

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 17.80.240 OF TITLE 17 OF THE NEVADA CITY MUNICIPAL CODE ENTITLED “COTTAGE DWELLING DEVELOPMENT,” AND AMENDING CHAPTER 17.28 ENTITLED “R2 MULTIPLE-FAMILY RESIDENTIAL ZONE,” AND AMENDING CHAPTER 17.30 ENTITLED “R3 HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL ZONE,” AND AMENDING CHAPTER 16.04 ENTITLED “SUBDIVISION REGULATIONS,” TO THE NEVADA CITY MUNICIPAL CODE

WHEREAS, the City of Nevada City is a general law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Sections 5 and 7 of the California Constitution, the City has the power to make and enforce within its limits all ordinances and regulations in respect to municipal affairs not in conflict with general laws; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City’s police powers; and

WHEREAS, there is a continuing and demonstrated need for affordable housing options to accommodate, single occupant housing, senior housing, and small families; and

WHEREAS, it is the intent of this Ordinance to provide incentives for the development of small dwelling units that are affordable at their fair-market value and increase the production of affordable units; and

WHEREAS, according to the California Department of Finance, the average persons per household in the City of Nevada City is 2.09 and can be accommodated in a small dwelling unit; and

WHEREAS, 49.3% of the City of Nevada City’s total households are considered low or very-low income according to CHAS Data Sets provided by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the City Council finds that the activities permitted under this ordinance are consistent with and implement the goals and policies of the Nevada City General Plan including the Housing Goal to remove constraints to the development of affordable housing; and

WHEREAS, the average dwelling size proposed within the Mixed Family Residential (MF) and the Urban High Density (UHD) land use designations within the last Housing Element Cycle has been 1,732 square feet; and

WHEREAS, the City Council finds that a small Cottage Dwelling Unit is equivalent to 1/3 of a standard dwelling unit, that a medium cottage dwelling unit is equivalent to 1/2 of a standard dwelling unit, and a large Cottage Dwelling Unit is equivalent to 2/3 of a standard dwelling unit; and

WHEREAS, the City Council finds that the activities permitted under this ordinance are consistent with and implement the goals and policies of the Nevada City General Plan because the subject Ordinance requires a restriction in unit size that substantially corresponds to maximum densities outlined in the General Plan for the Mixed Family Residential (MF) and the Urban High Density (UHD) land use designations when considering the cottage dwelling unit size restrictions as compared to standard residential unit sizes and because the maximum density limitations for cottage dwelling units and their respective size restrictions correspond to an equal or lesser maximum density restriction of standard dwelling unit sizes within the Mixed Family Residential (MF) and the Urban High Density (UHD) land use designation; and

WHEREAS, the City Council finds adoption of this ordinance is exempt from environmental review pursuant to Section 15061(b) (3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment because the ordinance provides incentives for developers to create developments of small, affordable units in multi-family residential zoning designations where such units are an allowed use and the permitted Cottage Dwelling Unit densities are equivalent to standard dwelling densities permitted by the respective zoning designations.

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

SECTION 1.Chapter 17.80.240 of the Nevada City Municipal Code entitled “Cottage Dwelling Development,” is hereby added with the following language:

Chapter 17.80.240 COTTAGE DWELLING DEVELOPMENT

A. Definitions:

1. Cottage Dwelling Unit (CDU): A primary dwelling that is constructed as part of a Cottage Dwelling Development and that meets the following size restrictions:
 - a. Small CDU: A primary dwelling unit that is no larger than 500 square feet.
 - b. Medium CDU: A primary dwelling unit that is no larger than 750 square feet.
 - c. Large CDU: A primary dwelling unit that is no larger than 1,000 square feet.

2. Cottage Dwelling Development: A group of three or more cottage dwelling units developed in any combination of CDU categories at the prescribed densities outlined in Section C.2 below.
- B. When a developer of housing proposes a development in an R2 or an R3 zoning designation, the City of Nevada City, hereinafter called the City, shall provide the developer incentives for the production of units that do not exceed 1,000 square feet in the R2 designation and that do not exceed 750 square feet in the R3 designation, if the developer meets the requirements set forth below. Proposals of three or more such units, shall be referred to as a “Cottage Dwelling Development” and shall be a development meeting the following minimum criteria:
1. Shall include a covenant that restricts expansion of an individual unit above the size limitation per the CDU category with which it was developed.
 2. Shall include a covenant that prohibits use of a cottage dwelling unit for use as a hosted short-term rental.
 3. May include a common space area available to residents of the development whereby any common building, if proposed, does not exceed 50% of the aggregate area of cottage dwelling units within the development (excluding garage and personal outbuilding areas).
 4. Shall include a mechanism for the maintenance of all common areas (open space, parking areas, community buildings, etc.).
 5. (Option a) Shall demonstrate energy-efficient design that achieves a standard above current mandatory standards of the California Green Building Standards Code (Cal. Code of Regulations, Title 24, Part 11), such as those provided under Tier 1 or Tier 2 elective standards.
 6. For all developments involving four or more CDUs, a minimum of 25% of the total Cottage Dwelling Development shall be compliant with adaptable accessibility standards as follows:
 - a. At least one adaptable bathroom (enough room for wheelchair maneuverability consistent with Chapter 11B of the CBC).
 - b. Bathroom with reinforced walls for grab bars or 5/8 inch type x gypsum board throughout.
 - c. Minimum 36” hallways and 32” clear space on doors into one bathroom and the exterior.
 - d. Design and construct cottage dwelling units to allow wheelchair roll-in. Where there are duplicate uses of rooms (i.e., two bathrooms, two bedrooms), one of those rooms shall be made adaptable.
 - e. Provide a no step entry with accessible path from the parking area.
 - f. Wheelchair adaptable maneuverability in kitchen.

- g. 32-inch clear space on interior doors into one bedroom and one bathroom, and exterior door shall be 36 inches.
 - h. Light switches at 44 to 48 inches.
 - i. Lever hardware throughout the unit
 - j. Straight stairway to second floor units or stacked closets to accommodate later modifications to allow for an elevator.
7. Any such development shall be subject to the following development standards:
- a. Each cottage dwelling unit is limited to, but not obligated to provide, one, single-car garage, not to exceed 240 square feet in size.
 - b. Any outbuildings in addition to the garage shall be limited to storage only, and shall not exceed more than 25% of the cottage dwelling unit size.
 - c. Shall comply with the following parking standards:
 - i. 1 standard off-street parking space per small CDU
 - ii. 1.25 standard off-street parking spaces per medium CDU (rounded up to nearest whole number of spaces)
 - iii. 1.5 standard off-street parking spaces per large CDU (rounded up to nearest whole number of spaces)
 - iv. Developer shall provide 20% additional guest parking spaces in excess of that required above (rounded up to nearest whole number of spaces)
 - d. Where a private garage is not provided for each CDU, a minimum of one on-site bicycle rack per CDU shall be provided in a style that allows a bicycle to be locked to the rack or otherwise secured;
 - e. Front porches may encroach into a front yard setback up to five-feet. Any covered front porch that encroaches in this manner, may not exceed a height of 15-feet, as measured from the ground to the highest point of the porch structure.
8. For all developments involving four or more CDUs, a minimum of 25% of the total Cottage Dwelling Development shall be compliant with adaptable accessibility standards as follows:
- a. At least one adaptable bathroom (enough room for wheelchair maneuverability consistent with Chapter 11B of the CBC).
 - b. Bathroom with reinforced walls for grab bars or 5/8 inch type x gypsum board throughout.
 - c. Minimum 36" hallways and 32" clear space on doors into one bathroom and the exterior.

- d. Design and construct cottage dwelling units to allow wheelchair roll-in. Where there are duplicate uses of rooms (i.e., two bathrooms, two bedrooms), one of those rooms shall be made adaptable.
 - e. Provide a no step entry with accessible path from the parking area.
 - f. Wheelchair adaptable maneuverability in kitchen.
 - g. 32-inch clear space on interior doors into one bedroom and one bathroom, and exterior door shall be 36 inches.
 - h. Light switches at 44 to 48 inches.
 - i. Lever hardware throughout the unit
 - j. Straight stairway to second floor units or stacked closets to accommodate later modifications to allow for an elevator.
9. Any such development shall be subject to the following development standards:
- a. Each cottage dwelling unit is limited to, but not obligated to provide, one, single-car garage, not to exceed 240 square feet in size.
 - b. Any outbuildings in addition to the garage shall be limited to storage only, and shall not exceed more than 25% of the cottage dwelling unit size.
 - c. Shall comply with the following parking standards:
 - i. 1.00 standard off-street parking space per small CDU
 - ii. 1.25 standard off-street parking spaces per medium CDU (rounded up to nearest whole number of spaces)
 - iii. 1.5 standard off-street parking spaces per large CDU (rounded up to nearest whole number of spaces)
 - iv. AND add an additional 20% overall parking in order to accommodate guest parking
 - d. Where a private garage is not provided for each CDU, a minimum of one on-site bicycle rack per CDU shall be provided in a style that allows a bicycle to be locked to the rack or otherwise secured;
 - e. Front porches may encroach into a front yard setback up to five-feet. Any covered front porch that encroaches in this manner, may not exceed a height of 15-feet, as measured from the ground to the highest point of the porch structure.
 - f. Any such development is subject to applicable administrative permit procedures including the following:
 - i. Site Plan requirements pursuant to Section 17.88.010 of the City Municipal Code when new structures are proposed.

- ii. Architectural Review requirements pursuant to 17.88.040 of the City Municipal Code when new structures are proposed or when any exterior building alteration is proposed.
- iii. Subdivision requirements pursuant to Section 16 of the City Municipal Code
- iv. Affordability standards through deed-restriction or an Affordable Housing Plan must be demonstrated *with a minimum of 10% serving very-low income families, and no more than 10% serving moderate income families as part of the 30% affordable housing requirement* pursuant to Section 16.04.054 of the City Municipal Code.

C. The City offers the following incentives for any such Cottage Dwelling Development:

- 1. AB1600 Impact Mitigation Fees shall be applied at the following ratio per cottage development unit (does not apply to traffic mitigation fees unless authorized by the Nevada County Transportation Commission or to sewer or water hook-up fees);

Ratio of CDUs to Single Family Dwelling (SFD) AB1600 fees
1 Small CDUs : 1/3 SFD AB1600 fee
1 Medium CDUs : 1/2 SFD AB1600 fee
1 Large CDUs : 2/3 SFD AB1600 fees

- 2. Developments meeting the criteria above shall occur at the following densities:

Cottage Dwelling Unit Category (CDU)	Required Densities	
	<i>R2 Designation</i>	<i>R3 Designation</i>
Small (≤ 500 sf)	18 units per acre	32 units per acre
Medium (≤ 750 sf)	14 units per acre	24 units per acre
Large(≤ 1,000 sf)	10 units per acre	N/A

- 3. Small CDUs developed as part of a Cottage Dwelling Development are presumed to be affordable by design *for very low income families; medium CDUs are presumed to be affordable by design for low-income families; and large CDUs are presumed to be affordable by design for moderate income families*, and may be used to satisfy the requirement of an affordable housing plan pursuant to Section 16.04.054 of the City Municipal Code so long as all other requirements of that Section are satisfied.

SECTION 2. Chapter 17.28 of the Nevada City Municipal Code entitled “R2 Multiple-Family Residential Zone,” is hereby amended to include Cottage Dwelling Development as a permitted use, subject to the requirements of Chapter 17.80.240:

Chapter 17.28 - R2 MULTIPLE-FAMILY RESIDENTIAL ZONE

17.28.020 - Principal permitted uses.

In the R2 zone, the following uses are permitted:

- A. All uses permitted in the R1 zone;
- B. Multiple-family dwellings in one detached building or an attached group.
- C. Transitional and supportive housing subject only to those restrictions that apply to the same type of residential dwelling in the zone district.
- D. Cottage Dwelling Developments pursuant to Chapter 17.80.240

SECTION 3. Chapter 17.30 of the Nevada City Municipal Code entitled “R3 High Density Multiple-Family Residential Zone,” is hereby amended to include Cottage Dwelling Development as a permitted use, subject to the requirements of Chapter 17.80.240:

Chapter 17.30 – R3 HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL ZONE

17.30.020 - Principal permitted uses.

In the R3 zone, the following uses are permitted:

- A. Multiple-family dwellings in one detached building or groups of attached dwellings meeting the density standards in [Section 17.30.070](#).
- B. Cottage Dwelling Developments pursuant to Chapter 17.80.240

SECTION 4. Chapter 16.04 of the Nevada City Municipal Code entitled “Subdivision Regulations,” is hereby amended to preclude Cottage Dwelling Developments from being required to provide second dwelling units, subject to the requirements of Chapter 17.80.240:

16.04.056 - Required second dwelling units.

Twenty (20) percent of all new single-family lots created as part of approving a parcel map, vesting tentative map or final subdivision map, shall contain a second dwelling, attached or detached, which is not less than three hundred fifty (350) square feet in size nor more than six hundred forty (640) square feet in size, which meets all of the requirements of Sections 17.72.020 and 17.72.030 of the municipal code except the lot size requirements and the unit size requirements. If the subdivision map creates two (2)

or fewer lots, none of the new lots shall be limited as set forth above. If the subdivision map includes a Cottage Dwelling Development (CDD) component pursuant to Chapter 17.80.240, none of the new lots within the CDD shall be limited as set forth above. For maps creating three (3) or more new lots, the number of lots to be limited as set forth above shall be determined by multiplying 0.3 times the number of new lots created and then rounded up or down based on the common mathematical convention. In addition to designating such lots, the subdivider shall record a deed restriction on any such lot informing any potential owner that no building permit shall be issued by the building department unless the plans include a second dwelling unit and informing the new owner that the second residential unit shall not be less than three hundred fifty (350) square feet in size and not more than six hundred forty (640) square feet in size.

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

SECTION 6. Effective Date. This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in the _____, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

This Ordinance was introduced and read by title only on the __th day of _____, 2019 and was passed and adopted on this __th day of _____, 2019 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

David Parker, Mayor

ATTEST:

APPROVED AS TO FORM:

Niel Locke, City Clerk

Hal Degraw, City Attorney

STATE OF CALIFORNIA)

COUNTY OF NEVADA) ss.
CITY OF NEVADA CITY)

I, _____, City Clerk of _____, do hereby certify that the foregoing ordinance was introduced on the _____th day of _____, 2019, was regularly adopted at a meeting thereof on the _____th day of _____, 2019 and was published/posted pursuant to law.

Niel Locke, City Clerk

DRAFT