

ORDINANCE NO. 2018 – _____

AN ORDINANCE AMENDING CHAPTER 28 (ZONING REGULATIONS) OF THE SOLANO COUNTY CODE TO REVISE AND UPDATE LAND USE REGULATIONS FOR SECONDARY DWELLINGS IN RESIDENTIAL AND AGRICULTURAL ZONING DISTRICTS

Additions and revisions in the tables are shown in *italics* and deletions are shown as a ~~strikeout in red typeface~~.

The Board of Supervisors of the County of Solano ordains as follows:

SECTION I

The following definitions are added, deleted or revised, in alphabetical order, to Section 28.01 of Chapter 28 of the Solano County Code:

Duplex. A detached building under one roof *containing two dwelling units of approximately equal gross floor area* designed for, or occupied exclusively by, two families living independently of each other, and separated by a common wall or floor.

Dwelling, primary. If a lot is improved, or proposed to be improved, with two ~~or more detached~~ dwellings, *exclusive of employee housing*, the first dwelling constructed shall be the primary dwelling unless a later constructed dwelling is larger in gross floor area than an existing dwelling, in which case the larger dwelling shall be the primary dwelling, ~~except in the R-TC-D and R-TC-M districts, where more than one primary dwelling is allowed.~~ *Dwelling units within a duplex or multiple-family dwelling structure are not classified as primary or secondary dwellings.*

Dwelling, secondary. ~~One additional dwelling unit on the same ownership as the primary dwelling, providing independent living quarters, including sleeping, eating, cooking and sanitation facilities. Either the primary dwelling or the secondary dwelling shall be owner-occupied. If either dwelling is leased, such lease shall not cause the subdivision of the property. A secondary dwelling shall contain no more than eight hundred fifty square feet gross floor area unless otherwise specified by the applicable Zoning District. A secondary dwelling shall not be considered an accessory building or an accessory use, as those terms are defined and used in this Chapter. Includes an accessory dwelling established pursuant to Ordinance No. 1679.~~ *An independent dwelling unit that provides complete living facilities for one family and is situated on the same parcel as an existing or proposed primary dwelling. A secondary dwelling may be a detached building, attached to the primary dwelling, or located within the living area of an existing primary dwelling. For purposes of calculating dwelling unit density under zoning or the General Plan, a secondary dwelling shall not be counted as an independent dwelling unit in addition to the primary dwelling. Dwelling units within a duplex or multiple-family dwelling structure are not classified as primary or secondary dwellings.*

SECTION II

Section 28.72.10(A) is changed as follows:

28.72.10 Dwellings

A. General Requirements

1. Minimum development standards for dwelling units.

- a. All dwellings shall conform to the following minimum development standards:

~~(1) Except as otherwise provided for in this section, each dwelling shall have a minimum gross floor area of one thousand square feet.~~

- (1) Exterior siding shall be a material commonly found in conventionally built residential structures. Metal sidings with a shiny or metallic appearance are not allowed. Siding shall extend to the ground or to the solid concrete or masonry perimeter foundation. Foundation or skirting materials simulating brick, concrete block or stone are permitted.

- (2) Roof eave or gable overhang shall be not less than twelve inches measured horizontally from the vertical side of the dwelling.

- (3) Roofing material shall be limited to materials commonly found on conventionally built residential structures. Roofing material with a shiny, metallic appearance is not allowed. The minimum pitch of the roof shall be three inches vertical to twelve inches horizontal.

- (4) The finished first floor of the dwelling shall be a maximum of thirty inches from the exterior finished grade of the lot measured from its highest level where it supports the dwelling, except for an upstairs unit of a duplex or a secondary dwelling that is located above a primary dwelling or a residential accessory building.

~~(6) A two-car enclosed garage shall accompany each primary dwelling, and the siding and roofing materials shall match the dwelling.~~

- (5) *Except in the R-TC-MF district, a duplex and a single-family dwelling may not be located on the same lot.*

- b. Should the Zoning Administrator determine that a dwelling unit does not meet these minimum development standards, zoning consistency approval of the building permit shall not be granted.

2. Minimum Architectural Standards *(See Section 28.91)

~~3. **Exception.** A maximum of one single-family dwelling may be built on a parcel that existed and was designated "Agricultural" by the General Plan as of January 1, 1984, provided that the owner demonstrates compliance with all other applicable County requirements.~~

SECTION III

Section 28.72.10(B)(1) is changed as follows:

1. Primary Dwelling

- a. **Minimum Dwelling Size.** Except as otherwise provided for in this section, each dwelling shall have a minimum gross floor area of one thousand square feet.*
- b. **Two Car Garage Required.** A two-car enclosed garage shall accompany each primary dwelling, and the siding and roofing materials shall match the dwelling.*

SECTION IV

Section 28.72.10(B)(2) is changed as follows:

Secondary Dwelling

A secondary dwelling, as permitted in the applicable zoning district, must meet the development standards *for a dwelling, as delineated within the applicable zoning district, as well as the following specific development standards:*

- a. **Minimum and Maximum Size.** ~~The maximum size of the secondary dwelling shall not exceed the following maximum sizes:~~ Notwithstanding section 28.72.10(A)(1)(a)(1), a secondary dwelling shall comply with the following minimum development standards and maximum gross floor area limits. If the gross floor area of the secondary dwelling is less than 380 square feet, the unit shall be occupied by no more than 2 people and shall provide all of the following features: (i) a living room of not less than 220 square feet of floor area, (ii) a separate closet, (iii) a kitchen sink, cooking appliance, and refrigerator, each having a clear working space of at least 30 inches in front, as well as light and ventilation conforming to the California Building Code, and (iv) a separate bathroom containing a water closet, lavatory, and bathtub or shower.*

Maximum Size Gross Floor Area for a Secondary Dwelling	
(R-TC) Districts	850 Square Feet
(R-R) Districts	1,500 Square Feet
(A)(A-SM)(A-SV) Districts	1,800 Square Feet

Notwithstanding these limits, the gross floor area of an attached secondary dwelling shall not exceed fifty percent (50%) of the gross floor area of the primary dwelling. If the secondary dwelling is established within an existing primary dwelling, the gross floor area of the secondary dwelling shall not exceed thirty-three percent (33%) of the existing gross floor area of the primary dwelling.

- b. Minimum Lot Size.** ~~The~~ *Within any R District, the minimum lot size for a detached secondary dwelling shall be 7,500 square feet. Within any A district, a secondary dwelling shall not be constructed or established on any parcel that is smaller than the minimum parcel size required for the district unless one of the following is applicable: (a) the parcel was created in compliance with law prior to January 1, 1984; (b) the parcel is first merged with contiguous property that is under the same ownership, as of the date of the building permit application, to the maximum extent possible consistent with state law; or (c) the dwelling will replace a properly permitted existing secondary dwelling.*
- c. Secondary Dwelling and Temporary Dwellings.** Only one secondary dwelling is allowed on a lot. A temporary dwelling shall not be located on the same lot as a secondary dwelling except as permitted by sections 28.72.20(B)(2) and (3). ~~except when any of the following temporary uses may be additionally permitted:~~

 - ~~(1) Temporary Use of a Dwelling during Construction. Use of an existing dwelling while the replacement dwelling is under construction, in accordance with Section 28-72.20A and B6.~~
 - ~~(2) Temporary Dwelling during Construction. Use of temporary dwelling while the primary dwelling is under construction, in accordance with Section 28-72.20A and B7.~~
- d. Secondary Dwellings and Companion Living Units and Other Housing Units.** A secondary dwelling shall not be allowed on a lot that has a companion living unit, duplex, multiple-family dwelling, rooming or boarding house or other similar accessory housing unit.
- e. Attached / detached secondary living dwelling units.** A secondary dwelling may be a detached structure ~~or~~ may be attached to the primary dwelling or another building on the same lot or located within the living area of the existing primary dwelling. If attached to another building or within the living area of the existing primary dwelling, a separate exterior entrance shall be provided, independent from the entrance for the building to which it is attached or within. If attached to another building other than the primary dwelling, such as a garage, the resident of the secondary dwelling shall have exclusive occupancy of the building to which the secondary dwelling is attached.
- f. Not allowed with companion living unit.** A secondary dwelling shall not be

~~allowed on a parcel that has a companion living unit or other similar accessory housing unit.~~ **Height and setback requirements.** The height and setback requirements for a secondary dwelling are as provided in the development standards table for the applicable zoning district, except that no additional setback shall be required for a lawfully-constructed existing garage that is converted to a secondary dwelling unit or a portion of a secondary dwelling, and a setback of no more than five feet from a side or rear lot line shall be required for a secondary dwelling unit that is constructed above a lawfully-constructed existing garage.

- g. Parking for a secondary dwelling shall comply with Section 28.94 (one offstreet parking space required, either covered or uncovered, or through tandem parking) unless the Director determines that no additional parking is required for the secondary dwelling. In any R-TC district in which a secondary dwelling is allowed, parking within a side setback area is allowed unless the Director makes a determination that parking in such area of the lot is not feasible based upon specific site or regional topographical or fire and life safety conditions. When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of a secondary dwelling unit, or converted to a secondary dwelling unit, a replacement garage shall be constructed for the primary dwelling concurrent with the construction of the secondary dwelling, and a certificate of occupancy shall not be issued for the secondary dwelling until the replacement garage is completed.*
- h. Landscaping adjacent to a secondary dwelling shall be consistent with landscaping for the primary dwelling.*
- i. Architectural review of an attached or detached secondary dwelling shall be conducted in accordance with Sections 28.91 and 28.102.*
- j. Historic Resources. A secondary dwelling shall not be allowed on a property listed on the California Register of Historic Places unless the Director makes a written determination that the secondary dwelling would not have a significant adverse impact on the historic resource.*
- k. Sale or Rental of a Secondary Dwelling. A secondary may not be sold separate from the primary dwelling. A secondary dwelling may be offered for rent and rented only for residential purposes (occupancy longer than 30 days) unless otherwise allowed by this chapter.*
- l. Transient Occupancy and other Commercial Activity. A secondary dwelling may not be offered for rent or rented for transient purposes (occupancy of 30 days or less) unless such use of the dwelling is otherwise allowed by this chapter. A secondary dwelling shall not be used as a place of commercial or business activity, other than a Type I Home Occupation conducted entirely within the dwelling and without any employees other than residents of the dwelling, or a business required to be regulated as a residential use of property pursuant state law.*

- m. Utilities and Utility Connections. As part of an application to construction of a new secondary dwelling or to convert an existing structure to a secondary dwelling, the property owner shall demonstrate that adequate potable water supply and wastewater treatment capacity is available to serve both the primary and secondary dwelling. A secondary dwelling unit shall not be considered a new dwelling for purposes of calculating utility connection fees or capacity charges, including water or sewer service. Nothing in this section shall be interpreted as requiring a property owner to install new or separate utility connections between a secondary dwelling and the utility's service mains or lines, nor shall any provision of this section be interpreted as preventing a utility from requiring or installing new or separate utility connections.*
- n. Manufactured home. A manufactured home, as defined in California Health and Safety Code Section 18007, may be used as a secondary dwelling if it has been installed on a foundation system as a fixture or improvement to the real property and provided that the manufactured home meets all of the regulations of this section 28.72.10(B)(6)(a).*

SECTION V

Section 28.72.10(B)(6) is changed as follows:

6. **Existing Nonconforming Dwellings Nonconforming Secondary Dwelling or Guest House**
- a. **Non-conforming Secondary Dwelling.**
- (1) A secondary living unit legally existing on the lot prior to October 27, 2006 in ~~the~~ an R-R District, June 13, 2008 in ~~the~~ an A ~~and~~ or R-TC Districts, and February 1, 2011 in the A-SV-20, ATC, ~~and~~ or ATC-NC Districts, which does not comply with the size or setback requirements of this Section shall be considered legal non-conforming and subject to the provisions of Section 28-114 ("Nonconforming Uses"). Such use may continue, provided that it is not enlarged, increased or otherwise modified and fully complies with any conditions of approval that may have been adopted.
- (2) *Exception. A maximum of one single-family dwelling may be built on a parcel that existed and was designated "Agricultural" by the General Plan as of January 1, 1984, provided that the owner demonstrates compliance with all other applicable County requirements.*
- b. **Non-conforming Guest House.** A guest house legally existing on the lot prior to October 27, 2006 in ~~the~~ an R-R District, June 13, 2008 in ~~the~~ an A ~~and~~ or R-TC Districts, and February 1, 2011 in the A-SV-20, ATC, ~~and~~ or ATC-NC Districts, shall be considered legal non-conforming and subject to the provisions of Section 28-114 ("Nonconforming Uses"). Such a guest house *or building* may be converted to a secondary dwelling provided all of the following are met: (1) no other secondary dwelling is on the lot; (2) all

facilities necessary to convert the structure to a dwelling, including cooking, sanitation, and parking facilities shall be installed in compliance with County building and zoning standards as applicable; (3) either the primary residence or the secondary dwelling is owner-occupied; and (4) if the structure does not meet the size or setback requirements of this Section for a secondary dwelling, it shall be considered legal non-conforming and subject to the provisions of Section 28-114 ("Nonconforming Uses").

~~c. **Non-conforming Companion Living Unit.** A companion living unit legally existing on the lot prior to October 27, 2006 in the R-R District, June 13, 2008 in the A and R-TG Districts, and February 1, 2011 in the A-SV-20, ATC, and ATC-NC Districts, pursuant to an approved conditional use permit, may be converted to a secondary dwelling provided all of the following are met: (1) no other secondary dwelling is on the lot; (2) the unit is installed on a foundation system as a fixture or improvement to the real property, in accordance with section 18551(a) of the Health and Safety Code and implementing regulations; (3) either the primary residence or the secondary dwelling is owner-occupied; and (4) if the unit does not meet the size or setback requirements of this Section, it shall be considered legal non-conforming and subject to the provisions of Section 28-114 ("Nonconforming Uses"). If an existing companion living unit is converted to a secondary dwelling, the conditions of the use permit shall no longer be applicable. If an existing companion living unit is not converted to a secondary dwelling, it shall remain subject to the conditions of the use permit, and shall be promptly removed from the lot upon expiration or revocation of the permit.~~

~~d. **Secondary Dwelling and Companion Living Unit.** If both a secondary living unit and a companion living unit legally exist on the lot prior to October 27, 2006 in the R-R District, June 13, 2008 in the A and R-TG Districts, and February 1, 2011 in the A-SV-20, ATC, and ATC-NC Districts, the secondary living unit shall be considered the secondary dwelling on the lot and the companion living unit may continue on the lot as a temporary dwelling for the remaining term of the conditional use permit.~~

~~e. **Time Extensions.** A companion living unit legally existing on the lot prior to March 13, 2011, pursuant to an approved conditional use permit which expires, may be extended for a temporary period, not to exceed two years, upon securing a minor use permit, provided:~~

- ~~(1) All of the findings made in the original use permit still apply.~~
- ~~(2) The property owner and the occupant of the companion living unit have not changed since the original issuance of a use permit. (note: time extension not in RR)~~

SECTION VI

In any zoning district which permits a secondary dwelling unit, an administrative permit shall be required. Tables 28.21A, 28.22A, 28.23A, 28.31A, 28.32A, and 28.32B shall be updated to reflect the requirement for an administrative permit.

SECTION VII

Section 28.108(A) is changed as follows:

- A. Neighborhood Compatibility Waiver.** Waiver of any of the residential minimum development standards in subsection 28.72.10(A)(1) *and/or the development standards in Section 28.72.10(B)(1)* may be granted by the Director of Resource Management if the proposed dwelling is compatible with the surrounding neighborhood in accord with the architectural standards set forth in Section 28.91. The waiver request shall be submitted on an application form prepared by the Director of Resource Management and is subject to the noticing requirements as set forth in subsection 28.04(F).

SECTION VIII

This ordinance will be effective thirty (30) days after its adoption.

SECTION IX

If any provision of this ordinance or the application of it to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the interim ordinance are declared to be severable.

SECTION X

A summary of this ordinance will be published once within fifteen (15) days after its adoption in the Fairfield Daily Republic, a newspaper of general circulation.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on August 7, 2018 by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

EXCUSED: Supervisors _____

JOHN M. VASQUEZ, Chair
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Board of Supervisors

By: _____
Jeanette Neiger, Chief Deputy Clerk