

ORDINANCE NO. 962

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA
ADOPTING AMENDMENTS TO TITLE 18 OF THE CORTE MADERA
MUNICIPAL CODE TO AMEND: (1) CHAPTER 18.31 – SECOND UNITS (2) 18.04 –
DEFINITIONS (3) 18.08 - R RESIDENTIAL DISTRICTS TO ESTABLISH JUNIOR
ACCESSORY DWELLING UNITS**

WHEREAS, homeowners who create accessory dwelling units benefit from added income, and an increased sense of security; and

WHEREAS, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock; and

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

WHEREAS, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and

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

WHEREAS, the State of California has established that a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family and multifamily residential zones and that ordinance shall designate areas within the jurisdiction of the local agency where junior accessory dwelling units may be permitted and the designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety; and

WHEREAS, it is the intent of the Town Council to adopt a junior accessory dwelling unit ordinance which has the effect of providing for the creation of junior accessory dwelling units and that provisions in this ordinance relating to matters including unit size, utility provisions, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create junior accessory dwelling units in zones in which they are authorized by local ordinance; and

WHEREAS, the Town adopted the Christmas Tree Overlay District in 1994 (as set forth in Section 18.18 of the Town of Corte Madera Municipal Code [CMCC]) and, at that time recognized the unique development conditions of Christmas tree hill which include

- (1) The roads on Christmas Tree Hill are steep, narrow and windings;
- (2) There are many small developed lots with severely limited off-street parking;
- (3) Christmas Tree Hill is heavily vegetated and developed with numerous older, wooden structures resulting in high fuel loading and severe fire hazard;
- (4) The road configuration and proliferation of on-street parking limit emergency access to all Christmas Tree Hill residents and property, as well as evacuation of residents in the event of fire, natural disaster, or other emergency;
- (5) Infrastructure facilities, including drainage and roads, are limited in their ability to accommodate additional development, including, but not limited to, residential expansions, new residential units and additional dwelling units; and

WHEREAS, in acknowledgement of these unique conditions, CMMC Section 18.18.400 limits the number of additional dwelling units within Christmas Tree Hill to avoid jeopardizing the health and safety of persons residing in the area related to traffic flow, fire hazards and emergency evacuation, and infrastructure capacity; and

WHEREAS, the proposed Zoning Code amendments comply with State Code Section 65852.22 which establishes standards for the creation of junior accessory dwelling unit ordinances; and

WHEREAS, the amendments are within the scope of the Program EIR for the 2009 General Plan and no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15168 and 15162; and

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

WHEREAS, on October 13, 2016, the Planning Commission held a public hearing, received the staff report and a review presentation from the Planning Department, and received comments from the public and interested parties and continued the matter for further consideration to October 25, 2016; and

WHEREAS, on October 14, 2016, notice of the Planning Commission public hearing was published in the Marin Independent Journal in compliance with California Government Code Section 65090 and posted in public places throughout Town; and

WHEREAS, on October 25, the Planning Commission held a public hearing, received the staff report and reviewed a presentation from the Planning Department and received comments from the public and interested parties, and

WHEREAS, by Resolution No. 16-30, the Planning Commission did consider and recommend, by a vote of 4-0 (with one absent) that the Town Council adopt amendments to the Town of Corte Madera Zoning Ordinance; and

WHEREAS, on November 2, 2016, notice of the Corte Madera Town Council public hearing on the proposed Zoning Ordinance amendments was sent by email to all those who signed up for Planning and Building Weekly Newsletter newsletter items, was posted at the Town's fire stations, Town Hall, library and post office, and was posted to the Town's website; and

WHEREAS, November 4, 2016, notice of the Town Council public hearing was published in the Marin Independent Journal in compliance with California Government Code Section 65090, and

WHEREAS, on November 15, the Town Council of the Town of Corte Madera did conduct a public hearing on the item, and did consider all oral and written comments submitted to the Town regarding the same prior to taking its actions on the item.

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

Section 1. Recitals

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

Section 2. Record

The Record of Proceedings ("Record") upon which the Planning Commission makes its recommendation includes, but is not limited to:

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

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

Based on the Record, the Town Council finds the Zoning Ordinance Amendments are not subject to CEQA. The amendments are within the scope of the Program EIR for the 2009 General Plan and the Planning Department recommends that no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality

Act (CEQA) Guidelines sections 15168 and 15162.

Section 4. General Plan Consistency

The Town Council of the Town of Corte Madera hereby finds that the proposed Zoning Ordinance amendments to Chapter 18.04, 18.08 and 18.31, are in the best interest of the Town because they further established goals, policies and implementation programs of the General Plan to promote housing opportunities, maintain a diverse range of housing options, providing infill housing that is potentially affordable, encouraging the improvement of existing housing stock while preserving quality of life in residential zones. The ordinance amendments also implement specific policies of the Housing Element by modifying and improving the existing accessory dwelling unit provisions to ensure consistency with state code.

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

Implementation Program H-2.15.b Junior Second Units. Review and adopt standards to allow the creation of junior second units. Standards to consider should include, but not be limited to, the following: conversion of existing bedroom required – no building expansion, maximum 500 square foot size, wet-bar type kitchen only with limitations on size of sink, waste line and counter area, cooking facility limited by electrical service and prohibition of gas appliances, bathroom requirement, external access requirement, parking requirements, owner occupancy requirement.

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

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

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

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

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

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

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

Section 5. Amendment To The Corte Madera Municipal Code. Subsection 18.04 is amended to add the following:

18.04.392 – Junior Accessory Dwelling Unit.

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

Section 6. Amendment To The Corte Madera Municipal Code, Subsection 18.08.020 is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

Permitted Uses	Multiple Dwelling R-3 and R-2	Medium Density R-1	Low Density R-1-A	Very Low Density R-1-B	Open Residential R-1-C
(11) One accessory dwelling unit or <u>junior accessory dwelling unit</u> which conforms with the size and standards of Chapter 18.31 of this title	X	X	X	X	X

Section 7. Amendment To The Corte Madera Municipal Code, Subsection 18.31 Is Amended, As Shown In Strike-Out (Deleted) And Underline (Added) Text, As Follows:

18.31.1 Junior Accessory Dwelling Units

18.31.110 - Purpose.

The purpose of this chapter is to comply with the 2009 Corte Madera General Plan, 2015 Housing Element and California Government Code Section 65852.22 which provides for local jurisdictions to set standards for the development of Junior Accessory Dwelling Units (JADU) so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood.

18.31.120 – Junior Accessory Dwelling Unit Permit Required

The zoning administrator or his/her designee shall issue a Junior Accessory Dwelling Unit permit as a ministerial permit to allow for a Junior Accessory Dwelling Unit; provided, that a completed application is submitted which demonstrates that the Junior Accessory Dwelling Unit complies with the requirements contained in this chapter. In addition to a Junior Accessory Dwelling Unit permit, the applicant shall be required to obtain a building permit prior to the construction of the unit.

18.31.130 - Definition

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

18.31.140 - Permitted Districts.

Junior Accessory Dwelling Units shall be allowed as permitted uses in the (R-1-C) open residential, (R-1-B) very low density, (R-1-A) low density, (R-1) medium density, (R-2) low density multiple-dwelling and (R-3) high density multiple-dwelling districts; provided, that the submitted application satisfies the requirements set forth in this chapter.

18.31.150 – Junior Accessory Dwelling Unit Regulations.

A Junior Accessory Dwelling Unit shall be subject to the following regulations:

- A. Number of Units Allowed. Only one Accessory Dwelling Unit or one Junior Accessory Dwelling Unit may be located on any appropriately zoned parcel that contains

a one-family dwelling.

B. Owner-occupancy is required in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

C. Deed Restriction. Prior to obtaining a building permit for a Junior Accessory Dwelling Unit, a deed restriction, approved by the Town Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a Junior Accessory Dwelling Unit identified in this section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Planning Department stating that:

a. Sale Prohibited. A Junior Accessory Dwelling Unit shall not be sold independently of the primary dwelling on the parcel.

b. Floor Area. The Junior Accessory Dwelling Unit shall have a maximum floor area of 500 square feet.

D. Location of Junior Accessory Dwelling Unit. A Junior Accessory Dwelling Unit must be created within the existing walls of an existing primary dwelling, and must include an existing bedroom.

E. Entryways. Must include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

F. Conformance to Zoning Requirements. Any exterior improvements associated with the development of a Junior Accessory Dwelling Unit shall conform to zoning regulations.

G. Kitchen Requirements. The Junior Accessory Dwelling Unit shall include an efficiency kitchen with all of the following:

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

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

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

H. Parking.

a. No off-street parking is required for a Junior Accessory Dwelling Unit.

b. A permit for a Junior Accessory Dwelling Unit shall not be issued for a site containing an illegal nonconforming parking condition unless the existing illegal parking condition is corrected or a variance or other applicable permit approval is granted to allow the existing illegal parking condition to remain.

c. Reconstruction and/or remodeling and/or expansion of existing residential structures to which Chapter 18.20 – Off-Street Parking and Loading applies shall be required to comply with the applicable parking standards, but an additional off-street parking space shall not be required for a Junior Accessory Dwelling Unit that is part of or

created at the same time as the reconstruction and/or remodeling and/or expansion.

I. Bathroom Requirements. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

J. The Junior Accessory Dwelling Unit shall be considered legal only so long as either the primary residence, or the accessory unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or non-profit housing organization whose primary mission is to create affordable housing.

K. The Junior Accessory Dwelling Unit shall not be rented for less than the thirty consecutive days.

L. Expiration of Issued Permit. Junior Accessory Dwelling Unit permits shall expire if not vested within two years of the date of approval. As used in this section, vesting means: (1) recordation of required deed restrictions; (2) securing a valid building permit and/or other permits related to the approval; and (3) substantial completion of improvements in accordance with the secured building permit and/or other permits. Prior to the expiration of a Junior Accessory Dwelling Unit approval, the applicant may apply to the Planning Director for an extension of not more than one year from the original date of expiration. The Planning Director shall grant the extension if (s)he finds that there has been no change in the factual circumstances surrounding the original approval.

M. Termination of Junior Accessory Dwelling. Termination of the use requires the elimination by the property owner of any secondary utility meters and removal of all kitchen cabinetry, kitchen sink, refrigerator, dishwasher, cooking facilities. The property owner shall apply for building permits to remove such features, as required under the Town's building and fire codes.

N. Junior accessory dwelling units shall be exempt from Sections 18.18.405(K) and 18.18.410 of this title.

18.31.160 – Procedures.

An application for a junior accessory dwelling unit permit shall be filed with the planning department. No public hearing shall be required but courtesy notice shall be given in the manner prescribed in Chapter 18.36, Administration, at least ten days prior to a decision.

18.31.170 - Administrative Review.

The decision of the planning director granting or denying an accessory dwelling unit permit is a ministerial decision as required by State law. Ministerial approvals are not subject to review at a public hearing. In considering junior accessory dwelling unit permits, review is limited to the objective standards and criteria established by the town as set forth in Section 18.31.150 of this chapter for junior accessory dwelling units. A request for an Administrative review that is limited to the objective standards and criteria for junior accessory dwelling units (18.31.150) may be made by filing an application and paying applicable fees with the Planning Department. Any application for administrative review must be filed with the planning department within ten calendar days of the date that the decision of the zoning administrator or planning commission was made, whichever is applicable. Any Administrative Review proceedings before the planning commission and the town council shall not be public hearings. The planning commission and town council shall apply the criteria contained in 18.31.150 in an objective and ministerial manner. All costs of the proceedings shall be the responsibility of the party requesting review. The Administrative Reviews should be scheduled so as to minimize delay of review or approval of a junior accessory dwelling unit.

Section 8. Severability

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

portions of the ordinance.

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

Section 9. Effective Date

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

Section 10. Posting

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

* * * * *

This ordinance was introduced on the 15th day of November, 2016, and adopted on the 6th day of December, 2016, by the following vote:

AYES: ANDREWS, BAILEY, CONDON, FURST, LAPPERT

NOES: - NONE -

ABSTAIN: - NONE -

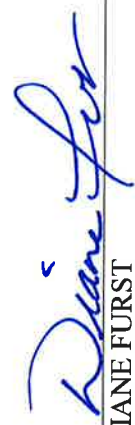
ABSENT: - NONE -

RECUSED: - NONE

ATTEST:




REBECCA VAUGHN
TOWN CLERK


DIANE FURST
MAYOR

