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**PLANNING COMMISSION  
STAFF REPORT- ORDINANCE/  
GENERAL PLAN AMENDMENT**

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**JULY 18, 2019  
OA\_2018-0009/GP\_2018-0003**

**SUMMARY**

**APPLICANT:** COUNTY OF MENDOCINO  
501 LOW GAP ROAD  
UKIAH, CA 95482

**REQUEST:** Review and consider a recommendation to the Board of Supervisors on an amendment of the Mendocino County Local Coastal Program Land Use Plan (General Plan Coastal Element) and Implementation Program (Coastal Zoning Code) to regulate development of Accessory Dwelling Units (ADUs) in the Coastal Zone in compliance with recent State legislation as codified in Gov. Code Section 65852.2.

**LOCATION:** Within the unincorporated areas of Mendocino County located inside the Coastal Zone boundary (Mendocino County Code, Title 20, Division II), excluding the Town of Mendocino (Mendocino County Code, Title 20, Division III).

**ENVIRONMENTAL DETERMINATION:** Statutory Exemption pursuant to Public Resources Code section 21080.17

**FROM:** JULIA ACKER KROG, CHIEF PLANNER  
LINDA RUFFING, NORTH COAST COMMUNITY  
PLANNING

**OVERVIEW**

GP\_2018-0003 and OA\_2018-0009 will amend Mendocino County's Local Coastal Program (LCP) to establish regulations for accessory dwelling units (ADUs) in the coastal zone of Mendocino County. The LCP is comprised of the Coastal Element of the General Plan and the Coastal Zoning Code (Mendocino County Code, Title 20, Division II).

This LCP amendment follows on the heels of the Board of Supervisor's action last October to amend the County's Inland Zoning Code to comply with new State legislation promoting ADUs. To the extent possible, the proposed LCP amendment mirrors the regulations adopted for areas outside of the coastal zone. However, there are many differences that are necessary to ensure compliance with LCP and Coastal Act policies for the protection of coastal resources. Attachment 1 presents the proposed amendment to Coastal Element policies that currently restrict development to one housing unit per parcel. Attachment 2 presents the proposed amendment to the Coastal Zoning Code to remove the prohibition on ADUs and establish regulations for development of ADUs in the coastal zone. Attachment 3 is a Planning Commission resolution making a formal written recommendation to the Board of Supervisors regarding the proposed LCP amendment for ADUs.

**INTRODUCTION**

In 2016, the State legislature passed several bills intended to remove barriers to development of ADUs with the goal of increasing the availability of affordable rental housing throughout California. These bills are codified in California Government Code §65852.2, et seq. Attachments 4 and 5 present background

information about the new legislation regarding ADUs and Junior Accessory Dwelling Units (JADUs) in the form of Frequently Asked Questions.

Gov't. Code §65852.2(j) specifies that "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units."

Thus, the process of establishing an ADU ordinance for areas within the coastal zone requires a careful balancing of the mandates of the State ADU legislation with those of the Coastal Act.

Presently, the Mendocino County LCP prohibits ADUs in the coastal zone except in the Gualala Town Plan area and in the Town of Mendocino.<sup>1</sup> In limited circumstances, more than one unit may be authorized on a parcel when permitted as a family care unit, farm employee housing, farm labor housing, dwelling groups or residential clustering.

The proposed LCP amendment provides both a process and regulations for ADUs in the coastal zone outside of the Town of Mendocino. To the extent possible, the regulations mirror those that have been adopted for inland Mendocino County. The current LCP regulations for ADUs in the Gualala Town Plan area are retained with some minor modifications and a ministerial permit process is established to comply with the State ADU legislation.

Enactment of new policies and regulations in the coastal zone requires approval at the local level by the Board of Supervisors and by the California Coastal Commission. In order to certify the proposed amendment to the Coastal Element of the General Plan (also known as the LCP Land Use Plan), the Coastal Commission must find that the Land Use Plan, as amended, meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. To certify the proposed amendment to the Coastal Zoning Code (also known as the LCP Implementation Program), the Commission must find that the Implementation Program, as amended, conforms with, and is adequate to carry out the provisions of the certified LCP.

The Coastal Commission has issued two memoranda providing guidance for local jurisdictions seeking to update their LCPs to implement the new State ADU legislation. The Commission has also committed to processing LCP amendments for ADUs as expeditiously as possible.

Attachment 6 to this report includes a June 13, 2019 letter from the Coastal Commission commenting on an initial draft of the LCP amendment. While many of the areas of concern identified in the letter have been addressed in the draft ordinance presented in this report, there are some areas where it is likely that additional consultation will be needed as the Coastal Commission processes the County's LCP amendment.

### **PROPOSED AMENDMENTS TO COASTAL ELEMENT POLICIES**

To comply with the mandates of Gov't. Code §65852.2, the following three policies in the Coastal Element of the Mendocino County General Plan which state that "one housing unit" shall be permitted on each parcel must be amended.

- 3.2-1 All agricultural land use, as represented within the agriculturally designated boundaries on the land use maps, shall be designated AG 60 or RL 160 for the purpose of determining density. This will support continued coastal agriculture use. One housing unit will be allowed for each existing parcel. Additional dwellings for resident agricultural workers shall be considered as conditional uses, subject to the provisions of this plan.

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<sup>1</sup> The LCP refers to ADUs as "second residential units." Regulations governing ADUs in the Gualala Town Plan area are established in the Coastal Zoning Code (Mendocino County Code, Title 20, Division II). Regulations governing ADUs in the Town of Mendocino are established in the Town of Mendocino Zoning Code (Mendocino County Code, Title 20, Division III).

- 3.3-5 TPZ lands or parcels entirely occupied by timberlands of commercial size shall have not more than one housing unit per 160 acres; county review and approval is required for more than one dwelling per legally created parcel. Housing units on a timberland parcel, portions of which are not timberland, shall be subject to the density regulations prescribed for the land use shown on the Land Use Maps. Such housing units shall be located, when feasible, on non-Timberland soils.
- 3.9-1 An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:
- each community's desired amount and rate of growth.
  - providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.

In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists, and proposed development is consistent with all applicable policies of this Coastal Element and is in compliance with existing codes and health standards. Determination of service capacity shall be made prior to the issuance of a coastal development permit.

As shown in Attachment 1, the proposed LCP amendment adds the following statement to each of the above policies:

Accessory dwelling units may also be permitted consistent California Government Code Section 65852.2 and with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II).

The Coastal Element policy amendments simply establish that ADUs may be allowed throughout the coastal zone, including on parcels with resource zoning designations (Agriculture "AG", Rangelands "RL", Forestland "FL" and Timber Production Zone "TPZ"). As discussed below, the Coastal Zoning Code amendment establishes the specific regulations and procedures that will govern the creation of ADUs in the coastal zone.

It should be noted that the Coastal Commission has indicated that the "modern precedent" for interpretation of Sections 30241 and 30242 of the Coastal Act is that any residential uses on agricultural parcels which are not "farmer-occupied" are considered an agricultural conversion and must meet be subject to a consistency analysis with agricultural conversion criteria. They have indicated that Commission staff will likely recommend suggested modifications to Policy 3.2-1 to make it consistent with this new interpretation. Attachment 8 presents a map showing the boundaries of the coastal zone and lands with resource zoning designations.

### **PROPOSED AMENDMENTS TO COASTAL ZONING CODE REGULATIONS**

Section 20.458.010 of the Coastal Zoning Code establishes the current prohibition on the creation of ADUs in the coastal zone. Section 20.458.015 explains that:

"Of particular importance to the Board of Supervisors, and one of the main purposes for this Chapter, is that the Coastal Element does not include provisions for second residential units. It is fully the intent of the Board of Supervisors to initiate an amendment to the Coastal Element of the General Plan to provide for construction of second residential units within appropriate areas of the Coastal Zone.

When considering appropriate locations for the designation and allowance of second residential units, the Board intends to address the following issues:

- (1) The adequacy of water, based upon the findings of the Coastal Groundwater Study;
- (2) Minimum parcel sizes and general soil characteristics to assure adequacy of septic capability;
- (3) Potential traffic impacts, based upon existing development patterns, urbanizing areas, and highway capacity studies in progress.

The Board of Supervisors reluctantly concluded in 1985 that the development of second units in the unincorporated Coastal Zone of Mendocino County, in excess of those allowed pursuant to the provisions of the Coastal Element and this Division, may have adverse impacts on the public health, safety, and welfare, including water supply, septic capability and traffic.

The Board further finds and declares that the prohibition of second residential units at this time shall not be construed to mean that there are no suitable areas in the Coastal Zone where second residential units could be constructed. The Board recognizes that an absolute prohibition on second units will limit housing opportunities of the region. Therefore, this prohibition is only considered temporary until such time as the issues identified above can be adequately resolved to assure that there will be no adverse impacts to the public health, safety and welfare."

This prohibition on ADUs has been in place for over 30 years during which time the lack of affordable housing in the coastal zone has become a serious social and economic issue. The new State legislation on ADUs has altered the regulatory landscape such that State law now requires the County to establish regulations to allow development of ADUs in the coastal zone, while at the same time preserving the integrity of Coastal Act protections for coastal resources.

The following summary provides an overview of the Coastal Zoning Code amendment shown in Attachment 2.

### **New and Amended Definitions**

The amendment includes several new and amended definitions in Chapter 20.308 that are necessary to implement the ADU regulations. To the extent possible, these definitions are the same as those used in the County's Inland Zoning Code.

Chapter 20.316 is amended to clarify that ADUs are considered an accessory use in the Family Residential use type and that ADUs and JADUs are not permitted on parcels with approved dwelling groups or cluster development. This parallels the restrictions in the Inland Zoning Code.

The definition of an Accessory Living Unit in Chapter 20.456 is amended to include ADUs and to clarify that an ADU and/or JADU may be permitted in addition to either a guest cottage or detached bedroom, subject to limitations identified in Chapter 20.458.

### **Cap on Number of ADUs**

As explained in Coastal Element Policy 3.9-1, ADUs in the coastal zone were not permitted when the LCP was originally adopted due to concerns about water availability, septic/sewer capacity, and traffic capacity on Highway 1 (SR 1).

Water and sewer availability can be assessed on a parcel-by-parcel basis through the administration of the Mendocino County Division of Environmental Health "Guidelines for Accessory Dwelling Units" (2018) as shown in Attachment 7.

SR 1 capacity, however, is related to cumulative traffic impacts and cannot be addressed on a parcel-by-parcel basis. Since adoption of the LCP, the County has prepared two comprehensive studies of SR 1 capacity: the "State Route 1 Corridor Study" (Whitlock & Weinberger; 1993) and the "State Route 1

Corridor Study Update" (WTrans; 2008). In addition, Caltrans has prepared the "Transportation Concept Report – State Route 1" (Caltrans, District 1; 2016).

The Transportation Concept Report – State Route 1 (TCR) provides the most comprehensive and current review of existing and projected future traffic conditions on SR 1. The purpose of the TCR is "to evaluate current and projected conditions along the route and to communicate the vision for improvements during a 20- to 25-year planning horizon." The TCR establishes the Ultimate Facility Concept for SR 1 in Mendocino County as:

"a safe, efficient, and scenic two-lane highway. [...] The Ultimate Facility Concept differs in the greater Fort Bragg area where traffic volumes may warrant greater capacity and shoulder width." (TCR, p. 2)

This is consistent with the Coastal Act requirement that SR 1 remain a two-lane scenic roadway in rural Mendocino County.

The TCR further states that:

"Growth and development along Route 1 is strongly influenced by economic conditions and tourism. Route 1 serves as an essential life-line for residents of the Mendocino Coast. Due to the rural nature of the Mendocino Coast and low anticipated growth, no major long-term right-of-way needs are anticipated. Some right-of-way is likely to be needed to develop additional multi-use shoulders." (TCR, p. 7)

It is not clear what effect allowing development of ADUs in the coastal zone will have on SR 1 capacity. To some extent, ADUs will help alleviate overcrowding and provide alternatives to substandard rental units. In these circumstances, ADUs would not result in population growth and increased traffic volumes. In fact, by increasing the availability of rental housing stock and enabling workers to live closer to their places of employment, ADUs could result in decreased vehicle miles travelled (VMT) on SR 1. It should be noted, however, that ADUs that are used as vacation home rentals or by transient guests could increase VMT by on SR 1 by visitors to the coast.

Rather than performing a traffic study now based on speculation about the rate of development of ADUs and their associated travel characteristics, the LCP amendment establishes a cap on the number of ADUs permitted. As drafted, a new Section 20.458.010 of the Coastal Zoning Code establishes a cap of 500 CDPs for ADUs in the coastal zone. This cap would not be inclusive of ADUs in the Gualala Town Plan area. Per the Gualala Town Plan, a separate 100-unit cap has been established for ADUs in the Gualala Town Plan area. JADUs would be exempted from the cap. When distributed throughout the coastal zone, the up to 500 ADUs permitted under the cap would correspond to a de minimus increase in traffic volumes.

In order to modify or remove the cap in the future, an LCP amendment would be necessary and the County would first need to prepare a traffic analysis that identifies impacts associated with future growth and evaluates the whether or not restrictions on ADUs are needed. This approach will allow for a traffic study that is based on actual growth patterns and that complies with new requirements under SB 743. SB 743 requires that, by July 1, 2020, all jurisdictions must adopt and implement standards for traffic analyses using a VMT analysis rather than a level of service (LOS) analysis. By the time the next SR 1 traffic study is prepared, the County will have adopted VMT thresholds of significance and established methodologies for performing VMT analysis in rural Mendocino County.

### **Standards for ADUs and JADUs**

As shown in Attachment 2, the LCP amendment includes new Sections 20.458.020, 20.458.025, 20.458.030, and 20.458.035 which establish general and specific standards for ADUs and JADUs. These generally track on the standards established for ADUs in the Inland Zoning Code with the following exceptions:

- Section 20.458.020(F) establishes restrictions on the use of ADUs and JADUs as vacation home rentals (VHRs) or for use by transient guests in order to ensure that new ADUs increase the supply of non-transient housing in the coastal zone. Subsection (1) requires that, on a parcel with an ADU or JADU, no more than one dwelling may be used as a VHR and a VHR may only be permitted if the owner resides in either the single-family dwelling or the ADU or JADU. Subsection (2) prohibits VHRs or transient guest use on parcels zoned AG, RL, FL or TPZ and provides a mechanism for phasing out existing VHRs when properties transfer or the use is abandoned. This provision was added to address Coastal Commission concerns about the impacts of non-agricultural activities on resource lands.
- Section 20.458.035 presents specific standards for ADUs and JADUs in the Gualala Town Plan area. These regulations are more restrictive and reflect the standards that were established to implement the Gualala Town Plan (currently found in Section 20.458.020 of the Coastal Zoning Code).
- Section 20.458.040 presents public health and safety requirements for ADUs and JADUs. Subsections (B) and (C) establish the requirement for ADUs to have adequate water supply and sewage disposal systems in accordance with Mendocino County Division of Environmental Health requirements. These sections do not apply to JADUs because, per Gov't. Code §65852.22, JADUs "shall not be considered a separate or new dwelling unit" for the purposes of providing water and sewage disposal. Subsection (D) requires a preliminary clearance letter from CalFire and, when applicable, a letter from the local fire district to be submitted for ADU applications, indicating that all fire safety requirements can be satisfied. Subsection (E) prohibits ADUs in designated special flood hazard areas.

### **Coastal Resource Protections**

Section 20.458.045 establishes the following objective standards for ADUs to ensure protection of coastal resources in accordance with LCP and Coastal Act policies:

- An ADU may not be located within 100 feet of the boundary of an Environmentally Sensitive Habitat Area unless contained entirely within an existing legally-authorized structure. All new development associated with an ADU (well, water storage, septic improvements, parking and driveways, vegetation removal for fire safety, etc.) must also be located more than 100 feet from the boundary of an Environmentally Sensitive Habitat Area.
- An ADU may not be located within 125 feet of the edge of a coastal bluff unless contained entirely within an existing legally-authorized structure.
- An ADU may not be located within a Highly Scenic Area unless the ADU would not be visible from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.
- An ADU may not be permitted if the total amount of grading associated with construction of the ADU is more than 20 cubic yards.
  - On parcels zoned AG, RL, FL or TPZ, a detached ADU may only be permitted, if it is located within 150 feet of existing legally-authorized structures. (*Note: no exceptions may be granted to this requirement.*)

- On parcels zoned AG or RL, an ADU may only be located on non-prime soils.
- On parcels zoned FL and TPZ, an ADU may only be permitted in locations where no timber removal is necessary.
- An ADU may not be permitted on a parcel within 200 feet of lands that are designated AG, RL, FL or TPZ unless it is attached to an existing legally-authorized residence and does not extend further into the setback from the parcel with AG, RL, FL or TPZ zoning. In such cases, the ADU would not be considered an expansion of a legal, non-conforming use.
- An ADU may not interfere with a public or prescriptive easement for access to the blufftop and/or shoreline. (*Note: no exceptions may be granted to this requirement.*)
- An ADU may not be permitted in an area designated as Floodplain ("FP") Combining District, Development Limitations ("DL") Combining District and/or Seismic Study ("SS") Combining District.

Exceptions to these requirements (except as noted) may be granted through the administrative or standard coastal development permit process, as applicable, in circumstances where subjective review is necessary to ensure consistency with LCP resource protections policies.

### **Parking Requirements**

Section 20.458.020 establishes parking requirements for ADUs and exempts JADUs from off-street parking requirements. These requirements track on those established for inland Mendocino County except for Subsection (D) which allows parking for ADUs in all setback areas. In the Inland Zoning Code, parking is prohibited in the front setback.

### **Exemptions and Permit Requirements for ADUs**

Per Section 20.532.020, JADUs located entirely within an existing residence would be exempt from the CDP requirement. The exemption for JADUs is consistent with Gov't Code §65852.22. All other ADUs would be required to obtain a CDP. While staff initially drafted the ordinance to include an exemption for ADUs attached to an existing residence, the Coastal Commission has clarified that the Coastal Commission's exemption for additions to existing residences (California Code of Regulations, Title 14, §13250(a)(2)) specifies that "guest houses and self-contained residential units" are not exempted from the requirement to obtain a CDP.

Gov't Code §65852.2(a)(4) requires that the approval of ADUs shall include only ministerial provisions. Accordingly, Sections 20.532.015(B) and 20.536.001 establish a new "Coastal Development Ministerial Permit" that would be granted based on administrative review to determine consistency with objective criteria established in the ordinance. The permitting process for Ministerial CDPs would include notification of property owners within 300', but no public hearing would be required, and no local appeal process would be available. Ministerial CDPs approved for ADUs within the Coastal Commission's appeal jurisdiction would be appealable to the Coastal Commission.

The LCP amendment allows for ADUs that cannot meet certain objective standards as required for a Ministerial CDP (per Section 20.458.045 "Coastal Resource Protections") to be permitted with either Administrative or Standard CDPs, as applicable.

### **NEXT STEPS**

The process for approval of an LCP amendment is as follows:

- (1) The Planning Commission will conduct a public hearing, review the LCP amendment, and make a recommendation to the Board of Supervisors.
- (2) The Board of Supervisors will receive the Planning Commission's recommendation, conduct a public hearing, and consider adoption of a resolution authorizing submittal of the LCP amendment to the California Coastal Commission. If approved by the Board of Supervisors, the County will submit an LCP amendment application to the Coastal Commission.
- (3) Coastal Commission staff will review the LCP amendment application and provide a staff recommendation. The Coastal Commission staff recommendation oftentimes includes "suggested modifications" to the LCP amendment.
- (4) The Coastal Commission will conduct a public hearing and consider taking action to certify the LCP amendment.
- (5) Following Coastal Commission action, the LCP amendment must be reviewed again by the Planning Commission to advise the Board regarding any suggested modifications per the Coastal Commission's action.
- (6) Then the Board of Supervisors takes action by resolution to adopt the General Plan amendment and by ordinance to adopt the Zoning Code amendment.
- (7) Lastly, the Executive Director of the Coastal Commission will "sign off" on whether the final actions taken by the Board of Supervisors are consistent with the Coastal Commission's certification of the LCP amendment.

Following the Planning Commission's recommendation to the Board of Supervisors, it is anticipated that, in September, the Board will review the LCP amendment and adopt a resolution authorizing submittal of the LCP amendment application to the California Coastal Commission. The Coastal Commission's expedited review process is likely to take about six months and then the formal process for local adoption of the final version of the LCP amendment will take a few months to complete. A reasonable projection is that the new ADU regulations for the coastal zone will be in full force and effect by June of next year.

### **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 recommends 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.



**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 Coastal Element of the Mendocino County General Plan (Policies 3.2-1, 3.3-5, and 3.9-1) and a proposed amendment to the Coastal Zoning Code (Title 20 – Division II of the Mendocino County Code, Chapters 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536 and 20.544), finding that the actions are statutorily exempt from CEQA pursuant to Public Resources Code Section 21080.17.

**ATTACHMENTS**

1. Proposed Coastal Element Amendment (redline)
2. Proposed Coastal Zoning Code Amendment (redline)
3. Resolution of the Planning Commission
  - a. Proposed GP\_2018-0003
  - b. Proposed OA\_2018-0009
4. FAQs: Accessory Dwelling Units
5. FAQs: Junior Accessory Dwelling Units
6. June 13, 2019 letter from Coastal Commission staff
7. Mendocino County Division of Environmental Health Guidelines for Accessory Dwelling Units
8. Map of Coastal Zone Boundaries and Resource Lands

## ATTACHMENT 1

### GENERAL PLAN AMENDMENT #2018-0003 - MENDOCINO COUNTY COASTAL ELEMENT

CHAPTER 3.2 - AGRICULTURE. Amend Policy 3.2-1 as follows:

- 3.2-1 All agricultural land use, as represented within the agriculturally designated boundaries on the land use maps, shall be designated AG 60 or RL 160 for the purpose of determining density. This will support continued coastal agriculture use. One housing unit will be allowed for each existing parcel. Additional dwellings for resident agricultural workers shall be considered as conditional uses, subject to the provisions of this plan. Accessory dwelling units may also be permitted consistent California Government Code Section 65852.2 and with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II).

CHAPTER 3.3 - FORESTRY AND SOILS RESOURCES. Amend Policy 3.3-5 as follows:

- 3.3-5 TPZ lands or parcels entirely occupied by timberlands of commercial size shall have not more than one housing unit per 160 acres; county review and approval is required for more than one dwelling per legally created parcel. Accessory dwelling units may also be permitted consistent California Government Code Section 65852.2 and with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II). Housing units on a timberland parcel, portions of which are not timberland, shall be subject to the density regulations prescribed for the land use shown on the Land Use Maps. Such housing units shall be located, when feasible, on non-Timberland soils.

CHAPTER 3.9 - LOCATING AND PLANNING NEW DEVELOPMENT. Amend Policy 3.9-1 as follows:

- 3.9-1 An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:
- each community's desired amount and rate of growth.
  - providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.

In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists, and proposed development is consistent with all applicable policies of

## **ATTACHMENT 1**

this Coastal Element and is in compliance with existing codes and health standards. Accessory dwelling units may also be permitted consistent California Government Code Section 65852.2 and with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II). Determination of service capacity shall be made prior to the issuance of a coastal development permit.

ATTACHMENT 2

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE AMENDING CHAPTERS 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536, and 20.544 OF THE MENDOCINO COUNTY CODE AMENDING DEFINITIONS AND REQUIREMENTS RELATED TO ACCESSORY DWELLING UNITS**

**Section 1:** Section 20.308.020 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.308.020 – Definitions (A).**

- (A) "Access" means the permission, ability and means to enter and pass to and from property.
- (B) "Access, Blufftop" means a public accessway which runs along the bluff edge of a property.
- (C) "Access, Coastal" means public rights-of-way to and along the sea.
- (D) "Access, Lateral" means a public accessway for public access and use along the shoreline.
- (E) "Access, Vertical" means a public accessway which extends from the first public road to the shoreline, a bluff edge for public viewing or to a lateral accessway.
- (F) "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 outbuildings, etc. In no case shall such accessory structure dominate, in purpose, the principal lawful structure or use. This definition, by itself, is not intended to prohibit an accessory structure which is greater in size than the main structure. Accessory buildings shall not contain any sleeping quarters or kitchen facilities and are therefore not intended for human occupancy except as provided in Chapter 20.456.
- (G) "Accessory Dwelling Unit" or "ADU" means an attached or detached residential dwelling in compliance with Chapter 20.458, 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 20.458 (Accessory Dwelling Units).
- (GH) "Accessory Living Unit" means a detached bedroom as defined in Section 20.308.035(B), ~~or~~ a guest cottage as defined in Section 20.308.050(I), or an accessory dwelling unit as defined in Section 20.308.020(G).
- (HI) Accessory Structure. See Accessory Building.
- (IJ) "Accessory Use" means a use of land or of a structure incidental or subordinate to the principal use located upon the same lot.
- (JK) "Aggrieved Person" means any person who, in person or through a representative, appeared at a public hearing held by the County of Mendocino in accordance with these regulations, or who, by other appropriate means prior to action on a development permit or variance, informed the County of his or her concerns about the application for such permit and who objects to the action taken on such permit and wishes to appeal such action to a higher authority.

## ATTACHMENT 2

- (~~K~~L) "Airport" means any area of land or water which is used or intended for use, for the landing and take-off of aircraft, and other appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, and all airport buildings and facilities located thereon.
- (~~L~~M) "Alley" means a public or private way used as a secondary means of access to abutting property or between two (2) streets.
- (~~M~~N) "Amendment" means any change, modification, deletion, or addition to the wording, text or substance of the Zoning Code, including any alteration in the boundaries of a zone, when adopted by ordinance and passed by the Board of Supervisors in the manner prescribed by law.
- (~~N~~O) "Anadromous Stream" means fresh water stream used as a migration corridor and spawning and nursery habitat by fish, such as salmon and steelhead trout, that live most of their lives in saltwater.
- (~~O~~P) "Animal Raising." See Light Agriculture.
- (~~P~~Q) "Animal Waste Processing" means processing of animal waste and byproducts, including but not limited to animal manure, animal bedding waste, and similar byproducts of an animal raising agricultural operation, for use as a commercial fertilizer or soil amendment.
- (~~Q~~R) "Animals, Large" means cows, horses, sheep, goats, swine or similar bovine or equine animals.
- (~~R~~S) "Animals, Small" means dogs, cats, birds, poultry, rabbits, chinchillas, hamsters, or other small domesticated animals other than large animals.
- (~~S~~T) "Applicant" means the person, partnership, organization, corporation or state or local government agency applying for a coastal development permit or other land use approval pursuant to this Division.
- (~~T~~U) "Approving Authority" means the Planning and Building Services Department, Coastal Permit Administrator, Planning Commission or Board of Supervisors authorized by this Division to make decisions affecting the Administration or enforcement of this Division.
- (~~U~~V) "Aquaculture means that form of agriculture devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish and freshwater.
- (~~V~~W) "Archaeological Site" means any area containing significant or important archaeological resources as defined in Appendix K Section EII of the California Environmental Quality Act (CEQA). Any person who in the preparation for or in the process of excavating or otherwise disturbing earth, discovers any archaeological or paleontological site shall cease and desist from all further excavation within one hundred (100) feet of the discovery and notify the Director of the Department of Planning and Building Services in conformance with Mendocino County Code Chapter 22.12. See also Paleontological Site.
- (~~W~~X) "Area of Special Flood Hazard" (See "Special flood hazard area" Section 22.17.100).
- (~~X~~Y) "Automobile Wrecking" means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, dumping or abandonment 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.

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**Section 2:** Section 20.308.035 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.308.035 – Definitions (D).**

- (A) "Density" means the number of dwelling units per acre or square feet, calculated as the total number of dwelling units divided by the total lot area within the boundaries of the lot. Accessory dwelling units and junior accessory dwelling units are not considered to be dwelling units for the purpose of density calculations.
- (B) "Detached Bedroom" means a separate incidental structure containing one (1) room only without a kitchen or sanitation facilities, designed for and intended to be used as a sleeping or living facility for family members to be used in conjunction with a main structure which includes kitchen and sanitation facilities. A detached bedroom shall be located no farther than one hundred fifty (150) feet from the main structure and shall not exceed five hundred (500) square feet of floor area. See Chapter 20.456 (Accessory Use Regulations).
- (C) Detached Building. See Building, Detached.
- (D) "Development" means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

As used in this section, removal or harvesting of major vegetation is further defined in Section 20.308.080.

- (E) "Dwelling" means a building or portion thereof used exclusively for residential purposes, including one-family, two-family and multiple dwellings and boardinghouses, but not including hotels, motels, inns, bed and breakfast accommodations, hostels or other visitor accommodations.
- (F) "Dwelling, Single-Family" means a building containing not more than one (1) dwelling unit and designed for occupancy for not more than one (1) family.
- (G) "Dwelling, Two-Family (Duplex)" means a building containing two (2) dwelling units.
- (H) "Dwelling, Multifamily (Apartment)" means a building or portion thereof containing three (3) or more dwelling units.

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- (I) "Dwelling Group" means a group of two (2) or more dwelling units located on a parcel of land which is held in one (1) ownership. A parcel with a single-family dwelling and an accessory dwelling unit is not considered to be a dwelling group.
- (J) "Dwelling Unit" means a single unit containing complete, independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.

**Section 3:** Section 20.308.040 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.308.040 – Definitions (E).**

- (A) "Easement" means a recorded right or interest in the property of another, which entitles a holder thereof to use, privilege or benefit over said property.
- (B) "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.
- ~~(BC)~~ "Emergency" means a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.
- ~~(GD)~~ "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.
- ~~(DE)~~ "Endangered Species" means a species of animal or plant whose survival and reproduction in the wild are in immediate jeopardy from one (1) or more causes, including loss of habitat, change in habitat over-exploitation, predation, competition, disease, or other factors; or a species of animal or plant shall be presumed to be endangered as it is listed in (1) Sections 670.2 or 670.5, Title 14, California Administrative Code; or (2) Title 50, Code of Federal Regulations Sections 17.11 or 17.12 pursuant to the Federal Endangered Species Act as endangered.
- ~~(EF)~~ "Energy, Alternate" means alternate energy sources including energy from solar, wind, waves, biomass and cogeneration sources.
- ~~(FG)~~ "Energy Facility" means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.
- ~~(GH)~~ "Environmentally Sensitive Habitat Area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals.

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- (H) "Estuary" means a coastal water body usually semi-enclosed by land, but which has open, partially obstructed, or intermittent exchange with the ocean and in which ocean water is at least occasionally diluted by fresh water runoff from the land.

**Section 4.** Section 20.308.065 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.308.065 – Definitions (J).**

- (A) "Junior Accessory Dwelling Unit" or "JADU" is a living space not exceeding five hundred (500) square feet in size and contained entirely within a legally-authorized 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 20.458 (Accessory Dwelling Units).
- (AB) "Junk Yard" 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 5.** Section 20.316.010 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.316.010 - Family Residential.**

The Family Residential use type refers to the residential occupancy of dwelling units by families on a monthly or longer basis. Typical uses include occupancy of dwelling or apartment. Accessory dwelling units and junior accessory dwelling units are considered an accessory use and are not counted as dwelling units for purposes of the Family Residential definition. The following are family residential use types:

- (A) **Family Residential: Single-Family.** The use of a parcel for only one (1) dwelling unit.
- (B) **Family Residential: Two-Family.** The use of a parcel for two (2) dwelling units within a single building.
- (C) **Family Residential: Multifamily.** The use of a parcel for three (3) or more dwelling units in one (1) building.
- (D) **Family Residential: Dwelling Groups.** The use of a parcel for more than one (1) but not more than four (4) single-family dwellings. On the Remote Residential, Agricultural, Range Land, Forest Land, and Timber Land Production Districts, open space easements or other methods may be required on all open space land not included in the residential development area. Accessory dwelling units and junior accessory dwelling units are not permitted on parcels where a dwelling group is approved.
- (E) **Family Residential: Cluster Development.** The use of a parcel for more than four (4) dwelling units when clustered to enhance and protect the agriculture or natural resources of a site. Typical uses are single-family, two (2) family, or multiple-family units which shall meet the requirements in Chapter 20.412 (Clustering Development



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Combining District). Accessory dwelling units and junior accessory dwelling units are not permitted on parcels where a cluster development is approved.

- (F) **Family Residential: Boarding House.** The use of a building or portion thereof, other than an inn, bed and breakfast, hotel, motel, hostel, vacation home rental, or student/instructor temporary housing, where regular meals and/or lodging are provided for compensation or profit by prearrangement for periods of thirty (30) days or more for three (3) or more persons who do not constitute a family.

**Section 6.** Section 20.456.015 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.456.015 - Residential and Agricultural Use Types.**

Subject to the restrictions and limitations of this Chapter, including the granting of a Coastal Development Permit, where applicable, the following accessory buildings and uses shall be permitted in all zoning districts which allow a single-family residence:

- (A) **Private garages.**
- (B) **Children's playhouse, patios, porches, gazebos, etc.**
- (C) **Windmills.**
- (D) **Shops** (non-business purposes).
- (E) **Barns.**
- (F) **Private swimming pools and hot tubs** (not subject to setback requirements in the side or rear yards of any district).
- (G) **Accessory Living Unit.** Not more than one ~~accessory living unit~~ guest cottage or detached bedroom may be permitted on for each legal parcel. An accessory dwelling unit and/or a junior accessory dwelling unit may also be permitted, subject to the limitations established in Chapter 20.458.
- (H) **Room and Board.** The renting of not more than one (1) room for occupancy by transient guests for compensation or profit, except in an accessory dwelling unit/or a junior accessory dwelling unit on properties designated AG, RL, FL and TPZ where such use shall be prohibited.
- (I) **Day care center, family care home, or school,** for six (6) or less persons.
- (J) **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. All stored travel trailers or campers in excess of one (1) shall be stored out of sight from a public right-of-way. The connection, for any continuous period exceeding forty-eight (48) hours, 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.
- (K) **Home Occupations.** Subject to Chapter 20.448.
- (L) **Household Pets.** The keeping of dogs and cats and other household pets, but not including kennels.
- (M) **Accessory Parking.**

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- (1) The parking of one (1) large vehicle or construction equipment upon private property forty thousand (40,000) square feet or less in size.
- (2) The parking of two (2) large vehicles or construction equipment upon private property greater than forty thousand (40,000) square feet but less than five (5) acres.
- (3) The parking of three (3) large vehicles or construction equipment upon private property in excess of five (5) acres.
- (4) Nothing in this subsection shall restrict the number of vehicles or construction equipment used by the property owner for their own agricultural or home use.

As used in this subsection "large vehicle" shall mean vehicles of three-ton tare (unladen weight).

- (N) **Public Access.** The offer to dedicate and acceptance of a dedication for an accessway except that the construction of a public access trail and/or construction of a staircase accessway on a bluff face (as determined by the Department of Planning and Building Services) will require a Coastal Development Use Permit.
- (O) **Other Necessary and Customary Uses.** Accessory non-residential uses and non-residential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal permitted use, as determined by the Director of Planning and Building Services.

### **Section 7.**

The title of Chapter 20.458 of the Mendocino County Code is hereby amended to read as follows:

#### **Chapter 20.458 - ~~SECOND RESIDENTIAL~~ ACCESSORY DWELLING UNITS**

### **Section 8.**

Section 20.458.005 of the Mendocino County Code is hereby amended to read as follows:

#### **Sec. 20.458.005 - Declaration.**

The intent of this chapter is to regulate the creation of ~~second residential~~ accessory dwelling units in all zones within the unincorporated areas of the Coastal Zone of Mendocino County as required by Section 65852.2 of the California Government Code, as amended. Section 65852.2 establishes specific requirements for the regulation of accessory dwelling units with the goal of increasing statewide availability of smaller, more affordable housing units. In accordance with Section 65852.2, accessory dwelling units are not considered new residential units for the purpose of calculating residential density. This chapter is intended to protect coastal resources when regulating accessory dwelling units in the Coastal Zone, while also complying with the standards in Section 65852.2 to the greatest extent feasible.

**Section 9.** Section 20.458.010 of the Mendocino County Code is hereby amended in its entirety to read as follows:

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### **~~Sec. 20.458.010 – Prohibition.~~**

~~The creation and/or construction of a second residential unit as defined in Section 65852.2 of the California Government Code is prohibited. This prohibition does not apply in the Town of Gualala Plan planning area and to farm employee housing, farm labor housing, family care units, dwelling groups or residential clustering where such dwelling units are specifically provided for in other sections of this Division.~~

### **Section 20.458.010 - Cap on Number of Accessory Dwelling Units.**

The number of permitted accessory dwelling units within the Coastal Zone outside of the Gualala Town Plan area shall be limited to five hundred (500) units. Junior accessory dwelling units are exempted from this cap.

Any change to the cap on the number of accessory dwelling units shall require a Local Coastal Program amendment. Prior to a Local Coastal Program amendment to modify the cap, a traffic analysis shall be prepared to evaluate impacts associated with future growth on the capacity of State Route 1 in the Coastal Zone of Mendocino County.

Within the Gualala Town Plan area, a maximum of one hundred (100) accessory dwelling units shall be permitted. When this number has been reached, a review shall be conducted to determine if accessory dwelling units are meeting the intent of providing additional affordable housing and whether additional accessory dwelling units can be accommodated. Any change to the maximum number of accessory dwelling units in the Gualala Town Plan area shall require a Local Coastal Program amendment.

**Section 10.** Section 20.458.015 of the Mendocino County Code is hereby amended in its entirety to read as follows:

### **~~Sec. 20.458.015 – Findings.~~**

~~Section 65852.2 of the California Government Code authorized a local agency to establish, by ordinance, designated areas where second residential units may be permitted. This section further provides that the designation of such areas may be based on criteria including, but not limited to, the adequacy of water and sewer services, and the impact of second units on traffic flow.~~

~~Additional criteria which the Board of Supervisors determines to be applicable to the designation of areas for second units in the Coastal Zone of Mendocino County further include the regulation of second units by the California Coastal Commission and the policies of the Coastal Element of the General Plan, adopted in conformance with and pursuant to the provisions of Public Resources Code Section 30000 et. seq.~~

~~Of particular importance to the Board of Supervisors, and one of the main purposes for this Chapter, is that the Coastal Element does not include provisions for second residential units. It is fully the intent of the Board of Supervisors to initiate an amendment to the Coastal Element of the General Plan to provide for construction of second residential units within appropriate areas of the Coastal Zone.~~

~~When considering appropriate locations for the designation and allowance of second residential units, the Board intends to address the following issues:~~

- ~~(1) The adequacy of water, based upon the findings of the Coastal Groundwater Study;~~

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- ~~(2) Minimum parcel sizes and general soil characteristics to assure adequacy of septic capability;~~
- ~~(3) Potential traffic impacts, based upon existing development patterns, urbanizing areas, and highway capacity studies in progress.~~

~~The Board of Supervisors reluctantly concluded in 1985 that the development of second units in the unincorporated Coastal Zone of Mendocino County, in excess of those allowed pursuant to the provisions of the Coastal Element and this Division, may have adverse impacts on the public health, safety, and welfare, including water supply, septic capability and traffic.~~

~~The Board further finds and declares that the prohibition of second residential units at this time shall not be construed to mean that there are no suitable areas in the Coastal Zone where second residential units could be constructed. The Board recognizes that an absolute prohibition on second units will limit housing opportunities of the region. Therefore, this prohibition is only considered temporary until such time as the issues identified above can be adequately resolved to assure that there will be no adverse impacts to the public health, safety and welfare.~~

### **Section 20.458.015 - Permit.**

Accessory dwelling units or junior accessory dwelling units may be permitted in any zone that allows residential uses. Accessory dwelling units or junior accessory dwelling units may be permitted in accordance with one of the following determinations:

- (A) Determined to be exempt from the requirement to obtain a coastal development permit pursuant to Section 20.532.020; or
- (B) Determined to meet the criteria for a coastal development ministerial permit pursuant to Section 20.532.015(B); or
- (C) Determined to require a coastal development permit pursuant to Section 20.532.015 (A) or (E).

**Section 11.** A new Section 20.458.020 is added to the Mendocino County Code as follows:

### **Section 20.458.020 - General Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units.**

Accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) shall conform to the following standards:

- (A) An ADU or JADU shall only be permitted on a parcel that either contains an existing single-family dwelling or for which a building permit has been issued for the single-family dwelling.
- (B) An ADU may be attached to the single-family dwelling or located in a detached, separate structure.
- (C) An existing legally-authorized detached bedroom, guest cottage, or family care unit may be converted into an ADU consistent with the provisions of this Chapter.
- (D) Where a dwelling group or parcel clustering is approved, no ADU or JADU shall be allowed.

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- (E) ADUs and JADUs may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- (F) ADUs and JADUs are intended to increase the supply of non-transient housing. Restrictions regarding use of ADUs and/or JADUs as vacation home rentals are as follows:
- (1) In the coastal zone outside of the Gualala Town Plan area, on a parcel with an ADU or JADU, use of no more than one dwelling as a vacation home rental may only be permitted if the owner resides in either the single-family dwelling or the ADU or JADU.
  - (2) In the coastal zone, on parcels zoned AG, RL, FL or TPZ, use of an ADU or JADU as a vacation home rental or by transient guests shall be prohibited. Existing licensed vacation home rentals in legal, non-conforming ADUs located in AG, RL, FL and TPZ districts shall be phased out as business licenses are abandoned pursuant to Section 20.480.040. Vacation home rental licenses shall not be transferable to another location, person, or entity, except that the property owner may transfer the license to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the property owner serves as a trustee, which shall not be deemed a change of ownership for purposes of Section 6.04.070(g) of the County Code.
  - (3) Prior to obtaining a building permit for an ADU or JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations for the ADU and/or JADU, which shall run with the land, and be binding upon any future owners, heirs, or assigns.
  - (4) See Section 20.458.035(F) for restrictions on use of ADUs and JADUs as vacation home rentals in the Gualala Town Plan area.

**Section 12.** A new Section 20.458.025 is added to the Mendocino County Code as follows:

**Section 20.458.025 - Specific Standards for Accessory Dwelling Units.**

ADUs are subject to the following specific standards and criteria:

- (A) In the coastal zone outside of the Gualala Town Plan area, an ADU shall not be allowed if more than one (1) dwelling unit (including farm employee housing, farm labor housing, temporary family care unit, but not including a JADU) is located on the parcel, or if there currently exists more than one guest cottage or detached bedroom on the parcel.
- (B) ADUs shall conform to height, setback, lot coverage, site plan review, fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the ADU is located with the following exception:
- (1) An existing legally-authorized garage which does not meet setback requirements may be converted to an ADU and would not be considered an expansion of a legal, non-conforming use unless the conversion increases the non-conformity of the structure.
- (C) ADUs are subject to the following floor area limitations:
- (1) For a detached ADU, total floor space may not exceed 1,200 square feet.

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- (2) For an attached ADU, total floor space may not exceed 1,200 square feet or 50 percent of the floor space of the existing single-family dwelling, whichever is less.
- (3) Floor area limitations for ADUs in the Gualala Town Plan area are established in Section 20.458.035.
- (D) See Section 20.458.035 for additional and more restrictive standards for ADUs on properties within the Gualala Town Plan area.

**Section 13.** A new Section 20.458.030 is added to the Mendocino County Code as follows:

**Section 20.458.030 - Specific Standards for Junior Accessory Dwelling Units.**

JADUs are subject to the following specific standards and criteria:

- (A) In the coastal zone outside of the Gualala Town Plan area, a JADU may be allowed on a legal parcel in addition to one single-family dwelling, an ADU, and a maximum of one other accessory living unit (i.e., detached bedroom or guest cottage).
- (B) A JADU may only be established when either the single-family residence in which the JADU is created or the JADU will be occupied by the owner of the residence.
- (C) No more than one JADU may be located on a parcel.
- (D) A JADU must be contained entirely within a legally-authorized single-family dwelling and total floor space may not exceed 500 square feet.
- (E) A JADU may be located within an existing legally-authorized single-family dwelling that does not meet setback requirements and it would not be considered an expansion of a legal non-conforming structure unless the conversion increases the non-conformity of the structure.
- (F) A separate entrance to the JADU shall be provided, and interior access to the remainder of the single-family dwelling shall be maintained.
- (G) A JADU may share a bath with the single-family dwelling or have its own bath.
- (H) A JADU is required to include an efficiency kitchen as defined in Section 20.308.040(B).
- (I) For the purposes of fire and life protection ordinances and regulations, a JADU is to be considered part of the single-family dwelling.
- (J) Prior to obtaining a building permit for a JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a JADU, which shall run with the land, and be binding upon any future owners, heirs, or assigns.
- (K) See Section 20.458.035 for additional and more restrictive standards for JADUs on properties within the Gualala Town Plan area.

**Section 14.** A new Section 20.458.035 is added to the Mendocino County Code as follows:

**Section 20.458.035 - Specific Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units in the Gualala Town Plan Area.**

ADUs and JADUs in the Gualala Town Plan area are subject to all of the standards and requirements of this Chapter in addition to the following more restrictive standards:

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- (A) An ADU or JADU may not be permitted on parcels where there is more than one (1) dwelling unit (including temporary family care unit) or a guest cottage or detached bedroom.
- (B) ADUs or JADUs are prohibited on parcels that are located west of State Route 1.
- (C) On parcels that are less than one-half (0.5) acre in size, ADUs shall be required to be attached to the primary residence or as a second-story to a detached garage.
- (D) ADUs are subject to the following floor area limitations:
  - (1) For a detached ADU, total floor space may not exceed 960 square feet.
  - (2) For an attached ADU, total floor space may not exceed 500 square feet.
- (E) A JADU must be contained entirely within a legally-authorized single-family dwelling and total floor space may not exceed 500 square feet.
- (F) The use of any dwelling as a vacation home rental on a property with an ADU or JADU is prohibited. Prior to obtaining a building permit for an ADU or JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations for the ADU and/or JADU, which shall run with the land, and be binding upon any future owners, heirs, or assigns.

**Section 15.** A new Section 20.458.040 is added to the Mendocino County Code as follows:

### **Section 20.458.040 - Public Health and Safety Requirements.**

- (A) ADUs and JADUs shall comply with applicable local building code requirements. Fire sprinklers, however, shall not be required in an ADU or JADU if they are not required in the single-family dwelling.
- (B) The Division of Environmental Health shall review and approve the availability and adequacy of the water system for all ADUs in accordance with standards established in the "Coastal Groundwater Development Guidelines" and the Mendocino County Division of Environmental Health "Guidelines for Accessory Dwelling Units."
- (C) The Division of Environmental Health shall review and approve the availability and adequacy of the sewage disposal system for all ADUs in accordance with standards established in the Mendocino County Division of Environmental Health "Guidelines for Accessory Dwelling Units."
- (D) For ADUs, a preliminary clearance letter from CalFire shall be required for all ADUs on properties within a State Responsibility Area (SRA). For properties within a Local Responsibility Area, a letter shall be required from the local fire district indicating that all fire safety requirements can be satisfied. A letter from the local fire district shall also be required for properties within an SRA if the local fire district requests that ADU applications be referred for review and approval.
- (E) ADUs are prohibited in designated special flood hazard areas which are shown on Flood Insurance Rate Maps as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

**Section 16.** A new Section 20.458.045 is added to the Mendocino County Code as follows:

### **Section 20.458.045 - Coastal Resource Protections.**

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All ADUs shall comply with the following requirements for the protection of coastal resources:

- (A) An ADU may not be located within 100 feet of the boundary of an Environmentally Sensitive Habitat Area unless contained entirely within an existing legally-authorized structure. All new development associated with an ADU (well, water storage, septic improvements, parking and driveways, vegetation removal for fire safety, etc.) must also be located more than 100 feet from the boundary of an Environmentally Sensitive Habitat Area. An exception to this requirement may be authorized through the administrative or standard coastal development permit process in circumstances where the development is consistent with the standards established in Chapter 20.496.
- (B) An ADU may not be located within 125 feet of the edge of a coastal bluff unless contained entirely within an existing legally-authorized structure. An exception to this requirement may be authorized through the standard coastal development permit process where the development is consistent with the standards established in Chapter 20.500.
- (C) An ADU may not be located within a Highly Scenic Area unless the ADU would not be visible from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. An exception to this requirement may be authorized through the standard coastal development permit process in circumstances where the development is consistent with the standards established in Chapter 20.504.
- (D) An ADU may not be permitted if the total amount of grading associated with construction of the ADU is more than 20 cubic yards. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where the grading is consistent with the standards established in Chapter 20.492.
- (E) The following standards are established for the protection of agricultural and timber resources in the Coastal Zone:
  - (1) On parcels zoned AG, RL, FL or TPZ, a detached ADU may only be permitted, if it is located within 150 feet of existing legally-authorized structures.
  - (2) On parcels zoned AG or RL, an ADU may only be located on non-prime soils. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where the applicant can demonstrate through consistency with the Supplemental Findings contained in Section 20.532.100(A)(2) and (B), as applicable, that the ADU will not impact the long-term productivity of the agricultural land and that the ADU is compatible with the commercial growing and harvesting of timber.
  - (3) On parcels zoned FL and TPZ, an ADU may only be permitted in locations where no timber removal is necessary. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where the applicant can demonstrate through consistency with the Supplemental Findings contained in Section 20.532.100(A)(2) that the ADU will not impact the long-term productivity of soils and timberlands and that the ADU is compatible with the commercial growing and harvesting of timber.



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- (F) An ADU may not be permitted on a parcel within 200 feet of lands that are designated AG, RL, FL or TPZ unless it is attached to an existing legally-authorized residence and does not extend further into the setback from the parcel with AG, RL, FL or TPZ zoning. In such cases, the ADU would not be considered an expansion of a legal, non-conforming use.
- (G) An ADU may not interfere with a public or prescriptive easement for access to the blufftop and/or shoreline.
- (H) An ADU may not be permitted in an area designated as Floodplain ("FP") Combining District, Development Limitations ("DL") Combining District and/or Seismic Study ("SS") Combining District. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where a licensed engineer can demonstrate that the proposed development is consistent with the standards established in Chapter 20.492, Chapter 20.416, and Chapter 20.432, respectively.

**Section 17.** Section 20.458.020 of the Mendocino County Code is hereby amended in its entirety to read as follows.

**~~Sec. 20.458.020 – Gualala Town Plan Second Residential Units.~~**

~~Second residential units are permitted within the Gualala Town Plan area and are intended to provide affordable housing opportunities for long-term residential use within an area which is served by public water and sewer systems and is close to the service and employment center of Gualala. Second residential units are not intended to be used for transient habitation or as a visitor-serving accommodation of any kind. The provisions allowing for second residential accessory dwelling units are intended to encourage development of as much affordable housing as possible within the Gualala Town Plan area.~~

- (A) **~~Permit requirement.~~** ~~A standard Coastal Development Permit shall be required for all second residential units.~~
- (B) **~~Number of Second Residential Units.~~** ~~Notwithstanding other provisions of the Local Coastal Program that limit the number of residences to one (1) per unit per parcel, a maximum of one hundred (100) second residential units shall be permitted within the Gualala Town Plan area. When this number has been reached, a review shall be conducted to determine if second residential units are meeting the intention of this section and whether additional second residential units can be accommodated. Any change to the maximum number of second units shall require a Local Coastal Program Amendment.~~
- (C) **~~Permitted locations for Second Residential Units.~~**
  - (1) ~~Notwithstanding other provisions of the Local Coastal Program that limit the number of residences to one (1) per unit per parcel, second residential units shall be permitted on all legal parcels within the Gualala Town Plan area, with the exception of parcels located west of Highway 1, up to a maximum of one hundred (100). Second residential units shall not be permitted on parcels located west of Highway 1.~~
  - (2) ~~Second residential units shall only be constructed on parcels containing an existing single-family dwelling unit used for non-transient habitation or on parcels~~

## ATTACHMENT 2

~~for which an application has been made for building permits for a primary residence.~~

- ~~(3) Second residential units shall not be allowed if more than one dwelling unit is located on the parcel, or if an accessory residential unit (guest cottages, detached bedrooms) currently exists on the parcel.~~
- ~~(4) Second residential units shall not be allowed on parcels where a dwelling group or parcel clustering has been approved.~~

### ~~(D) Specific Standards for Second Residential Units.~~

- ~~(1) All second residential unit permits shall require that a deed restriction be recorded to ensure that all dwellings on the property will be used for non-transient habitation. Second residential units are not intended for sale separate from the primary residence but may be rented for long-term occupancy.~~
- ~~(2) On parcels that are less than ½ (0.5) acre in size, second residential units shall be attached to the primary residence or as a second story to a detached garage.~~
- ~~(3) Detached second residential units shall be restricted to a maximum size of nine hundred sixty (960) square feet.~~
- ~~(4) Attached second residential units shall be restricted to a maximum size of five hundred (500) square feet.~~
- ~~(5) Second residential units shall comply with all setback, lot coverage, height, parking and other requirements of the base zoning district.~~
- ~~(6) Either a hook-up to the North Gualala Water Company or an adequate on-site water system, as approved by the Division of Environmental Health, shall be available to serve the second residential unit.~~
- ~~(7) Either a hook-up to the Gualala Community Services District or an adequate on-site sewage disposal system, as approved by the Division of Environmental Health, shall be available to serve the second residential unit.~~

### **Section 20.458.020 - Parking Requirements.**

The following requirements and standards for off-street parking shall apply to ADUs and JADUs:

- (A) No additional parking is required for a JADU.
- (B) ADUs which meet any one of the following criteria are exempt from the parking requirements in this section:
  - (1) Located within one-half mile of a public transportation stop along a prescribed route according to a fixed schedule.
  - (2) Located within one block of a car share parking spot.
  - (3) Located entirely within the principal residence and the ADU does not result in a net increase in habitable floor area on the property.
  - (4) Located in an area where on-street permit parking is required, but such permits are not available to the tenant.
  - (5) Located within a designated historic district.

## ATTACHMENT 2

- (C) One parking space is required per ADU and the space may be provided through tandem parking.
- (D) Parking for ADUs is allowed in front, rear and side setback areas.
- (E) When a garage or covered parking structure is demolished or repurposed in conjunction with the construction of an ADU, the replacement parking spaces may be located in any configuration on the same lot parcel as the ADU, including but not limited to covered spaces, uncovered spaces, or tandem spaces.

**Section 18.** Section 20.472.015 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.472.015 - Residential.**

- (A) Single-family detached dwelling or mobile home: two (2) parking spaces.
- (B) Duplex: two (2) parking spaces for each unit.
- (C) Multiple-family/apartment/condominiums: one (1) parking space up to one (1) bedroom, one and one-half (1.5) parking spaces for two (2) bedrooms, two (2) parking spaces per unit for three (3) or more bedrooms.
- (D) Mobile home parks: two (2) parking spaces for each mobile home space.
- (E) Accessory dwelling unit: one (1) parking space per unit. See Chapter 20.458 (Accessory Dwelling Units).
- (F) Junior accessory dwelling unit: no parking required. See Chapter 20.458 (Accessory Dwelling Units).

**Section 19.** Section 20.532.015 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.532.015 - Permit Requirements.**

Permits required by this Chapter must be secured prior to any development in the Mendocino County Coastal Zone.

- (A) **Coastal Development Administrative Permit.** The purpose of Coastal Development Administrative Permits is to provide for the administrative issuance of coastal development permits. The coastal permit administrator may process as an administrative permit any coastal development permit application for the types of projects specified below, and emergency projects specified in Section 20.536.055. Development projects which are appealable to the Coastal Commission, including any division of land, shall not be processed as an administrative permit.
  - (1) Any single-family residence that is a principal permitted use within the zoning district in which the development site is located;
  - (2) Any other development specifically authorized as a principal permitted use within the zoning district in which the development site is located;
  - (3) Improvements to an existing structure;

## ATTACHMENT 2

- (4) Any other developments not in excess of one hundred thousand dollars (\$100,000) other than any division of land;
- (5) Any other development that is not appealable to the Coastal Commission if the Coastal Permit Administrator determines that it involves no potential for any adverse effects, either individually or cumulatively, on coastal resources, and that it will be consistent with the Certified Local Coastal Program and the public access policies of Chapter 3 of the Coastal Act. The determination shall be made in writing and based upon factual evidence.

**(B) Coastal Development Ministerial Permit.** The purpose of a coastal development ministerial permit is to provide for the administrative issuance of coastal development permits for accessory dwelling units which comply with the objective requirements specified in Section 20.458.045. Coastal development ministerial permits may be approved by the Director or his/her designee. A public hearing is not required for coastal development ministerial permits and they are not appealable to the Board of Supervisors. For development located within the appeal jurisdiction of the California Coastal Commission, coastal development ministerial permits are appealable to the Coastal Commission.

**(B)(C)** **Coastal Development Use Permit.** A use permit must be secured, pursuant to the requirements of these regulations prior to the initiation, modification or expansion of a use or development that is permitted only as a conditional use in a particular district.

**(C)(D)** **Coastal Development Variance.** Variances are discretionary adjustments in the regulations contained in this Division. Variances may only be granted to allow deviations from standards governing such development conditions as setbacks, lot coverage and lot width.

**(D)(E)** **Coastal Development Standard Permit.** A coastal development standard permit must be secured for any other activity not specified above which is defined as a development in Section 20.308.035(D), including, but not limited to, land divisions, lot line adjustments and any other entitlement for use.

**Section 20.** Section 20.532.020 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.532.020 - Exemptions.**

The following developments shall be exempt from this Chapter:

- (A) Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted;
- (B) Activities of public utilities as specified in the Repair, Maintenance and Utility Hookup Exclusion adopted by the Coastal Commission on September 5, 1978;
- (C) Improvements to single family residences except as otherwise specified in Subchapter 6, Title 14, California Administrative Code and any amendments thereafter;
- (D) Improvements to any structure other than single family residence or a public works facility, except as otherwise specified in Subchapter 7.5, Title 14, California Administrative Code and any amendments thereafter;

## ATTACHMENT 2

- (E) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform with Section 20.480.020, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk, of the destroyed structure by more than ten percent (10%) and shall be sited in the same location on the affected property as the destroyed structure;
- (F) Within the Gualala Town Plan planning area, structures which are destroyed by involuntary means or forces out of control of the owner(s), provided that the structure reconstructed after involuntary loss does not exceed the floor area, height, or bulk of the previously existing structure by more than ten percent (10%), restoration is started within one (1) year of the destruction, and the structure conforms to this Division;
- (G) Junior accessory dwellings units located entirely within an existing legally-authorized single-family residence which are consistent with the requirements of Chapter 20.458.

Accessory dwelling units located within an existing legally-permitted detached bedroom, guest house, or non-residential structure shall not be exempted from the requirement to obtain a coastal development permit.

As used in this section "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owners.

As used in this section, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

As used in this section "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

**Section 21.** Section 20. 532.045 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.532.045 - Authority to Act on Coastal Development Permit.**

Upon completion of project review and evaluation, the action to approve, conditionally approve, or deny a coastal development permit shall be taken by:

- (A) The Director or his/her designee in the case of coastal development ministerial permits;
- (B) The Coastal Permit Administrator in the case of coastal development standard permits for principal permitted uses and coastal development administrative permits; and by
- (C) The Planning Commission in the case of coastal development permits for conditional uses permits and divisions of land.

~~When a coastal development standard permit is required, action to approve, conditionally approve or deny a standard development permit shall be taken by the Director or his designee.~~

**Section 22.** Section 20. 532.055 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.532.055- Time Periods.**

## ATTACHMENT 2

Within one hundred eighty (180) days of filing of a complete application for a coastal development permit the Director, Coastal Permit Administrator or Planning Commission shall take such action as is specified in Section 20.532.050. The one hundred eighty (180) day time period may be extended once for a period not to exceed ninety (90) days with the written consent of the applicant and the Department. If the Director, Coastal Permit Administrator or Planning Commission does not act within the specified time period or extension thereof, the application shall be deemed to have been approved. The date of the actual filing of the application for the purposes of this Division shall be the date of the environmental determination as required by local and state environmental review procedures. When an application has been deemed approved by failure to act, such approval shall be subject to the notice requirements of Section 20.536.005(D).

**Section 23.** Section 20.536.001 is hereby added to the Mendocino County Code to read as follows:

### **Sec. 20.536.001- Coastal Development Ministerial Permits.**

- (A) Purpose.** The purpose of this section is to provide for the ministerial issuance of coastal development permits for accessory dwelling units that meet the requirements specified in Chapter 20.458.
- (B) Approval.** The Director or his/her designee may approve a coastal development ministerial permit without the requirement of a public hearing. Any permit approved by the Director or his/her designee for an accessory dwelling unit located in an area within the appeal jurisdiction of the California Coastal Commission shall contain a statement that the permit will not be effective until the appeal period to the California Coastal Commission has expired and no appeal has been filed.
- (C) Noticing.** Notice that the Director or his/her designee intends to approve a coastal development ministerial permit shall be mailed at least ten (10) calendar days prior to issuance by first class mail to:

  - (1) The applicant;
  - (2) All property owners within three hundred (300) feet of the property lines of the project site, and to each occupant of property within one hundred (100) feet of the property lines of the project site. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership;
  - (3) Any person who specifically requested, in writing, notice of such final action;
  - (4) The Coastal Commission; and
  - (5) The County Assessor.
- (D) Content of Notice.** The notice shall contain the following information:

  - (1) A statement that the development is within the coastal zone;
  - (2) The date of filing of the application and the name of the applicant;
  - (3) The case file number assigned to the application;
  - (4) A description of the development and its proposed location;

## ATTACHMENT 2

- (5) The date on which the coastal development ministerial permit was approved; and
- (6) If the development is located in an area that is subject to the appeal jurisdiction of the California Coastal Commission, a full disclosure of the procedure(s) for Coastal Commission appeals, including any fee(s) that may be required.
- (E) **Final Action.** A decision on a coastal development ministerial permit application shall not be deemed complete until the decision has been made and all required findings have been adopted.
- (F) **Notice of Final Action.** Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
  - (1) The applicant;
  - (2) Any person who specifically requested, in writing, notice of such final action;
  - (3) The Coastal Commission; and
  - (4) The County Assessor.

**Section 24.** Section 20. 536.010 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.536.010 - Coastal Development Permit Hearing and Notice Requirements.**

- (A) **Purpose.** The purpose of this section is to provide for the issuance of coastal development permits for those types of development projects which are not ministerial, administrative or emergency permits.
- (B) **Hearing.** The approving authority shall hold at least one public hearing on each coastal development application for an appealable development or for a non-appealable development which requires a public hearing pursuant to other provisions of this Division. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing. The hearing shall occur no earlier than ten (10) calendar days following the mailing of the notice required in Subsection (C) below.
- (C) **Notice.** At least ten (10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for a development subject to this section. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, to all property owners within three hundred (300) feet of the perimeter of the parcel on which the development is proposed, to all occupants of property within one hundred (100) feet of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership.
- (D) **Content of Notice.** The notice shall contain the following information:
  - (1) A statement that the development is within the coastal zone;
  - (2) The date of filing of the application and the name of the applicant;

## ATTACHMENT 2

- (3) The number assigned to the application;
- (4) A description of the development and its proposed location;
- (5) The date, time and place at which the application will be heard by the approving authority;
- (6) A brief description of the general procedure concerning the conduct of hearing and local actions; and
- (7) The system for local and Coastal Commission appeals, including any fee(s) that may be required.

If a hearing on a coastal development permit is continued to a time which has not been stated in the initial notice or at the public hearing, notice of the continued hearing shall be provided in the same manner and within the same time limits as required in Subsection (C) above.

- (E) **Final Action.** A decision on a coastal development permit application shall not be deemed complete until:
- (1) The decision has been made and all required findings have been adopted, and
  - (2) When all local rights of appeal have been exhausted in accordance with Chapter 20.544.
- (F) **Notice of Final Action.** Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
- (1) The applicant;
  - (2) Any person who specifically requested, in writing, notice of such final action; and
  - (3) The Coastal Commission.
  - (4) The County Assessor.
- (G) **Effective Date.** Decisions of the approving authority on an application for a development appealable to the Coastal Commission shall become final and effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. If the notice of final action is defective and does not contain information pursuant to Section 20.536.101(D) and Section 20.532.095(B)(1), if applicable, the permit decision will be stayed and will not become effective after expiration of the ten (10) working day appeal period. Where an application for a development is not appealable to the Coastal Commission, the decision of the approving authority shall become final and effective on the eleventh day following the action of the approving authority to approve or deny the coastal permit unless prior to said eleventh day an appeal of the decision is filed as provided by Chapter 20.544.

**Section 25.** Section 20. 536.020 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.536.020 - Application for Permit Amendment.**

Any person holding a coastal development permit may apply for a permit amendment by complying with Section 20.532.025 (Application and Fee). For the purposes of this section, the amendment of a coastal development permit may include amendment of the terms of the permit



## ATTACHMENT 2

itself, the waiver or alteration of conditions imposed pursuant to Sections 20.532.030 through 20.532.055.

- (A) **Definition of Permit Amendment.** An amendment to a coastal development permit shall be processed in accordance with Section 20.532.025 when an applicant is requesting any change to the development project that was the subject of the approved coastal development permit. When, in the opinion of the Director, a major revision constituting substantial alteration in the permit is requested, an amendment shall not be processed, and a new coastal development permit application must be made.

(B) **Amendment to Ministerial Permits.**

- (1) Amendments to ministerial permits may be approved by the Director or his/her designee based upon the same criteria and subject to the same reporting requirements and procedures as provided for issuance of ministerial permits in Section 20.536.001.
- (2) If any amendment would, in the opinion of the Director or his/her designee, change the nature of the project so that it no longer meets the criteria established for treating the application as a ministerial permit pursuant to Section 20.536.001, then the application shall thereafter be treated in the manner prescribed by Section 20.536.020(C)(2) dealing with amendments to permits other than ministerial and administrative permits.

(~~B~~C) **Amendment to Administrative Permits.**

- (1) Amendments to administrative permits may be approved by the Coastal Permit Administrator upon the same criteria and subject to the same reporting requirements and procedures, including public notice and appeals, as provided for issuance of administrative permits in Section 20.536.005.
- (2) If any amendment would, in the opinion of the Coastal Permit Administrator, change the nature of the project so that it no longer meets the criteria established for treating the application as an administrative permit pursuant to Section 20.532.015, then the application shall thereafter be treated in the manner prescribed by Section 20.536.020(C)(2) dealing with amendments to permits other than administrative permits.

(~~G~~D) **Amendment to Permits other than Ministerial Permits and Administrative Permits.**

- (1) The Director shall determine whether or not a proposed amendment is a material change to the approved permit. If the Director determines that the proposed amendment is immaterial, notice of such determination shall be posted at the project site. Notice of such determination also shall be given as provided in Section 20.536.005(D). If no written objection to the amendment is received within ten (10) working days of the notice, the determination of immateriality shall be conclusive and the amendment effective.
- (2) If the Director determines that the proposed amendment is a material change or if written objection is made to the determination of conditions that were required for the purpose of protecting a coastal resource or coastal access consistent with the findings required by Chapter 20.532, the application shall be referred to the

## ATTACHMENT 2

approving authority having original jurisdiction over the coastal development permit. The material amendment shall be subject to the hearing and notice requirements of Section 20.536.010.

**Section 26.** Section 20. 536.020 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.544.010 - Administrative Appeals.**

- (A) Request for a hearing before the Planning Commission may be made by an aggrieved person from any decision, determination, or requirement of the Planning and Building Services Department except for decisions by the Director or his/her designee on exemptions and ministerial coastal development permits for accessory dwelling units. An administrative appeal may be made by filing a notice thereof in writing with the Planning and Building Services Department within ten (10) calendar days after such decision, determination or requirement is made. Such appeal shall be accompanied by a fee.
- (B) The Planning and Building Services Department shall prepare a written report that includes its findings which shall be forwarded to the Planning Commission for action. The action of the Planning Commission is final unless appealed to the Board of Supervisors pursuant to Section 20.544.015.
- (C) Notice shall be provided pursuant to Section 20.536.010.

**Section 27. CEQA.** This ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080.17 which exempts adoption of an ordinance by a city or county to implement the provisions of Government Codes Sections 65852.1 or 65852.2.

Resolution Number PC\_2019-\_\_\_\_\_

County of Mendocino  
Ukiah, California  
July 18, 2019

OA\_2018-0009/GP\_2018-0003

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 GENERAL PLAN COASTAL ELEMENT, CHAPTERS 3.2, 3.3, AND 3.9 AND MENDOCINO COUNTY CODE, CHAPTERS 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536, AND 20.544 RELATED TO ACCESSORY DWELLING UNITS

WHEREAS, the County of Mendocino desires to amend its certified Local Coastal Program (LCP) to address the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) within the unincorporated areas of Mendocino County in the coastal zone; and

WHEREAS, the LCP amendment requires modifications to the Coastal Element of the Mendocino County General Plan and the Coastal Zoning Code (Mendocino County Code, Title 20, Division II); and

WHEREAS, pursuant to Gov't. Code Sections 65354 and 65855, the Planning Commission is to provide its report and recommendation to the Board of Supervisors on general plan and zoning amendments; and

WHEREAS, County Staff has, pursuant to the direction of the Board of Supervisors of Mendocino County, prepared a Local Coastal Program amendment (the "Project"), consisting of amendments to the Coastal Element of the Mendocino County General Plan which are attached to this Resolution as Exhibit A and incorporated herein by reference, and amendments to the Mendocino County Code, Title 20, Division II, which are attached to this resolution as Exhibit B and incorporated herein by reference; and

WHEREAS, the legislature of the State of California has found that certain classes of projects are exempt from the California Environmental Quality Act, including, pursuant to Public Resources Code Section 21080.17, the adoption of an ordinance to implement the provisions of Gov't. Code Section 65852.1 or 65852.2 regulating the construction of dwelling units and accessory dwelling units; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on July 18, 2019, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth 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 consistency findings:

1. 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.

2. The proposed Project is consistent with the 2009 Mendocino County General Plan, as well as the 2014 Housing Element.
3. The proposed Project aligns with the County's intention of encouraging and facilitating the development of an adequate supply of housing.

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 Department of Planning and Building Services, 860 N. Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission finds that the Project is not subject to CEQA pursuant to Public Resources Code Section 21087.17.

BE IT FURTHER RESOLVED that the Planning Commission, based on the evidence in the record, hereby recommends that the Board of Supervisors authorize submittal of a Local Coastal Program amendment application to the California Coastal Commission for certification and approve the Project by adopting a resolution amending Chapters 3.2, 3.3 and 3.9 of the Coastal Element of the General Plan and by adopting an ordinance amending Mendocino County Code, Title 20, Division II, Chapters 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536, and 20.544.

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

ATTEST: JAMES FEENAN  
Commission Services Supervisor

By: \_\_\_\_\_

BY: BRENT SCHULTZ  
Director

MARILYN OGLE, Chair  
Mendocino County Planning Commission

\_\_\_\_\_

\_\_\_\_\_

## EXHIBIT A

### GENERAL PLAN AMENDMENT #2018-0003 - MENDOCINO COUNTY COASTAL ELEMENT

CHAPTER 3.2 - AGRICULTURE. Amend Policy 3.2-1 as follows:

- 3.2-1 All agricultural land use, as represented within the agriculturally designated boundaries on the land use maps, shall be designated AG 60 or RL 160 for the purpose of determining density. This will support continued coastal agriculture use. One housing unit will be allowed for each existing parcel. Additional dwellings for resident agricultural workers shall be considered as conditional uses, subject to the provisions of this plan. Accessory dwelling units may also be permitted consistent California Government Code Section 65852.2 and with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II).

CHAPTER 3.3 - FORESTRY AND SOILS RESOURCES. Amend Policy 3.3-5 as follows:

- 3.3-5 TPZ lands or parcels entirely occupied by timberlands of commercial size shall have not more than one housing unit per 160 acres; county review and approval is required for more than one dwelling per legally created parcel. Accessory dwelling units may also be permitted consistent California Government Code Section 65852.2 and with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II). Housing units on a timberland parcel, portions of which are not timberland, shall be subject to the density regulations prescribed for the land use shown on the Land Use Maps. Such housing units shall be located, when feasible, on non-Timberland soils.

CHAPTER 3.9 - LOCATING AND PLANNING NEW DEVELOPMENT. Amend Policy 3.9-1 as follows:

- 3.9-1 An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:
- each community's desired amount and rate of growth.
  - providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.

In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists, and proposed development is consistent with all applicable policies of

## **EXHIBIT A**

this Coastal Element and is in compliance with existing codes and health standards. Accessory dwelling units may also be permitted consistent California Government Code Section 65852.2 and with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II). Determination of service capacity shall be made prior to the issuance of a coastal development permit.

EXHIBIT B

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE AMENDING CHAPTERS 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536, and 20.544 OF THE MENDOCINO COUNTY CODE AMENDING DEFINITIONS AND REQUIREMENTS RELATED TO ACCESSORY DWELLING UNITS**

**Section 1:** Section 20.308.020 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.308.020 – Definitions (A).**

- (A) "Access" means the permission, ability and means to enter and pass to and from property.
- (B) "Access, Blufftop" means a public accessway which runs along the bluff edge of a property.
- (C) "Access, Coastal" means public rights-of-way to and along the sea.
- (D) "Access, Lateral" means a public accessway for public access and use along the shoreline.
- (E) "Access, Vertical" means a public accessway which extends from the first public road to the shoreline, a bluff edge for public viewing or to a lateral accessway.
- (F) "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 outbuildings, etc. In no case shall such accessory structure dominate, in purpose, the principal lawful structure or use. This definition, by itself, is not intended to prohibit an accessory structure which is greater in size than the main structure. Accessory buildings shall not contain any sleeping quarters or kitchen facilities and are therefore not intended for human occupancy except as provided in Chapter 20.456.
- (G) "Accessory Dwelling Unit" or "ADU" means an attached or detached residential dwelling in compliance with Chapter 20.458, 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 20.458 (Accessory Dwelling Units).
- (GH) "Accessory Living Unit" means a detached bedroom as defined in Section 20.308.035(B), ~~or~~ a guest cottage as defined in Section 20.308.050(I), or an accessory dwelling unit as defined in Section 20.308.020(G).
- (HI) Accessory Structure. See Accessory Building.
- (IJ) "Accessory Use" means a use of land or of a structure incidental or subordinate to the principal use located upon the same lot.
- (JK) "Aggrieved Person" means any person who, in person or through a representative, appeared at a public hearing held by the County of Mendocino in accordance with these regulations, or who, by other appropriate means prior to action on a development permit or variance, informed the County of his or her concerns about the application for such permit and who objects to the action taken on such permit and wishes to appeal such action to a higher authority.

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- (~~K~~L) "Airport" means any area of land or water which is used or intended for use, for the landing and take-off of aircraft, and other appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, and all airport buildings and facilities located thereon.
- (~~L~~M) "Alley" means a public or private way used as a secondary means of access to abutting property or between two (2) streets.
- (~~M~~N) "Amendment" means any change, modification, deletion, or addition to the wording, text or substance of the Zoning Code, including any alteration in the boundaries of a zone, when adopted by ordinance and passed by the Board of Supervisors in the manner prescribed by law.
- (~~N~~O) "Anadromous Stream" means fresh water stream used as a migration corridor and spawning and nursery habitat by fish, such as salmon and steelhead trout, that live most of their lives in saltwater.
- (~~O~~P) "Animal Raising." See Light Agriculture.
- (~~P~~Q) "Animal Waste Processing" means processing of animal waste and byproducts, including but not limited to animal manure, animal bedding waste, and similar byproducts of an animal raising agricultural operation, for use as a commercial fertilizer or soil amendment.
- (~~Q~~R) "Animals, Large" means cows, horses, sheep, goats, swine or similar bovine or equine animals.
- (~~R~~S) "Animals, Small" means dogs, cats, birds, poultry, rabbits, chinchillas, hamsters, or other small domesticated animals other than large animals.
- (~~S~~T) "Applicant" means the person, partnership, organization, corporation or state or local government agency applying for a coastal development permit or other land use approval pursuant to this Division.
- (~~T~~U) "Approving Authority" means the Planning and Building Services Department, Coastal Permit Administrator, Planning Commission or Board of Supervisors authorized by this Division to make decisions affecting the Administration or enforcement of this Division.
- (~~U~~V) "Aquaculture means that form of agriculture devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish and freshwater.
- (~~V~~W) "Archaeological Site" means any area containing significant or important archaeological resources as defined in Appendix K Section EII of the California Environmental Quality Act (CEQA). Any person who in the preparation for or in the process of excavating or otherwise disturbing earth, discovers any archaeological or paleontological site shall cease and desist from all further excavation within one hundred (100) feet of the discovery and notify the Director of the Department of Planning and Building Services in conformance with Mendocino County Code Chapter 22.12. See also Paleontological Site.
- (~~W~~X) "Area of Special Flood Hazard" (See "Special flood hazard area" Section 22.17.100).
- (~~X~~Y) "Automobile Wrecking" means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, dumping or abandonment 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.



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**Section 2:** Section 20.308.035 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.308.035 – Definitions (D).**

- (A) "Density" means the number of dwelling units per acre or square feet, calculated as the total number of dwelling units divided by the total lot area within the boundaries of the lot. Accessory dwelling units and junior accessory dwelling units are not considered to be dwelling units for the purpose of density calculations.
- (B) "Detached Bedroom" means a separate incidental structure containing one (1) room only without a kitchen or sanitation facilities, designed for and intended to be used as a sleeping or living facility for family members to be used in conjunction with a main structure which includes kitchen and sanitation facilities. A detached bedroom shall be located no farther than one hundred fifty (150) feet from the main structure and shall not exceed five hundred (500) square feet of floor area. See Chapter 20.456 (Accessory Use Regulations).
- (C) Detached Building. See Building, Detached.
- (D) "Development" means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

As used in this section, removal or harvesting of major vegetation is further defined in Section 20.308.080.

- (E) "Dwelling" means a building or portion thereof used exclusively for residential purposes, including one-family, two-family and multiple dwellings and boardinghouses, but not including hotels, motels, inns, bed and breakfast accommodations, hostels or other visitor accommodations.
- (F) "Dwelling, Single-Family" means a building containing not more than one (1) dwelling unit and designed for occupancy for not more than one (1) family.
- (G) "Dwelling, Two-Family (Duplex)" means a building containing two (2) dwelling units.
- (H) "Dwelling, Multifamily (Apartment)" means a building or portion thereof containing three (3) or more dwelling units.

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- (I) "Dwelling Group" means a group of two (2) or more dwelling units located on a parcel of land which is held in one (1) ownership. A parcel with a single-family dwelling and an accessory dwelling unit is not considered to be a dwelling group.
- (J) "Dwelling Unit" means a single unit containing complete, independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.

**Section 3:** Section 20.308.040 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.308.040 – Definitions (E).**

- (A) "Easement" means a recorded right or interest in the property of another, which entitles a holder thereof to use, privilege or benefit over said property.
- (B) "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.
- (~~BC~~) "Emergency" means a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.
- (~~GD~~) "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.
- (~~DE~~) "Endangered Species" means a species of animal or plant whose survival and reproduction in the wild are in immediate jeopardy from one (1) or more causes, including loss of habitat, change in habitat over-exploitation, predation, competition, disease, or other factors; or a species of animal or plant shall be presumed to be endangered as it is listed in (1) Sections 670.2 or 670.5, Title 14, California Administrative Code; or (2) Title 50, Code of Federal Regulations Sections 17.11 or 17.12 pursuant to the Federal Endangered Species Act as endangered.
- (~~EF~~) "Energy, Alternate" means alternate energy sources including energy from solar, wind, waves, biomass and cogeneration sources.
- (~~FG~~) "Energy Facility" means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.
- (~~GH~~) "Environmentally Sensitive Habitat Area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals.

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- (H) "Estuary" means a coastal water body usually semi-enclosed by land, but which has open, partially obstructed, or intermittent exchange with the ocean and in which ocean water is at least occasionally diluted by fresh water runoff from the land.

**Section 4.** Section 20.308.065 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.308.065 – Definitions (J).**

- (A) "Junior Accessory Dwelling Unit" or "JADU" is a living space not exceeding five hundred (500) square feet in size and contained entirely within a legally-authorized 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 20.458 (Accessory Dwelling Units).
- (AB) "Junk Yard" 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 5.** Section 20.316.010 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.316.010 - Family Residential.**

The Family Residential use type refers to the residential occupancy of dwelling units by families on a monthly or longer basis. Typical uses include occupancy of dwelling or apartment. Accessory dwelling units and junior accessory dwelling units are considered an accessory use and are not counted as dwelling units for purposes of the Family Residential definition. The following are family residential use types:

- (A) **Family Residential: Single-Family.** The use of a parcel for only one (1) dwelling unit.
- (B) **Family Residential: Two-Family.** The use of a parcel for two (2) dwelling units within a single building.
- (C) **Family Residential: Multifamily.** The use of a parcel for three (3) or more dwelling units in one (1) building.
- (D) **Family Residential: Dwelling Groups.** The use of a parcel for more than one (1) but not more than four (4) single-family dwellings. On the Remote Residential, Agricultural, Range Land, Forest Land, and Timber Land Production Districts, open space easements or other methods may be required on all open space land not included in the residential development area. Accessory dwelling units and junior accessory dwelling units are not permitted on parcels where a dwelling group is approved.
- (E) **Family Residential: Cluster Development.** The use of a parcel for more than four (4) dwelling units when clustered to enhance and protect the agriculture or natural resources of a site. Typical uses are single-family, two (2) family, or multiple-family units which shall meet the requirements in Chapter 20.412 (Clustering Development

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Combining District). Accessory dwelling units and junior accessory dwelling units are not permitted on parcels where a cluster development is approved.

- (F) **Family Residential: Boarding House.** The use of a building or portion thereof, other than an inn, bed and breakfast, hotel, motel, hostel, vacation home rental, or student/instructor temporary housing, where regular meals and/or lodging are provided for compensation or profit by prearrangement for periods of thirty (30) days or more for three (3) or more persons who do not constitute a family.

**Section 6.** Section 20.456.015 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.456.015 - Residential and Agricultural Use Types.**

Subject to the restrictions and limitations of this Chapter, including the granting of a Coastal Development Permit, where applicable, the following accessory buildings and uses shall be permitted in all zoning districts which allow a single-family residence:

- (A) **Private garages.**
- (B) **Children's playhouse, patios, porches, gazebos, etc.**
- (C) **Windmills.**
- (D) **Shops** (non-business purposes).
- (E) **Barns.**
- (F) **Private swimming pools and hot tubs** (not subject to setback requirements in the side or rear yards of any district).
- (G) **Accessory Living Unit.** Not more than one ~~accessory living unit~~ guest cottage or detached bedroom may be permitted on for each legal parcel. An accessory dwelling unit and/or a junior accessory dwelling unit may also be permitted, subject to the limitations established in Chapter 20.458.
- (H) **Room and Board.** The renting of not more than one (1) room for occupancy by transient guests for compensation or profit, except in an accessory dwelling unit/or a junior accessory dwelling unit on properties designated AG, RL, FL and TPZ where such use shall be prohibited.
- (I) **Day care center, family care home, or school,** for six (6) or less persons.
- (J) **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. All stored travel trailers or campers in excess of one (1) shall be stored out of sight from a public right-of-way. The connection, for any continuous period exceeding forty-eight (48) hours, 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.
- (K) **Home Occupations.** Subject to Chapter 20.448.
- (L) **Household Pets.** The keeping of dogs and cats and other household pets, but not including kennels.
- (M) **Accessory Parking.**

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- (1) The parking of one (1) large vehicle or construction equipment upon private property forty thousand (40,000) square feet or less in size.
- (2) The parking of two (2) large vehicles or construction equipment upon private property greater than forty thousand (40,000) square feet but less than five (5) acres.
- (3) The parking of three (3) large vehicles or construction equipment upon private property in excess of five (5) acres.
- (4) Nothing in this subsection shall restrict the number of vehicles or construction equipment used by the property owner for their own agricultural or home use.

As used in this subsection "large vehicle" shall mean vehicles of three-ton tare (unladen weight).

- (N) **Public Access.** The offer to dedicate and acceptance of a dedication for an accessway except that the construction of a public access trail and/or construction of a staircase accessway on a bluff face (as determined by the Department of Planning and Building Services) will require a Coastal Development Use Permit.
- (O) **Other Necessary and Customary Uses.** Accessory non-residential uses and non-residential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal permitted use, as determined by the Director of Planning and Building Services.

### **Section 7.**

The title of Chapter 20.458 of the Mendocino County Code is hereby amended to read as follows:

#### **Chapter 20.458 - ~~SECOND RESIDENTIAL~~ ACCESSORY DWELLING UNITS**

### **Section 8.**

Section 20.458.005 of the Mendocino County Code is hereby amended to read as follows:

#### **Sec. 20.458.005 - Declaration.**

The intent of this chapter is to regulate the creation of ~~second residential~~ accessory dwelling units in all zones within the unincorporated areas of the Coastal Zone of Mendocino County as required by Section 65852.2 of the California Government Code, as amended. Section 65852.2 establishes specific requirements for the regulation of accessory dwelling units with the goal of increasing statewide availability of smaller, more affordable housing units. In accordance with Section 65852.2, accessory dwelling units are not considered new residential units for the purpose of calculating residential density. This chapter is intended to protect coastal resources when regulating accessory dwelling units in the Coastal Zone, while also complying with the standards in Section 65852.2 to the greatest extent feasible.

**Section 9.** Section 20.458.010 of the Mendocino County Code is hereby amended in its entirety to read as follows:

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### **~~Sec. 20.458.010 – Prohibition.~~**

~~The creation and/or construction of a second residential unit as defined in Section 65852.2 of the California Government Code is prohibited. This prohibition does not apply in the Town of Gualala Plan planning area and to farm employee housing, farm labor housing, family care units, dwelling groups or residential clustering where such dwelling units are specifically provided for in other sections of this Division.~~

### **Section 20.458.010 - Cap on Number of Accessory Dwelling Units.**

The number of permitted accessory dwelling units within the Coastal Zone outside of the Gualala Town Plan area shall be limited to five hundred (500) units. Junior accessory dwelling units are exempted from this cap.

Any change to the cap on the number of accessory dwelling units shall require a Local Coastal Program amendment. Prior to a Local Coastal Program amendment to modify the cap, a traffic analysis shall be prepared to evaluate impacts associated with future growth on the capacity of State Route 1 in the Coastal Zone of Mendocino County.

Within the Gualala Town Plan area, a maximum of one hundred (100) accessory dwelling units shall be permitted. When this number has been reached, a review shall be conducted to determine if accessory dwelling units are meeting the intent of providing additional affordable housing and whether additional accessory dwelling units can be accommodated. Any change to the maximum number of accessory dwelling units in the Gualala Town Plan area shall require a Local Coastal Program amendment.

**Section 10.** Section 20.458.015 of the Mendocino County Code is hereby amended in its entirety to read as follows:

### **~~Sec. 20.458.015 – Findings.~~**

~~Section 65852.2 of the California Government Code authorized a local agency to establish, by ordinance, designated areas where second residential units may be permitted. This section further provides that the designation of such areas may be based on criteria including, but not limited to, the adequacy of water and sewer services, and the impact of second units on traffic flow.~~

~~Additional criteria which the Board of Supervisors determines to be applicable to the designation of areas for second units in the Coastal Zone of Mendocino County further include the regulation of second units by the California Coastal Commission and the policies of the Coastal Element of the General Plan, adopted in conformance with and pursuant to the provisions of Public Resources Code Section 30000 et. seq.~~

~~Of particular importance to the Board of Supervisors, and one of the main purposes for this Chapter, is that the Coastal Element does not include provisions for second residential units. It is fully the intent of the Board of Supervisors to initiate an amendment to the Coastal Element of the General Plan to provide for construction of second residential units within appropriate areas of the Coastal Zone.~~

~~When considering appropriate locations for the designation and allowance of second residential units, the Board intends to address the following issues:~~

- ~~(1) The adequacy of water, based upon the findings of the Coastal Groundwater Study;~~

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- ~~(2) Minimum parcel sizes and general soil characteristics to assure adequacy of septic capability;~~
- ~~(3) Potential traffic impacts, based upon existing development patterns, urbanizing areas, and highway capacity studies in progress.~~

~~The Board of Supervisors reluctantly concluded in 1985 that the development of second units in the unincorporated Coastal Zone of Mendocino County, in excess of those allowed pursuant to the provisions of the Coastal Element and this Division, may have adverse impacts on the public health, safety, and welfare, including water supply, septic capability and traffic.~~

~~The Board further finds and declares that the prohibition of second residential units at this time shall not be construed to mean that there are no suitable areas in the Coastal Zone where second residential units could be constructed. The Board recognizes that an absolute prohibition on second units will limit housing opportunities of the region. Therefore, this prohibition is only considered temporary until such time as the issues identified above can be adequately resolved to assure that there will be no adverse impacts to the public health, safety and welfare.~~

### **Section 20.458.015 - Permit.**

Accessory dwelling units or junior accessory dwelling units may be permitted in any zone that allows residential uses. Accessory dwelling units or junior accessory dwelling units may be permitted in accordance with one of the following determinations:

- (A) Determined to be exempt from the requirement to obtain a coastal development permit pursuant to Section 20.532.020; or
- (B) Determined to meet the criteria for a coastal development ministerial permit pursuant to Section 20.532.015(B); or
- (C) Determined to require a coastal development permit pursuant to Section 20.532.015 (A) or (E).

**Section 11.** A new Section 20.458.020 is added to the Mendocino County Code as follows:

### **Section 20.458.020 - General Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units.**

Accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) shall conform to the following standards:

- (A) An ADU or JADU shall only be permitted on a parcel that either contains an existing single-family dwelling or for which a building permit has been issued for the single-family dwelling.
- (B) An ADU may be attached to the single-family dwelling or located in a detached, separate structure.
- (C) An existing legally-authorized detached bedroom, guest cottage, or family care unit may be converted into an ADU consistent with the provisions of this Chapter.
- (D) Where a dwelling group or parcel clustering is approved, no ADU or JADU shall be allowed.

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- (E) ADUs and JADUs may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- (F) ADUs and JADUs are intended to increase the supply of non-transient housing. Restrictions regarding use of ADUs and/or JADUs as vacation home rentals are as follows:
  - (1) In the coastal zone outside of the Gualala Town Plan area, on a parcel with an ADU or JADU, use of no more than one dwelling as a vacation home rental may only be permitted if the owner resides in either the single-family dwelling or the ADU or JADU.
  - (2) In the coastal zone, on parcels zoned AG, RL, FL or TPZ, use of an ADU or JADU as a vacation home rental or by transient guests shall be prohibited. Existing licensed vacation home rentals in legal, non-conforming ADUs located in AG, RL, FL and TPZ districts shall be phased out as business licenses are abandoned pursuant to Section 20.480.040. Vacation home rental licenses shall not be transferable to another location, person, or entity, except that the property owner may transfer the license to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the property owner serves as a trustee, which shall not be deemed a change of ownership for purposes of Section 6.04.070(g) of the County Code.
  - (3) Prior to obtaining a building permit for an ADU or JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations for the ADU and/or JADU, which shall run with the land, and be binding upon any future owners, heirs, or assigns.
  - (4) See Section 20.458.035(F) for restrictions on use of ADUs and JADUs as vacation home rentals in the Gualala Town Plan area.

**Section 12.** A new Section 20.458.025 is added to the Mendocino County Code as follows:

### **Section 20.458.025 - Specific Standards for Accessory Dwelling Units.**

ADUs are subject to the following specific standards and criteria:

- (A) In the coastal zone outside of the Gualala Town Plan area, an ADU shall not be allowed if more than one (1) dwelling unit (including farm employee housing, farm labor housing, temporary family care unit, but not including a JADU) is located on the parcel, or if there currently exists more than one guest cottage or detached bedroom on the parcel.
- (B) ADUs shall conform to height, setback, lot coverage, site plan review, fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the ADU is located with the following exception:
  - (1) An existing legally-authorized garage which does not meet setback requirements may be converted to an ADU and would not be considered an expansion of a legal, non-conforming use unless the conversion increases the non-conformity of the structure.
- (C) ADUs are subject to the following floor area limitations:
  - (1) For a detached ADU, total floor space may not exceed 1,200 square feet.



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- (2) For an attached ADU, total floor space may not exceed 1,200 square feet or 50 percent of the floor space of the existing single-family dwelling, whichever is less.
- (3) Floor area limitations for ADUs in the Gualala Town Plan area are established in Section 20.458.035.
- (D) See Section 20.458.035 for additional and more restrictive standards for ADUs on properties within the Gualala Town Plan area.

**Section 13.** A new Section 20.458.030 is added to the Mendocino County Code as follows:

### **Section 20.458.030 - Specific Standards for Junior Accessory Dwelling Units.**

JADUs are subject to the following specific standards and criteria:

- (A) In the coastal zone outside of the Gualala Town Plan area, a JADU may be allowed on a legal parcel in addition to one single-family dwelling, an ADU, and a maximum of one other accessory living unit (i.e., detached bedroom or guest cottage).
- (B) A JADU may only be established when either the single-family residence in which the JADU is created or the JADU will be occupied by the owner of the residence.
- (C) No more than one JADU may be located on a parcel.
- (D) A JADU must be contained entirely within a legally-authorized single-family dwelling and total floor space may not exceed 500 square feet.
- (E) A JADU may be located within an existing legally-authorized single-family dwelling that does not meet setback requirements and it would not be considered an expansion of a legal non-conforming structure unless the conversion increases the non-conformity of the structure.
- (F) A separate entrance to the JADU shall be provided, and interior access to the remainder of the single-family dwelling shall be maintained.
- (G) A JADU may share a bath with the single-family dwelling or have its own bath.
- (H) A JADU is required to include an efficiency kitchen as defined in Section 20.308.040(B).
- (I) For the purposes of fire and life protection ordinances and regulations, a JADU is to be considered part of the single-family dwelling.
- (J) Prior to obtaining a building permit for a JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a JADU, which shall run with the land, and be binding upon any future owners, heirs, or assigns.
- (K) See Section 20.458.035 for additional and more restrictive standards for JADUs on properties within the Gualala Town Plan area.

**Section 14.** A new Section 20.458.035 is added to the Mendocino County Code as follows:

### **Section 20.458.035 - Specific Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units in the Gualala Town Plan Area.**

ADUs and JADUs in the Gualala Town Plan area are subject to all of the standards and requirements of this Chapter in addition to the following more restrictive standards:

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- (A) An ADU or JADU may not be permitted on parcels where there is more than one (1) dwelling unit (including temporary family care unit) or a guest cottage or detached bedroom.
- (B) ADUs or JADUs are prohibited on parcels that are located west of State Route 1.
- (C) On parcels that are less than one-half (0.5) acre in size, ADUs shall be required to be attached to the primary residence or as a second-story to a detached garage.
- (D) ADUs are subject to the following floor area limitations:
  - (1) For a detached ADU, total floor space may not exceed 960 square feet.
  - (2) For an attached ADU, total floor space may not exceed 500 square feet.
- (E) A JADU must be contained entirely within a legally-authorized single-family dwelling and total floor space may not exceed 500 square feet.
- (F) The use of any dwelling as a vacation home rental on a property with an ADU or JADU is prohibited. Prior to obtaining a building permit for an ADU or JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations for the ADU and/or JADU, which shall run with the land, and be binding upon any future owners, heirs, or assigns.

**Section 15.** A new Section 20.458.040 is added to the Mendocino County Code as follows:

### **Section 20.458.040 - Public Health and Safety Requirements.**

- (A) ADUs and JADUs shall comply with applicable local building code requirements. Fire sprinklers, however, shall not be required in an ADU or JADU if they are not required in the single-family dwelling.
- (B) The Division of Environmental Health shall review and approve the availability and adequacy of the water system for all ADUs in accordance with standards established in the "Coastal Groundwater Development Guidelines" and the Mendocino County Division of Environmental Health "Guidelines for Accessory Dwelling Units."
- (C) The Division of Environmental Health shall review and approve the availability and adequacy of the sewage disposal system for all ADUs in accordance with standards established in the Mendocino County Division of Environmental Health "Guidelines for Accessory Dwelling Units."
- (D) For ADUs, a preliminary clearance letter from CalFire shall be required for all ADUs on properties within a State Responsibility Area (SRA). For properties within a Local Responsibility Area, a letter shall be required from the local fire district indicating that all fire safety requirements can be satisfied. A letter from the local fire district shall also be required for properties within an SRA if the local fire district requests that ADU applications be referred for review and approval.
- (E) ADUs are prohibited in designated special flood hazard areas which are shown on Flood Insurance Rate Maps as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

**Section 16.** A new Section 20.458.045 is added to the Mendocino County Code as follows:

### **Section 20.458.045 - Coastal Resource Protections.**

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All ADUs shall comply with the following requirements for the protection of coastal resources:

- (A) An ADU may not be located within 100 feet of the boundary of an Environmentally Sensitive Habitat Area unless contained entirely within an existing legally-authorized structure. All new development associated with an ADU (well, water storage, septic improvements, parking and driveways, vegetation removal for fire safety, etc.) must also be located more than 100 feet from the boundary of an Environmentally Sensitive Habitat Area. An exception to this requirement may be authorized through the administrative or standard coastal development permit process in circumstances where the development is consistent with the standards established in Chapter 20.496.
- (B) An ADU may not be located within 125 feet of the edge of a coastal bluff unless contained entirely within an existing legally-authorized structure. An exception to this requirement may be authorized through the standard coastal development permit process where the development is consistent with the standards established in Chapter 20.500.
- (C) An ADU may not be located within a Highly Scenic Area unless the ADU would not be visible from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. An exception to this requirement may be authorized through the standard coastal development permit process in circumstances where the development is consistent with the standards established in Chapter 20.504.
- (D) An ADU may not be permitted if the total amount of grading associated with construction of the ADU is more than 20 cubic yards. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where the grading is consistent with the standards established in Chapter 20.492.
- (E) The following standards are established for the protection of agricultural and timber resources in the Coastal Zone:
  - (1) On parcels zoned AG, RL, FL or TPZ, a detached ADU may only be permitted, if it is located within 150 feet of existing legally-authorized structures.
  - (2) On parcels zoned AG or RL, an ADU may only be located on non-prime soils. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where the applicant can demonstrate through consistency with the Supplemental Findings contained in Section 20.532.100(A)(2) and (B), as applicable, that the ADU will not impact the long-term productivity of the agricultural land and that the ADU is compatible with the commercial growing and harvesting of timber.
  - (3) On parcels zoned FL and TPZ, an ADU may only be permitted in locations where no timber removal is necessary. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where the applicant can demonstrate through consistency with the Supplemental Findings contained in Section 20.532.100(A)(2) that the ADU will not impact the long-term productivity of soils and timberlands and that the ADU is compatible with the commercial growing and harvesting of timber.

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- (F) An ADU may not be permitted on a parcel within 200 feet of lands that are designated AG, RL, FL or TPZ unless it is attached to an existing legally-authorized residence and does not extend further into the setback from the parcel with AG, RL, FL or TPZ zoning. In such cases, the ADU would not be considered an expansion of a legal, non-conforming use.
- (G) An ADU may not interfere with a public or prescriptive easement for access to the blufftop and/or shoreline.
- (H) An ADU may not be permitted in an area designated as Floodplain ("FP") Combining District, Development Limitations ("DL") Combining District and/or Seismic Study ("SS") Combining District. An exception to this requirement may be authorized through the administrative or standard coastal development permit process, as applicable, in circumstances where a licensed engineer can demonstrate that the proposed development is consistent with the standards established in Chapter 20.492, Chapter 20.416, and Chapter 20.432, respectively.

**Section 17.** Section 20.458.020 of the Mendocino County Code is hereby amended in its entirety to read as follows.

**~~Sec. 20.458.020 – Gualala Town Plan Second Residential Units.~~**

~~Second residential units are permitted within the Gualala Town Plan area and are intended to provide affordable housing opportunities for long-term residential use within an area which is served by public water and sewer systems and is close to the service and employment center of Gualala. Second residential units are not intended to be used for transient habitation or as a visitor-serving accommodation of any kind. The provisions allowing for second residential accessory dwelling units are intended to encourage development of as much affordable housing as possible within the Gualala Town Plan area.~~

- (A) **~~Permit requirement.~~** ~~A standard Coastal Development Permit shall be required for all second residential units.~~
- (B) **~~Number of Second Residential Units.~~** ~~Notwithstanding other provisions of the Local Coastal Program that limit the number of residences to one (1) per unit per parcel, a maximum of one hundred (100) second residential units shall be permitted within the Gualala Town Plan area. When this number has been reached, a review shall be conducted to determine if second residential units are meeting the intention of this section and whether additional second residential units can be accommodated. Any change to the maximum number of second units shall require a Local Coastal Program Amendment.~~
- (C) **~~Permitted locations for Second Residential Units.~~**
  - (1) ~~Notwithstanding other provisions of the Local Coastal Program that limit the number of residences to one (1) per unit per parcel, second residential units shall be permitted on all legal parcels within the Gualala Town Plan area, with the exception of parcels located west of Highway 1, up to a maximum of one hundred (100). Second residential units shall not be permitted on parcels located west of Highway 1.~~
  - (2) ~~Second residential units shall only be constructed on parcels containing an existing single-family dwelling unit used for non-transient habitation or on parcels~~

## EXHIBIT B

~~for which an application has been made for building permits for a primary residence.~~

- ~~(3) Second residential units shall not be allowed if more than one dwelling unit is located on the parcel, or if an accessory residential unit (guest cottages, detached bedrooms) currently exists on the parcel.~~
- ~~(4) Second residential units shall not be allowed on parcels where a dwelling group or parcel clustering has been approved.~~

### ~~(D) Specific Standards for Second Residential Units.~~

- ~~(1) All second residential unit permits shall require that a deed restriction be recorded to ensure that all dwellings on the property will be used for non-transient habitation. Second residential units are not intended for sale separate from the primary residence but may be rented for long-term occupancy.~~
- ~~(2) On parcels that are less than ½ (0.5) acre in size, second residential units shall be attached to the primary residence or as a second story to a detached garage.~~
- ~~(3) Detached second residential units shall be restricted to a maximum size of nine hundred sixty (960) square feet.~~
- ~~(4) Attached second residential units shall be restricted to a maximum size of five hundred (500) square feet.~~
- ~~(5) Second residential units shall comply with all setback, lot coverage, height, parking and other requirements of the base zoning district.~~
- ~~(6) Either a hook-up to the North Gualala Water Company or an adequate on-site water system, as approved by the Division of Environmental Health, shall be available to serve the second residential unit.~~
- ~~(7) Either a hook-up to the Gualala Community Services District or an adequate on-site sewage disposal system, as approved by the Division of Environmental Health, shall be available to serve the second residential unit.~~

### **Section 20.458.020 - Parking Requirements.**

The following requirements and standards for off-street parking shall apply to ADUs and JADUs:

- (A) No additional parking is required for a JADU.
- (B) ADUs which meet any one of the following criteria are exempt from the parking requirements in this section:
  - (1) Located within one-half mile of a public transportation stop along a prescribed route according to a fixed schedule.
  - (2) Located within one block of a car share parking spot.
  - (3) Located entirely within the principal residence and the ADU does not result in a net increase in habitable floor area on the property.
  - (4) Located in an area where on-street permit parking is required, but such permits are not available to the tenant.
  - (5) Located within a designated historic district.

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- (C) One parking space is required per ADU and the space may be provided through tandem parking.
- (D) Parking for ADUs is allowed in front, rear and side setback areas.
- (E) When a garage or covered parking structure is demolished or repurposed in conjunction with the construction of an ADU, the replacement parking spaces may be located in any configuration on the same lot parcel as the ADU, including but not limited to covered spaces, uncovered spaces, or tandem spaces.

**Section 18.** Section 20.472.015 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.472.015 - Residential.**

- (A) Single-family detached dwelling or mobile home: two (2) parking spaces.
- (B) Duplex: two (2) parking spaces for each unit.
- (C) Multiple-family/apartment/condominiums: one (1) parking space up to one (1) bedroom, one and one-half (1.5) parking spaces for two (2) bedrooms, two (2) parking spaces per unit for three (3) or more bedrooms.
- (D) Mobile home parks: two (2) parking spaces for each mobile home space.
- (E) Accessory dwelling unit: one (1) parking space per unit. See Chapter 20.458 (Accessory Dwelling Units).
- (F) Junior accessory dwelling unit: no parking required. See Chapter 20.458 (Accessory Dwelling Units).

**Section 19.** Section 20.532.015 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.532.015 - Permit Requirements.**

Permits required by this Chapter must be secured prior to any development in the Mendocino County Coastal Zone.

- (A) **Coastal Development Administrative Permit.** The purpose of Coastal Development Administrative Permits is to provide for the administrative issuance of coastal development permits. The coastal permit administrator may process as an administrative permit any coastal development permit application for the types of projects specified below, and emergency projects specified in Section 20.536.055. Development projects which are appealable to the Coastal Commission, including any division of land, shall not be processed as an administrative permit.
  - (1) Any single-family residence that is a principal permitted use within the zoning district in which the development site is located;
  - (2) Any other development specifically authorized as a principal permitted use within the zoning district in which the development site is located;
  - (3) Improvements to an existing structure;

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- (4) Any other developments not in excess of one hundred thousand dollars (\$100,000) other than any division of land;
- (5) Any other development that is not appealable to the Coastal Commission if the Coastal Permit Administrator determines that it involves no potential for any adverse effects, either individually or cumulatively, on coastal resources, and that it will be consistent with the Certified Local Coastal Program and the public access policies of Chapter 3 of the Coastal Act. The determination shall be made in writing and based upon factual evidence.

**(B) Coastal Development Ministerial Permit.** The purpose of a coastal development ministerial permit is to provide for the administrative issuance of coastal development permits for accessory dwelling units which comply with the objective requirements specified in Section 20.458.045. Coastal development ministerial permits may be approved by the Director or his/her designee. A public hearing is not required for coastal development ministerial permits and they are not appealable to the Board of Supervisors. For development located within the appeal jurisdiction of the California Coastal Commission, coastal development ministerial permits are appealable to the Coastal Commission.

**(B)(C) Coastal Development Use Permit.** A use permit must be secured, pursuant to the requirements of these regulations prior to the initiation, modification or expansion of a use or development that is permitted only as a conditional use in a particular district.

**(C)(D) Coastal Development Variance.** Variances are discretionary adjustments in the regulations contained in this Division. Variances may only be granted to allow deviations from standards governing such development conditions as setbacks, lot coverage and lot width.

**(D)(E) Coastal Development Standard Permit.** A coastal development standard permit must be secured for any other activity not specified above which is defined as a development in Section 20.308.035(D), including, but not limited to, land divisions, lot line adjustments and any other entitlement for use.

**Section 20.** Section 20.532.020 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.532.020 - Exemptions.**

The following developments shall be exempt from this Chapter:

- (A) Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted;
- (B) Activities of public utilities as specified in the Repair, Maintenance and Utility Hookup Exclusion adopted by the Coastal Commission on September 5, 1978;
- (C) Improvements to single family residences except as otherwise specified in Subchapter 6, Title 14, California Administrative Code and any amendments thereafter;
- (D) Improvements to any structure other than single family residence or a public works facility, except as otherwise specified in Subchapter 7.5, Title 14, California Administrative Code and any amendments thereafter;

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- (E) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform with Section 20.480.020, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk, of the destroyed structure by more than ten percent (10%) and shall be sited in the same location on the affected property as the destroyed structure;
- (F) Within the Gualala Town Plan planning area, structures which are destroyed by involuntary means or forces out of control of the owner(s), provided that the structure reconstructed after involuntary loss does not exceed the floor area, height, or bulk of the previously existing structure by more than ten percent (10%), restoration is started within one (1) year of the destruction, and the structure conforms to this Division;
- (G) Junior accessory dwellings units located entirely within an existing legally-authorized single-family residence which are consistent with the requirements of Chapter 20.458.

Accessory dwelling units located within an existing legally-permitted detached bedroom, guest house, or non-residential structure shall not be exempted from the requirement to obtain a coastal development permit.

As used in this section "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owners.

As used in this section, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

As used in this section "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

**Section 21.** Section 20. 532.045 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.532.045 - Authority to Act on Coastal Development Permit.**

Upon completion of project review and evaluation, the action to approve, conditionally approve, or deny a coastal development permit shall be taken by:

- (A) The Director or his/her designee in the case of coastal development ministerial permits;
- (B) The Coastal Permit Administrator in the case of coastal development standard permits for principal permitted uses and coastal development administrative permits; and by
- (C) The Planning Commission in the case of coastal development permits for conditional uses permits and divisions of land.

~~When a coastal development standard permit is required, action to approve, conditionally approve or deny a standard development permit shall be taken by the Director or his designee.~~

**Section 22.** Section 20. 532.055 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.532.055- Time Periods.**



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Within one hundred eighty (180) days of filing of a complete application for a coastal development permit the Director, Coastal Permit Administrator or Planning Commission shall take such action as is specified in Section 20.532.050. The one hundred eighty (180) day time period may be extended once for a period not to exceed ninety (90) days with the written consent of the applicant and the Department. If the Director, Coastal Permit Administrator or Planning Commission does not act within the specified time period or extension thereof, the application shall be deemed to have been approved. The date of the actual filing of the application for the purposes of this Division shall be the date of the environmental determination as required by local and state environmental review procedures. When an application has been deemed approved by failure to act, such approval shall be subject to the notice requirements of Section 20.536.005(D).

**Section 23.** Section 20.536.001 is hereby added to the Mendocino County Code to read as follows:

### **Sec. 20.536.001- Coastal Development Ministerial Permits.**

- (A) Purpose.** The purpose of this section is to provide for the ministerial issuance of coastal development permits for accessory dwelling units that meet the requirements specified in Chapter 20.458.
- (B) Approval.** The Director or his/her designee may approve a coastal development ministerial permit without the requirement of a public hearing. Any permit approved by the Director or his/her designee for an accessory dwelling unit located in an area within the appeal jurisdiction of the California Coastal Commission shall contain a statement that the permit will not be effective until the appeal period to the California Coastal Commission has expired and no appeal has been filed.
- (C) Noticing.** Notice that the Director or his/her designee intends to approve a coastal development ministerial permit shall be mailed at least ten (10) calendar days prior to issuance by first class mail to:

  - (1) The applicant;
  - (2) All property owners within three hundred (300) feet of the property lines of the project site, and to each occupant of property within one hundred (100) feet of the property lines of the project site. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership;
  - (3) Any person who specifically requested, in writing, notice of such final action;
  - (4) The Coastal Commission; and
  - (5) The County Assessor.
- (D) Content of Notice.** The notice shall contain the following information:

  - (1) A statement that the development is within the coastal zone;
  - (2) The date of filing of the application and the name of the applicant;
  - (3) The case file number assigned to the application;
  - (4) A description of the development and its proposed location;

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- (5) The date on which the coastal development ministerial permit was approved; and
- (6) If the development is located in an area that is subject to the appeal jurisdiction of the California Coastal Commission, a full disclosure of the procedure(s) for Coastal Commission appeals, including any fee(s) that may be required.
- (E) **Final Action.** A decision on a coastal development ministerial permit application shall not be deemed complete until the decision has been made and all required findings have been adopted.
- (F) **Notice of Final Action.** Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
  - (1) The applicant;
  - (2) Any person who specifically requested, in writing, notice of such final action;
  - (3) The Coastal Commission; and
  - (4) The County Assessor.

**Section 24.** Section 20. 536.010 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.536.010 - Coastal Development Permit Hearing and Notice Requirements.**

- (A) **Purpose.** The purpose of this section is to provide for the issuance of coastal development permits for those types of development projects which are not ministerial, administrative or emergency permits.
- (B) **Hearing.** The approving authority shall hold at least one public hearing on each coastal development application for an appealable development or for a non-appealable development which requires a public hearing pursuant to other provisions of this Division. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing. The hearing shall occur no earlier than ten (10) calendar days following the mailing of the notice required in Subsection (C) below.
- (C) **Notice.** At least ten (10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for a development subject to this section. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, to all property owners within three hundred (300) feet of the perimeter of the parcel on which the development is proposed, to all occupants of property within one hundred (100) feet of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership.
- (D) **Content of Notice.** The notice shall contain the following information:
  - (1) A statement that the development is within the coastal zone;
  - (2) The date of filing of the application and the name of the applicant;

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- (3) The number assigned to the application;
- (4) A description of the development and its proposed location;
- (5) The date, time and place at which the application will be heard by the approving authority;
- (6) A brief description of the general procedure concerning the conduct of hearing and local actions; and
- (7) The system for local and Coastal Commission appeals, including any fee(s) that may be required.

If a hearing on a coastal development permit is continued to a time which has not been stated in the initial notice or at the public hearing, notice of the continued hearing shall be provided in the same manner and within the same time limits as required in Subsection (C) above.

- (E) **Final Action.** A decision on a coastal development permit application shall not be deemed complete until:
- (1) The decision has been made and all required findings have been adopted, and
  - (2) When all local rights of appeal have been exhausted in accordance with Chapter 20.544.
- (F) **Notice of Final Action.** Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
- (1) The applicant;
  - (2) Any person who specifically requested, in writing, notice of such final action; and
  - (3) The Coastal Commission.
  - (4) The County Assessor.
- (G) **Effective Date.** Decisions of the approving authority on an application for a development appealable to the Coastal Commission shall become final and effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. If the notice of final action is defective and does not contain information pursuant to Section 20.536.101(D) and Section 20.532.095(B)(1), if applicable, the permit decision will be stayed and will not become effective after expiration of the ten (10) working day appeal period. Where an application for a development is not appealable to the Coastal Commission, the decision of the approving authority shall become final and effective on the eleventh day following the action of the approving authority to approve or deny the coastal permit unless prior to said eleventh day an appeal of the decision is filed as provided by Chapter 20.544.

**Section 25.** Section 20. 536.020 of the Mendocino County Code is hereby amended to read as follows:

### **Sec. 20.536.020 - Application for Permit Amendment.**

Any person holding a coastal development permit may apply for a permit amendment by complying with Section 20.532.025 (Application and Fee). For the purposes of this section, the amendment of a coastal development permit may include amendment of the terms of the permit

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itself, the waiver or alteration of conditions imposed pursuant to Sections 20.532.030 through 20.532.055.

- (A) **Definition of Permit Amendment.** An amendment to a coastal development permit shall be processed in accordance with Section 20.532.025 when an applicant is requesting any change to the development project that was the subject of the approved coastal development permit. When, in the opinion of the Director, a major revision constituting substantial alteration in the permit is requested, an amendment shall not be processed, and a new coastal development permit application must be made.

(B) **Amendment to Ministerial Permits.**

- (1) Amendments to ministerial permits may be approved by the Director or his/her designee based upon the same criteria and subject to the same reporting requirements and procedures as provided for issuance of ministerial permits in Section 20.536.001.
- (2) If any amendment would, in the opinion of the Director or his/her designee, change the nature of the project so that it no longer meets the criteria established for treating the application as a ministerial permit pursuant to Section 20.536.001, then the application shall thereafter be treated in the manner prescribed by Section 20.536.020(C)(2) dealing with amendments to permits other than ministerial and administrative permits.

(B) **Amendment to Administrative Permits.**

- (1) Amendments to administrative permits may be approved by the Coastal Permit Administrator upon the same criteria and subject to the same reporting requirements and procedures, including public notice and appeals, as provided for issuance of administrative permits in Section 20.536.005.
- (2) If any amendment would, in the opinion of the Coastal Permit Administrator, change the nature of the project so that it no longer meets the criteria established for treating the application as an administrative permit pursuant to Section 20.532.015, then the application shall thereafter be treated in the manner prescribed by Section 20.536.020(C)(2) dealing with amendments to permits other than administrative permits.

(C) **Amendment to Permits other than Ministerial Permits and Administrative Permits.**

- (1) The Director shall determine whether or not a proposed amendment is a material change to the approved permit. If the Director determines that the proposed amendment is immaterial, notice of such determination shall be posted at the project site. Notice of such determination also shall be given as provided in Section 20.536.005(D). If no written objection to the amendment is received within ten (10) working days of the notice, the determination of immateriality shall be conclusive and the amendment effective.
- (2) If the Director determines that the proposed amendment is a material change or if written objection is made to the determination of conditions that were required for the purpose of protecting a coastal resource or coastal access consistent with the findings required by Chapter 20.532, the application shall be referred to the

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approving authority having original jurisdiction over the coastal development permit. The material amendment shall be subject to the hearing and notice requirements of Section 20.536.010.

**Section 26.** Section 20. 536.020 of the Mendocino County Code is hereby amended to read as follows:

**Sec. 20.544.010 - Administrative Appeals.**

- (A) Request for a hearing before the Planning Commission may be made by an aggrieved person from any decision, determination, or requirement of the Planning and Building Services Department except for decisions by the Director or his/her designee on exemptions and ministerial coastal development permits for accessory dwelling units. An administrative appeal may be made by filing a notice thereof in writing with the Planning and Building Services Department within ten (10) calendar days after such decision, determination or requirement is made. Such appeal shall be accompanied by a fee.
- (B) The Planning and Building Services Department shall prepare a written report that includes its findings which shall be forwarded to the Planning Commission for action. The action of the Planning Commission is final unless appealed to the Board of Supervisors pursuant to Section 20.544.015.
- (C) Notice shall be provided pursuant to Section 20.536.010.

**Section 27. CEQA.** This ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080.17 which exempts adoption of an ordinance by a city or county to implement the provisions of Government Codes Sections 65852.1 or 65852.2.

# 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?



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 <i>May</i> 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.

**CALIFORNIA COASTAL COMMISSION**

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June 13, 2019

County of Mendocino

Attn: Brent Schultz, Planning and Building Services Director

120 West Fir Street

Fort Bragg, CA 95437

RE: Comments on June 2019 administrative draft of the County of Mendocino's amendment to the County's certified local coastal program (LCP) modifying second unit regulations to bring them into compliance with state accessory dwelling unit (ADU) law (Government Code 65852.2) and to expand allowances for ADUs in the County.

Dear Mr. Schultz:

Thank you for the opportunity to comment on the administrative draft of the proposed amendment to the County's Land Use Plan (LUP) and Implementation Plan (IP). The amendment would allow an accessory dwelling unit (ADU) and/or a junior accessory dwelling unit (JADU) on parcels in the Gualala Town Plan area and the remainder of the County that contain an existing or approved single-family dwelling in all zoning districts which allow single-family dwellings, subject to a number of standards and criteria. Pursuant to Coastal Act §30512(c), to certify the proposed amendment to the LUP portion of the County LCP, the Commission must find that the LUP as amended meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Pursuant to Coastal Act §30513, to certify an amendment to the IP, the Commission must find that the IP as amended conforms with, and is adequate to carry out the provisions of the certified LUP.

We appreciate the opportunity to collaborate with the County on the development and review of the subject draft LCP amendment prior to local adoption and transmittal to the Commission to narrow any issues regarding conformance with the Coastal Act and certified LUP that might otherwise need to be addressed during the Commission's hearings on certification of the proposed LCP amendment. We would like to acknowledge the County's efforts on this draft amendment; we understand the difficulty in harmonizing the new ADU requirements under Government Code 65852.2 with Coastal Act and LCP policies, particularly in rural areas like much of the County's coastal zone.

Government Code 65852.2(j) clarifies that nothing in the law supersedes or in any way alters or lessens the effect or application of the Coastal Act, except that the local government shall not be required to hold public hearings for coastal development permit (CDP) applications for ADUs. As outlined in a November 2017 letter from our Executive Director John Ainsworth to the planning directors of California's coastal cities and counties (and reiterated in the County's

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proposed IP amendment under §20.458.005), the Commission interprets the effect of subdivision (j) as preserving the authority of local governments to protect coastal resources when regulating ADUs in the coastal zone, while also complying with the standards in Section 65852.2 to the greatest extent feasible. Therefore the Commission recommends amending LCPs to be consistent with the new ADU statute to the greatest extent feasible while still complying with Coastal Act requirements.

The main Coastal Act/ LUP consistency issues raised by the subject amendment are (1) adequacy of services, particularly traffic capacity; and (2) protection of agricultural and timber resources. This letter discusses these two issues in detail and then provides some additional recommendations, considerations, and requests for clarification. Additionally, throughout the letter, we identify information that will be important for the County to provide as part of a future transmittal of the LCP amendment for certification by the Commission should the proposed LCP amendment be adopted by the City. These are preliminary Commission staff comments; as always with policy review, new questions and comments will arise as our initial comments are addressed, new information is received, and the draft LCP amendment language evolves.

### **1. Adequacy of Services (Water, Septic, Traffic)**

Coastal Act §30250(a) (implemented through LUP Policy 3.9-1 among other LCP policies and standards) states in part that new residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Coastal Act §30254 requires in part that Highway One remain a scenic two-lane road, and that where existing or planned public works facilities can accommodate only a limited amount of new development, that certain types of development be prioritized, including Coastal Act priority uses (e.g. coastal-dependent, recreational, and visitor-serving land uses) and essential public services and vital industries.

A major challenge in Mendocino County's coastal zone is the limitation of residential density to levels which are compatible with highway capacity, water availability, and septic capacity. Highway One capacity in particular was determined to be a development limiting factor during Mendocino County's LCP certification process,<sup>1</sup> and (along with other factors) resulted in the removal of over one thousand potential parcels from the land use maps, by changing land use designations and/or densities, to reduce residential buildout to a level compatible with highway capacity.<sup>2</sup> The issue of highway capacity is reflected in a number of certified LCP policies and standards including but not limited to: (1) LUP Policy 3.8-1 that requires Highway One capacity to be considered during applications for development permits and requires highway capacity impacts to be considered in determining land use classifications and density changes; (2) LUP

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<sup>1</sup> The County's LUP was certified with suggested modifications on September 26, 1985 and effectively certified on November 20, 1985. The IP was certified with suggested modifications on March 15, 1991 and the total LCP was effectively certified on September 10, 1992. The County assumed permit-issuing authority on October 13, 1992.

<sup>2</sup> See findings for the May 8 and September 26, 1985 Commission hearings on LUP certification.

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Policies 3.8-4 and 3.9-4 which call for regular monitoring and review of highway capacity for planning purposes; (3) CZC §20.532.095(6) which requires findings for CDP approval to include a finding that highway capacity has been considered and is determined adequate to serve the proposed development; and (4) the current second residential unit provisions of the certified IP (CZC §§20.459.005-20.458.020) which prohibit second residential units outside of the Gualala Town Plan area until service capacity issues are addressed and resolved including “potential traffic impacts, based upon existing development patterns, urbanizing areas, and highway capacity studies in progress.”

As proposed, the amendment would remove the prohibition on second residential units outside of the Gualala Town Plan area (and Town of Mendocino planning area), and an ADU and/or JADU would be allowed in addition to one detached bedroom or guest cottage<sup>3</sup> on parcels containing an existing or approved single-family dwelling in all zoning districts which allow single-family dwellings. The proposed amendment increases residential density and thus raises questions of conformance with Coastal Act §§30250 and 30254 and associated LUP policies.

#### The Proposed Cap on ADUs and Adequate Traffic Capacity

The existing text of the certified LCP explicitly requires analysis of traffic impacts before an LCP amendment to allow second residential units in the remainder of the County coastal zone (i.e., outside of Gualala and the Town of Mendocino). The County is proposing to allow ADUs without this analysis and instead address concerns about adequacy of services in large part by implementing a cap on the number of ADUs. If the Commission can find this amendment consistent with Coastal Act §§30250 and 30254 and associated LUP policies, the cap will be critical to those findings. As proposed, the cap includes an exemption for ADUs located entirely within an accessory living unit that was permitted prior to January 1, 2020. This exemption results in the actual cap on ADUs being some unknown number higher than 300 units. In order to evaluate the consistency of the cap with the relevant service capacity findings of the Coastal Act and certified LUP, we will need to understand the true cap on ADUs, which requires knowledge of how many accessory living units are currently permitted within the County’s coastal zone. If the County cannot accurately provide this information or cannot find the number of ADUs allowed under this exemption consistent with the aforementioned service capacity policies, we recommend removing this exemption from the cap.

As a related point, proposed §20.458.010 applies a cap of 300 units to “newly constructed” ADUs within the coastal zone. The descriptor “newly constructed” could be interpreted to mean that only new construction falls under the cap and all conversion of existing structures into ADUs does not. This interpretation would render the cap meaningless as there would be no way to determine the number of existing structures that could be converted to ADUs outside of the cap. Therefore we recommend removing the descriptor “newly constructed.”

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<sup>3</sup> The County’s currently certified LCP (outside of the Mendocino and Gualala Town Plan areas) allows one accessory living unit for each legal parcel in all zoning districts which allow a single-family residence. Accessory living units are currently categorized as either detached bedrooms (that do not contain kitchens or sanitation facilities) or guest cottages (that do not contain kitchens), and are not intended for use by people other than family members or guests of occupants of the primary dwelling.

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As part of the future transmittal of the LCP amendment for certification by the Commission, we will be requesting an analysis of how the cap ensures that highway capacity is adequate to serve potential ADU development, such as by evaluating worst-case traffic impacts of potential ADU development relative to available capacity or otherwise logically tying the cap to some quantification of highway capacity impacts and limitations.<sup>4</sup> This logical nexus to traffic capacity is not only necessary to ensure consistency with Coastal Act and LCP service capacity policies, but also to ensure that the cap complies with the standards of Government Code Section 65852.2 to the greatest extent feasible.<sup>5</sup>

We would also like to discuss further with County staff whether there is any subarea/region in the County's coastal zone where there is an identified lack of adequate water, septic or traffic capacity (e.g., critical water areas) that would be cause for a complete prohibition on ADUs or would result in the need for a standard CDP review process. We would also like to explore whether there is any subarea/region of the coastal zone where a potential concentration of ADUs may cause cumulative impacts inconsistent with Coastal Act §§30250 and 30254 and parallel LUP policies, and/or whether there needs to be a consideration of distribution of ADUs (e.g., regional maximum allotments under the overall ADU cap).

Finally, while the Commission is generally supportive of vacation rentals as a visitor-serving priority use under the Coastal Act, we want to point out that allowing use of ADUs as vacation rentals weakens the argument that ADUs will reduce vehicle miles traveled (VMT) by providing affordable housing near jobs for people who work on the Mendocino coast.

#### Demonstration of Adequate Water and Septic Capacity

Proposed §20.458.010(Q) requires that adequate water and sewage disposal systems, as approved by the Division of Environmental Health, shall be available to serve permitted ADUs and JADUs. We recommending amending this language to clarify the meaning of this requirement. First, it is not clear whether water and septic capacity would need to be reevaluated by the Division of Environmental Health at the time of application for an ADU and/or JADU or whether and under what circumstances prior approval could be relied upon. Would the application for an ADU or JADU be referred to the Division of Environmental Health and only approved upon affirmative response that the water and wastewater systems are adequate? In addition, it is also not clear what the Division of Environmental Health would require of the applicant to ensure adequate water and sewer capacity. For example, under what circumstances would the Division of Environmental Health require new hydrologic or septic studies (i.e., a new report from a licensed engineer) to ensure adequate capacity? In drafting clarifying language,

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<sup>4</sup> As part of the future transmittal of the LCP amendment for certification by the Commission, we will also be requesting information on how the County will track ADU development and report this information to the Commission for purposes of implementing the cap. Since the Gualala Town Plan area ADU provisions are also proposed for amendment, the current number of permitted ADUs in the Gualala Town Plan area will be another requested piece of information at time of filing.

<sup>5</sup> ADU law allows local governments to designate areas within the jurisdiction where ADUs may be permitted based on criteria that includes (but is not limited to) the adequacy of water and sewer services and the impact of the ADU on traffic flow and public safety [65852.2(a)(1)(A)].

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please consider cases where existing structures (e.g., garages) and residential spaces (e.g., a portion of a primary residence or an accessory living unit) are converted into ADUs and clarify what specifically would trigger new review of an existing water or septic system (e.g., the addition of a bedroom). Please also clarify whether CDP exemptions for and/or ministerial approval of JADUs/ADUs could occur if the development triggered the need for a new well, water storage facility, or expanded or new leach field area.

### Concentrating Development

As mentioned above, Coastal Act §30250(a) requires that new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it. This requirement to concentrate urban development in existing urban areas establishes the fundamental framework for ensuring that new urban development, including urban services, are not located in rural coastal areas where the protection of agricultural, scenic, biological, and other coastal resources is paramount. Coupled with this framework for limiting urban development to existing developed areas, Coastal Act §30240 requires the establishment of stable urban-rural boundaries to ensure that urban sprawl from existing urban areas does not overtake rural agricultural areas.

Given that the County is proposing a significant limit on the number of allowable ADUs below one per lot in zones that permit single-family residences (under the 300 unit cap on ADUs), we question why the County is not proposing provisions to concentrate these allowable units to promote infill and allow for higher density growth in urban areas and rural service centers consistent with the Coastal Act. For example, the County could prioritize ADUs in residential zones where agricultural and timber resources can be avoided (i.e., discourage or prohibit in AG, RL, FL, and TPZ Districts), and/or prioritize ADUs within designated urban areas of the County or within service district boundaries.<sup>6</sup>

## **2. Agricultural and Timber Resource Protections**

The proposed amendment would permit ADUs and JADUs in all zoning districts which allow single-family dwellings, including on parcels zoned AG (Agricultural), RL (Range Lands), FL (Forest Lands), and TPZ (Timberland Protection). A ministerial permit would be granted based on consistency with a list of objective standards and criteria included in proposed §20.458.015.

### Agricultural Resources

In contrast to residential development that is incidental to and/or in support of agricultural production such as farmer and farm labor housing, development of residential uses on agricultural lands that is not in direct support of continued agricultural use of the property is a growing trend threatening agricultural land viability. Non-agricultural residential development has the potential to change the real estate values in agricultural areas in ways that negatively affect the viability of continuing agriculture. It can also conflict with on-going surrounding agriculture practices (e.g., due to noise, odors, or dust generated from agricultural activities),

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<sup>6</sup> Urban/rural boundaries and service district boundaries are delineated on the certified LUP maps. LUP maps of Westport, Fort Bragg, Irish Beach and Manchester all include urban/rural boundaries that designate urban areas in the unincorporated County.

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potentially placing pressure on agricultural productivity to be reduced. And, of course, it occupies agricultural land that might otherwise be available for production or other agricultural uses.

Coastal Act §§30241-2 are intended to protect agricultural lands from direct, indirect, and cumulative impacts of land uses not directly related to the primary use of agricultural lands for the production of agricultural commodities. These policies, implemented through LUP Policies 3.2-4, 3.2-5 and 3.2-16 (among other policies and standards of the certified LCP), strictly limit the circumstances under which agricultural land can be converted to non-agricultural land uses.<sup>7</sup> Any non-agricultural use or structure proposed on agricultural land constitutes a conversion of agricultural land that must meet the strict conversion criteria of Coastal Act §§30241 and 30242. In contrast, the development of a farm-related structure does not constitute an agricultural conversion and thus does not trigger the need for an analysis of consistency with the conversion criteria. Single-family dwellings including ADUs are considered farm-related structures only if they are farmer-occupied or farm labor housing necessary for the performance of agricultural operations.<sup>8</sup>

The proposed amendment would allow an ADU on agricultural parcels regardless of whether (1) the ADU constitutes a farm-related structure, or (2) the ADU (as a none-agricultural use) is consistent with the agricultural land conversion criteria of the Coastal Act and certified LCP. As a result, it is unclear how the amendment could be administered so as to be consistent with and adequate to carry out the aforementioned Coastal Act and LUP policies. We would be happy to work with County staff to brainstorm ways to address this fundamental issue.

Even structures that are associated with agriculture, such as farm labor housing, can reduce the amount of land available for agricultural production and harm the long-term productivity of agricultural soils; and the cumulative effect of these structures may encourage urbanization of an

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<sup>7</sup> LUP Policies 3.2-5 and 3.2-16 implement Coastal Act Sections 30241 and 30242 by requiring that development on lands suitable for agricultural use (or, in LUP Policy 3.2-16, designated AG or RL) be allowed only if it is demonstrated that the development does not convert agricultural lands to a non-agricultural use, unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or (3) concentrate development consistent with Coastal Act Section 30250. LUP Policy 3.2-5 further requires that any such permitted conversion shall be compatible with continued agricultural use on surrounding lands. The provisions of LUP Policies 3.2-5 and 3.2-16 are in part implemented through CZC §20.532.100(B)(3) “Impact findings for conversion of non-prime agricultural lands;” these regulations in part clarify that feasibility of continued or renewed agricultural use must be demonstrated by an economic feasibility evaluation. LUP Policy 3.2-4 [implemented in part through §20.532.100(B)(2) “Impact findings for conversion of prime agricultural or Williamson Act contracted lands”] allows conversion of prime land and/or land under Williamson Act to non-agricultural uses only if a number of findings can be made including that when the parcel is adjacent to urban areas, the viability of existing agricultural use is already severely limited by conflicts with urban uses, and the conversion of agricultural lands would complete a logical neighborhood and contribute to the establishment of a stable limit to urban development.

<sup>8</sup> For example, Marin County’s recent LUP update allows for one intergenerational home (in addition to a farmhouse) per “farm tract” for the farm operator or owner, as a principally-permitted agricultural use. Intergenerational homes are intended to allow for the preservation of family farms by facilitating multi-generational operation and succession by allowing family members to live on the farm. Similarly, in Humboldt County, the certified LUP allows two dwelling units incidental to agricultural operations on land zoned as Agriculture Exclusive, but only if the dwellings are occupied by the owner/operator and the parent or child of the owner/operator.

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area, comprising agricultural viability. Therefore, whether or not structures are considered agricultural in nature, standards must be included in the certified LCP to maximize land available for agricultural production, limit the impact of structures on agricultural viability, and maintain the long-term productivity of agricultural soils consistent with Coastal Act §§30240-30243 and implementing LUP policies.

Proposed §20.458.010(R)(5) attempts to address the aforementioned issues by requiring that ADUs on parcels zoned AG or RL only be located on non-prime soils immediately adjacent to existing permitted development. We support these requirements, but recommend clustering with existing “structures” rather than “development,” and we question whether adding a maximum distance or some restriction on road development is necessary to further define “immediately adjacent to.” We would also like to discuss with County staff whether additional protections are necessary, such as requiring that residential areas are clustered on no more than a certain percentage of the gross acreage of a farm tract, the applicant demonstrate that the farmable portion of the parcel is large enough in itself to constitute a minimum economic farm unit, or the owners have a long-term binding arrangement for commercial agricultural use of the remainder of the parcel, such as an agricultural easement. We also want to encourage that any proposed new agricultural protection standards for residential development be applied to all residential development (or structural development, if applicable) on agricultural lands rather than just to ADUs.

#### Timber Resources

Coastal Act §30243 requires that the long-term productivity of soils and timberlands be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size be limited to providing for necessary timber processing and related facilities. The County’s certified LCP carries out these provisions by prohibiting conversion of timberland to incompatible uses, avoiding timberlands soils in housing development, and requiring findings that uses are compatible with growing and harvesting timber and the protection of timber resource lands (see certified LUP Chapter 2.2 and Policies 3.3-3 and 3.3-5). Proposed §20.458.010(R)(5) attempts to address these policies by requiring ADUs on parcels zoned FL and TPZ to be located immediately adjacent to existing permitted development and located in an area where no commercial tree removal is necessary. Development of an ADU would likely not require a large enough area of tree removal to constitute a unit of commercial size,<sup>9</sup> but such development (and cumulative structural development) could compromise use of the remainder of the parcel for commercial timber operations. We therefore recommend adding additional requirements to ensure that long-term productivity of soils and timberlands are protected and that ADUs are developed compatible with the commercial growing and harvesting of timber.

### **3. Other Recommendations and Considerations**

- A. Process for coastal development ministerial permits: It appears that the proposed process for ministerial CDPs does not include public notice prior to action to allow interested members of the public an opportunity to submit comments and establish standing for appeals to the

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<sup>9</sup> Less than three acres of timber conversion is exempt from a CalFire timber harvest plan.



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Commission. We recommend requiring notice prior to action pursuant to the noticing process typically applied to developments that are not appealable and do not require a public hearing, outlined in §13568(b) of the Coastal Commission's administrative regulations.<sup>10</sup>

- B. Limitations on dwelling units in the Gualala Town Plan area: Pursuant to proposed §20.458.010(C), in the coastal zone outside of the Gualala Town Plan area, an ADU shall not be allowed if more than one (1) dwelling unit (including farm employee housing, farm labor housing, temporary family care unit, but not including a JADU) is located on the parcel. Based on the County's earlier amendment proposal (received April 3, 2019), we believe it is the County's intent to apply this limitation to the Gualala Town Plan area as well. We recommend amending §20.458.010(D) to clarify that in the Gualala Town Plan area, an ADU may not be permitted if more than one dwelling unit is located on the parcel (in addition to limiting parcels to one accessory living unit).
- C. Prohibition on ministerial ADUs in designated highly scenic areas visible from public areas: Proposed §20.504.020(R)(3) prohibits ministerial CDPs for ADUs located within highly scenic areas unless the ADU would not be visible from a public road, beach, or recreation area. Certified LUP Policy 3.5-3 and CZC §20.504.015 require that development permitted in highly scenic areas provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. We recommend revising §20.504.020(R)(3) to include the full list of public areas included in Policy 3.5-3 and CZC §20.504.015.
- D. Other visual resource protections: In addition to prohibiting ministerial CDPs for publically visible ADUs located within highly scenic areas, the proposed ADU standards protect visual resources by prohibiting ministerial CDPs for ADUs if the total amount of grading associated with the construction of an ADU is more than 20 cubic yards. Coastal Act §30251, LUP Policy 3.5-1, and CZC §20.504.020 require that the scenic and visual qualities of coastal areas be considered and protected as a resource of public importance, and that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. Because these visual resource protections cover more than just alteration of landform and apply to all permitted development including development outside of highly scenic areas, we would like to further discuss with the County whether proposed §20.458.010 should include additional standards/criteria for ensuring visual resource protection, including but not limited to protection of views to and along the ocean from public vantage points outside of highly scenic areas.
- E. Environmental Sensitive Habitat Area (ESHA) protections: Proposed §20.504.020(R)(1) prohibits ministerial CDPs for ADUs located within 100 feet of the boundary of an ESHA unless contained entirely within an existing permitted structure. We recommend broadening this prohibition to include development associated with the construction of an ADU including parking, leach field expansion, well and water storage development, and vegetation

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<sup>10</sup> See California Coastal Commission Administrative Regulations Title 14, Division 5.5, Chapter 8, Article 17 (Local Coastal Program Implementation Procedures), Section 13568.

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clearance for fire safety to ensure that all permitted development including any necessary vegetation removal would be consistent with the ESHA protection policies of the certified LUP.

- F. Other necessary protections: Proposed §20.504.020(R) requires a standard coastal development permit process in certain locations (e.g., within 100 feet of an ESHA, 125 feet of a bluff edge, and within a public viewshed within a highly scenic area) and circumstances (e.g., where grading associated with the construction of the ADU is more than 20 cubic yards) where there is heightened concern about new development minimizing risk to hazards and ensuring protection of coastal resources. Commission staff would like to discuss with the County whether additional subparts need to be added to this section to address other areas where there is significant hazards and/or risks to coastal resources such as critical water areas, high fire hazard areas, steep slopes, Special Treatment Areas, and lands west of the first public road.
- G. Reference to existing structures or residences: The descriptor “existing permitted” is used to describe structures and single-family residences in the proposed new IP language [see proposed §§20.458.010(R) & 20.532.020(G)]. We should discuss this language choice further; it may be that “existing legally-authorized” is more appropriate to ensure that all required permits were obtained and to acknowledge historic development that occurred prior to certain permit requirements. Separately, we recommend that in the section where conversion of existing structures into ADUs are discussed, that the IP clarify that these sections apply to conversion of legally authorized or permitted existing structures [see proposed §§20.458.010(B); 20.458.010(K); & 20.458.010(M)].<sup>11</sup>
- H. Reference to appealable areas: We recommend changing the proposed phrase “within an appealable area” to “within the appeal jurisdiction of the California Coastal Commission” [see proposed §§20.532.015(B) & 20.536.001(B)]. Pursuant to Coastal Act §30603, the Commission’s appeal jurisdiction not only includes certain geographic areas, but also specific types of development regardless of location (e.g., major public works projects and approved development that does not constitute the principally permitted use in the applicable zoning district).
- I. Standard for residential development adjacent to agricultural and timber lands: Certified LUP Policies 3.2-9 and 3.3-8 require that site plans in a residential area not result in a residential structure being closer than 200 feet from a parcel designated for agricultural and forest lands use, respectively, unless there is no other feasible building site on the parcel. To carry out these policies, we recommend adding a criteria to proposed §20.504.020 prohibiting ministerial CDPs for ADUs (in residential zones) located within 200 feet of agricultural and forest land parcels.
- J. Conflicts with LUP language: The County proposes to amend LUP Policy 3.9-1 to ensure consistency with the proposed ADU ordinance. As currently proposed, the ordinance may also conflict with additional LUP policies, including LUP Policies 3.2-1 and 3.3-5 which set a limit of one dwelling/housing unit per legally created parcel on agriculturally designated

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<sup>11</sup> Another option would be to include in the amended IP a statement that structures built without benefit of necessary permits are not eligible for conversion to ADUs.

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lands and TPZ lands/parcels occupied by timberlands of commercial size, respectively. We would like to discuss this further with County staff as the ordinance evolves to ensure that the IP is consistent with and adequate to carry out the LUP.

- K. ADUs and nonconforming lots and structures: Pursuant to proposed §20.458.010(M), ADUs are required to conform to height, setback, lot coverage, site plan review, fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the ADU is located with the exceptions that a JADU located within an existing single-family dwelling and an ADU converted from an existing garage do not need to meet setback requirements. However, the proposed ADU regulations do not restrict ADU development on lots that do not conform to the minimum lot area standard for the zone in which the lots are located. The ADU regulations also do not address the conversion of existing structures legally authorized prior to the enactment of the Coastal Act that are not consistent with the resource protection policies of the Coastal Act and certified LUP, such as limitations on uses allowed in wetlands and ESHA. We would like to discuss these issues further with County staff to ensure that the proposed ADU provisions do not result in an increased degree of nonconformity of existing lots and structures with respect to the Chapter 3 policies of the Coastal Act and implementing LUP policies.
- L. Coastal Development Permitting (CDP) requirements: §20.532.015(B) as proposed to be amended states in part that “the purpose of a coastal development ministerial permit is to provide for the administrative issuance of coastal development permits for accessory dwelling units which comply with the objective requirements specified in Section 20.458.010” and proposed additional subsection §20.532.020(G) clarifies that JADUs located entirely within an existing permitted single-family residence are exempt from CDP requirements. While it is clear under the definition of development that new structures will require a CDP, it is less clear whether a CDP is required when an existing structure or portion thereof is converted into an ADU. We therefore recommend further clarifying when a CDP is required for ADUs within proposed §20.458.010. While conversion of an existing dwelling unit (or a portion thereof) into an ADU may not constitute development (change from one type of residence with independent living facilities to another),<sup>12</sup> conversion of a detached bedroom, guest house, or non-residential structure (e.g. garage) into an ADU constitutes development as a change in density or intensity of use. The exemptions for improvements to single family residences and improvements to structures other than single family residences do not exempt this ADU development in part because the first exemption (improvements to single family residences) does not pertain to guest houses or self-contained residential units, and the second exemption (improvements to structures other than single family residences) does not pertain when there is a change in intensity of use of the structure [see Subchapters 6 and 7.5, Title 14, California Administrative Code].

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<sup>12</sup> Exceptions to this statement include conversions that involve changes of space from non-habitable to habitable or improvements like additional bedrooms that change the density/intensity of use of the structure; as well as conversions that involve improvements or repair and maintenance that is not exempt under the California Administrative Code, Title 14, Subchapters 6 and 7, such as in instances where there is a risk of adverse environmental effects.

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#### **4. Other Requests for Clarification and Filing Information**

- A. Required findings for all CDPs (§20.532.095): Commission staff requests clarification on whether §20.532.095 “Required findings for all CDPs” would apply to ministerial CDPs for ADUs.
- B. Clarification on categorization of ADUs as accessory living units and dwelling units: Under the certified LCP, there are two types of accessory living units (detached bedrooms and guest cottages); these accessory living units are not considered dwelling units because by definition they do not contain complete, independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Under the LCP as proposed to be amended, ADUs would be considered accessory living units and dwelling units, except that ADUs would not be counted as dwelling units for purposes of the Family Residential definition. JADUs would not be considered accessory living units, but would be considered dwelling units (although they may share sanitation facilities with the existing structure), except that JADUs would be considered part of the single-family dwelling for purposes of fire and life protection ordinances. Commission staff requests clarification on whether this is an accurate description.
- C. Criteria for JADUs: Under proposed §20.308.065, JADU is defined in part as a living space contained entirely within a fully permitted single-family dwelling. Some of the standards and criteria listed under proposed §20.504.020 do not apply to JADUs, including but not limited to prohibitions within designated high flood hazard areas, within 100 feet of an ESHA, within 125 feet of the edge of a coastal bluff, within highly scenic areas, on prime agricultural soils, and in locations that would interfere with a public or prescriptive easement for access to the blufftop and/or shoreline [i.e., some of the health and safety requirements under §20.504.020(Q) and all of the coastal resource protections under §20.504.020(R)]. As part of the County’s application of submittal for the LCP amendment, please provide the rationale for why these standards are not necessary for JADUs to ensure compliance with the resource protection policies of the certified LUP and in turn the Chapter 3 policies of the Coastal Act.
- D. Area of impact: To enable an understanding of the geographic application of the proposed ADU provisions, as part of the County’s application of submittal for the LCP amendment, please provide maps highlighting the areas of the County where ADUs would be permitted under the proposed amendment.
- E. Tribal consultation: If the County has not already initiated tribal outreach for the proposed LCP amendment pursuant to SB 18, please do so and please keep us informed of the process and any comments provided by the tribes.

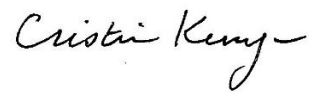
We appreciate the County’s consideration of these preliminary comments and look forward to collaborating with County staff in the interest of advancing through the Commission’s LCP amendment certification process as smoothly as possible. If you have any questions, please don’t hesitate to call me at (707) 826-8950 or email me at [Cristin.Kenyon@coastal.ca.gov](mailto:Cristin.Kenyon@coastal.ca.gov).

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Sincerely,

A handwritten signature in black ink that reads "Cristin Kenyon". The signature is written in a cursive, flowing style.

Cristin Kenyon  
Supervising Analyst

Cc: Julia Acker, Senior Planner, Mendocino County Planning & Building  
Linda Ruffing, North Coast Community Planning



## Mendocino County Division of Environmental Health

### Guidelines for Accessory Dwelling Units

#### Septic

1. An Accessory Dwelling Unit that contains only one bedroom, is no larger than 1,200 square feet, and meets the requirements of the Mendocino County planning and building codes may be connected to an existing septic system if the following conditions are met.
  - a. The existing permitted septic system must meet applicable state and county requirements for onsite waste disposal.
  - b. If the property owner or county Environmental Health office cannot provide official documentation that the existing septic system meets applicable state and county requirements for onsite waste disposal systems, then the property owner shall hire a Qualified Site Evaluator to determine whether the existing septic system meets those conditions for approval.
  - c. The property owner shall hire a Qualified Site Evaluator to identify a replacement area that meets applicable requirements and is sized to serve the total number of bedrooms originally in the primary residence plus the total number of bedrooms in the new second residence.
2. An Accessory Dwelling Unit that contains more than one bedroom and meets the requirements of the Mendocino County planning and building codes may be connected to an existing septic system if the following conditions are met.
  - a. The property owner must obtain the proper building permits to convert one or more bedrooms in existing structure into other space so that the total combined number of bedrooms in the primary and second residence equal no more than one bedroom greater than the original permitted septic capacity.

**Note: Necessary changes to existing bedrooms may include conversion of doors into open archways, the removal or conversion of closets into open shelving or other structures, or other modifications.**
  - b. The property owner must also meet conditions 1 a–c, as applicable. The new replacement area must be sized to serve the total number of bedrooms originally in the primary residence, including any that have been removed or converted to facilitate permitting the second residential unit, plus the total number of bedrooms in the second residence.
3. If the property is located within a service district, the property owner must provide written approval from the service district specifically authorizing the connection of a Second Residential Unit.

**Water**

4. If the source of drinking water is a well or spring, the property owner shall hire a qualified person to determine whether the well or spring meets the county proof of water requirements for a second residential unit.
5. If the property is located within a service district, the property owner must provide written approval from the service district specifically authorizing the connection of a second residential unit.

**Accessory Dwelling Units, including travel trailers and recreational vehicles, must comply with all requirements of Mendocino County planning and building codes.**

Effective Date: November 2018



## MENDOCINO COUNTY COASTAL ZONE

