

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT

APPLICANT: County of Trinity

REPORT BY: John Jelcich

APPLICATION:

1. General Plan Amendment to change text and program 2.5 in the “2014-2019 Housing Element” of the General Plan.
2. Zoning Ordinance amendment to delete Section 30.D.3 (Second Dwelling Units) in its entirety and replace with a new Section 30.D.3 (Accessory Dwelling Units).

LOCATION: County-wide

PROJECT DESCRIPTION:

The legislature passed and the Governor signed AB-2299 and SB-1069 into law. This law clarifies and expands existing law (Gov. Code, Sec. 65852.2) requiring local jurisdictions to provide an unobstructed way to allow an accessory dwelling unit (a.k.a. second dwelling) to be developed on a parcel zoned for single family residential use. The law specifically states that the permitting procedures must be ministerial (e.g.: building permit) in nature and that discretionary approvals (e.g.: use permits) are not allowed. The Trinity County Zoning Ordinance is generally in compliance with the law; however, wording added in 2014, intending to allow even more parcels to develop second dwelling units required that a use permit be first obtained. Since the need for a use permit was to demonstrate that the land could accommodate the additional dwelling without adversely affecting the principal, non-residential use, it no longer meets the requirements of the newly revised law.

When staff began the revision to remove use permit requirements and clarify which zoning districts are principally created for single-family dwellings or multifamily dwellings, it became clear that other changes were warranted to update terms or development standards contained in Section 65852.2.

GENERAL PLAN AMENDMENT:

AB 2299 and SB 1069 made two changes that require an amendment to the Housing Element text and one of the programs established to implement the goals of the Housing Element.

First, it changes the term “second dwelling” to “accessory dwelling unit” (ADU) in Government Code Section 65852.2 which affects the wording in the County’s Housing Element.

Second, it no longer allows any type of discretionary permit (such as use permits) for developing an accessory dwelling unit. Our existing language was modified after adoption of the 2009-2014

Housing Element to provide even greater opportunities to provide for accessory dwelling units in the County; however, these would be located in areas primarily devoted to resource uses which would have required a use permit to ensure that the resource was not adversely affected by the additional housing development.

The proposed General Plan Amendment would delete the reference to use permits and no longer allow accessory dwelling units in these non-residential zones. Other forms of housing, such as farm labor housing or temporary housing for tree planting, could be allowed, but could require a use permit to assess potential impacts.

Existing Text:

The existing text wording that would be changed is located on pages 54 and 55 of the Housing Element and reads as follows:

“Second Units

“Second units are detached or attached dwelling units that provide complete, independent living facilities for one or more persons, located on the same lot as the existing dwelling. They include permanent provisions for living, sleeping, eating, cooking, sanitation, and other such utilities.

“Assembly Bill (AB) 1866, also known as the “second unit law,” amended the California Government Code to facilitate the development of second units. This amendment required localities to allow second units ministerially without discretionary review or hearings. To be considered a ministerial review, the process used to approve second units must “apply predictable, objective, fixed, quantifiable, and clear standards.” Application for second units should not be subject to onerous conditions of approval or public hearing process or public comment.

“To ensure consistency with state law and allow greater opportunities for development of second units, the County allows second units without discretionary review in all residential districts and in the Unclassified, Agricultural, Ag-Forest, and Agricultural Preserve districts with a use permit. Second dwelling permits can be obtained in the same manner as any other building permit for dwellings as long as the placement meets criteria for second dwellings, mainly that the zoning density is not exceeded. There is no restriction on the size of the second dwelling.”

Proposed New Text Wording:

Accessory Dwelling Units

An accessory dwelling unit (ADU) is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the existing single-family dwelling.

Assembly Bill 1866, also known as the “second unit law” and AB 2299 and SB 1069, also known as the “accessory dwelling unit (ADU) law” amended California Government

Code, Section 65852.2 to facilitate the development of accessory dwelling units. These amendments require local government to allow accessory dwelling units ministerially without discretionary review or hearings. To be considered a ministerial review, the process used to approve accessory dwelling units must “apply predictable, objective, fixed, quantifiable, and clear standards.” An application for an accessory dwelling unit cannot be subject to public comment, a public hearing process or conditions of approval. However, generally applicable development standards established such as: protection of resources (e.g. water quality); safety (e.g. not constructing in the 100 year flood plain or a floodway); and protection of historic resources (e.g. location within an established Historic District), will have additional requirements that must be met prior to issuing a building permit and will be applied in the same manner as any other development.

To ensure consistency with state law the County allows an accessory dwelling unit without any discretionary review in all zoning districts established primarily for residential use. Accessory dwelling unit building permits can be obtained in the same manner as any other building permit for a dwelling as long as the placement meets the listed criteria for an accessory dwelling unit.

There is one legislative change that staff did not include in the revised ordinance. It pertains to requiring additional parking for an ADU and states: (A local jurisdiction shall not impose parking standards for an accessory dwelling unit in any of the following instances) then includes the following: *“When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.”* The other four situations are listed under the “Parking” heading in the proposed ordinance. However, since Trinity County has no on-street parking permits, it seemed inappropriate to include this wording at this time. As the Housing Element is updated in the future and conditions change, this provision can be revisited.

In addition, the wording of Program 2.5 (p. 86) would be amended to change the term “second units” to “accessory dwelling units.”

ZONING ORDINANCE AMENDMENT:

The following is information providing background history concerning the second dwelling provisions in the zoning ordinance.

2003 wording for Second Dwellings (Ord 315-726):

Section 30.D.3.c.2 read:

“Second dwelling units may only be located on parcels zoned Single Family, Rural Residential, Duplex and Multiple Family. Second dwelling units are prohibited from being located in other zoning districts unless expressly authorized in other Sections of the Ordinance.”

2014 wording for Second Dwellings (315-806):

Following adoption of the 2009-2014 Housing Element, this subsection was revised (Ord. 315-806) to read:

“Second units may only be located on parcels zone Single Family, Rural Residential, Duplex, Multi-Family, and Unclassified. Second units may also be established in the Agriculture, Ag-Forest, and Agricultural Preserve Zoning District upon approval of a Planning Commission issued use permit, subject to the additional finding that such use shall be so located as to not have a negative impact on the resource base of the land.” (emphasis added)

While it was the intent of the County to expand the ability to develop a second dwelling, the legislature’s recent action to not allow use permits or other discretionary review adversely affects the County’s ability to increase accessory (second) dwellings, particularly in the “Resource” land use designations without affecting the principal land use, such as timber management, lands under Williamson Act contract (Ag Preserve), etc.

During the Planning Commission hearing on the 2014 amendment (November 14, 2013) the Commission recommendation to the Board of Supervisors was that “second units be added as a permissive use in the Unclassified Zoning Districts, but that a Planning Commission issued use permit be required for second units within the Agriculture, Ag-Forest, and Ag Preserve Zoning Districts. Their primary expressed concern is that resource land should not be disturbed from its resource base, i.e. the sighting of a second unit should be evaluated so as to not disturb prime or valued resource land by conversion to a residential site.” (Board of Supervisors staff report, January 28, 2014)

The “Unclassified” Zoning District:

Of further concern is the decision in 2014 to allow second dwellings on all lands zoned “Unclassified.” The “Unclassified” zoning district is an interim zone that carries over from before the land use element was updated in 1979. Prior to that time almost any use was allowed in Unclassified. The matrix identifying the zoning districts allowable under the various land use designations indicates that “Unclassified” is only allowed under the “Rural Residential”, “Community Development”, and “Village” land use designations. The text for the “Unclassified” zoning district was modified after the land use element was updated to allow one single-family dwelling and various agricultural uses. (This is similar to uses allowed in “Rural Residential.”) Other uses in “Unclassified” require a use permit. (Attached as Exhibit “A”, is a copy of the land use designation/zoning matrix from the land use element of the Trinity County General Plan.)

Since the zoning maps have not been updated to be consistent with the General Plan, most land in the county still carries the “Unclassified” zone, including land designated “Resource” and “Agriculture”. That is why if someone applies for a use permit or tentative map approval rezoning from “Unclassified” to an allowable zone is required. Without the rezone to a zoning that is consistent with the land use designation, the Planning Commission or Board of Supervisors could not make a finding of consistency with the General Plan. (Note that if the rezone relates to another entitlement, such as a tentative map or use permit, the Board of Supervisors has waived the fee for the rezone.)

Therefore, it would not be appropriate to assume that if a single-family dwelling is allowed on a property zoned “Unclassified” it would necessarily allow additional dwellings. If the land use designation is for residential development, then a second dwelling would be appropriate, but if the land use designation is “Resource”, then other factors such as topography, the effect of

placing dwellings in a manner that could affect future timber operations (such as placement on a log landing), or other factors that could affect the principle use of the property would influence the ability to further develop the property with structures. This was the basis for the Planning Commission's recommendation to the Board of Supervisors in 2014 amendment.

Other Zoning Districts:

Other zoning districts, such as Agriculture, Ag-Forest and Ag-Preserve are not "zoned" for single-family development. They are zoned for resource related uses; however, a single-family dwelling is allowed to facilitate management of the land. They are without question not established for "single family or multifamily residential zones" or "zoned for single-family or multifamily use" as described in Government Code, Section 65852.2.

Summary of proposed changes to Section 30.D.3:

Attached as Exhibit B is the current wording of Section 30.D.3 from the Zoning Ordinance, including the 2014 change. Exhibit C, which is written in ordinance form, is the proposed revision. By comparing the two, the Commission can see that there is enough difference to warrant deletion of the existing wording and replacement with the update. The goal is to have a list of standards that, if met, would allow for issuance of a building permit (a ministerial action) without a use permit or any other discretionary approval.

GENERAL PLAN CONSISTENCY:

The proposal to amend the Housing Element of the Trinity County General Plan and revise wording in the Zoning Ordinance to comply with new requirements of AB-2299 and SB-1069 will result in compliance with State law and be consistent with the remainder of the General Plan.

ENVIRONMENTAL CLEARANCE:

Pursuant to Public Resources Code Section 21080.17, the adoption of an ordinance to implement Government Code Section 65852.2 is exempt from the California Environmental Quality Act (CEQA).

REVIEW BY THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT:

Following adoption by the Board of Supervisors the approved General Plan Amendment and Zoning Ordinance Amendment will be submitted for a sixty day review by the Department of Housing and Community Development.

RECOMMENDED ACTION:

The Planning Commission's role is advisory to the Board of Supervisors. The Commission should conduct a public hearing, consider the comments and the provisions of the General Plan amendment and Zoning Ordinance amendment as presented and make a recommendation to the Board of Supervisors.

RECOMMENDED ACTION:

That the Planning Commission recommends to the Board of Supervisors:

1. Adopt the resolution amending the Housing Element of the General Plan to comply with revisions in State law pertaining to Accessory Dwelling Units.
2. Introduce, waive the reading of and enact an ordinance amending Trinity County Zoning Ordinance (Ordinance No. 315) by amending the Zoning Ordinance to change references to “second dwelling” and replace it with “accessory dwelling unit” and to update development standards to meet current State law.

GENERAL PLAN DESIGNATIONS	Resource -	Agriculture	Open Space/Conservation	Rural Residential	Community Expansion	Community Development	Single Family Residential (Med.)	Single Family Residential (High)	Multifamily Residential	Commercial	Industrial	Public Facilities	Village	MINIMUM PARCEL SIZE
ALLOWABLE ZONES														
Mining	X	X	X		X	X								10 acres
TPZ	X	X	X											160 acres unless parcel created prior to 19
Ag. Preserve	X	X	X											40 acres
Agriculture	X	X	X		X	X						X		10 acres
Ag. Forest	X	X	X		X	X						X		10 acres*
Open Space	X	X	X									X	X	
Conservation			X											10 acres
RR-10**				X		X						X		10 acres
RR-5**				X		X						X		5 acres
RR-21/2**				X		X						X		2 1/2 acres
RR-1**				X		X	X	X				X		1 acre
Unclassified				X		X						X		5 acres
LA*** R-1A						X	X	X	X			X		1/2 acre
R1**						X		X				X		6,000 sq. ft.
R2 Duplex						X			X			X		6,000 sq. ft.
R3 Multiple Family						X			X			X		10,000 sq. ft.
Residential Office					X	X	X	X	X			X		7,000 sq. ft.
Mobile Home and Special Occupancy Parks				X	X	X			X	X		X		3 acres
C-1 Retail Commercial					X					X		X		10,000 sq. ft.
C-2 General Commercial						X				X				10,000 sq. ft.
C-3 Heavy Commercial						X				X	X	X	X	1/2 acre
Industrial											X		X	1/2 acre
Specific Unti Development	X	X	X	X	X	X	X	X	X	X	X	X	X	20 acres
Public Facilities	X					X				X		X	X	2,000 sq. ft.
Flood Hazard			X											N/A
Min. Parcel Size	*20 Ac.	10 Ac.	N/A	1 Ac.	10 Ac.	5M sq.	10M sq.	6M sq.	10M sq.	10M sq.	1/2 Ac.	2M sq.	5M sq.	

* Depends on Site Class (Min. Parcel size of Site III or better; 40 acres)
 ** Or More restrictive (i.e., less dense)
 * May be less restrictive (i.e. more dense) Dependent on Projects

OVERLAY ZONING DISTRICTS:

The above chart does not include Overlay Zoning Districts that are not compatible with all General Plan Designations since they must be utilized in conjunction with an underlying zone.

EXHIBIT A

ered to be

D. SPECIAL REGULATIONS:

1. Regulations for Private Stables.

a. The following regulations shall apply in all cases where a use permit has been issued for the maintenance of a private stable:

- (1) Minimum building site area for the first two horses - one (1) acre; each additional horse twenty thousand (20,000) square feet in addition to the one acre.
- (2) Stables and paddocks shall not be less than fifty (50) feet from the front property line, nor less than twenty (20) feet from any side or rear property lines, nor closer than forty (40) feet from any dwelling on the same or contiguous property.

2. Temporary Keeping of Livestock in Residential Zoning Districts. (Ord. No. 315-648)

The Planning Director shall establish a waiver process in conjunction with 4H, FFA or student livestock projects in residential zoning districts where animal rearing is prohibited. Such waivers shall include but not be limited to the notification of neighbors, annual renewal and provide for adequate setbacks to reasonably protect neighboring uses. An approved waiver shall be for less than one year and will terminate at the completion of the Trinity County Fair. The Planning Director shall consult with the County Agriculture Commissioner, high school agricultural advisors and the county 4H advisor in developing standards for the waiver process.

3. Second Dwelling Units. (Ordinance No. 315-726)

a. Purpose. It is the intent of this subsection to provide a procedure whereby one additional dwelling unit can be located on a lot already developed with one dwelling unit. Furthermore, it is also the intent of this section to require that such units only be located on parcels, which are physically capable of accommodating an additional dwelling unit.

b. Definitions. As used in this Section, the following terms mean:

- 1) "Second dwelling unit" is either a detached or attached dwelling unit, which provides complete, independent living facilities for one or more persons, located on the same lot as the existing dwelling. It shall include permanent provisions

for living, sleeping, eating, cooking, sanitation, and other such utilities.

- 2) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

c. Development Standards. The development standards shall be as follows:

- 1) The second dwelling unit may be rented but may not be sold independent of the primary dwelling unit unless the original parcel upon which it is located is subdivided in accordance with the rules and regulations of the California Subdivision Map Act and the Trinity County Subdivision Ordinance.

Amend Section 30 (D)(3)(c)(2), to state:

Second units may only be located on parcels zoned Single Family, Rural Residential, Duplex, Multi Family, and Unclassified. Second units may also be established in the Agriculture, Ag-Forest, and Agricultural Preserve Zoning Districts upon approval of a Planning Commission issued use permit, subject to the additional finding that such use shall be so located as to not have a negative impact on the resource base of the land.
~~Second dwelling units are prohibited from being located in other zoning districts unless expressly authorized in other Sections of this ordinance.~~

- 3) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.
- 4) The total floor area of a detached second dwelling unit shall not be less than 256 square feet, or as defined by the California Uniform Building Code as a minimum dwelling unit.
- 5) The second dwelling unit shall conform to the development standards for the zoning district in which it is located, including, but not limited to setback, height, lot coverage, and density standards (these are based on the minimum parcel size per dwelling unit, as indicated in the land use designation chart of the General Plan), except a minimum ten (10) foot setback is required between detached dwelling units. This setback shall be increased to 60 feet for those parcels where the zoning requires a minimum density of one (1) acre or more per dwelling unit, or the "same practical effect" if approved by the California Department of Forestry and Fire Protection (CDF), in accordance with CCR 1270-1276.
- 6) The second dwelling unit shall be individually serviced by a sewer hook-up or individual on-site sewage disposal system

approved by the Environmental Health Division of the Building and Development Services Department. The Environmental Health Division shall also evaluate the existing system to ensure compliance, sanitary operation and future repair area.

- 7) Both the primary and the second dwelling unit may utilize a common water supply provided that a minimum flow of 3 gallons per minute per unit is available for domestic use in addition to meeting water supply requirements for fire protection, and the system has been approved by both the Environmental Health Division and the appropriate fire protection agency.
- 8) A Building permit is required. The second dwelling unit shall be constructed in accordance with the local building code requirements.
- 9) The second dwelling unit shall meet the requirements of the Trinity County Fire Safe Ordinance #1162 for new structures and/or any applicable local fire code.
- 10) If the second dwelling unit or main dwelling or main dwelling will be a manufactured home, and is to be located on a parcel with Mobile Home Standards overlay (MHS) zoning, then the manufactured home shall meet all codes required by the MHS overlay.

E. HEIGHT:

1. Where chimneys, silos, cupolas, flag poles, monuments, gas storage holders, radio and other towers, water tanks, church steeples and similar structures and mechanical appurtenances are permitted in the district, height limits may be exceeded upon securing a use permit in each case. Local distribution poles for public utilities shall be allowed in all districts and to greater heights than permitted for the districts without receiving a use permit.
2. In any district with a height limit of less than fifty (50) feet, public buildings, schools, churches, hospitals, and other institutions permitted in each district may be erected to a height exceeding that permitted in the district, provided that the gross floor area ratio to building site ratio shall not be increased unless specifically permitted in the district, and provided that the light angle of 70 degrees shall be established and maintained.

RESOLUTION NO. _____

**A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF TRINITY
AMENDING THE HOUSING ELEMENT OF THE
TRINITY COUNTY GENERAL PLAN**

WHEREAS, the Federal Fair Housing Act and the California Fair Employment and Housing Act (“Acts”) create requirements for those seeking access to housing;

WHEREAS, the 2014 - 2019 Housing Element of Trinity County, adopted August 16, 2016 incorporates the requirements of the Acts; and

WHEREAS, the Housing Element includes provisions for developing second dwellings in accordance with the requirements of Government Code, Section 65852.2 in effect at the time of adoption; and

WHEREAS, AB 2299 and SB 1069 were signed into law by the Governor on September 27, 2016; and

WHEREAS, this new legislation made changes to Government Code, Section 65852.2 specifying that cities and counties must approve an accessory dwelling (a.k.a. second dwelling) as a ministerial action only; and

WHEREAS, the 2014-2019 Housing Element includes a phrase to require a conditional use permit in certain situations; and

WHEREAS, the amendment to the Housing Element necessary to meet the development standards for an accessory dwelling is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code, Section 21080.17; and

WHEREAS, on January 12, 2017 the Planning Commission held a public hearing to amend the Housing Element text to delete reference to a use permit requirement in accordance with the new law; and

WHEREAS, on April 4, 2017 the Board of Supervisors held a public hearing to consider the Planning Commission recommendation and to hear public comment on the proposed text revisions pertaining to changes needed to meet the current requirements of Section 65852.2.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Trinity amends the 2014-2019 Housing Element by:

1. Deleting all language from the Housing Element under the subheading “Second Units” in its entirety (pp 54, 55) and replacing it with the following:

Accessory Dwelling Units

An accessory dwelling unit (ADU) is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the existing single-family dwelling.

Assembly Bill 1866, also known as the “second unit law” and AB 2299 and SB 1069, also known as the “accessory dwelling unit (ADU) law” amended California Government Code, Section 65852.2 to facilitate the development of accessory dwelling units. These amendments require local government to allow accessory dwelling units ministerially without discretionary review or hearings. To be considered a ministerial review, the process used to approve accessory dwelling units must “apply predictable, objective, fixed, quantifiable, and clear standards.” An application for an accessory dwelling unit cannot be subject to public comment, a public hearing process or conditions of approval. However, generally applicable development standards established such as: protection of resources (e.g. water quality); safety (e.g. not constructing in the 100 year flood plain or a floodway); and protection of historic resources (e.g. location within an established Historic District), will have additional requirements that must be met prior to issuing a building permit and will be applied in the same manner as any other development.

To ensure consistency with state law the County allows an accessory dwelling unit without any discretionary review in all zoning districts established primarily for residential use. Accessory dwelling unit building permits can be obtained in the same manner as any other building permit for a dwelling as long as the placement meets the listed criteria for an accessory dwelling unit.

2. Change the term “second units” to “accessory dwelling units” under Program 2.5 (p. 86)

DULY PASSED AND ADOPTED this _____ day of _____, _____ by the Board of Supervisors of the County of Trinity by motion, second (_____ / _____), and the following vote:

AYES: Supervisors

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

UNKNOWN, CHAIR
Board of Supervisors
County of Trinity
State of California

ATTEST:

MARGARET E. LONG
Clerk of the Board of Supervisors

By: _____
Deputy

ORDINANCE NO. 315-

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF TRINITY
AMENDING THE ZONING ORDINANCE NO. 315**

The Board of Supervisors of the County of Trinity, State of California, ordains as follows:

SECTION 1. That the Trinity County Zoning Ordinance is hereby amended by deleting Section 30.D.3 (Second Dwelling Units) in its entirety and substituting with the following:

SECTION 30.D SPECIAL REGULATIONS

3. Accessory Dwelling Units

- a. PURPOSE. It is the intent of this subsection to provide a procedure whereby one additional dwelling unit can be located on a lot already developed with a single-family dwelling. Furthermore, it is also the intent of this section to require that such units only be located on parcels which are physically capable of accommodating an additional dwelling unit, have approved legal access, and meet other development standards that also apply to development of a single-family dwelling, but are no more restrictive.

- b. DEFINITIONS. As used in this Subsection, the following terms shall mean:

“Accessory Dwelling Unit”: an ‘attached’ or ‘detached’ or ‘repurposed existing space’ 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. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

“Living Area”: the interior ‘habitable’ area of a dwelling unit including basements and attics but does not include a garage or any accessory structure. (Gov’t Code §65852.2)

- c. DEVELOPMENT STANDARDS. The development standards for an accessory dwelling unit shall be as follows:

- 1) Allowable Zone Locations: An accessory dwelling unit may only be located on a parcel having an existing single family dwelling unit and that is zoned Rural Residential (RR), Single Family (R-1), Duplex Residential (R-2), Multiple Family (R-3), or Residential-Office (R-O); and on a parcel zoned Unclassified (U) that lies within a Rural Residential (RR), Community Development (CD), Village (V), Single Family Residential (SF/HD; SF/MD), or Multifamily Residential (MFR) land use designation as described in the land use element of the Trinity County General Plan.
- 2) Floor Area (attached): The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area, nor be greater than 1,200 square feet.
- 3) Floor Area (detached): The total floor area of a detached second dwelling unit shall not be less than 256 square feet, or as defined by the California Building Code (CBC) as a minimum dwelling unit. There is no maximum floor area.
- 4) Zoning District Standards: The second dwelling unit shall conform to the development standards for the zoning district in which it is located, including, but not limited to setback, height and lot coverage. For purposes of density calculation, and accessory dwelling unit is considered an accessory use of the property and not counted as an additional residential unit. If an existing garage, or similar out-building, is being converted to an accessory dwelling unit, additional setbacks shall not be required beyond those required for the garage.
- 5) Parking: In addition to meeting parking requirements for the main dwelling, at least one parking space shall be provided for an accessory dwelling, which may be used in tandem with other required parking; provided, however, that no additional parking shall be required if:
 - A. The accessory dwelling unit is located within one-half mile of a public transit stop; or
 - B. The accessory dwelling unit is located within an architecturally and historically significant historic district; or
 - C. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure; or
 - D. When there is a car share vehicle located within one block of the accessory dwelling unit.
- 6) Sewer: The accessory dwelling unit shall be individually serviced by a sewer hook-up, unless the unit is contained within the existing space of a single-family residence or an existing accessory structure. If not within a community providing sewer service, a detached accessory

dwelling unit shall be individually serviced by an individual on-site sewage disposal system approved by the Environmental Health Division of the Building and Development Services Department. For an attached accessory dwelling, the Environmental Health Division shall evaluate the existing system to ensure proper sizing, compliance, sanitary operation and future repair area.

- 7) Domestic Water: Both the primary and the second dwelling unit may utilize a common water supply provided that a minimum flow of 3 gallons per minute per unit is available for domestic use in addition to meeting water supply requirements for fire protection, and the system has been approved by both the Environmental Health Division and the appropriate fire protection agency.
- 8) Utility fees: Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service. (Gov't Code, Sec. 65852.2)
- 9) Building Permit: A building permit is required. The accessory dwelling unit shall be developed in accordance with the California Building Code (CBC) and any other adopted standards of federal, state or local agencies that would normally apply to construction of a single family dwelling.
- 10) Fire Safe: The accessory dwelling unit shall meet the requirements of PRC § 4290, the Trinity County Fire Safe Ordinance #1162 for new structures and/or any adopted local fire code, provided, however, that an attached accessory dwelling unit shall not be required to provide fire sprinklers, or other life and protection improvements, if they are not required for the primary residence.

A minimum ten (10) foot setback is required between newly constructed detached accessory dwelling units for fire safe purposes. This setback shall be increased to 60 feet to comply with Cal-Fire and County fire safe standards for those parcels in the county where additional separation is necessary for fire protection, or meet the "same practical effect" if approved by Cal-Fire, in accordance with Pub. Res Code, § 4290; CCR §§1270-1276, and T.C. Ord #1162 (Fire Safe Ord). This provision does not apply to the conversion of an existing permitted structure to an accessory dwelling unit.

- 11) Rent/Sell: An accessory dwelling unit may be rented but may not be sold independent of the primary dwelling unit unless the original parcel upon which it is located is first subdivided in accordance with the rules and regulations of the California Subdivision Map Act and the Trinity County Subdivision Ordinance.

SECTION 2. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have adopted this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrases be declared invalid.

SECTION 3. This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Trinity Journal, a newspaper of general circulation published in the County of Trinity, State of California.

INTRODUCED, PASSED AND ENACTED this ____ day of _____, 2017, by the Board of Supervisors of the County of Trinity by motion/second (_____/_____), and the following vote:

AYES: Supervisors
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

UNKNOWN, CHAIR
Board of Supervisors
County of Trinity
State of California

ATTEST:

MARGARET E. LONG
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:

Margaret Long, County Counsel

Dated: _____
Planning/JAJ