictions and limitations specified, the following accessory buildings and uses shall be permitted in zones where residential and agricultural use types are permitted:

(A) Private garages.

(B) Children's playhouses, patios, porches, gazebos, etc.

(C) Radio and television receiving antennas.

(D) Windmills.

(E) Silos.

(F) Shops (nonbusiness purposes).

(G Barns.

(H) Private swimming pools and hot tubs (not subject to setback requirements in the side or rear yards of any district).

(I) **Guest Cottage.** One guest cottage is permitted for each legal parcel. In lieu of a guest cottage a detached bedroom may be substituted.

(J) **Detached Bedrooms.** Not more than two (2) detached bedrooms are permitted upon each parcel. If a guest cottage is constructed, the guest cottage and one (1) detached bedroom may be constructed instead of the two (2) detached bedrooms.

(K) ~~**Second Residential Unit**~~**Accessory Dwelling Unit.** An ~~second residential~~accessory dwelling unit shall be permitted in all zoning districts which allow single-family dwellings subject to the following standards and criteria:

(1) The lot contains an existing single-family dwelling unit or a building permit for the single-family dwelling unit (primary residence) has been applied for.

(2) An adequate water system as approved by the Division of Environmental Health is available to serve the accessory dwelling ~~second residential~~ unit.

(3) An adequate sewage disposal system as approved by the Division of Environmental Health is available to serve the accessory dwelling ~~second residential~~ unit.

(4) The accessory dwelling unit ~~second unit~~ shall conform to height, setback, lot coverage, architectural review, site plan review, ~~off-street parking,~~ fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the second residential unit is located. Total area of floor space for a detached accessory dwelling unit may not exceed 1,200 square feet. Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(5) The accessory dwelling unit ~~second residential unit~~ shall comply with appropriate local building code requirements. Fire sprinklers, however, shall not be required in an accessory unit if they are not required in the primary residence.

(6) An accessory dwelling unit ~~second residential unit~~ shall not be allowed if more than one (1) dwelling unit (including farm employee housing, farm labor housing, temporary family care unit) is located on the parcel, or if there currently exists two (2) accessory residential units (any combination of guest cottages and detached bedrooms) on the parcel.

(7) Where dwelling group or parcel clustering is approved, no accessory dwelling unit ~~second residential unit~~ shall be allowed.

(8) Nothing in this Section shall prohibit a detached bedroom, guest house or family care unit from being converted into an accessory dwelling unit~~second residential unit~~, consistent with the other provisions of this Section.

(9) Accessory Dwelling Units ~~Second residential units~~ may be either attached to the existing dwelling or they may be detached, separate structures.

(10) Attached or detached accessory dwelling units ~~second residential units~~ are not intended for sale but may be rented.

(11) Parking Requirements:

(a) One parking space is required per Accessory Dwelling Unit and may be provided through tandem parking.

(b) Parking is allowed in rear and side setback areas. No parking is allowed in front setback areas.

(c) When a garage or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit, the replacement parking spaces may be located in any configuration on the same lot parcel as the Accessory Dwelling Unit, including but not limited to covered spaces, uncovered spaces, or tandem spaces.

(12) Parking Exemptions. Parking requirements are not applicable for Accessory Dwelling Units in any of the following instances:

(a) Located within one-half mile of a public transportation stop along a prescribed route according to a fixed schedule.

(b) Located within one block of a car share parking spot.

(c) Located entirely within the principal residence and results in no net increase in habitable floor area on the property.

(d) Located in an area where on-street permit parking is required, but such permits are not available to the tenant.

(e) Located within a designated historic district.

(L) **Room and Board.** The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit, provided the parcel has frontage on a publicly maintained road. A Major Use Permit is required if the parcel does not have frontage on a publicly maintained road.

(M) **Travel Trailer or Camper.** The maintaining of one (1) travel trailer or camper in dead storage where it is not used for occupancy or business purposes. The connection of any utility or service such as electrical, water, gas or sewage to the travel trailer or camper shall be prima facie evidence that it is being used for habitation or business purposes.

(N) **Home Occupations.** Subject to Chapter 20.156.

(O) **Household Pets.** The keeping of dogs and cats and other household pets, but not including kennels.

(P) **Roadside Sales of Agricultural Products.** Operation of a single roadside stand for a display and sales of only those products produced on the premises, or on other property owned or leased by the vendor, as permitted by this Division, provided that the stand does not exceed an area of two hundred (200) square feet, and is located not nearer than fifteen (15) feet to any, street or highway, and provided further that such stands shall be permitted only in the S-R, R-R, A-G, U-R, R-L, F-L, and T-P districts.

(Q) **Wild Animal Keeping.** The keeping of not more than one (1) wild animal for which a Wild Animal Permit is required and has been issued pursuant to Title 14 of the California Administrative Code.

(R) **Other Necessary and Customary Uses.** Accessory nonresidential uses and nonresidential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal use, as determined by the Director of the Department of Planning and Building Services.

(S) The parking of two (2) large vehicles or construction equipment upon private property. Additional vehicles and equipment are allowed to the extent that such vehicles and equipment are of a type and number customarily used by residents of the surrounding neighborhood for their own agricultural or home use on their own property.

(T) Family Care Home.

(U) **Farm Employee Housing.** Upon issuance of an Administrative Permit, farm employee housing shall be permitted in the A-G, R-L, F-L and T-P zoning districts subject to the provisions of Chapters 20.008 and 20.016.

(V) Day Care Home - Small Family.

(W) Day Care Home - Large Family. Upon issuance of an Administrative Permit, a home providing day care for children under 18 years of age, but excluding overnight care. The number of children permitted shall be based on provisions of the California Health and Safety Code. The facility shall be reviewed to assess impacts such as traffic and pedestrian safety, adequate sanitation facilities, fire safe standards, and neighborhood compatibility. Notice of a pending permit for such a facility shall be provided per the Health and Safety Code and conditions may be imposed to provide consistency with pertinent sections of this Division.

(Y) **Junior Accessory Dwelling Unit.** A living space not to exceed five hundred (500) square feet in size and contained entirely within an already permitted single-family dwelling. A junior accessory dwelling unit shall include an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing structure. JADUs are subject to the following standards and criteria: No more than one junior accessory dwelling unit may be located on a parcel.

(1) The single-family dwelling must be owner-occupied. The owner may reside in either the junior accessory dwelling unit or the remaining portion of the single-family dwelling. Only one JADU is permitted per residential lot.

(2) A junior accessory dwelling unit shall not be sold, and rentals for terms shorter than 30 days shall be prohibited.

(3) A separate entrance to the junior accessory dwelling unit shall be provided, and interior access to the remainder of the single-family dwelling shall be maintained.

(4) The JADU may share a bath with the primary residence or have its own bath.

(5) The permitted junior accessory dwelling unit is required to include an efficiency kitchen.

(6) For the purposes of fire and life protections ordinances and regulations, the JADU is to be considered part of the single-family residence, and therefore would be allowed in addition to an primary Single Family Dwelling, 'Accessory Dwelling Unit', and 'Guest Cottage'/'Detached Bedroom' accessory residential structure allotment.

Section 6. **CEQA**. This ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080.17.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2018, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

_____
DAN HAMBURG, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

ORDINANCE NO.

ORDINANCE AMENDING CHAPTERS 20.008 AND 20.164 OF THE MENDOCINO COUNTY CODE AMENDING DEFINITIONS AND REQUIREMENTS RELATED TO ACCESSORY DWELLING UNITS

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Section 20.008.020 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.008.020 – Definitions (A).

(A) "Accessory building" means a detached subordinate structure, the use of which is incidental to the established primary use or main structure located on the same lot or building site; i.e., private garage, storage shed, farm out buildings, etc. In no case shall such accessory structure dominate, in area, extent or purpose, the principal lawful structure or use. Accessory buildings shall not contain any sleeping quarters or kitchen facilities and are therefore not intended for human occupancy. See Chapter 20.164 Accessory Use Regulations.

(B) "Accessory Dwelling Unit." An attached or detached residential dwelling unit in compliance with Sec. 20.164.015, which provides complete independent living facilities for one (1) or more persons, and includes separate permanent provisions for entry, living, sleeping, eating, cooking and sanitation on the same parcel as a single-family dwelling. *See Chapter 20.164 Accessory Use Regulations.*

(C) Accessory Structure. See Accessory Building.

(D) "Accessory use" means a use of land or of a structure incidental or subordinate to the principal use located upon the same lot.

(E) "Administrative Permit" means a permit granted pursuant to Chapter 20.192 by an agency of Mendocino County or the Zoning Administrator for a use of a temporary nature, a second residential unit, or farm employee housing.

(F) Agricultural Employee. See Farm Employee.

(G) "Airport" means any area of land, water or a structure which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(H) "Alley" means a public or private way permanently reserved as a secondary means of access to abutting property.

(I) "Amendment" means any change, modification, deletion, or addition to

the wording, text or substance of the Zoning Code, or any change, modification, deletion, or addition to the application of the Zoning Code to property within Mendocino County, including any alteration in the boundaries of a zone, when adopted by ordinance passed by the Board of Supervisors in the manner prescribed by law.

(J) "Animals, large" is limited to bovine and equine animals, sheep, goats, swine and similar animals.

(K) "Animals, small" means dogs, cats, birds, poultry, rabbits, chinchillas, hamsters, and other small domesticated animals other than a large animal.

(L) "Apartment" means a portion of a building which is designed and built for occupancy by three (3) or more families living in separate dwelling units.

(M) "Automobile wrecking" means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of three (3) or more motor vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of an automobile wrecking yard.

(N) "Affordable Housing" means housing capable of being purchased or rented by a household with extremely low, very low, low, or moderate income based on a household's ability to make payments necessary to obtain housing. Housing is considered affordable when a household pays less than 35% of its gross monthly income for housing.

(O) "Affordable Housing Unit" means a dwelling unit which meets the standards in Section 20.238 of this Code and is affordable to households having extremely low, very low, low, or moderate income.

(P) "Antenna" means a device used in communications designed to radiate and/or capture electromagnetic signals.

(Q) "Antenna, building-mounted" means any antenna attached to and supported by a building or other structure more than ten (10) feet tall, other than an antenna tower, i.e., the exterior walls of a building, an existing parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign.

(R) "Antenna, roof-mounted" means an antenna directly attached to the roof of an existing building, water tank, tower or structure other than an antenna tower.

(S) "Antenna tower" means any pole, tower, or other structure, over ten (10) feet tall, erected for the purpose of supporting one or more antennas.

Section 2: Section 20.008.027 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.008.027 – Definitions (E).

(A) "Efficiency Kitchen" means a small food preparation area for a junior accessory dwelling unit that includes the following:

(1) A sink with a maximum waste line diameter of 1.5 inches.

(2) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

(3) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(B) "Emergency shelter" means a facility for the temporary shelter and feeding of indigents, disaster victims, or homeless persons that is limited to occupancy of six (6) months or less, as defined in Section 50801(b) of the California Health and Safety Code.

(C) "Equity Sharing" means an agreement by which appreciation on the value of an affordable unit from the time of original purchase at an affordable price to the time of resale shall be shared between the owner and the County or its designated agency. Such an agreement will be a condition of financial assistance for income qualified households to purchase Affordable Housing Units.

Section 3. Section 20.008.036 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.008.036 – Definitions (J).

(A) "Junior Accessory Dwelling Unit." A living space not exceeding five hundred (500) square feet in size and contained entirely within a fully permitted single-family dwelling. A junior accessory dwelling unit shall include an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing structure. *See Chapter 20.164 Accessory Use Regulations.*

(B) "Junkyard" means any land, lot or portion thereof where there is more than: (1) one hundred (100) square feet for parcels less than forty thousand (40,000) square feet; or (2) four hundred (400) square feet for parcels greater than forty thousand (40,000) square feet of waste, discarded or salvaged materials bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, and including used furniture and household equipment yards, house wrecking yards, used lumber yards, and the like; excepting a site on which such uses are conducted within a completely enclosed structure.

Section 4. Section 20.008.052 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.008.052 – Definitions (S).

(1) "School" means a building or group of buildings which are used or intended to be used for occupancy and use by teachers and students engaged in the process of learning and the pursuit of knowledge. A public school is a free tax supported school controlled by a governmental authority.

(2) "Seat" or "seating area" means the actual seating capacity of an area based on the number of seats or one (1) seat per eighteen (18) inches on a bench or pew.

(3) "Setback" means a required, specified distance between a building or structure and a lot line or lines, measured perpendicularly to the lot line in a horizontal plane extending across the complete length of said lot line or lines.

(4) "Setback, front yard" means the building or structure setback applicable in the front yard of a lot.

(5) "Setback, rear yard" means the building or structure setback applicable in the rear yard of a lot.

(6) "Setback, side yard" means the building or structure setback applicable in the side yard of a lot

(7) "Shopping center" means any combination of three (3) or more separately owned or leased and operated retail businesses on a single or commonly owned or leased parcel, or a commercial complex including five (5) or more uses occupying a site of at least two (2) acres. A group of contiguous retail stores, service facilities and related uses utilizing common facilities such as parking, landscaping, signing and loading areas. This group does not necessarily have to be in one (1) ownership.

(8) "Sign" means any metal, wood, paper, cloth, plastic, paint, material, structure or part thereof, device or other thing whatsoever which is located upon, placed, erected, constructed, posted, painted, tacked, nailed, glued, stuck, carved, fastened or affixed to any building or structure, on the outside or inside of a window or on any awning, canopy, marquee or similar appendage, or on the ground or on any tree, wall, bush, rock, post, fence or other thing whatsoever in such mariner as to be visible out-of-doors and which displays or includes any numeral, letter, word, model, banner, emblem, insignia, symbol device, light, illuminated device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, attention arrester, direction, warning, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry. "Sign" shall include any portable sign.

(9) "Sign area" means the entire area within the smallest parallelogram, triangle, circle, or combination thereof, which can be delineated so as to encompass the extreme limits of all elements comprising an integral part of a sign display, including any frame or border, but not including essential structural elements, unless it is determined that such structural elements are an integral part of the total sign display; provided, however, that where the surface or face of a sign is curved, spherical, cylindrical or any other similar form, the area of such sign shall be computed on the basis of the projected configuration of that surface or face. The area of any double-faced sign shall be the area of the single face, unless otherwise provided. All other multiple-faced signs shall be the total area of all faces or panels. Sign area as it pertains to sign copy shall mean and be computed as the entire area within the smallest continuous perimeter of not more than eight (8) straight lines encompassing the extreme limit of all of the sign copy of a sign. In the case of a sign composed of individual letters or other devices mounted on a building wall, the copy area of such sign shall be the sum of the areas of the smallest rectangles encompassing each of the individual letters or other devices which comprise the sign copy.

(10) "Sign face" means the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

(11) "Sign, freestanding" means any sign mounted upon its own standard which is supported wholly by structural anchorage to the ground, or mounted upon any accessory structure which does not constitute a building; provided, however, that any such sign which projects over the roof of a building shall be considered to be a freestanding sign.

(12) "Sign height" means the highest point of any sign face or structural support members, whichever is the greater.

(13) "Sign, nonconforming" means a sign lawfully erected, established, and maintained prior to the effective date of the code codified in this Division, which because of the application of this Division, does not conform to applicable regulations.

(14) "Sign, off-site" means any sign as herein defined other than an on-site sign.

(15) "Sign, on-site" means any sign which pertains and is accessory to a business or industrial use located on the same lot or which offers a lot or portion thereof for sale or lease.

(16) "Sign, portable" means a sign and its supporting structure not permanently affixed to the ground or any structure, or a sign located upon a vehicle or trailer placed or parked so as to be visible from the public right-of-way, for the basic purpose of providing advertisement of products or directing people to a business or activity. Portable signs shall not include business identification signs on vehicles, the primary purpose of

which is identifying the business owning or operating the vehicle.

(17) "Sign, projecting" means any sign other than a wall sign which is attached to and projects from the wall or face of a building or structure including a marquee sign.

(18) "Sign, roof" means any sign erected, painted upon, against, or directly above a roof or on top of or above the parapet of a building, and which is supported wholly or in part by said building. Any sign mounted upon its own standard which is supported wholly by structural anchorage to the ground, or mounted upon any accessory structure which does not constitute a building, shall be considered a roof sign where such sign projects over the roof of a building.

Any roof, the slope of which varies not more than forty-five (45) degrees from a vertical plane, shall be considered wall space for the purpose of placement of wall signs.

(19) "Sign, wall" means any sign painted or mounted on a wall or of solid construction located as to be approximately parallel with the face of a building not to extend eighteen (18) inches from the face of a building or structure.

(20) Single-Family Residence. See Dwelling, Single-Family.

(21) "Stable" means a stable used for the boarding, breeding, training, or raising of horses, including horses not owned by the occupants of the premises.

(22) "Stable, public" means a stable or arena used for the riding, training and performing of horses by other than the occupants of the premises or their nonpaying guests, but excluding boarding or breeding stables.

(23) Standard Mobile Home Park. See Mobile Home Park, Standard.

(24) "Storage of nonoperating vehicles." The storage of "nonoperating motor vehicles" shall not include automobile wrecking. The presence on any lot or parcel of land of three (3) or more motor vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which no parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of the storage of nonoperating motor vehicles.

(25) "Street" means a County road, State highway, public road, street or alley, or private thoroughfare or easement not less than ten (10) feet in width connecting with a County road, State highway, public road, street or alley which affords primary access to an abutting lot.

(26) "Structural alterations" means any change in the supporting members of a building such as bearing walls, columns, beams or girders and floor joists, ceiling joists or roof rafters.

(27) "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground; excepting tents, recreational vehicles and fences less than six (6) feet in height.

(28) "Structure, nonconforming" means a building, structure or facility, or portion thereof, which was lawfully erected or altered or maintained, but which, because of the application of this ordinance to it, no longer conforms to the specific regulations applicable to the zone in which it is located.

(29) "Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, as defined in California Government Code Section 65582, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, as defined in Section 50675.14 of the California Health and Safety Code. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

(30) "Swap lot" means a building, structure, enclosure lot or other area into which persons are admitted to display, exchange, barter, sell or bargain for new or used merchandise.

(31) "Swimming pool" means a pool, pond, or open tank, capable of containing water to a depth greater than one and one-half (1½) feet at any point and designed or used for wading or swimming.

Section 5. Section 20.164.015 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.164.015 - Residential and Agricultural Use Types.

Subject to the restrictions and limitations specified, the following accessory buildings and uses shall be permitted in zones where residential and agricultural use types are permitted:

(A) Private garages.

(B) Children's playhouses, patios, porches, gazebos, etc.

(C) Radio and television receiving antennas.

(D) Windmills.

(E) Silos.

(F) Shops (nonbusiness purposes).

(G Barns.

(H) Private swimming pools and hot tubs (not subject to setback requirements in the side or rear yards of any district).

(I) **Guest Cottage.** One guest cottage is permitted for each legal parcel. In lieu of a guest cottage a detached bedroom may be substituted.

(J) **Detached Bedrooms.** Not more than two (2) detached bedrooms are permitted upon each parcel. If a guest cottage is constructed, the guest cottage and one (1) detached bedroom may be constructed instead of the two (2) detached bedrooms.

(K) **Accessory Dwelling Unit.** An accessory dwelling unit shall be permitted in all zoning districts which allow single-family dwellings subject to the following standards and criteria:

(1) The lot contains an existing single-family dwelling unit or a building permit for the single-family dwelling unit (primary residence) has been applied for.

(2) An adequate water system as approved by the Division of Environmental Health is available to serve the accessory dwelling unit.

(3) An adequate sewage disposal system as approved by the Division of Environmental Health is available to serve the accessory dwelling unit.

(4) The accessory dwelling unit shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the second residential unit is located. Total area of floor space for a detached accessory dwelling unit may not exceed 1,200 square feet. Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(5) The accessory dwelling unit shall comply with appropriate local building code requirements. Fire sprinklers, however, shall not be required in an accessory unit if they are not required in the primary residence.

(6) An accessory dwelling unit shall not be allowed if more than one (1) dwelling unit (including farm employee housing, farm labor housing, temporary family care unit) is located on the parcel, or if there currently exists two (2) accessory residential units (any combination of guest cottages and detached bedrooms) on the parcel.

(7) Where dwelling group or parcel clustering is approved, no accessory dwelling unit shall be allowed.

(8) Nothing in this Section shall prohibit a detached bedroom, guest house or family care unit from being converted into an accessory dwelling unit, consistent with the other provisions of this Section.

(9) Accessory Dwelling Units may be either attached to the existing dwelling or they may be detached, separate structures.

(10) Attached or detached accessory dwelling units are not intended for sale but may be rented.

(11) Parking Requirements:

(a) One parking space is required per Accessory Dwelling Unit and may be provided through tandem parking.

(b) Parking is allowed in rear and side setback areas. No parking is allowed in front setback areas.

(c) When a garage or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit, the replacement parking spaces may be located in any configuration on the same lot parcel as the Accessory Dwelling Unit, including but not limited to covered spaces, uncovered spaces, or tandem spaces.

(12) Parking Exemptions. Parking requirements are not applicable for Accessory Dwelling Units in any of the following instances:

(a) Located within one-half mile of a public transportation stop along a prescribed route according to a fixed schedule.

(b) Located within one block of a car share parking spot.

(c) Located entirely within the principal residence and results in no net increase in habitable floor area on the property.

(d) Located in an area where on-street permit parking is required, but such permits are not available to the tenant.

(e) Located within a designated historic district.

(L) **Room and Board.** The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit, provided the parcel has frontage on a publicly maintained road. A Major Use Permit is required if the parcel does not have frontage on a publicly maintained road.

(M) **Travel Trailer or Camper.** The maintaining of one (1) travel trailer or camper in dead storage where it is not used for occupancy or business purposes. The connection of any utility or service such as electrical, water, gas or sewage to the travel trailer or camper shall be prima facie evidence that it is being used for habitation or business purposes.

(N) **Home Occupations.** Subject to Chapter 20.156.

(O) **Household Pets.** The keeping of dogs and cats and other household pets, but not including kennels.

(P) **Roadside Sales of Agricultural Products.** Operation of a single roadside stand for a display and sales of only those products produced on the premises, or on other property owned or leased by the vendor, as permitted by this Division, provided that the stand does not exceed an area of two hundred (200) square feet, and is located not nearer than fifteen (15) feet to any, street or highway, and provided further that such stands shall be permitted only in the S-R, R-R, A-G, U-R, R-L, F-L, and T-P districts.

(Q) **Wild Animal Keeping.** The keeping of not more than one (1) wild animal for which a Wild Animal Permit is required and has been issued pursuant to Title 14 of the California Administrative Code.

(R) **Other Necessary and Customary Uses.** Accessory nonresidential uses and nonresidential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal use, as determined by the Director of the Department of Planning and Building Services.

(S) The parking of two (2) large vehicles or construction equipment upon private property. Additional vehicles and equipment are allowed to the extent that such vehicles and equipment are of a type and number customarily used by residents of the surrounding neighborhood for their own agricultural or home use on their own property.

(T) Family Care Home.

(U) **Farm Employee Housing.** Upon issuance of an Administrative Permit, farm employee housing shall be permitted in the A-G, R-L, F-L and T-P zoning districts subject to the provisions of Chapters 20.008 and 20.016.

(V) Day Care Home - Small Family.

(W) Day Care Home - Large Family. Upon issuance of an Administrative Permit, a home providing day care for children under 18 years of age, but excluding overnight care. The number of children permitted shall be based on provisions of the California Health and Safety Code. The facility shall be reviewed to assess impacts such as traffic and pedestrian safety, adequate sanitation facilities, fire safe standards, and neighborhood compatibility. Notice of a pending permit for such a facility shall be provided per the Health and Safety Code and conditions may be imposed to provide consistency with pertinent sections of this Division.

(Y) **Junior Accessory Dwelling Unit.** A living space not to exceed five hundred (500) square feet in size and contained entirely within an already permitted single-family dwelling. A junior accessory dwelling unit shall include an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing structure. JADUs are subject to the following standards and criteria: No more than one junior accessory dwelling unit may be located on a parcel.

(1) The single-family dwelling must be owner-occupied. The owner may reside in either the junior accessory dwelling unit or the remaining portion of the single-family dwelling. Only one JADU is permitted per residential lot.

(2) A junior accessory dwelling unit shall not be sold, and rentals for terms shorter than 30 days shall be prohibited.

(3) A separate entrance to the junior accessory dwelling unit shall be provided, and interior access to the remainder of the single-family dwelling shall be maintained.

(4) The JADU may share a bath with the primary residence or have its own bath.

(5) The permitted junior accessory dwelling unit is required to include an efficiency kitchen.

(6) For the purposes of fire and life protections ordinances and regulations, the JADU is to be considered part of the single-family residence, and therefore would be allowed in addition to an primary Single Family Dwelling, 'Accessory Dwelling Unit', and 'Guest Cottage'/'Detached Bedroom' accessory residential structure allotment.

Section 6. **CEQA**. This ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080.17.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2018, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

_____
DAN HAMBURG, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

Resolution Number _____

County of Mendocino
Ukiah, California
July 19, 2018

OA_2018-0006

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, MAKING ITS REPORT AND RECOMMENDATION TO THE MENDOCINO COUNTY BOARD OF SUPERVISORS REGARDING PROPOSED AMENDMENTS TO THE MENDOCINO COUNTY CODE CHAPTERS 20.008 – DEFINITIONS AND 20.164 - ACCESSORY USE REGULATIONS

WHEREAS, the County of Mendocino, desires to amend Mendocino County Code Chapters 20.008 – Definitions and 20.164 - Accessory Use Regulations, as they pertains to 'Second-Residential Units'/'Accessory Dwelling Units' within the unincorporated areas of Mendocino County; and

WHEREAS, pursuant to Government Code section 65850 *et seq*., the Planning Commission is to provide its report and recommendation to the Board of Supervisors on ordinances related to land use regulations; and

WHEREAS, County Staff has, pursuant to the direction of the Board of Supervisors of Mendocino County, prepared amendments to the Mendocino County Code Chapters, which are attached to this Resolution as Exhibit A and incorporated herein by this reference (the "Project"); and

WHEREAS, the California Legislature has found that certain classes of projects are exempt from the California Environemtal Quality Act, including, pursuant to Public Resources Code section 21080.17, the adoption of an ordinance to implement the provisions of Government Code section 65852.1 or 65852.2 regulating the construction of dwelling units and second units; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, July 19, 2018, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets for the intentions of the Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, based upon the evidence in the record, that the Planning Commission makes the following General Plan finding: The Housing Element of the General Plan contains the following policies related to 'Accessory Residential/Second Residential Units - Policy 3.1 encourage the development of an adequate supply of housing and range of housing densities and types to meet the diverse needs of County residents, and Policy 3.2 promote the development of second units. The proposed amendments are consistent with the 2009 Mendocino County General Plan, as well as the 2014 Housing Element. The amendments align with the County's intention of encouraging and facilitating the development of an adequate supply of housing. The allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission, based on the evidence in the record, hereby recommends that the Board of Supervisors approve the Project by adopting an ordinance amending Mendocino County Code 20.164 - Accessory Use Regulations in the form attached to this Resolution as Exhibit A, and find that the Project is not subject to CEQA pursuant to Public Resources Code section 21080.17..

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: VICTORIA DAVIS
Commission Services Supervisor

By:_____

BY: IGNACIO GONZALEZ
Interim Director

MADELIN HOLTKAMP, Chair
Mendocino County Planning Commission

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