

ORDINANCE NO 2025-09

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF WINTERS AMENDING SECTION
17.04.140 AND CHAPTER 17.98 OF THE
WINTERS MUNICIPAL CODE RELATING TO
ACCESSORY DWELLING UNITS AND JUNIOR
ACCESSORY DWELLING UNITS AND FINDING
THE ACTION TO BE STATUTORILY EXEMPT
FROM CEQA UNDER SECTION 21080.17 OF THE
PUBLIC RESOURCES CODE

WHEREAS, the City of Winters, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"); and

WHEREAS, Government Code sections 66310–66342 (the "State ADU Law") impose limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the City implements State ADU Law via Winters Municipal Code Chapter 17.98, Accessory Dwelling Units (the "ADU Ordinance"); and

WHEREAS, in recent years, the City has amended the ADU Ordinance as necessary to remain consistent with changes in State ADU Law. Most recently, the City amended the ADU Ordinance via City Council Ordinance No. 2024-06; and

WHEREAS, AB 2533 and SB 1211 took effect on January 1, 2025, which among other things, modified the definition of livable space, increased the number of ADUs that can locate on a lot with an existing multi-family dwelling and allowed uncovered parking spaces to be converted to an ADU without having to replace the uncovered parking space; and

WHEREAS, this proposed Ordinance updates the ADU Ordinance to comply with recent changes to State ADU Law and to make other specified adjustments in order to augment the ADU Ordinance for the benefit of staff and the general public; and

WHEREAS, on January 28, 2025, the Planning Commission held a duly noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the Ordinance. Following the hearing, the Planning Commission recommended that the City Council adopt the Ordinance; and

WHEREAS, on March 4, 2025, the City Council conducted a duly noticed public hearing on the Ordinance and considered the staff report, recommendations by staff, and public testimony concerning the Ordinance; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

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

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Amendment. The following definition is hereby added to subsection (B) of Section 17.04.140 of the Winters Municipal Code as set forth below. The remainder of subsection (B) remains unchanged.

"17.04.140 Definitions.

B. Definitions.

"Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

SECTION 3. Amendment. Chapter 17.98 of the Winters Municipal Code is hereby amended in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 4. CEQA. Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city implementing the provisions of section 65852.1 or section 66314 of the Government Code, which is California's State ADU Law and which also regulates JADUs, as defined by Government Code section 66313. Therefore, the Ordinance is statutorily exempt from CEQA in it implements State ADU Law.

SECTION 5. General Plan. The City Council hereby finds that the adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c).

SECTION 6. HCD Submittal. In accordance with Government Code section 66326, the City Clerk is directed to submit a copy of this Ordinance to the California Department of Housing and Community Development within 60 days after adoption.

SECTION 7. Severability. Each of the provisions of this Ordinance is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 9. Publication. The City Clerk is hereby directed to certify the adoption of this Ordinance and shall cause the same to be published as required by law.

INTRODUCED at a regular meeting of the City Council of the City of Winters, California, on the 18nd day of January and thereafter **ADOPTED** at a regular meeting of the City Council held on this 4nd day of March by the following vote, to wit:

AYES:	Council Members Casavecchia, Loren, Scianna, Mayor Pro Tem Biasi, Mayor Vallecillo
NOES:	None

ABSENT: None

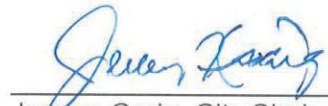
ABSTAIN: None

APPROVED



Albert Vallecillo, Mayor

ATTEST:



Jeremy Craig, City Clerk

Exhibit A

Chapter 17.98 ACCESSORY DWELLING UNITS

17.98.010 Purpose and intent.

The purpose of this section is to permit accessory dwelling units in single-family and multifamily residential zoning districts consistent with state law (California Government Code Sections 66310 through 66342). This section is intended to expand housing opportunities by increasing the number of housing units available within existing neighborhoods while maintaining the primarily "single family" residential character of the area. Accessory dwelling units, which includes junior accessory dwelling units, are intended to provide livable housing at lower cost while providing greater security, companionship, and family support for the occupants, consistent with the general plan. An accessory dwelling unit must comply with all the provisions of this title, except as modified in this chapter.

17.98.020 Administration.

- A. Accessory Dwelling Unit Approval Required. Approval of an ADU shall be obtained prior to construction, conversion, and/or development of the ADU. Pursuant to California Government Code Sections 66316 and 66317, approval of the ADU shall be considered ministerial without any discretionary review or a hearing. ADUs are exempt from the California Environmental Quality Act.
- B. Application.
 - 1. Applications for an ADU shall be filed with the community development director on forms provided by the community development department.
 - 2. An application for an ADU shall be accompanied by a fee, established by resolution of the City Council, to cover the cost of handling the application as prescribed in this subsection.
 - 3. Once an application is deemed complete, the application must be approved or denied within sixty (60) days if there is an existing single-family or multifamily dwelling on the lot.
- C. Existing Accessory Dwelling Units. This section shall in no way validate an illegal accessory dwelling unit. An application for an ADU may be made pursuant to the provisions of this chapter to convert an illegal ADU into a lawful ADU, or to allow for the replacement, alteration, or expansion of an existing nonconforming ADU. The conversion of an illegal ADU into a lawful ADU, or the replacement, alteration, or expansion of an existing nonconforming ADU, shall be subject to the requirements of this chapter.

17.98.030 Development standards for all accessory dwelling units.

- A. Only one (1) ADU and one (1) JADU shall be allowed for each single-family residential lot. No more than eight (8) detached ADUs or as many detached ADUs as there are primary dwelling units on the lot, whichever is less, are permitted on a lot that has an

existing multifamily dwelling. No more than two (2) detached ADUs are permitted on a lot with a proposed multi-family dwelling.

- B. The minimum floor space of a detached ADU shall be one hundred fifty (150) square feet and the maximum area of floor space shall not exceed one thousand two hundred (1,200) square feet. The maximum area of floor space of an attached accessory residential unit shall not exceed fifty percent (50%) of the living area of the existing principal residence, not to exceed a maximum of one thousand two hundred (1,200) square feet.
- C. A detached ADU that is eight hundred (800) square feet or less and the peak height above grade is sixteen (16) feet or less may have a side and rear setback of four (4) feet.
- D. An ADU built above an existing detached garage may be located within five (5) feet of the rear or side property lines, subject to complying with Title 24 of the California Code of Regulations.
- E. The size of the ADU shall not be counted towards the maximum floor area ratio (FAR) for the site.
- F. ADUs shall be subject to complying with zoning requirements in R-R, R-1, R-2, R-3 and R-4 zones, except as modified by the conditions of this section.
- G. The lot on which the ADU is proposed shall contain a residence at the time of construction of the ADU. In the case of vacant lots, the residence and ADU and JADU may be constructed at the same time.
- H. The ADU shall be self-contained with its own separate entrance, kitchen and bathroom and shall comply with all applicable building, fire, energy and other health and safety codes.
- I. A garage, carport or uncovered parking space located on a single-family or multi-family lot may be converted into an ADU, subject to complying with Title 24 of the California Code of Regulations. No off-street parking shall be required for an ADU. Replacement parking is not required when a garage, carport or uncovered parking space is converted to an ADU.
- J. ADUs shall achieve architectural continuity with the principal residence and with the character of the surrounding neighborhood, as determined by the community development department. No entrance to an ADU shall be located on the front building elevation of the principal residence if the ADU is attached to the residence, in order to maintain the appearance of the structure as a single-family residence.
- K. All JADUs are subject to an owner-occupancy agreement. A natural person with equitable title to the property shall occupy either the principal dwelling unit or the JADU as their principal or primary residence as defined by the County Assessor. However, the owner-occupancy agreement in this subsection does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

The form of the deed restriction will be provided by the City and must provide that:

1. Except as otherwise provided in Government Code Section 66341, the JADU may not be sold separately from the primary dwelling.
2. The JADU is restricted to the approved size and to other attributes allowed by this section.
3. The deed restriction runs with the land and may be enforced against future property owners.
4. The deed restriction may be removed if the owner eliminates the JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the community development director, providing evidence the JADU has in fact been eliminated. The community development director may then determine whether the evidence supports the claim that the JADU has been eliminated. Appeal may be taken from the community development director's determination consistent with other provisions of this Code. If the JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an JADU unit removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
5. The deed restriction is enforceable by the community development director for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

If either unit should become non-owner-occupied, the JADU, upon notification by the City, shall be converted into a non-JADU by removing the kitchen facilities. To ensure the property is owner-occupied, the property owner shall record a deed restriction with the County Recorder's office and a copy filed with the community development director prior to issuance of a building permit for a JADU.

- L. All new construction or exterior alterations to existing structures proposed for an ADU may be subject to design review as prescribed in Chapter 17.36, except that design review shall be ministerial without any discretionary review or a hearing.
- M. No impact fee shall be imposed on an ADU that is less than seven hundred fifty (750) square feet in size. For purposes of this section "impact fees" include the fees specified in Section 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges. Except as mentioned above, the City Council may, by resolution, establish fees for accessory units that mitigate the impact of an ADU on public infrastructure or services based on the square footage of the ADU in relation to the square footage of the principal residence.
- N. An ADU may be required to have a new or separate utility connection directly between the ADU and the utility. The City Council may adopt by resolution a connection fee or capacity charge that is proportionate to the burden of the proposed ADU upon the water and sewer system. The fee shall be based upon either square footage of the ADU or its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and

Mechanical Officials. ADUs shall be exempt from any requirements to install a new or separate utility connection and pay any connection fees or charges if it is created by the conversion of interior space of the principal residence, unless the unit is constructed with a new single-family residence.

- O. An ADU created pursuant to Government Code section 66323 must be rented for terms longer than thirty (30) days.
- P. Income Reporting. In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 66341, the following requirements must be satisfied:
 - 1. With the building permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
 - 2. Within ninety (90) days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the owner is in violation of this Code, and the City may send the owner a notice of violation and allow the owner another thirty (30) days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.
- Q. Notice of Construction. At least ten (10) business days before starting any construction of an ADU or JADU, the property owner must give written notice to all the owners of record of each adjacent residential parcels, which notice must include the following information:
 - 1. Notice that construction has been authorized,
 - 2. The anticipated start and end dates for construction,
 - 3. The hours of construction,
 - 4. Contact information for the project manager (for construction-related complaints), and
 - 5. Contact information for the building division.

This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular ADU project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

- R. Demolition Permits. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.
- S. Fire sprinklers. Fire sprinklers are required in an ADU or JADU if sprinklers are required in the primary residence. The construction of an ADU or JADU does not trigger a requirement for fire sprinklers to be installed in the primary residence.

17.98.040 Development standards for streamlined approval of accessory dwelling units.

The community development director shall ministerially approve a building permit application for an ADU or a JADU which meets the following:

- A. Converted Space on a Single-Family Lot: One (1) ADU as described in this subsection and one (1) JADU shall be allowed on a lot with a proposed or existing single-family dwelling, where the ADU or JADU:
 - 1. Is within the walls of the proposed or existing single-family dwelling, or within the existing space of an accessory structure, plus up to one hundred fifty (150) additional square feet if the expansion is limited to accommodating ingress and egress, has an exterior access independent of the single-family dwelling and has side and rear yard setbacks that comply with the applicable building and fire codes.
 - 2. Has an exterior access independent of the single-family dwelling.
 - 3. Has side or rear setbacks sufficient for fire and safety, as required by applicable building and fire codes.
- B. Limited Detached or Single-Family Lot. One (1) detached, new construction ADU on a lot with a proposed or existing single-family dwelling, in addition to any JADU that might otherwise be established on the lot allowed in subsection A above, if the detached ADU satisfies the following limitations:
 - 1. The side- and rear- yard setbacks are at least four (4) feet.
 - 2. The total floor area is eight hundred (800) square feet or less.
 - 3. The peak height above grade is sixteen (16) feet or less.
- C. Converted on Multifamily Lot. Multiple ADUs within portions of existing multifamily dwelling structures not used as livable space, including but not limited storage rooms, passageways, attics, basements, or garages that satisfies the following:
 - 1. If each converted ADU complies with the state building standards for dwellings.
 - 2. Under this subsection, at least one (1) converted ADU is allowed within an existing multifamily dwelling, but the number of ADUs may not exceed twenty-five percent (25%) of the existing multifamily units.
- D. Limited Detached on a Multifamily Lot. No more than eight (8) detached ADUs on a lot with an existing multifamily dwelling, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less, are allowed. No more than two (2) detached ADUs are permitted on a lot with a proposed multi-family dwelling, are allowed. Each detached ADU must satisfy the following limitations:
 - 1. The side- and rear-yard setbacks are at least four (4) feet.
 - 2. The peak height above grade is sixteen (16) feet or less.

E. Junior Accessory Dwelling Units.

1. A building permit shall be required for a JADU. A JADU shall not be considered a separate dwelling for purposes of applying building codes, fire codes, collection of impact fees, or the provision of water, sewer, and power, including connection fees that might otherwise be associated with the provision of those services.
2. A JADU may not be sold separately from the single-family dwelling. A deed restriction shall be recorded prohibiting the sale of a JADU separate from the single-family dwelling.
3. The JADU must be installed concurrently with or after the construction of the single-family dwelling.
4. As provided by Government Code section 66313, JADUs are not considered new or separate dwelling units and, therefore, are exempt from the density limitations of the general plan.
5. No more than one (1) JADU may be located on a parcel.
6. One (1) off-street parking space shall be provided. Space can be located within the side yard setback adjacent to an existing driveway.

17.98.050 Effect of Conforming Provisions.

An ADU or JADU that conforms to the standards in this chapter will not be:

1. Deemed to be inconsistent with the City's general plan and zoning designation in which the ADU or JADU is located.
2. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
3. Considered in the application of any local ordinance, policy, or program to limit residential growth.
4. Required to correct a nonconforming zoning condition, as defined in Section 17.04.140. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.