

ORDINANCE NO. 18-03

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT CO-17-01, AMENDMENT TO TITLE 13, CHAPTERS I, IV, V, VI RELATED TO DEFINITIONS, LAND USE MATRIX, DEVELOPMENT AND PARKING STANDARDS AND LAND USE REQUIREMENTS RELATED TO ACCESSORY DWELLING UNITS IN SINGLE FAMILY AND MULTI-FAMILY ZONING DISTRICTS DEVELOPED WITH SINGLE UNITS

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: FINDINGS

The City Council finds as follows:

WHEREAS, this Code Amendment CO-17-01 to amend Title 13, Chapter 1 would allow ministerial approval of Accessory Dwelling Units in R1 and R2-MD Zones where the property is developed with a single family unit subject to development standards and specific requirements.

WHEREAS, this ordinance is intended to provide compliance with Senate Bill 1069 and Assembly Bill 2299 effective on January 1, 2017.

WHEREAS, as required by Senate Bill 2299, under this ordinance accessory dwelling units will not be considered as exceeding the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use consistent with the existing general plan and zoning designation for the lot.

SECTION 2: CODE AMENDMENT - Title 13, Chapter I, Article 2, Section 13-6 (Definitions), is hereby amended as follows:

Accessory Dwelling Unit (ADU). A second dwelling unit established in conjunction with and subordinate to the single family dwelling unit existing on the property. The accessory dwelling unit may be as studio with no bedroom or contain a maximum of two bedrooms and be attached to the single family dwelling unit or located in a detached accessory building on the same lot. It may also be referred to as an accessory apartment, granny unit, granny flat, or in-law apartment.”

SECTION 3: CODE AMENDMENT - Title 13, Chapter IV, Section 13-30 (Citywide Land Use Matrix), is hereby amended as follows:

	ZONES																						
LAND USES ⁴	R 1	R 2 M D	R 2 H D	R 3	A P	C L	C 1	C 2	C 1 S 1	T C 1	M G	M P	P D R L D 1	P D R M D 1	P D R H D 1	P D R N C M 1	P D C 1	P D I 1	I & R 1	I & R S 1	I & R M L T 1	P	
22.2 Accessory dwelling unit (subject to the requirements of Chapter V, Section 13-35, accessory dwelling units)	P ²	• P ²	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•

² This use is subject to the requirements of the referenced Municipal Code article or section.

SECTION 4. CODE AMENDMENT. Title 13, Chapter V, Section 13-31 (Purpose of Residential Development Standards):

- (e) Provide for the creation and ministerial consideration of accessory dwelling units in the R1 (Single-Family Residential District) and R2-MD (Multiple-Family Residential District, Medium Density) at the allowable general plan density for the lot.

SECTION 5. CODE AMENDMENT. Title 13, Chapter V, Article 1, Section 13-35 (Residential Development Standards)

Sec. 13-35. - Accessory dwelling units.

Pursuant to Government Code § 65852.2, local governments have the authority to adopt regulations designed to promote accessory dwelling units. An accessory dwelling unit which conforms to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the general plan designation and zoning classification for the lot.

The following criteria constitute the standards that the city shall use to evaluate a proposed accessory dwelling unit.

- (a) At all times the accessory dwelling unit exists either the accessory dwelling unit or the single family residence shall be owner occupied. Neither unit shall be rented for any period of 30 days or less. Prior to the issuance of any building permit for an accessory dwelling unit, a covenant that meets the approval of the City Attorney shall be recorded on the property to enforce these requirements. The covenant shall be valid as long as the accessory dwelling unit exists.

- (b) An accessory dwelling unit shall be limited to a lot in the R1 and R2-MD, zones which contains no more than one, existing single-family dwelling with a minimum lot size of 7,900 square feet in R1 zone. In the R2-MD zone, the lot must have been existing as of March 16, 1992, and the lot must be between 6,000 and 7,260 square feet.
- (c) The accessory dwelling unit shall not be intended for sale but may be rented. Rental terms shall be in excess of 30 days.
- (d) The primary dwelling unit shall be a single-family residence.
- (e) If detached from the single family residence, the accessory dwelling unit size shall not exceed 400 square feet for a studio unit or 800 square feet with maximum two bedrooms. For all purposes of this Section, a home office is considered a bedroom.
- (f) If attached or incorporated within the single family residence, the accessory dwelling unit area of floor space shall no exceed 50 percent of the proposed or existing primary dwelling living area or 800 square feet.
- (g) One parking space shall be provided for an accessory dwelling unit unless the accessory dwelling unit is a maximum 400 square feet studio unit with no bedrooms, in which case, no parking space is required. Parking for the accessory dwelling unit may be provided as tandem parking on an existing driveway leading to a garage or carport but must be in addition to any parking required for the single family residence and must not block more than one other parking space, including any parking space in a garage. Tandem parking means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Parking for the accessory dwelling unit cannot be provided via parallel parking spaces located at a rear alley setback. No parking shall be permitted within front yard setbacks and side yard setbacks for corner parcels. Parking for the accessory dwelling unit is not required in each of the following situations:

1. When the accessory dwelling unit is located within ½ mile of a public transit;
 2. When the accessory dwelling unit is located within an architecturally and historically significant historic district;
 3. When the unit is part of the proposed or existing primary residence or an accessory structure;
 4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; and,
 5. When there is a car-share vehicle located within one block of the accessory dwelling unit. "Car-share vehicle" means part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- (h) For accessory dwelling units that are created within an existing single family residence, no additional parking is required; however, when a garage is converted to an accessory dwelling unit or is demolished in conjunction with the construction of an accessory dwelling unit, a new garage including two open parking spaces must be provided on the parcel in compliance with provisions applicable to R-1 zone. In conjunction with an accessory dwelling unit application, the parking required for the single family residence shall be in compliance with the current parking requirements as specified in Chapter VI Off-Street Parking Standards and shall not be attributed to the accessory dwelling unit.
 - (h) Except as provided in this subsection (h), an accessory dwelling unit shall comply with the residential development standards shown in Title 13, Chapter V, Table 13-

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- (i) An application for a second unit shall be considered ministerial by the Development Services Director or his/her designee. Exception: Where deviations from the residential development standards are requested, the second unit application is subject to the application processing procedures as set forth in Title 13, Chapter III Planning Applications. An appeal shall be in accordance with Title 2, Chapter IX Appeal, Rehearing and Review Procedure.
- (j) An application for a second unit involving second story construction may be subject to minor design review pursuant to Title 13, Chapter III Planning Applications.
- (k) Every accessory dwelling unit (whether attached or detached) must be on a single story. In addition, a detached accessory dwelling unit must not exceed 15 feet in height, unless it is above an existing garage, in which case the structure must comply with the two-story height requirements for the zone.
- (l) Each residential parcel may contain only one accessory dwelling unit.
- (m) All or part of a legally existing accessory structure can be converted into an ADU as long as it meets the following:
 - 1. The ADU has independent exterior access.
 - 2. The rear and side setbacks are deemed sufficient for fire safety as required by the Building Code.
 - 3. The structure complies with applicable Building Codes for the proposed use.
 - 4. The conversion does not involve an addition of floor area to the structure.
 - 5. In such cases, the City may not require the applicant to install a new or separate utility connection or impose a related connection fee or capacity charge.

SECTION 6. CODE AMENDMENT. Title 13, Chapter VI, Section 13-85 (Parking Requirements for Residential Developments)

- (d) *Parking for accessory dwelling units.* One parking space shall be provided for an accessory dwelling unit unless the accessory dwelling unit has no bedrooms, in which case, no parking space is required. Parking may be provided as tandem parking on an existing driveway leading to a garage or carport but must be in addition to any parking required for the single family residence. Tandem parking means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another

Parking for the accessory dwelling unit is not required in each of the following situations:

- 1. When the accessory dwelling unit is located within ½ mile of public transit;
- 2. When the accessory dwelling unit is located within an architecturally and historically significant district;

3. When the accessory dwelling unit is part of the proposed or existing single family residence or an accessory structure;
4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; and,
5. When there is a car-share vehicle located within one block of the accessory dwelling unit. To prevent car-sharing applications that allow individuals to rent personal vehicles to qualify, "Car-share vehicle" means that the vehicle is part of an established program intended to stay in a fixed location for at least 10 years and available to the public.

In conjunction with an accessory dwelling unit application, the parking required for the single family residence shall meet the current parking requirements specified in Chapter VI Off-Street Parking Standards, and shall not be attributed to the accessory dwelling unit.

SECTION 7: ENVIRONMENTAL DETERMINATION. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to CEQA Guidelines Section 15282(h), which states that "the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code" relating to "granny" housing and "second unit ordinances" are exempt from the requirements of CEQA.

SECTION 8: INCONSISTENCIES. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 9: SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 10: PUBLICATION. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this 16th day of January 2018.



Sandra L. Genis, Mayor

ATTEST:

APPROVED AS TO FORM:



Brenda Green, City Clerk



Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 18-03 was duly introduced for first reading at a regular meeting of the City Council held on the 2nd day of January, 2018, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the 16th day of January, 2018, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: Righeimer, Mansoor, and Genis
NOES: COUNCIL MEMBERS: Foley and Stephens
ABSENT: COUNCIL MEMBERS: None

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 17th day of January, 2018.



BRENDA GREEN, CITY CLERK