

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTATI AMENDING TITLE 17 (LAND USE) OF THE COTATI MUNICIPAL CODE IN ACCORDANCE WITH STATE LAW BY REPEALING AND REPLACING SECTION 17.42.170 ACCESSORY DWELLING UNITS/JUNIOR ACCESSORY DWELLING UNITS AND AMENDING SECTION 17.90.020 DEFINITIONS OF SPECIALIZED TERMS AND PHRASES**

**WHEREAS**, on March 24, 2015, the Cotati City Council adopted its updated General Plan (Resolution No. 2015-12), which identifies the City’s vision for the future and provides a framework to guide decisions on growth and development consistent with the quality of life desired by Cotati citizens. On March 24, 2015, the Cotati City Council also certified the City of Cotati General Plan Environmental Impact Report (EIR), which reviewed potentially significant environmental effects resulting from the plan’s implementation and developed measures and policies to mitigate those impacts to less-than-significant levels; and

**WHEREAS**, on May 24, 2023, the Cotati City Council adopted the 2023-2031 Housing Element Update to the General Plan (“Housing Element”), which includes goals and policies related to housing, including facilitating the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs); and

**WHEREAS**, as described in the Housing Element, Cotati’s population increased 4.4% between 2010 and 2020, compared to the population of Sonoma County as a whole, which increased only 1% between 2010 and 2020, and this growth may increase housing demand in Cotati; and

**WHEREAS**, ADUs and JADUs provide housing for family members, students, elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods; and

**WHEREAS**, one of the purposes of Title 17 of the Cotati Municipal Code is to ensure that the General Plan, including the Housing Element, may be implemented, and adoption of changes to the Cotati Land Use Code are necessary to implement the General Plan with regard to its goals; and

**WHEREAS**, the State of California has established that a local agency may, by ordinance, provide for the creation of ADUs and JADUs in single-family and multifamily residential zones and that ordinance may set forth certain standards for the development of ADUs and JADUs as allowed by state law; and

**WHEREAS**, state laws related to the review and approval of ADUs and JADUs apply whether or not a local agency has adopted a local ordinance; and

**WHEREAS**, the State of California has made numerous legislative changes since 2016 intended to increase the supply of ADUs and JADUs by limiting a local jurisdiction’s ability to impose certain standards, review processes, and fees, as codified in California Government Code Sections 66310-66342; and

**WHEREAS**, the proposed Land Use Code amendments in this ordinance comply with California Government Code Sections 66310-66342; and

**WHEREAS**, the Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, on November 18, 2024, the Planning Commission of the City of Cotati held a duly noticed public hearing to review the proposed ordinance amending Title 17 (Land Use) of the Cotati Municipal Code in accordance with State law by repealing and replacing Section 17.42.170 Accessory Dwelling Units/Junior Accessory Dwelling Units and amending Section 17.90.020 Definitions of Specialized Terms and Phrases. After receiving the staff report, reviewing a presentation from the Planning Division, and considering all oral and written comments submitted to the City regarding the Ordinance, the Planning Commission voted to approve a resolution recommending adoption of the proposed ordinance; and

**WHEREAS**, on December 10, 2024, the City Council of the City of Cotati held a duly noticed public hearing on the proposed ordinance amending Title 17 (Land Use) of the Cotati Municipal Code in accordance with State law by repealing and replacing Section 17.42.170 Accessory Dwelling Units/Junior Accessory Dwelling Units and amending Section 17.90.020 Definitions of Specialized Terms and Phrases, received the staff report, reviewed a presentation from the Planning Division, and considered all oral and written comments submitted to the City regarding the Ordinance prior to voting to introduce the Ordinance.

**NOW THEREFORE THE CITY COUNCIL OF THE CITY OF COTATI DOES ORDAIN AS FOLLOWS:**

**SECTION 1: Recitals.**

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

**SECTION 2: Record.**

The Record of Proceedings (“Record”) upon which the City Council makes its decision includes, but is not limited to: 1) the 2015 General Plan, 2) the FEIR certified for the 2015 General Plan, 3) the 2023-2031 Housing Element Update adopted by the City Council in 2023, 4) the Mitigated Negative Declaration certified for the 2023-2031 Housing Element, and 5) all staff reports, City files and records, and other documents prepared for and/or submitted to the City Council related to adoption of the ordinance amending Title 17 (Land Use) of the Cotati Municipal Code in accordance with State law by repealing and replacing Section 17.42.170 Accessory Dwelling Units/Junior Accessory Dwelling Units and amending Section 17.90.020 Definitions of Specialized Terms and Phrases.

**SECTION 3: General Plan Consistency**

The Council of the City of Cotati does hereby find that the amendments to Title 17 (Land Use) of the Cotati Municipal Code in accordance with State law that repeal and replace Section 17.42.170 Accessory Dwelling Units/Junior Accessory Dwelling Units and amend Section 17.90.020 Definitions of Specialized Terms and Phrases, as set forth in this Ordinance, are in the best interest of the City in that they will further established goals, policies, and implementation programs of the General Plan, including the Housing Element, to expand housing opportunities, conserve resources, and use land appropriately.

Specifically, these amendments are consistent with and implement the following Housing Element policies and programs:

Policy H-1.9 Encourage the development of accessory dwelling units in order to provide additional affordable and attainable market rate rental units in Cotati.

Policy H-2.9 Continue to facilitate and encourage the construction of accessory dwelling units pursuant to the City's Accessory Dwelling Unit Ordinance, Cottage Housing Ordinance, and pursuit of "affordable by design" missing middle housing such as junior accessory dwelling units and cohousing.

Policy H-2.11 Encourage housing development on existing infill sites in order to efficiently utilize existing infrastructure.

Policy H-3.1 Ensure that the City's development standards encourage development of a range of housing types, including multifamily, mixed use, high density residential, accessory dwelling units, cottage housing units, and single-family units.

Policy H-3.5 Encourage housing for large and intergenerational families, including through the promotion of accessory dwelling units.

Program 3-1 Zoning for a variety of housing types: Allow the development of junior accessory dwelling units within all single-family dwellings, including those in the NM and NU zones, and ensure all accessory dwelling unit/junior accessory dwelling unit requirements are compliant with State law by December 2023.

In addition, these amendments are consistent with and implement the following General Plan policies and programs:

Policy CON 2.1: Improve air quality through continuing to require a compact development pattern that focuses growth in and around existing urbanized areas, locating new housing near places of employment, encouraging alternative modes of transportation, and requiring projects to mitigate significant air quality impacts.

Policy CON 3.10: Ensure that the layout and design of new development and significant remodels encourages the use of transportation modes other than automobiles and trucks.

Policy LU 2.4: Maintain the character of existing neighborhoods by ensuring new development is compatible in style, size, color, and footprint with the existing residences

in the neighborhood.

Policy LU 2.5: Locate medium and higher density housing within easy walking or bicycling distance of public facilities, services, transit, and major employers.

Policy LU 2.6: Require new residential development to be consistent with the small-town character of Cotati and designed and landscaped in an aesthetically pleasing and sustainable manner.

**SECTION 4: Compliance with the California Environmental Quality Act.**

The Council of the City of Cotati does hereby find that the proposed ordinance to amend Title 17 (Land Use) of the Cotati Municipal Code in accordance with State law by repealing and replacing Section 17.42.170 Accessory Dwelling Units/Junior Accessory Dwelling Units and amending Section 17.90.020 Definitions of Specialized Terms and Phrases is exempt from the California Environmental Quality Act as the proposed ordinance is consistent with the program Final Environmental Impact Report (SCH# 2013082037) for the Cotati General Plan Update that was certified on March 24, 2015 (Resolution Number 2015-11) and the Mitigated Negative Declaration certified for the 2023-2031 Housing Element (SCH # 2013082037) adopted and certified on June 2, 2023; that this ordinance is consistent with and implements the City's adopted General Plan, including the 2023-2031 Housing Element, and no new environmental impacts peculiar to the project site(s) have been realized or identified, therefore no additional environmental analysis is required under CEQA Section 15183, and therefore pursuant to Section 15168 of the *CEQA Guidelines*, as such no further environmental review is required.

**SECTION 5: Amendment to the Cotati Municipal Code.** Section 17.42.170 is repealed and replaced as follows:

**17.42.170 Accessory dwelling units/junior accessory dwelling units.** This section establishes procedures and development standards for accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"), where allowed by Chapter 17.22 (Allowable Land Uses), and in compliance with this title and California Government Code Sections 66310-66342 ("state ADU law"), as may be amended from time to time.

A. Review. ADUs/JADUs that are consistent with the standards of state ADU law and this title, as modified by state ADU law and this section, shall be subject to a ministerial, non-discretionary City review process in conformance with state ADU Law. ADUs that are not consistent with the standards of state ADU law may be subject to a discretionary design review process by the City.

B. Development Standards.

1. Application of State ADU Law. Each ADU/JADU shall be consistent with all development standards identified in state ADU law except as modified by this section.

2. Land Use and Zoning Conformance. Each ADU/JADU shall meet all development standards of the zoning district in which it is located and other standards set forth in this title, except as modified by this section or by state ADU law.

a. ADUs/JADUs shall not be included in density calculations or unit count to determine the number of housing units per gross acre for residential or mixed-use properties and shall not be

included in site coverage calculations for a lot.

b. A certificate of occupancy for an ADU shall not be issued before that of the primary dwelling.

3. Location. Generally, ADUs/JADUs should be located to the side and/or rear of the primary structure on the site. Exceptions may be allowed in limited circumstances in which no other location is feasible to build an ADU due to the presence of mature, healthy trees; infrastructure; utility, access, or other easements; natural resources, hillsides, wetlands, or riparian features; existing accessory structures of a permanent nature including garages, carports, site-built custom sheds or greenhouses, or workshops/studios; in-ground swimming pools or spas; or other similar features as determined by the community development director. No ADU of more than eight hundred (800) square feet of gross floor area shall be located within the front setback or street side setback of a lot.

4. Parking. No additional parking spaces are required for the development of an ADU or JADU.

5. Size. ADUs shall be subject to the following requirements related to size:

a. ADUs on lots less than one-half acre (twenty-one thousand seven hundred eighty square feet) in size shall be limited to the following maximum sizes:

Less than two bedrooms	Eight hundred fifty square feet of gross floor area
Two or more bedrooms	One thousand square feet of gross floor area

b. ADUs on lots less than one-half acre in size may exceed the above maximum sizes subject to approval of discretionary design review by the Planning Commission.

c. In no case shall any detached ADU exceed one thousand two hundred square feet in size.

d. The gross floor area of an attached (or interior) ADU shall not exceed fifty percent of the existing gross floor area of the primary residence. Notwithstanding the existing gross floor area of the primary residence, an ADU may contain at least eight hundred square feet of gross floor area.

e. The minimum allowable gross floor area of an ADU shall be the minimum size permitted by the California Building Code, but in no case shall it preclude a minimum-sized efficiency unit.

6. Occupancy, Rental, and Sale.

a. Owner-occupancy of an ADU or its primary dwelling is not required. Either the JADU or the primary dwelling associated with a JADU must be owner-occupied, unless the owner is a government agency, land trust, or housing organization.

b. Any ADU/JADU may be rented separately from the primary dwelling, for a minimum rental term of 30 days.

c. An ADU may be sold separately from the primary dwelling, in accordance with State ADU Law.

7. Height and Setbacks.

a. All ADUs shall comply with the primary structure height and setback requirements of the underlying zoning district with the exception of those described below:

Type of ADU	Minimum Setbacks	Maximum height
Attached	Four feet side and rear	Twenty-five feet
Detached, within one half-mile mile of SMART station	Four feet side and rear	Eighteen feet
Detached, on a property with existing or proposed multifamily, multistory dwelling(s)	Four feet side and rear	Eighteen feet
Detached	Four feet side and rear	Sixteen <b>or Eighteen</b> feet
No setback shall be required for a legally existing living space, garage, or accessory structure which is fully or partially converted to an ADU, or for a structure constructed in the same location and to the same dimensions as a legally existing living area, garage, or accessory structure which is fully or partially converted to an ADU. The maximum height for such structures shall be the greater of the existing height of the structure prior to conversion to an ADU, or the applicable height set forth in Section 17.42.170(B)(7)(a).		

b. No ADU shall exceed a height of two stories, with the exception of an interior ADU constructed fully within an existing dwelling or structure.

C. Rental. ADUs/JADUs must be rented for a minimum term of thirty days.

D. Termination of Permit and Use. At his/her discretion, the community development director or his/her designee may grant an owner’s request to terminate an ADU/JADU. As a condition of termination, the director or his/her designee shall require the owner to make modifications to the property to comply with current building code requirements, and remove the kitchen through a building permit process as required by the City’s building and fire codes.

**SECTION 6: Amendment to the Cotati Municipal Code.** Section 17.90.020 is amended to amend the definitions of “accessory dwelling unit,” “junior accessory dwelling unit,” “multifamily housing,” and “single family dwelling,” and add the definitions of “primary dwelling” and “primary residence,” as follows:

**17.90.020 Definitions of specialized terms and phrases**

Section 17.90.020 Definitions is amended as follows:

“Accessory dwelling unit” has the same meaning as defined in California Government Code Section 66313 as amended from time to time.

“Junior accessory dwelling unit” has the same meaning as defined in California Government Code Section 66313, as amended from time to time.

“Multifamily housing” means a structure containing two or more dwelling units, a development of multiple structures that each contain two or more dwelling units, or a development of two or more structures each containing a single dwelling unit, located on a single property. Multifamily structures include: duplexes, triplexes, fourplexes (buildings with two, three or four dwelling units, respectively, in the same structure); apartments (five or more units in a single building); townhouse development (two or more attached dwellings where no unit is located over another unit); rowhouses; and other building types containing multiple dwelling units (for example, courtyard housing, stacked flats, etc.). Multifamily housing structures or developments may be under a single ownership with the dwelling units under rental tenancy, or the dwelling units may be individually owned and occupied, such as condominiums. Multifamily housing structures or developments may also contain accessory dwelling units, which are not included in the unit count, density calculations, or site coverage calculations for the purposes of determining consistency with this title, as allowed by state law.

“Primary dwelling” means the dwelling(s) which accommodate the primary use of the site.

Primary residence. See “Primary dwelling.”

“Primary structure” means a structure that accommodates the primary use of the site.

“Primary use” means the main purpose for which a site is developed and occupied.

“Single-family dwelling” means a building designed for and/or occupied exclusively by one family. Also includes factory-built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobilehomes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, placed on permanent foundation systems. Single-family dwellings may also contain accessory dwelling units or junior accessory dwelling units or be located on lots with detached accessory dwelling units, which are not included in the unit count, density calculations, or site coverage calculations for the purposes of determining consistency with this Title, and which do not cause the single-family dwelling or the lot on which it is located to be considered a multifamily dwelling or a multifamily lot or property.

## **SECTION 7: Construction and severability.**

It is the intent of the City Council of the City of Cotati to supplement applicable state and federal law and not to duplicate or contradict such law, and this ordinance shall be construed consistently with that intent. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Cotati hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**SECTION 8: Effective date.**

This ordinance shall take effect thirty (30) days after its adoption pursuant to the California Government Code.

**SECTION 9: Publication.** The city clerk shall cause this ordinance to be published and/or posted as required in Section 36933 of the California Government Code.

**IT IS HEREBY CERTIFIED** that the foregoing ordinance was duly adopted at a regular meeting of the City Council of the City of Cotati held on \_\_\_\_\_, 2024, by the following vote, to wit:

**RESULT: MOVER:  
SECONDER: AYES:**

Approved: \_\_\_\_\_

Mayor

Attest: \_\_\_\_\_

Kevin Patterson, Deputy City Clerk

Approved as to form:

\_\_\_\_\_

City Attorney

This document is a true and correct copy of Ordinance Number ### and has been published or posted pursuant to law. *California Government Code § 40806*

\_\_\_\_\_

Kevin Patterson, Deputy City Clerk