

ORDINANCE NO. 837

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CRESCENT CITY ADDING CHAPTER 17.35, ACCESSORY DWELLING UNITS, TO TITLE 17, ZONING, OF THE CRESCENT CITY MUNICIPAL CODE

WHEREAS, the City of Crescent City is a general law city subject to all California State laws of general applicability; and

WHEREAS, the State of California is experiencing a “housing crisis” in which there are not enough housing units to fulfill the housing needs of the State; and

WHEREAS, to streamline the process and create opportunities for infill housing development, the State of California has adopted several bills over past several years mandating that cities and counties allow for the construction / creation of accessory dwelling units under specified circumstances; and

WHEREAS, cities and counties are not required but are allowed to adopt local ordinances to expand or clarify accessory dwelling unit regulations pursuant to Government Code Sections 65852.2 and 65852.22; and

WHEREAS, the Planning Commission has reviewed and following a duly-noticed public hearing recommended this ordinance be adopted by the City Council.

NOW, THEREFORE, the City Council of the City of Crescent City does hereby ordain as follows:

SECTION 1. RECITALS. The City Council finds the above recitals to be true and correct and are incorporated herein as if set forth in full.

SECTION 2. CODE AMENDMENT. The Crescent City Municipal Code is hereby amended by adding Chapter 17.35, Accessory Dwelling Units, to Chapter 17, Zoning, as follows:

Chapter 17.35 ACCESSORY DWELLING UNITS

17.35.010 Purpose.

This Chapter is adopted to comply with Government Code Sections 65852.2 and 65852.22, which impose a state mandate that the City implement regulations governing accessory dwelling units (“ADU”) and junior accessory dwelling units (“JADU”) in accordance with California law.

17.35.020 Applicability.

An ADU or JADU complying with this Chapter meets the lot density requirements of this Code and constitutes an accessory to a primary use consistent with applicable land use designations in the existing general plan and the zoning designations for the affected districts. Any local ordinance, policy, or program limiting residential growth is inapplicable to ADUs and JADUs complying with this Chapter.

17.35.030 Definitions.

For purposes of this chapter, the words and phrases listed below have the following meanings:

- A. "Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following (so long as they otherwise comply with this Chapter):
 - 1. An efficiency unit.
 - 2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- B. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
- C. "Connection fee" means those fees established pursuant to Government Code Section 66013(a).
- D. "Deed restriction" means a document executed and recorded with the County Recorder's Office which places restrictions on the use or transfer of the subject property and is binding upon all future owners of the subject property.
- E. "Efficiency unit" means a unit occupied by no more than two people with a minimum floor area of 150 square feet, which may also have partial kitchen or bathroom facilities, including enclosed uses such as an attached garage.
- F. "Impact fee" has the same meaning as the term "fee" as defined in Section 66000(b) of the Government Code, except that it includes fee specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge imposed by a local agency or special district.
- G. "Junior accessory dwelling unit" or "JADU" means a unit entirely within an existing or proposed dwelling unit that is no more than 500 square feet and no less than 150 square feet.
- H. "Living area" means the interior habitable area of a dwelling unit, including finished basements and attics, but not including garages or unfinished basements or attics.
- I. "Multifamily dwelling" means a structure with two or more attached residential dwellings on a single lot, specifically excluding hotels and motels.
- J. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

- K. "Primary dwelling" means the single-family or multi-family dwelling to which the ADU or JADU is an accessory.

17.35.040 ADU Development Standards – Generally.

- A. **Principal Permitted Use.** ADUs that comply with the provisions of this Chapter in all respects are a principal permitted use in any non-coastal zoning district that principally or conditionally permits residential uses.
- B. **Uniform Codes.** All ADUs must comply with all applicable building and fire codes, state habitability requirements, and health and safety codes, unless where explicitly exempted by Sections 65852.2 of the Government Code.
- C. **Solar Energy.** An ADU is only subject to the California Energy Code requirement to provide a solar energy system if it qualifies as one of the following:
1. A new construction, non-manufactured, detached ADU; or
 2. An attached ADU constructed with the construction of a new single-family dwelling.
- D. **Minimum Size.** All ADUs must be at least 150 square feet.
- E. **Fire Sprinklers.** No ADU will be required to install fire sprinklers in the ADU unless they are required of the primary dwelling. The construction of an ADU does not trigger the requirement for fire sprinklers to be installed in an existing primary dwelling.
- F. **Septic.** If a proposed ADU is planned to use an onsite wastewater treatment system (OWTS), then prior to issuance of the building permit, the applicant must submit certification from the Del Norte County Health Department stating that the existing OWTS is of adequate size and condition to support projected sewage flow for both the primary dwelling and the proposed ADU. If the capacity or condition of the existing OWTS is found to be inadequate to serve the existing dwelling and the proposed ADU, then the OWTS must be replaced or upgraded to meet current standards, at the sole expense of the applicant. A percolation test completed within the last five years, or if the percolation test has been recertified, within the last 10 years, may be required.
- G. **Public Improvements.** ADUs are exempt from any requirement to make street and/or sidewalk improvements.
- H. **Nonconforming Conditions.** The issuance of a permit to create an ADU may not be denied due to existing nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the accessory dwelling unit.
- I. **Parking.** There will be no off-street parking requirements for ADUs. If existing off-street parking is lost due to the conversion of an existing garage or carport, then replacement off-street parking is not required.
- J. **Permanent Foundations.** All ADUs must have a permanent foundation. A recreational vehicle, commercial coach, trailer, motor home, camper, camping trailer, or boat cannot be used as an ADU.
- K. **SB 9 Lot Split.** If a property owner in a single-family residential zone obtains approval of a lot split pursuant to Senate Bill 9, any existing or proposed ADU or JADU shall count

toward the maximum of two units allowed on each lot resulting from the lot split. The ADU must remain with the primary dwelling.

- L. Short-Term Rentals Prohibited.** The use of any ADU as a short-term rental (30 days or less) is prohibited.

17.35.050 Attached ADU Development Standards.

- A. Application.** This section applies to ADUs that are built outside the walls of the existing or proposed single-family dwelling but that is physically attached to the existing or proposed single-family dwelling. These units are referred to as “attached ADUs.”
- B. Size.** The total floor area of an attached ADU may not exceed 50% of the floor area of the existing or proposed single-family dwelling up to 1200 square feet; provided, however, that a total floor area of 850 square feet shall be allowed for an ADU with 0-1 bedrooms and a total floor area of 1000 square feet shall be allowed for an ADU with 2 or more bedrooms.
- C. Setbacks.** Side and rear yard setbacks for an attached ADU are four feet. Setbacks may be required to be greater than four feet if necessary to comply with any recorded utility easement or other previously recorded setback restrictions. Front yard setbacks for the applicable zoning district apply to an attached ADU. However, if the front yard setback does not allow for the creation of an 800 SF attached ADU, then the front setback shall not apply to the extent necessary to allow for the creation of an 800 SF attached ADU.
- D. Height.** The maximum height allowed for an attached ADU is 25 feet or the applicable zoning height limitation, whichever is lower.
- E. Separate Entrance.** The attached ADU must have a separate exterior entrance from the primary dwelling.

17.35.060 Detached ADU Development Standards.

- A. Application.** This section applies to ADUs on a lot with an existing or proposed single-family residence dwelling that are new construction and not physically attached to the primary dwelling nor a conversion of existing space in an accessory structure. These units are referred to as “detached ADUs.”
- B. Size.** The total floor area for a detached ADU may not exceed 1200 square feet.
- C. Location.** Detached ADUs shall be located at least 5 feet from any other building.
- D. Setbacks.** Standard rear and side yard setbacks for detached ADUs are four feet. Setbacks may be required to be greater than four feet if necessary to comply with any recorded utility easement or other previously recorded setback restrictions. Front yard setbacks for the applicable zoning district apply to detached ADUs. However, if the front yard setback does not allow for the creation of an 800 SF detached ADU, then the front setback shall not apply to the extent necessary to allow for the creation of an 800 SF detached ADU.
- E. Height.** The maximum height for a detached ADU on a lot with an existing or proposed single-family residence or multi-family, single story building is 16 feet. The maximum height for a detached ADU on a lot with an existing or proposed multifamily, multistory

building is 18 feet. In addition to the applicable height limitation, an additional two feet will be allowed to accommodate a roof pitch on the ADU so that it is aligned with the roof pitch of the primary dwelling unit.

- F. Utilities.** Notwithstanding any provisions to the contrary, all utilities for a detached ADU must be installed underground.

17.35.070 Statewide Exemption ADU.

A. Definition. An ADU that meets one the following standards is a statewide exemption ADU:

1. Statewide Exemption ADU – Type 1.
 - i. One ADU within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure per lot.
 - ii. The ADU may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure for purposes of accommodating ingress and egress.
 - iii. The ADU has exterior access separate from the proposed or existing single-family dwelling.
 - iv. The side and rear yard setbacks must be sufficient for fire and safety.
2. Statewide Exemption ADU – Type 2.
 - i. One detached, new construction ADU that does not have less than four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The ADU shall have a floor area of no more than 800 square feet and a maximum height of 16 feet.
3. Statewide Exemption ADU – Type 3.
 - i. Multiple ADUs within the portions of an existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basement, or garages, if each unit complies with state building standards for dwellings. Each multifamily dwelling structure will be allowed at least one ADU and up to 25% of the existing multifamily dwelling units.
4. Statewide Exemption ADU – Type 4.
 - i. Not more than two detached ADUs (maximum 800 SF each with four -foot side and rear setbacks) on a lot that has an existing or proposed multifamily dwelling that are a maximum height of 18 feet and has rear yard and side yard setbacks of four feet. An additional two feet will be allowed to accommodate a roof pitch on the ADU so that it is aligned with the roof pitch of the primary dwelling unit.

- B. Front Yard Setbacks.** Front yard setbacks for the applicable zoning district apply to a statewide exemption ADU; provided that if said front yard setback would preclude the creation of a statewide exemption ADU Type 1 or 2, the project will be exempted from the applicable set back to the extent necessary.

- C. Exemptions.** No lot coverage, floor area ratio, open space, minimum lot size, lot location, or other local design standard may preclude the construction of a statewide exemption ADU. A statewide exemption ADU will be automatically exempted from those standards to the extent necessary.
- D. Solar Energy.** New construction, non-manufactured, detached ADUs are subject to the California Energy Code requirement to provide solar systems. Per the California Energy Commission (CEC) the solar systems can be installed on either the ADU or the primary dwelling unit.

17.35.080 Junior ADU Development Standards.

- A. Principal Permitted Use.** JADUs that comply with the provisions of this Chapter in all respects are a principally permitted use in any non-coastal zoning district that principally permits single-family dwellings, and the lot contains an existing single-family dwelling or proposed single-family dwelling. Only one JADU per residential lot zoned for single-family dwellings is allowed.
- B. Size.** JADUs may be no smaller than 150 square feet and no larger than 500 square feet. The JADU must be constructed entirely within the walls of the existing or proposed primary dwelling.
- C. Separate entrance.** The JADU must have a separate entrance from the main entrance to the primary dwelling.
- D. Efficiency kitchen.** Each JADU must have an efficiency kitchen which includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the JADU.
- E. Sanitation Facilities.** The JADU must either have its own sanitation facilities or access to the sanitation facilities within the primary dwelling. If the JADU does not have its own sanitation facilities, then it must have an interior access door from the JADU to the primary dwelling.
- F. Owner-occupancy requirement.** Either the primary dwelling or the JADU must be occupied by the property owner, unless the property owner is a governmental agency, land trust, or housing organization.
- G. Parking.** The creation of a JADU does not trigger any off-street parking requirements.
- H. Uniform Codes.** All JADUs must comply with all applicable building and fire codes, state habitability requirements, and health and safety codes, unless where explicitly exempted by Sections 65852.22 of the Government Code.
- I. Fire Sprinklers.** No JADU shall be required to install fire sprinklers in the JADU, unless they are required of the primary dwelling.
- J. Utilities.** No separate connection to water and sewer utilities is required for a JADU. JADUs are exempt from any requirement to underground overhead utilities.
- K. Public Improvements.** JADUs are exempt from any requirement to make street and/or sidewalk improvements.

- L. Nonconforming Conditions.** The issuance of a permit to create a JADU may not be denied due to existing nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit.

17.35.090 Number of Accessory Dwelling Units Per Lot.

- A. Single-Family Dwelling.** Lots with one or more proposed or existing single-family dwelling(s) may have the following maximum number of units:

1. One JADU; and
2. One non-exempt ADU; or
3. One Statewide Exemption ADU Type 1 and one Statewide Exemption ADU Type 2; or
4. One Statewide Exemption ADU Type 1, one Statewide Exemption ADU Type 2, and one non-exempt ADU if the non-exempt ADU was built before either Statewide Exemption ADU.

- B. Multifamily Dwelling.** Lots with an existing or proposed multifamily dwelling may have the following maximum number of units as applicable:

1. Statewide Exemption ADU – Type 3; and
2. Statewide Exemption ADU – Type 4.

17.35.100 Permit Issuance Procedure.

- A. Permit Required.** A planning permit to construct an ADU or JADU pursuant to this Chapter is required.
- B. Ministerial Review Process.** A planning permit application for an ADU or a JADU shall be considered and approved ministerially if it complies with the provisions of this chapter. If there is an existing primary dwelling on the lot, then the permit application shall be either approved or denied within 60 days from the date the City receives a complete application. If the permit application for an ADU or a JADU is submitted with a permit application to construct a new primary dwelling on the lot, then the City may delay approving or denying the permit application for the ADU or JADU until the permit application to construct the new primary dwelling is approved or denied. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the City has not approved or denied the completed application within 60 days, the application shall be deemed approved.
- C. Denials.** If the City denies an application for an ADU or JADU, then the City must, within the time period described in paragraph A., return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.
- D. Demolition Permits.** If a detached garage is to be demolished and replaced with a detached ADU, then the demolition permit must be reviewed at the same time as the application for the ADU and issued at the same time. The applicant may not be required

to provide written notice of demolition or to post a demolition notice placard for the demolition of the detached garage to be replaced with a detached ADU.

- E. **Variance.** If a property owner desires to construct an ADU that is in excess of the size, height, setback, lot coverage, or building spacing requirements, the property owner may apply for a variance under Chapter 17.56.

17.35.110 Certificate of Occupancy.

- A. **Accessory Dwelling Units.** Prior to the issuance of a certificate of occupancy for an ADU, the following must occur:

1. A certificate of occupancy has been issued for the primary dwelling.
2. A deed restriction, which shall run with the land, has been executed and recorded with the County Recorder of Del Norte County and includes the following terms:
 - i. A prohibition on the sale or transfer of the ADU separately from the primary dwelling unless the transaction complies with Section 65852.26 of the Government Code.
 - ii. A prohibition on the use of the ADU as a short-term rental (30 days or less); provided that this restriction shall be null and void upon an amendment to the municipal code specifically allowing for short-term rentals in ADUs as applicable.
 - iii. The deed restriction shall be in a form approved by the City Attorney.

- B. **Junior Accessory Dwelling Unit.** Prior to the issuance of a certificate of occupancy for a JADU, the following must occur:

1. A certificate of occupancy has been issued for the primary dwelling.
2. A deed restriction, which shall run with the land, has been executed and recorded with the County Recorder of Del Norte County, and include the following terms:
 - i. A prohibition on the sale or transfer of the JADU separately from the single-family residence primary dwelling, including a statement that the deed restriction may be enforced against future purchasers.
 - ii. A restriction on the size and attributes of the JADU that conforms with Government Code Section 65852.22.
 - iii. The deed restriction shall be in a form approved by the City Attorney.

17.35.120 Applicable fees.

- A. **Utility Connection Fees.**

1. An ADU is not considered a new residential use for purposes of calculating connection fees for utilities, including water and sewer service.
2. The ADU owner will not be required, but will be allowed, to install a separate connection directly to water and sewer utilities.

3. Except for ADUs that are created from existing space in either the primary dwelling or an accessory structure, the ADU owner will be required to pay proportional connection fees for sewer and water utility service. The proportional fee will be determined based upon the square footage of the ADU compared to the square footage of the living space of the primary dwelling.
4. A JADU owner will not be charged a separate utility connection fee separate and apart from the primary dwelling, including connection fees for water and sewer service.
5. The JADU owner will not be required to install a separate connection directly to water and or sewer utilities.

B. Impact Fees.

1. ADUs that are 750 square feet or smaller are exempt from impact fees.
2. ADUs that are larger than 750 square feet are subject to impact fees proportionate to the primary dwelling based on square footage.
3. JADUs are not subject to impact fees.

17.35.130 Non-Compliant ADUs

A. Compliance Required.

1. ADUs built or created prior to January 1, 2018, without a use permit, are required to obtain an ADU permit post-construction. Such ADUs must be inspected by the City Building Official for compliance with Building Code standards and all applicable health and safety regulations. As a condition of obtaining a post-construction permit, the City may require the correction of violations only if, in the opinion of the Building Official, it is necessary to protect the health and safety of the public or the occupants or if the building is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code.
2. ADUs built or created after January 1, 2018, but before the effective date of this chapter, without a use permit, are required to obtain an ADU permit post-construction. Such ADUs must be inspected by the City Building Official for compliance with the Building Code, this Chapter, and all applicable health and safety regulations. As a condition of obtaining a post-construction permit, the ADU owner must make any necessary modifications to comply with those with those requirements.
3. ADUs built or created after January 1, 2018, but before the effective date of this chapter, that cannot meet all the development standards of this Chapter may be granted a variance per Chapter 17.56, if the Planning Commission finds that all feasible measures were implemented, and health and safety will not be compromised.

B. Enforcement Proceedings. ADUs described in paragraph A for which an ADU permit is not obtained post-construction nor is an exception by way of a variance obtained from the Planning Commission, will be subject to nuisance abatement proceedings and all other legal remedies available to the City.

- C. Notice of Right to Request a Delay in Enforcement.** In any notice to correct a violation or abate a nuisance based upon the failure of an ADU to meet development standards as described in paragraph A, the City must notify the owner that they have a right to request a delay in enforcement if the ADU was constructed prior to January 1, 2020.
- D. Request to Delay Enforcement.** The owner of the ADU may request that enforcement of the violation be delayed for five years on the basis that the correcting violation is not necessary to protect health and safety. This request shall be made in writing and in the manner prescribed by the City.
- E. Granting a Request for Delay in Enforcement.** Requests to delay enforcement will be granted only if the City determines that correcting the violation is not necessary to protect health and safety. In making this determination the City staff shall consult with the Building Official and the Fire Chief regarding health and safety concerns.
- F. Deadline for Approving Requests.** No applications for a delay in enforcement may be approved on or after January 1, 2030. Any delay that was approved prior to January 1, 2030, however, will be valid for the full term of the delay that was approved at the time of the initial approval of the application.

17.35.140 Compliance with State Law.

To the extent any provision of this Chapter is inconsistent with state law governing ADUs or JADUs, the applicable state law, as amended from time to time, shall govern.

17.35.150 Violations.

Violations of this chapter are subject to all legal remedies available to the City, including but not limited to nuisance abatement proceedings, administrative citations, civil proceedings, and criminal citations.

[END TEXT AMENDMENT]

SECTION 3. SEVERABILITY. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 4. CEQA FINDINGS. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA Guidelines, and has been found to be exempt pursuant to Public Resources Code Section 21080.17 (local regulations implementing Gov. Code Section 65852.2 and 65852.22).

SECTION 5. EFFECTIVE DATE & PUBLICATION. This Ordinance will become effective 30 days after the date of its adoption. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in Del Norte County once within 15 days of its adoption in accordance with the requirements of Government Code Section 36933.

INTRODUCED at a meeting of the City Council of the City of Crescent City held on August 7, 2023.


PASSED AND ADOPTED by the City Council of the City of Crescent City at a regular meeting of the City Council held this 5th day of September 2023 by the following polled vote:

AYES: Council Members Altman, Greenough, Inscore, Schellong, and Mayor Wright

NOES: None

ABSENT: None

ABSTAIN: None


Isaiah Wright, Mayor

ATTEST:


Robin Altman, City Clerk

APPROVED AS TO FORM:


Martha D. Rice, City Attorney