

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL ADOPTING
AMENDMENTS TO TITLE 16 OF THE ARROYO GRANDE
MUNICIPAL CODE (AGMC) REGARDING ACCESSORY
DWELLING UNITS; 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, on August 16, 2022, the Planning Commission of the Arroyo Grande recommended to the City Council amending Section 16.52.150 of 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 September 13, 2022, concerning proposed amendments to AGMC Section 16.52.150; and

WHEREAS, the City Council of the City of Arroyo Grande, at its regularly scheduled public meeting on September 13, 2022 introduced this Ordinance to amend Section 16.52.150 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 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.

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3. 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.
4. Factory-built housing as defined by California Health and Safety Code Section 19971 shall be allowed as ADUs.

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.
 - 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. An existing unit may be converted to an 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).

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- 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. These ADUs may be attached to each other, but must be detached from the existing multi-family dwelling units.
- 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. 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.

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- 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. Expansion of an existing structure proposed to be converted to an ADU is limited to 150 square feet for purposes of accommodating ingress and egress.
- 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 the front setback requirement of the underlying zoning district, and all building codes. No minimum lot size or lot coverage requirement shall apply.
- e. ADUs shall have independent exterior access from the primary dwelling.
- 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:

$$S = \frac{I \times L \times 100}{A \times 43,560}$$

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 and comply with the front setback for the zoning district. ADUs exceeding the maximum square footage or height specified in this provision shall be subject to compliance with setbacks of the underlying zoning district.
- 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 unless no feasible alternative exists. Feasibility is determined whether a by-right ADU can physically be constructed behind the primary dwelling due to the presence of maximum slope, other structures, existing easements, or drainage features.
- 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 Building Official and 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 not be permitted on any detached ADU.

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- 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 Building Official and 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 location wholly or partially 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 located within an 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. Objective Design Standards
 - a. The colors of the exterior walls, roof, eaves, and windows and doors of a new, detached ADUs must match the appearance and architectural design of those of the primary dwelling.
 - b. If a garage is converted to an ADU, the garage door opening shall be replaced with exterior wall coverings, or residential windows and doors, to match the existing exterior garage wall covering and detailing.
 - c. ADUs created under the By-Right Provisions of this Section are exempt from the Objective Design Standards, as are ADUs created through the use of pre-approved plans and factory-built housing that meet the standards of a By-Right unit.
 - d. Where ADUs are to be located within the front yard setback in accordance with Section D.3.c, the Objective Design Standards shall apply.

- e. ADUs located in the D-2.4 Historic Character Overlay District shall comply with the Objective Design Standards.
 - a. Second floor living area shall be setback 5 feet from the ground floor footprint.
 - b. Window sashes and doorframes shall be made of wood or vinyl simulating the appearance of wood. Unfinished aluminum is not allowed.
 - c. New or replacement doors shall be wood or an approved substitute material that simulates the appearance of original materials.
 - d. The use of fluorescent “neon”, “day-glo”, or bright primary colors as the predominant shade on building facades is not permitted.
- 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 connection fees and capacity charges based on either its square footage as a proportion to the square footage of the primary unit, or the number of its drainage fixtures unit values, as determined by the Public Works Department.

E. Conditions.

- 1. An ADU/JADU shall not be sold or otherwise conveyed separate from the primary residence.

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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.

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. 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.

SECTION 4. 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 5. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

SECTION 6. 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:

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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