



City of Larkspur

400 Magnolia Avenue, Larkspur, California 94939
Telephone: (415) 927-5110 Fax: (415) 927-5022
Website: www.cityoflarkspur.org

NOTICE OF ADOPTION OF URGENCY ORDINANCE 1044 BY THE LARKSPUR CITY COUNCIL

NOTICE IS HEREBY GIVEN that on January 15, 2020, the City Council of the City of Larkspur adopted Urgency Ordinance 1044:

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR AMENDING CHAPTERS 18.23 (ACCESSORY DWELLING UNITS) AND 18.24 (JUNIOR ACCESSORY DWELLING UNITS) OF THE LARKSPUR MUNICIPAL CODE TO COMPLY WITH 2019 STATE HOUSING LEGISLATION

WHEREAS, the California Legislature has declared that there is a severe shortage of affordable housing and has changed laws to expedite the local residential development process;

WHEREAS, on October 9, 2019, California Governor Gavin Newsom signed three bills into law (SB 13, AB 68 and AB 881) that amend California Government Code Section 65852.2 and that require the City to modify local regulations to further facilitate development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs);

WHEREAS, the City's current ordinance regarding ADUs and JADUs was updated in 2016 and 2018, and now must be further updated to comply with current State Law;

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22;

WHEREAS, on December 10, 2019, the Planning Commission of the City of Larkspur conducted a duly noticed public hearing on the proposed Zoning Ordinance amendments, and considered all staff reports, attachments, testimony and found the proposed ordinance consistent with the General Plan and adopted Planning Commission Resolution No. 3/19 recommending that the City of Larkspur City Council amendments to Larkspur Municipal Code Chapter 18.23;

WHEREAS, the City Council held a duly noticed public hearing on January 15, 2019, and considered the Planning Commission recommendation and has found that the provisions of this ordinance are consistent with the goals and policies of the General Plan and other adopted ordinances and regulations of the City;

WHEREAS, permanent amendments to the Larkspur Zoning Ordinance pertaining to the regulation of ADUs and JADUs do not go into effect until 30 days after second reading and adoption in a manner that complies with state law;

WHEREAS, the New ADU Laws go into effect on January 1, 2020, and the City's ADU regulations must not be in conflict with the new ADU legislation or the City must otherwise apply only the limited default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs;

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without any local regulations would threaten the character of existing neighborhoods, result in new ADUs and JADUs that are inconsistent with the goals and policies of the General Plan for residential areas and would hinder the ability of emergency services to provide life safety support and emergency

evacuation in neighborhoods within mapped Very High Fire Hazard Severity Zones with constrained ingress and egress; and

WHEREAS, the City has received inquiries from property owners and other regarding ADUs and JADUs and the new state law, underscoring the need for the City to update its regulatory scheme to bring it into compliance with the requirements of the new ADU legislation; and

WHEREAS, California Government Code Section 65858 authorizes a city to adopt an interim urgency measure by a four-fifths vote where necessary to protect the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LARKSPUR DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings

The City Council finds that certain aspects of the City's ordinance regulating accessory dwelling units conflicts with Government Code sections 65852.2 and 65852.22 as amended as of January 1, 2020, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of accessory dwelling units.

The default standards contained in the new state law provide no protections for steep hillside areas, areas of high fire danger, or other sensitive areas. The default standards contained in the new state law allow the construction of ADUs of a size, location or character that would be inconsistent with the single-family nature of many of the City's neighborhoods and the goals and policies of the City's General Plan.

The City Council finds the approval of accessory dwelling units based solely on the default statutory standards, without local regulations would threaten the character of existing neighborhoods, result in new ADUs and JADUs that are inconsistent with the goals and policies of the General Plan for residential areas, and hinder the ability of emergency services to provide life safety support and emergency evacuation in neighborhoods within mapped Very High Fire Hazard Severity Zones with constrained ingress and egress.

Government Code section 65852.2 and 65852.22 allows local agencies to identify where new accessory dwelling units should not be permitted. The designation of areas where accessory dwelling units are not permitted may be based on criteria that may include lack of utilities and the impact of accessory dwelling units on traffic flow and public safety. The Central Marin Fire Department has identified existing residential areas located in mapped Very High Fire Hazard Severity Zones, served by one-lane roads with a single ingress/egress route, and/or otherwise lacking adequate roadway infrastructure to support optimal emergency ingress and egress. Additional dwelling units on already built sites in these areas would contribute to congestion of the evacuation route during an emergency evacuation, causing significant delay in emergency response and negatively impacting public safety and putting more residents and emergency responders in harm's way in the case of a disaster or emergency. The increased congestion caused by residents of new accessory dwelling units and their parked vehicles would also cause delays in the emergency response to homes in the area in the event of medical emergencies, given the narrow width of streets in this area.

To guide accessory dwelling unit development in the City and provide more certainty to the community as well as developers that seek to develop housing, the City Council finds it necessary and urgent to codify standards regarding the development of ADUs and JADUs, and to identify limited restricted areas for ADU development based upon traffic congestion and fire safety concerns. These regulations are all permitted under Government Code section 65852.2 and 65852.22.

The City Council has found that the provisions of this ordinance are consistent with the goals and policies of the City's General Plan and other adopted ordinances and regulations of the City.

The City Council finds and determines pursuant to California Government Code Section 65858 that adoption of this ordinance is necessary for the immediate preservation of the public health, safety, and welfare from ADUs and JADUs subject only to the default state standards, and to prohibit uses in conflict

with zoning regulations pertaining to accessory dwelling unit development currently being studied and contemplated by the City.

The City Council finds that this proposed interim ordinance would not have the effect of precluding permitting or construction of ADUs and JADUs, nor would it have the effect of denying approvals needed for the development of denying approvals needed for the development of multifamily units or projects with a significant component of multifamily housing. The proposed interim urgency ordinance would amend the City's zoning ordinance to be consistent with newly amended Government Code Section 65852.2 and 65852.22 which would expand the types, size, and number of ADUs and JADUs to be permitted and constructed in zones where single and multifamily residential uses are permitted, and therefore would in fact result in a larger number of ADUs and JADUs than under the current zoning regulations.

Any interim urgency measure adopted pursuant to Government Code Section 65858 shall be of no further force and effect forty-five (45) days from its date of adoption unless extended by the legislative body. During such time period, the City Council intend to adopt permanent revisions to the City's regulatory scheme pertaining to ADUs and JADUs, and consistent with the goals and policies of the City's General Plan, California Planning

Section 2. CEQA. The amendments to the Zoning Ordinance herein do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this amending ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15282(h) which statutorily exempts the adoption of an ordinance regarding second units in a single family residential zone by a city to implement provisions of Section 65852.2 and 65852.22;

Section 3. Amendment to Municipal Code (Accessory Dwelling Units). The City Council hereby amends (with additions in *italics* and deletions in ~~strike through~~) Chapter 18.23 "Accessory Dwelling Units" of the Larkspur Municipal Code in Title 18 (Zoning) to read as follows:

Chapter 18.23 ACCESSORY DWELLING UNITS

Sections:

- 18.23.010 Purpose**
- 18.23.020 Definitions**
- 18.23.030 Permitted Districts**
- 18.23.035 *Procedures for Interior Accessory Dwelling Units***
- 18.23.040 Restricted Areas**
- 18.23.045 *Units Exempt from Development Standards***
- 18.23.050 Application**
- 18.23.060 General Requirements and Standards**
- 18.23.070 Administrative Review**

18.23.010 Purpose.

The purpose of these regulations is to comply with California Government Code Sections 65852.2 and 65852.22 which provides for local jurisdictions to set standards for the development of accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring they remain compatible with the existing neighborhood character.

18.23.020 Definitions.

For the purposes of this Chapter, the following words and phrases are defined as follows:

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

“Accessory dwelling unit, attached” means an accessory dwelling unit that shares a common wall with the primary dwelling unit on the lot, by being constructed as a physical expansion (i.e., addition) of the primary dwelling unit.

“Accessory dwelling unit, detached” means an accessory dwelling unit that is constructed as a separate structure or as an addition to an accessory structure that is separate and detached from the primary dwelling unit on the same lot.

“Accessory dwelling unit, interior” means an accessory dwelling unit created by the conversion of existing floor space, which is either: (1) contained within the existing floor area of a primary dwelling unit; (2) conversion of an existing garage of the primary dwelling; or 3) is entirely contained within the existing legal space of an existing accessory structure, *such as a garage*.

~~Floor Area of an Accessory Dwelling Unit.~~ “Floor Area.” For the purpose of this Chapter, floor area is habitable space consisting of all interior living spaces including, but not limited to, an entry, hallways, sleeping areas, sanitation, and eating and kitchen facilities.

“Owner” means the individual or entity that owns a majority (i.e., greater than fifty percent) interest in the property. The owner of property owned in joint tenancy shall be any party named. The owner of property owned as a tenancy in common shall be any party named, unless ownership shares are specified, in which case the owner shall be the individual(s) with a majority interest.

“Public transit stop” means a designated bus stop for general use of public and commuters, train stop, ferry terminal, or other public transit station.

“Tandem parking” means parking spaces for two or more automobiles on a driveway or in any other location on the lot, lined up behind one another.

18.23.030 Permitted Districts.

Attached, detached, and interior accessory dwelling units shall be permitted in the R-1, R-2, R-3, *RMP*, SD, ~~and GD, and TD~~ Districts and as specified in the ordinances governing Planned Development Zoning Districts that permit single family residential use. A parcel with a single family residential use, may have only one accessory dwelling unit ~~or and~~ one junior accessory dwelling unit. ~~Attached and detached new accessory dwelling units located within Planned Development Zoning Districts that include residential uses may be subject to Precise Plan Amendments where such additions and/or new construction is not consistent with the approved Precise Development Plans adopted by Ordinance.~~

18.23.40 Restricted Areas.

Due to the City’s unique local climatic, geologic and topographic conditions, accessory dwelling units are not permitted in certain hillside residential areas that are determined to have inadequate roadways to provide adequate ingress and egress for emergency access and evacuation in the in the event of a fire or other emergency. It is the determination of the City that additional dwelling units in these areas would present negatively impact on traffic flow and public safety.

A. ~~In order to ensure public safety in the event of a fire or other emergency, new attached or detached~~ A New accessory dwelling units are not permitted in Very High Fire Hazard Severity Zones, per LMC 14.10.010 where the primary access to the property is on roadways that are subject to constrained ingress/egress for emergency vehicles and resident evacuation. In determining which areas are subject to constrained ingress/egress, the City identified areas that are served by a single emergency access route (no alternate routes) meeting one or more of the following criteria:

1. Streets with limited width, where permitted on-street parking is strictly limited to designated locations with white outlined parking space rectangles.
2. Streets with insufficient roadway width. A minimum 20-foot roadway width is required for emergency access.

3. One lane roadways allowing two-way traffic.
 4. Remote areas not served by improved or paved roads.
- B. ~~The restrictions of Section A above shall apply to and detached accessory dwelling units are not permitted on all properties that have vehicular access from:~~
1. Madrone Avenue, west of Olive Avenue, including but not limited to those properties located on Echo Place, Glen Way, Hatzic Court, Jones Way, Nightengale Road, Oak Road, Penny Lane, Polhemus Way, Redwood Avenue, Ridgeway Lane, Scott Lane, Valley Way, Wilson Way.
 2. Millard Avenue, 49 to 63 Olive Avenue, and Scott Way.
 3. 31 Piedmont Road west to 260 Piedmont Road, including Coleman Avenue and Piedmont Court.
 4. Owlswood Drive, Marina Vista Avenue, and Sunrise Lane.
 5. Any property that is accessed solely by an unimproved or unpaved road.
- C. An owner may apply for a waiver from the restrictions on accessory dwelling units established by this Section. The waiver shall be considered for approval or denial by the Zoning Administrator, who shall make such determination after consultation with the Fire Department. In deciding whether or not to grant the requested waiver, the Zoning Administrator shall consider only factors related to ingress/egress for emergency vehicles and resident evacuation. These factors may include, but are not limited to, whether there are multiple routes of ingress or egress to the property as well as the distance from the property to the closest road with unconstrained ingress and egress.
- ~~D. The restrictions established by this section do not apply to new interior accessory dwelling units.~~

18.23.050 Application.

~~A new attached, detached, and interior accessory dwelling unit shall be subject to approval by the Planning Department. An application for zoning approval must include the following:~~

The construction or installation of an accessory dwelling unit is a ministerial decision as required by State law. Ministerial approvals are not subject to review at a public hearing. Construction of an accessory dwelling unit shall be subject to approval by the Planning Department. An application for zoning approval must include the following: submittal of a building permit application and fee, accompanied by the following forms and information:

- A. ~~An accessory dwelling unit application form and checklist, provided by the Planning and Building Department and signed by the owner and applicant (if different from the owner), under penalty of perjury, accompanied by the minimum current fee, as established by resolution of the City Council, to cover the actual costs of the processing and review of the application.~~
- B. A site plan of the property drawn to scale, including but not limited to the following information:
 1. All streets, walks, driveways, paths, parking areas, patios, and other hard surface areas.
 2. All existing structures on the subject property and all existing structures on adjacent properties that are within ten feet of the subject property's property lines.
 3. All heritage trees.
 4. Property lines with metes and bounds description and all easements.
- C. Topographic survey of subject property if new additions are proposed. Survey shall identify lot area and average grade. The scale of the map shall be the same as the site plan and the two plans may be combined. The contour interval shall not be greater than five feet. (Not required for interior

accessory dwelling units). This requirement may be waived by the Planning Director if sufficient information is otherwise available to insure the accuracy of the proposed site plan.

- D. Building elevations, section drawings, and roof plans depicting a proposed attached and/or detached addition.
- E. Floor plans showing existing conditions and proposed alterations, dimensioned at ¼-inch or 1/8-inch scale, and identifying the floor area of the existing residence and proposed accessory unit. Plans shall provide a calculation of floor area which conform to the development standards as outlined in Section 18.23.060, below.
- F. Photographs of existing primary residence.
- G. The Director of Planning and Building may waive any of the above required informational items, maps, drawings, etc., if, in his or her opinion, they are unnecessary or unreasonable under the circumstances.
- H. ~~Accessory dwelling units which are subject to other discretionary permits may be subject to additional submittal requirements specific to those permits.~~ *Applicant must obtain any other applicable permits required to construct an ADU in the specific location proposed, including but not limited to, grading permits, stream alteration permits and heritage tree removal permits, prior to the issuance of a building permit.*

18.23.060 Development Standards.

An accessory dwelling unit, as defined in LMC Section 18.23.020, shall comply with the following development standards:

- A. Number of Units. Accessory dwelling units are only permitted on parcels with an existing or proposed single family use *or a multi-family residential use*. A parcel with a single family residential use, may have only one accessory dwelling unit. *A parcel with a mutli-family residential use may have:*
 - 1) *Interior accessory dwelling units: at lease one and up to a maximum of twenty-five (25) percent of the existing multi-family dwelling units, which shall be converted from existing non-habitable space.*
 - 2) *Attached or detached (exterior) accessory dwelling units: no more than two per site.*
- B. Location of Accessory Dwelling Unit. The accessory dwelling unit may be within, attached to, or detached from the primary dwelling unit, *duplex or multi-family residence*. Accessory dwelling units may be created through the conversion of a garage, carport, ~~or covered parking structure, storage area or accessory structure.~~, ~~subject to replacement parking required per Section 18.23.060(g)(4)a, Parking Requirements.~~
- C. Access. An attached or interior accessory dwelling unit (attached to, or located within, the primary dwelling unit) shall have a separate independent exterior entrance.
- D. Kitchen Facility and Bathroom. The accessory dwelling unit shall contain its own cooking facility/kitchen and bathroom, separate from the primary dwelling unit.
 - 1. The kitchen facility must include, at minimum, for food preparation, cooking, eating and dishwashing, the following features: a sink with hot and cold running water, a range or stove-top and an oven, an apartment sized refrigerator, and counter and *food storage cabinets that provide no less than 40 square feet of shelf space*~~storage space~~.
 - 2. The bathroom must include, at minimum, for sanitary purposes the following features: toilet, sink with storage space, shower and/or bathtub.

- E. **Setback and Other Zoning Regulations.** For purposes of setbacks and other zoning regulations, the accessory dwelling unit shall be considered to be a part of the principal use of the subject site and shall be subject to the same requirements of the underlying zoning district, including standards for lot coverage, setbacks, floor area, and height, unless otherwise provided below.
1. When an existing residence has non-conforming setbacks, the conversion of space to an interior accessory dwelling unit shall not require additional setbacks, except as required for fire safety.
 2. No setback shall be required for an existing *legal accessory structure* ~~garage~~ that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
 3. *A setback of no more than four (4) feet from the side and rear lot lines shall be required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.*
 4. ~~A setback of no more than five feet shall be required from the side and rear lot lines for an accessory dwelling unit that is constructed above a garage.~~ *Attached and detached accessory dwelling units which are no larger than eight hundred (800) square feet and no more than sixteen (16) feet in height are exempt from lot coverage, floor area ratio, open space, and minimum lot size standards, and are subject to no more than a four (4) foot side yard setback and a four (4) foot rear yard setback.*
- F. ~~Floor Area Limit of an Accessory Dwelling unit.~~ The accessory dwelling unit shall have a minimum floor area of one hundred and fifty (150) square feet (required to accommodate an efficiency unit per Health and Safety Code, Section 17958.1), and a maximum floor area of ~~seven~~ *eight hundred and fifty (700) 850* square feet in size *for studio and one bedroom units. A two bedroom shall have a maximum floor area of one thousand (1,000) square feet in size. for two. Where four thousand (4,000) square feet of floor area or more is permitted by code, based upon lot size and slope, the maximum floor area for an accessory dwelling unit size shall be twelve hundred (1,200) square feet. For units of three or more bedrooms, the maximum floor area shall be either 1,200 square feet or fifty (50) percent of the floor area of the existing primary dwelling, whichever is less.*
- G. **Parking Requirements.**
1. Unless otherwise specified in Section 2 below:
 - a. One additional off-street parking space is required for each attached or detached accessory dwelling unit.
 - b. No additional off-street parking is required for the primary residence, except as specified under Section (4) below.
 - c. **Parking Space Dimensions.** All required interior and exterior parking space dimensions shall be pursuant to LMC Section 18.56.150.1(k), a minimum of 9 feet wide by 18 feet long for non-confined stall, and a minimum 12 feet wide by 18 feet long for confined stall.
 2. **Parking Exemptions.** Off-street parking is not required for an accessory dwelling unit in the following instances:
 - a. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop;
 - b. The accessory dwelling unit is located within an architecturally and historically significant historic district;
 - c. In an area requiring on-street parking, permits are required but not offered to the occupant of the accessory dwelling unit; and

- d. When the accessory dwelling unit is located within one block of a car sharing pick-up/drop-off location.
 - e. The accessory dwelling unit is built within the legally existing primary residence or a legally existing accessory structure (interior accessory dwelling unit).
 - f. *Attached or detached accessory dwelling units which are no more than eight hundred (800) square feet in floor area, no more than sixteen (16) feet in height, and at least four (4) foot side and rear yards setbacks.*
3. Location of Required Parking. Parking required for the accessory dwelling unit may be located in a garage, carport, uncovered or tandem space *on a driveway*:
 - a. Required replacement parking may be located within the required front yard setback, street side setback, and rear yard setback areas. Parking in setbacks and tandem parking may not be permitted if the Fire Department determines that parking in those areas is unsafe due to site specific fire and/or life safety conditions.
 - b. A parking structure (e.g., carport, garage, or parking deck) shall comply with required setbacks for both primary and accessory structures.
 4. ~~Replacement Parking for Primary Dwelling.~~ When an *existing* garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, *no replacement parking is required.* ~~the required off-street parking spaces for the primary single-family dwelling unit must be replaced on the same parcel, and may include but not be limited to covered spaces, uncovered spaces, or tandem space.~~
 5. Substantial Remodels of Primary Dwelling. Substantial remodels to an existing primary dwelling, unless such remodel is solely for the construction of *an accessory dwelling unit and does not involve any other changes*, may require additional parking for the primary dwelling as applicable, subject to LMC Section 18.56.030(B).
- H. Architectural Standards. Attached and detached accessory dwelling units and conversions of an existing legally permitted accessory structure shall be designed to comply with the following standards:
1. ~~Materials and Colors.~~ *Architectural Style and Form.* ~~Be of the same or similar architectural style and form as the primary structure on site. All external construction that be constructed of the same or similar exterior materials, finishes, and family of colors as the primary dwelling unit on site.~~
 2. *Exterior Lighting.* Exterior lighting shall be *limited to no more than 2 lumens, night sky compliant, and shielded and/or directed* so that it does not glare off-site or illuminate onto adjacent and nearby property.
 3. *Privacy.* Windows shall be located offset from neighbor's windows to maximize privacy and to avoid line of sight to windows of abutting properties. Clerestory windows, obscured glass, and other techniques may be used to avoid line of sight. *All second story windows facing adjacent properties and located 30 feet or less from the property line, shall have a sill height of at least six feet above finished floor.*
- I. Heritage Trees. Any new construction of accessory dwelling units that impacts or requires removal of heritage trees shall comply with the requirements of LMC, Chapter 12.16, "Heritage Trees."
- J. Building Code. Accessory dwelling units shall comply with all applicable requirements of the California Building Codes, as adopted by reference in Title 15 of the Larkspur Municipal Code.
- K. Permanent Foundation. A permanent foundation shall be required for all accessory dwelling units.

- L. An accessory dwelling unit shall not be rented, leased, or provided for compensation for a period of less than 30 days.
- M. ~~Accessory dwelling units are not required to have fire sprinklers or other fire safety requirements if they are not required in the primary dwelling unit.~~ Fire sprinklers and other fire safety measures are not required if they are not required in the primary dwelling unit.
- N. Street Address Required. Street addresses shall be assigned to all accessory dwelling units to assist in emergency response.
- O. *Business License Required. If the accessory dwelling unit is a rental, the property owner shall comply with LMC, Chapter 5.04, Business Licenses & Regulations Requirements.*
- TP. Deed Restriction. Prior to obtaining a building permit for an accessory dwelling unit, a deed restriction, approved by the Planning Director or his/her designee, shall be recorded with the County Recorder's office. Said deed restriction shall run with the land, and shall be binding upon any successor in ownership of the property. A copy of the final recorded deed restriction shall include the following:
 1. *An accessory dwelling unit may not be sold or otherwise conveyed separately from primary residence. Owner Occupancy. The owner of the property shall occupy either the primary dwelling unit or accessory dwelling unit as their primary residence.*
 2. Any modification of the accessory dwelling unit or termination of use shall be subject to the then applicable zoning and building codes. For example, if *the kitchen, bathroom, and/or sleeping facilities* of the accessory dwelling unit are removed and the structure no longer qualifies as an accessory dwelling unit, the structure may be required to provide additional off-street parking or comply with lot coverage requirements.
- UQ. Historic Preservation. New additions and detached structures which include an accessory dwelling unit to any real property listed in the National and California Register of Historic Places or identified in the Local Inventory of Historic Places may be subject to the requirements of the LMC, Historic Preservation, Chapter 18.19.

18.23.070 Administrative Review

- A. A request for an Administrative/Ministerial review that is limited to the objective standards and criteria for accessory dwelling units contained in Section 18.23.050 may be initiated by filing *a building permit application with required application forms and checklist*, and paying applicable fees ~~with the Planning Department~~.
- B. ~~The decision of the Planning Director granting or denying an accessory dwelling unit permit~~ *Approval of an accessory dwelling unit* is a ministerial decision as required by State law. Ministerial approvals are not subject to review at a public hearing ~~and in considering accessory dwelling unit permits,~~ review of accessory dwelling units is limited to the development standards and criteria established by the City as set forth in LMC Section 18.23.060 of this chapter.
- C. ~~A complete~~ application for an accessory dwelling unit permit that meets the development standards contained in Section 18.23.060 of this Chapter, shall be administratively approved without discretionary review or public hearing within ~~420~~ 60 days of receiving the application. *The City and applicant may agree to additional time with a written request from the applicant.*
- D. Exceptions:
 1. ~~Administrative review is not applicable w~~ *Development standards for accessory dwelling units apply to the accessory dwelling unit only.* When the accessory dwelling unit is an *integral* component of a larger project that is subject to discretionary review (e.g., floor area exception, variance, or Heritage Tree Removal permit) by the Zoning Administrator or Planning Commission,

building permits for the accessory dwelling units may be issued only after associated approvals have been secured.

2. In the commercial SD and GD zoning districts, and within the Historic Overlay District, Design Review shall be required for exterior modifications, structures, and new additions. Creation of an interior accessory dwelling unit in the SD & GD zoning districts are administrative reviews.

Section 4. Amendment to Municipal Code (Junior Accessory Dwelling Units). The City Council hereby amends (with additions in *italics* and deletions in ~~strikethrough~~) Chapter 18.24 “Junior Accessory Dwelling Units” of the Larkspur Municipal Code in Title 18 (Zoning) to read as follows:

CHAPTER 18.24 JUNIOR ACCESSORY DWELLING UNITS

Sections:

- 18.24.010** **Intent.**
- 18.24.015** ***Definitions.***
- 18.24.020** **Permitted Districts.**
- 18.24.025** ***Restricted Areas.***
- 18.24.030** **Application.**
- 18.24.040** **General Requirements and *Development Standards.***

18.24.010 Intent.

These regulations are intended to promote affordable housing as called for in the Larkspur General Plan *and to comply with California Government Code Section 65852.2 and 65852.22 which provides for local jurisdictions to set standards for the development of junior accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring they remain compatible with the existing neighborhood character.* ~~The standards established herein are for the purpose of protecting the health, safety, and welfare of the existing community and to be compatible with the established pattern of development in their neighborhoods.~~

18.24.015 *Definitions.*

For the purposes of this Chapter, the following words and phrases are defined as follows:

- A. *Junior Accessory Dwelling Unit.* *An accessory dwelling unit created by the conversion of existing floor space, which is contained within the existing floor area of a primary dwelling unit.*
- B. *Floor Area.* *For the purpose of this Chapter, floor area is habitable space consisting of all interior living spaces including, but not limited to, an entry, hallways, sleeping areas, sanitation, and eating and kitchen facilities.*
- C. *Owner.* *The individual or entity that owns a majority (i.e., greater than fifty percent) interest in the property. The owner of property owned in joint tenancy shall be any party named. The owner of property owned as a tenancy in common shall be any party named, unless ownership shares are specified, in which case the owner shall be the individual(s) with a majority interest.*

18.24.020 Permitted Districts.

Junior Accessory Dwelling Units shall be permitted in the R-1, R-2, R-3, *RMP*, SD, ~~and~~ GD, and *TR* Districts.

18.24.025 Restricted Areas.

Due to the City's unique local climatic, geologic and topographic conditions, accessory dwelling units are not permitted in certain hillside residential areas that are determined to have inadequate roadways to provide adequate ingress and egress for emergency access and evacuation in the in the event of a fire or other emergency. It is the determination of the City that additional dwelling units in these areas would present negatively impact on traffic flow and public safety.

A. New accessory dwelling units are not permitted in Very High Fire Hazard Severity Zones, per LMC 14.10.010 where the primary access to the property is on roadways that are subject to constrained ingress/egress for emergency vehicles and resident evacuation. In determining which areas are subject to constrained ingress/egress, the City identified areas that are served by a single emergency access route (no alternate routes) meeting one or more of the following criteria:

- 1. Streets with limited width, where permitted on-street parking is strictly limited to designated locations with white outlined parking space rectangles.*
- 2. Streets with insufficient roadway width. A minimum 20-foot roadway width is required for emergency access.*
- 3. One lane roadways allowing two-way traffic.*
- 4. Remote areas not served by improved or paved roads.*

B. The restrictions of Section A above shall apply to all properties that have vehicular access from:

- 1. Madrone Avenue, west of Olive Avenue, including but not limited to those properties located on Echo Place, Glen Way, Hatzic Court, Jones Way, Nightengale Road, Oak Road, Penny Lane, Polhemus Way, Redwood Avenue, Ridgeway Lane, Scott Lane, Valley Way, Wilson Way.*
- 2. Millard Avenue, 49 to 63 Olive Avenue, and Scott Way.*
- 3. 31 Piedmont Road west to 260 Piedmont Road, including Coleman Avenue and Piedmont Court.*
- 4. Owlswood Drive, Marina Vista Avenue, and Sunrise Lane.*
- 5. Any property that is accessed solely by an unimproved or unpaved road.*

C. An owner may apply for a waiver from the restrictions on accessory dwelling units established by this Section. The waiver shall be considered for approval or denial by the Zoning Administrator, who shall make such determination after consultation with the Fire Department. In deciding whether or not to grant the requested waiver, the Zoning Administrator shall consider only factors related to ingress/egress for emergency vehicles and resident evacuation. These factors may include, but are not limited to, whether there are multiple routes of ingress or egress to the property as well as the distance from the property to the closest road with unconstrained ingress and egress.

18.24.030 Application.

The construction or installation of a Junior Accessory Dwelling Unit shall be permitted subject to the following: is a ministerial decision as required by State law. Ministerial approvals are not subject to review at a public hearing.

Repurposing an existing bedroom and any additional portion of an existing one-family and multi-family residence for use as a Junior Accessory Dwelling Unit shall be subject to approval by the Planning Department. An application for zoning approval must include the following: submittal of a building permit accompanied by the following forms and information:

A. A junior accessory dwelling unit application form and checklist, provided by the Planning and Building Department and signed by the owner and applicant (if different from the owner), under penalty of

perjury, accompanied by the minimum current fee, as established by resolution of the City Council, to cover the actual costs of the processing and review of the application.

B. A site plan of the property drawn to scale, including but not limited to the following information:

1. All streets, walks, driveways, paths, parking areas, patios, and other hard surface areas.
2. All existing structures on the subject property. ~~and all existing structures on adjacent properties that are within ten feet of the subject property's property lines.~~
3. ~~All heritage trees.~~ *The general location of the junior accessory dwelling unit within the footprint of the residence.*
4. ~~Property lines with metes and bounds description and all easements.~~

~~C. Building elevations of the proposed Junior Accessory Dwelling Unit, if alterations are proposed to the exterior of the structure.~~

~~D. Floor plans showing existing conditions and proposed alterations, dimensioned at ¼-inch or 1/8-inch scale, and identifying the entire floor area of the existing residence and proposed junior accessory unit which conform to the Junior Accessory Dwelling Unit General Requirements and Standards as outlined in LMC Section 18.24.040, below.~~

~~E. The Director of Planning and Building may waive any of the above required informational items, maps, drawings, etc., if, in his or her opinion, they are unnecessary or unreasonable under the circumstances.~~

A complete application for a junior accessory dwelling unit that meets the development standards contained in Section 18.24.040 of this Chapter, shall be administratively approved without discretionary review or public hearing within 60 days of receiving a complete application. The City and applicant may agree to additional time with a written request from the applicant.

18.24.040 General Requirements and Development Standards.

All Junior Accessory Dwelling Units shall comply with the requirements and standards set forth below.

A. ~~Number of Units Allowed. Only one Accessory Dwelling Unit or one~~ junior accessory dwelling unit may be located on any appropriately zoned parcel that contains a one-family dwelling.

B. ~~Floor Area. The Junior Accessory Dwelling Unit shall have a maximum floor area of 500 square feet and a minimum floor area of 220-150 square feet.~~

C. ~~Conformance to Zoning Requirements. Any exterior improvements associated with the development of a Junior Accessory Dwelling Unit shall conform to zoning regulations in the same manner as they do to a one-family dwelling on the parcel in question.~~

D. ~~Parking. No additional off-street parking is required for a Junior Accessory Dwelling Unit, including for residential properties that have a legal nonconforming parking condition.~~

1. ~~No additional off-street parking is required for a Junior Accessory Dwelling Unit, including for residential properties that have a legal nonconforming parking condition.~~
2. ~~A permit for a Junior Accessory Dwelling Unit shall not be issued for a site containing an illegal nonconforming parking condition unless the existing illegal parking condition is corrected or a variance or other applicable permit approval is granted to allow the existing illegal parking condition.~~
3. ~~Reconstruction and/or remodeling and/or expansion of existing residential structures to which Chapter 18.56 applies shall be required to comply with the applicable parking standards, but an additional off-street parking space shall not be required for a Junior Accessory Dwelling Unit that is part of or created at the same time as the reconstruction and/or remodeling and/or expansion.~~

E. Owner Occupancy. Either the *Junior Accessory Dwelling Unit* or the one-family dwelling must be the principal residence of the owner of the property in question. Said owner-occupant shall be the record owner of no less than fifty percent interest of the property in question. An exception to this requirement may be permitted when the home is owned by an agency such as a land trust or non-profit housing organization whose primary mission is to create affordable housing.

F. Sale Prohibited. A Junior Accessory Dwelling Unit shall not be sold independently of the primary dwelling on the parcel.

G. Location of Junior Accessory Dwelling Unit. A Junior Accessory Dwelling Unit must be created within the existing walls of an existing primary dwelling *and/or multi-family dwelling*, and must include conversion of an existing bedroom.

H. Separate Entry Required. A separate exterior entry shall be provided to serve a Junior Accessory Dwelling Unit.

I. Interior Entry Remains. The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.

J. Kitchen Requirements. The Junior Accessory Dwelling Unit shall include an efficiency kitchen, requiring and limited to the following components:

1. A sink with maximum width and length dimensions of sixteen (16) inches and with a maximum waste line diameter of one-and-a-half (1.5) inches,
2. A cooking facility with appliance which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas, and
3. A food preparation counter limited to a maximum of six linear feet and storage cabinets that are reasonable to size of the unit.

K. Bathroom Requirements. A full bathroom for exclusive use of the occupant of the Junior Accessory Dwelling Unit shall be provided.

L. Deed Restriction. Prior to obtaining a building permit for a Junior Accessory Dwelling Unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a Junior Accessory Dwelling Unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Department stating that:

1. The Junior Accessory Dwelling Unit shall not be sold separately from the primary dwelling unit;
2. The Junior Accessory Dwelling Unit is restricted to a 500 square-foot maximum and a 150 ~~220~~ square-foot minimum size allowance;
3. ~~The Junior Accessory Dwelling Unit shall be considered legal only so long as either the primary residence, or the accessory unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or non-profit housing organization whose primary mission is to create affordable housing;~~
43. The portion of the dwelling not occupied by the property owner shall be either a rental unit, leased, or provided without compensation for a period of no less than 30 days.
54. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a Junior Accessory Dwelling Unit on the property.

M. Expiration of Issued Permit. Junior Accessory Dwelling Unit permits shall expire if not vested within two years of the date of approval. As used in this section, vesting means: (1) recordation of required deed restrictions; (2) securing a valid building permit and/or other permits related to the approval; and (3) substantial completion of improvements in accordance with the secured building permit and/or other permits. Prior to the expiration of a Junior Accessory Dwelling Unit approval, the applicant may apply to the Planning Director for an extension of not more than one year from the original date of expiration. The Planning Director shall grant the extension if (s)he finds that there has been no change in the factual circumstances surrounding the original approval.

N. Termination of Junior Accessory Dwelling. Termination of the use requires the elimination by the property owner of any secondary utility meters and removal of all kitchen cabinetry, kitchen sink, refrigerator, dishwasher, cooking facilities. The property owner shall apply for building permits to remove such features, as required under the City's building and fire codes.

Section 5. Severability. If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Larkspur hereby declares that it would have passed and adopted this Ordinance and each and all sections, subsections, sentences, clauses, phrases and words thereof irrespective of the fact that any one or more of said sections, subsections, sentences, clauses, phrases or words be declared unconstitutional, unlawful or otherwise invalid.

Section 6. Effective Date and Publication. This is urgency ordinance and it shall become effective immediately upon its adoption if adopted by at least four-fifths of the City Council and shall be in effect for 45 days from the date of adoption unless extended by the City Council as provided for in Government Code section 65858. The City Clerk shall cause this ordinance to be published and/or posted within fifteen days after its adoption, but any failure by the City Clerk to publish and/or post this ordinance as required by this Section shall not alter the effectiveness of this ordinance.

IT IS HEREBY CERTIFIED that the foregoing Urgency Ordinance was passed and adopted by the Larkspur City Council on the 15th day of January, 2020, by the following vote, to wit:

AYES:	COUNCILMEMBERS:	Haroff, Hillmer, Paulson, and Mayor Way
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Candell
ABSTAINING:	COUNCILMEMBERS:	None

/s/Catherine Way, Mayor

ATTEST:
/s/Alison Foulis, City Clerk