

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL AMENDING
TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE
(AGMC) REGARDING ACCESSORY DWELLING UNITS
AND TINY HOMES ON WHEELS; LOCATION- CITYWIDE**

WHEREAS, Section 16.52.150 of the Arroyo Grande Municipal Code (AGMC) contains the City's existing regulations for Accessory Dwelling Units (ADUs); and

WHEREAS, AGMC Section 16.52.150 of the Arroyo Grande Municipal was last amended in 2017, after the State legislature had amended Government Code §65852.2 and also added Government Code §65852.22 to provide an option for Junior Accessory Dwelling Units (JADUs), however, the 2017 amendment to AGMC 16.52.150 did not include an option for JADUs at that time; and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills ("New ADU Laws") that, among other things, amended Government Code Section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the New ADU Laws mandate that cities with accessory dwelling unit ordinances that are inconsistent with the State laws apply the State standards for ADU and JADU approval; and

WHEREAS, according to the State Department of Housing and Community Development website the New ADU Laws were adopted to promote the development of ADUs and JADUs, and include allowing ADUs and JADUs to be built concurrently with a single-family dwelling, opening areas where ADUs can be created to include all zoning districts that allow single-family and multifamily uses, modifying fees from utilities such as special districts and water corporations, limited exemptions or reductions in impact fees, and reduced parking requirements; and

WHEREAS, the New ADU Laws took effect January 1, 2020, and because the City's ADU ordinance did not comply with the New ADU Laws, the City's ordinance became null and void on that date as a matter of law; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and provide for JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values and personal privacy; and

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WHEREAS, alternative housing models, such as tiny houses on wheels, can provide flexible housing options for a variety of households living at different income levels; and

WHEREAS, this Ordinance adds Tiny Homes on Wheels as a separately regulated residential use to encourage housing supply, choices, and affordability; and

WHEREAS, Tiny Homes on Wheels will allow for in-fill development that maintains the scale and character of existing development; and

WHEREAS, Tiny Homes on Wheels will contribute to the equitable distribution of housing opportunities that are cost accessible to all residents; therefore, reducing regulatory and procedural barriers to increasing housing production and capacity in appropriate locations; and

WHEREAS, the City desires to preserve its cultural, historical, and architectural heritage and resources as living parts of community life that benefit and enrich the lives of its present and future residents; and

WHEREAS, the City has duly initiated this amendment to the Arroyo Grande Municipal Code to amend Section 16.52.150, and add Section 16.52.250 to Title 16, Chapter 52 in order to provide regulations relating to Tiny Homes on Wheels; and

WHEREAS, the Planning Commission of the City of Arroyo Grande, after giving notices thereof as required by law, held a public hearing on August 17, 2021 concerning this code amendment and carefully considered all pertinent testimony, the staff report, its attachments and all supporting materials referenced therein or offered in the matter as presented; and

WHEREAS, on August 17, 2021, the Planning Commission of the Arroyo Grande recommended to the City Council amending Section 16.52.150 and adding Section 16.52.250 to the Arroyo Grande Municipal Code; and

WHEREAS, the City Council of the City of Arroyo Grande has, after giving notice thereof as required by law, held a public hearing on December 14, 2021, concerning proposed amendments to AGMC Section 16.52.150 and adding AGMC Section 16.52.250; and

WHEREAS, the City Council of the City of Arroyo Grande, at its regularly scheduled public meeting on December 14, 2021 introduced this Ordinance to amend Section 16.52.150 and add Section 16.52.250 to Title 16, Chapter 52 of the Arroyo Grande Municipal Code; and

WHEREAS, the City Council has carefully considered all pertinent testimony and the staff report, its attachments and all supporting materials referenced therein or offered in

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the matter as presented at the public hearing.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals and findings are true and correct and are incorporated herein by this reference.

SECTION 2. Section 16.52.150 of the Arroyo Grande Municipal Code is hereby amended in its entirety to read as follows:

A. Definitions/Prohibited Units.

1. Accessory Dwelling Unit (ADU): An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and shall be located on the same parcel as the primary dwelling or multi-family development. An ADU also includes an efficiency unit and manufactured home as provided in Government Code Section 65852.2(j). An ADU may serve as a rental unit for more than 30 days or be occupied by a person or persons including, but not limited to family members, guests, or caretakers.
2. Junior Accessory Dwelling Unit (JADU): A residential dwelling unit, as defined in Government Code Section 65852.22, that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family structure. A JADU shall include an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing dwelling. A JADU may serve as a rental unit for more than 30 days. Owner-occupancy of either primary dwelling or JADU is required by state law.
3. Prohibited Units: Mobile homes, as defined in Section 18008 of the Health and Safety Code, recreational vehicles, trailers, or similar units, shall not be allowed as ADUs. Tiny Homes on Wheels are allowed as an ADU and are separately defined in Section 16.52.250.

B. Where Permitted/Establishment.

1. ADUs are permitted in all zoning districts allowing single-family or multifamily use on lots developed with existing or proposed dwellings.
2. An ADU may be established by the following methods:
 - a. Attached to, or located within, an existing or proposed primary dwelling.

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- b. A new detached structure, or located within or attached to an accessory structure, including detached garages or similar structures.
 - c. Conversion of permitted existing attached or detached accessory structures, including garages, storage areas, or similar structures.
 - d. Reconstruction of a permitted existing structure or living area that is proposed to be converted to an ADU, or a portion thereof, in the same location and to the same dimensions and setbacks as the existing structure.
3. A Junior Accessory Dwelling Unit (JADU) may be established within the space of the primary dwelling, including an attached garage or attached accessory structure.
4. A JADU may be established within the space of the primary dwelling in combination with the construction of one detached, new construction ADU not exceeding 850 square-feet and a height of 16 feet with four-foot side and rear setbacks.
5. The existing unit may be considered the ADU, in conjunction with the construction of a new primary dwelling unit built, if all applicable zoning requirements are met.
6. ADUs shall be permitted on lots developed with existing multi-family dwellings subject to the following provisions:
 - a. The property shall be developed with an existing multi-family structure(s).
 - b. A minimum of one ADU may be constructed, or up to 25 percent of the existing unit count, within non-livable space, including, but not limited to, storage rooms, passageways, attics, basements, or closets.
 - c. The construction of two detached ADUs with a maximum size of 850 square feet, or 1,000 square feet with more than one bedroom, shall be permitted in addition to ADUs created within non-livable space, subject to a maximum height of 16 feet, and four-foot side and rear setbacks.
 - d. Existing livable space of multi-family dwelling units shall not be converted to ADUs.

C. Permit Requirements:

1. The City shall ministerially review and act on a building permit application for an ADU or JADU within 60 days after receiving the application. An ADU or JADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval. A certificate of occupancy for an ADU or JADU shall not be issued before occupancy is granted for the primary dwelling.
2. Unless otherwise preempted by state law, the design and construction of all newly constructed ADUs and JADUs shall comply with all applicable building, housing, zoning and site development standards of the Arroyo Grande Development Code, including but not limited to standards regarding setbacks, floor area ratio standards, height, lot coverage, and in the surrounding neighborhood that are listed in the California Register of Historic Places. Applicants shall also comply with all applicable fee and charge requirements, and other applicable zoning requirements.
3. Pursuant to Government Code Section 65852.2(e) (2), the City shall not require the correction of nonconforming zoning conditions as a condition for ministerial approval.

D. Development Standards.

1. ADU Type, Location & Size.
 - a. Attached Unit: An ADU attached to an existing primary dwelling shall have a minimum size of 150 square feet and shall not exceed 50 percent of the total existing or proposed living area of the primary dwelling, except as provided by the By-Right Provision below.
 - b. Detached Unit: An ADU structurally independent and detached from the existing primary dwelling shall have a minimum size of 150 square feet and shall not exceed 1,200 square feet.
 - c. Conversion of Existing Structure: An ADU constructed within the footprint of an existing dwelling or attached or detached structure shall not be subject to a maximum square-footage of living area.
 - d. By-Right Provision: An attached or detached ADU with a maximum size of 850 square-feet or 1,000 square-foot with more than one bedroom shall be permitted in any circumstance subject to a maximum height of 16 feet, four-foot side and rear setbacks, and compliance with all building codes. No minimum lot size or lot coverage requirement shall apply.

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- e. ADUs shall have independent exterior access from the primary dwelling. No passageway to the primary dwelling shall be required.
- f. Maximum Slope. The building site upon which the accessory dwelling unit will be constructed shall not have an average slope in excess of twenty (20) percent. A topographic map and slope analysis, as recommended by the community development director, shall be stamped and signed by either a registered civil engineer, registered architect, or registered landscape architect. Average slope is defined as follows:

$$S = \frac{I \times L}{A} \times 100$$

$$A \times 43,560$$

Where

S = average natural slope, in percent.

I = interval, in feet, of the contour lines.

L = the sum, in feet, of the length of the contour lines, at selected contour interval "I".

A = the total area, in acres, of the site.

- g. ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence.
2. JADU Location and Size.
- a. A JADU shall be constructed entirely within an existing or proposed primary dwelling and shall not exceed 500 square-feet.
 - b. JADUs shall have an independent exterior entrance from the primary dwelling, but may also include shared access between the two units.
3. Required Setbacks.
- a. An attached or detached ADU not exceeding 850 square feet or 1,000 square feet with more than one bedroom, and a height no greater than 16 feet shall provide a minimum setback of four feet from the side and rear property lines. ADUs exceeding the maximum square footage or height specified in this provision shall be subject to compliance with setbacks of the underlying zoning district.

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- b. Cornices and eaves may project into the required yards by no more than one foot.
 - c. ADUs shall comply with the front yard setback and be located on the rear portion of a parcel whenever possible.
 - d. When an ADU is created within an existing structure, the side and rear setbacks must be sufficient for fire safety as determined by the Fire Department.
 - e. No setback shall be required for an existing garage or accessory structure converted, or portion thereof, to an ADU and no setback shall be required for a new structure constructed in the same location and same dimensions as an existing structure.
 - f. An ADU constructed above an existing garage or dwelling unit, exceeding 16-feet in height, shall meet the side and rear setbacks of the underlying zoning district.
 - g. Roof top decks shall be permitted subject to the provisions of Section 16.48.180.
 - h. Staircases serving an ADU shall provide a minimum setback of four feet from the side and rear property lines subject to approval by the Fire Department.
4. Height and Maximum Lot Coverage.

ADUs exceeding 850 square feet or 1,000 square feet with more than one bedroom, and/or a height of 16 feet shall comply with the height, floor-area ratio, and maximum lot coverage of the underlying zoning district.

5. Parking.
- a. One additional off-street parking space shall be required per unit; with exceptions per subsection g, below.
 - b. No parking space shall be required for an ADU or JADU established within an existing structure.
 - c. Parking spaces shall be a minimum dimension of 9 foot by 18 foot except as specified below.
 - d. Parking spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts.
 - e. Required off-street parking shall be permitted in front, side, and rear setback areas subject to the following:

- i. Parking may be located on an existing driveway but shall not block sidewalk access or encroach into the public right-of-way.
 - ii. Parking spaces within a side yard must have a minimum clear space width of 10-feet. Vehicles shall not block exterior windows or doors of a dwelling or access to utility boxes or meters.
 - iii. Vehicles must be parked on an acceptable surface of concrete, asphalt, gravel, brick, permeable paver or other stable, dust-free surface.
 - iv. No more than 50% of a front yard shall be dedicated to vehicle parking.
 - v. No parking shall be allowed in front yard landscaping areas.
 - vi. Access to on-site parking spaces shall be provided via an approved driveway location only.
- f. When a garage, carport, or covered parking structure that provides the required spaces for the primary dwelling is demolished or converted in conjunction with the construction of an ADU, no replacement parking shall be required.
- g. Parking Exemption: As required by Government Code Section 65852.2(d), parking space for an ADU shall not be required in any of the following instances:
- i. The ADU is located within one-half mile walking distance of public transit.
 - ii. The ADU is located within an architecturally and historically significant historic district.
 - iii. The ADU is part of the existing or proposed primary residence or an existing accessory structure.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.
 - v. When there is a car share vehicle located within one block of the ADU.
6. Architectural Compatibility.

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- a. An ADU created through the conversion of an existing structure shall incorporate the same colors, materials, and architectural features as the primary residence.
7. Impact Fees & Utilities.
- a. An ADU under 750 square feet shall not be charged development impact fees. An ADU equal to or greater than 750 square feet may be charged development impact fees. These development impact fees shall be proportional to the square footage of the main dwelling and calculated using the ADU square footage.
 - b. ADUs and JADUs shall comply with water and sewer requirements as determined by the Public Works Department.
 - c. The City shall not require a new or separate utility connection or impose a related connection fee or capacity charge for ADUs or JADUs that are contained within an existing residence or accessory structure. Pursuant to Government Code Section 65852.2(f)(5) an ADU not built within the existing space of a single family house or accessory structure may be required to obtain a new or separate utility connection as determined by the Public Works Department and may be subject to a connection fee or capacity charge based on its square footage or the number of its drainage fixtures unit values.
- E. Conditions.
1. An ADU/JADU shall not be sold or otherwise conveyed separate from the primary residence.
 2. An ADU/JADU may serve as a rental unit or be occupied by family members, guests, or in-home health care providers, and others at no cost.
 3. Neither the ADU/JADU nor the primary dwelling unit shall be rented for a term of less than 31 days. ADUs on multi-family properties shall be subject to this provision, except the restriction shall not apply to existing multi-family units
 4. Owner-occupancy shall be required for a property developed with a JADU. The owner may reside in either the primary dwelling or the JADU.
 5. The property owner shall record a covenant, approved as to form by the City Attorney, declaring compliance with each and every condition referenced in this section.

SECTION 3. Section 16.52.250 is hereby added in its entirety to Title 16, Chapter 52 of the Arroyo Grande Municipal Code to read as follows:

16.52.250 – Tiny Homes on Wheels (THOW)

- A. Purpose. Tiny Homes on Wheels shall be considered an additional type of Accessory Dwelling Unit, allowed as an accessory use to a single-family residential dwelling, consistent with Government Code, Section 65852.2, subdivision (g) which allows cities to adopt less restrictive requirements than the State-mandated minimums for Accessory Dwelling Units. A Tiny Home on Wheels that meets the definition in this Section may be built and occupied as a new detached Accessory Dwelling Unit, subject to the ministerial review and approval of an application if it complies with the standards of this Section.
- B. Definition. A Tiny Home on Wheels (THOW) is a structure intended for separate, independent living quarters for one household that meets all of the following conditions:
1. Is a detached self-contained unit, designed and built to look like a conventional building structure, and which includes basic functional areas that support normal daily routines such as cooking, sleeping, toilet and bathing facilities; and
 2. Is licensed and registered with the California Department of Motor Vehicles; and
 3. Meets the American National Standards Institute (ANSI) 119.5 requirements or the National Fire Protection Association (NFPA) 1192 standards, and is certified for ANSI or NFPA compliance. Certification must be made by a qualified third-party inspector; and
 4. A pre-fabricated or manufactured THOW shall bear the California Insignia of Approval issued by the State Department of Housing and Community Development to demonstrate compliance with electrical, heat producing, plumbing, and fire and life safety systems and equipment; and
 5. Is towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection, cannot move under its own power and is no larger than allowed by California State Law for movement on public highways; and
 6. Has a minimum living area of 100 square feet and maximum of 400 square feet as measured within the exterior faces of the exterior walls.

Tiny Homes on Wheels do not include an RV, camper, trailer, or manufactured

home as defined in Section 18010 of the California Health and Safety Code.

C. Criteria. Notwithstanding any other provision of this Code to the contrary, a Tiny Home on Wheels (THOW) shall be allowed as a type of detached Accessory Dwelling Unit on a lot consisting of a single-family dwelling. A THOW shall not be attached to or located within a primary residence, or created through the conversion of an existing structure, as shall be subject to all of the following criteria:

1. Number. One THOW shall be allowed in all residential zones with an existing single-family dwelling. No THOW shall be allowed if there is a permitted Accessory Dwelling Unit. A THOW shall be removed prior to granting final occupancy for an Accessory Dwelling Unit.
2. Limitation on Use. A THOW shall not be utilized as a short-term rental of less than 30 days.
3. Location. A THOW shall be located behind the primary residence unless there is no feasible alternative with a minimum setback of four (4) feet from any interior side or rear property line, and ten (10) feet from a street side lot line.
4. Skirting. The THOW undercarriage (wheels, axles, tongue and hitch) shall be skirted and hidden from view. The THOW shall not have its wheels removed.
5. Parking and surface. The THOW shall be parked on a paved or alternate pad that includes bumper guards, curbs, or other installations adequate to prevent movement of the THOW. The wheels and leveling or support jacks must sit on a paving surface that meet either of the following criteria:
 - a. A parking area for a moveable THOW shall be paved with hard, durable asphaltic paving that is at least two inches thick after compaction, or with cement paving at least three inches thick; or
 - b. Alternative paving materials may consist of porous asphalt, porous concrete, permeable interlocking concrete pavers, permeable pavers, decomposed granite, crushed rock or gravel, plastic or concrete grid system confined on all sides and filled with gravel or grass in the voids, or other similar materials that meet the following requirements:
 - i. Permeable interlocking concrete pavers and permeable pavers shall have a minimum thickness of 80 mm (3.14 inches); and

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- ii. Products and underlying drainage material shall be installed to meet manufacturers' specifications. Sub-grade soils shall be compacted as required to meet the product installation specifications;
 - iii. No additional parking shall be required for the THOW, and displaced parking resulting from the placement of THOW is not required to be replaced.
6. Utilities. The THOW shall be connected to electric, water, and sewer utilities.
7. Design. The THOW shall resemble the general appearance of a traditional home and incorporate all of the following design elements:
- a. Cladding and trim: Materials used on the exterior of THOW shall exclude single piece composite laminates, or interlocked metal sheathing;
 - b. Windows and doors: Windows shall be at least double pane glass, and include exterior trim. Windows and doors shall not have rounded corners;
 - c. Roofing: Roofs shall have a minimum of a 1:12 pitch for greater than 50 percent of the roof area. Exceptions to this provision may be made for designs that incorporate openings to provide light and air flow for the occupants.
 - d. Mechanical equipment shall be incorporated into the structure and not be located on the roof.
 - e. Decks: Attached patios, decks, landings, or similar architectural features, whether covered or uncovered, shall be open on at least two sides and are limited to 100 percent of the floor area of the THOW.
8. Height. A THOW shall not exceed one story.

SECTION 4. This Ordinance is exempt from the California Environmental Quality Act in accordance State CEQA Guidelines, Article 18: Statutory Exemptions, Section 15282(h). This section of CEQA provides a statutory exemption for "the adoption of an ordinance regarding second units [accessory dwelling units] in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of Government Code as set forth in Section 21080.17 of the Public Resources Code." The City Clerk shall file a Notice of Exemption from CEQA review in accordance with CEQA Guidelines.

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SECTION 5. A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 6. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

SECTION 7. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

On motion by Council Member _____, seconded by Council Member _____, and by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

the foregoing Ordinance was adopted this ____ day of _____, 2022.

CAREN RAY RUSSOM, MAYOR

ATTEST:

JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:

WHITNEY McDONALD, CITY MANAGER

APPROVED AS TO FORM:

TIMOTHY J. CARMEL, CITY ATTORNEY