

ORDINANCE 05-03, 2019

AN EMERGENCY ORDINANCE PERMITTING AND PROVIDING REQUIREMENTS FOR ACCESSORY DWELLING UNITS

WHEREAS, The Town is authorized by state statutes, including but not limited to C.R.S. §§ 29-20-101 et seq., 31-15-401, 31-15-601, 31-23-201 et seq. to plan and regulate the use and development of land, the construction of buildings and other structures, and related development and construction activities within the Town; and

WHEREAS, during the Jamestown Area Long Term Recovery Plan process, conducted in response to the September 12-14, 2013 flood event, the long term goals of affordable housing and aging in place were identified and may be supported in part through the allowance of accessory dwelling units; and

WHEREAS, Ordinance 2, Series 1984 restricts construction within the area served by the Municipal Water System to Single Family Residences; and

WHEREAS, the Town Board now wishes to permit and regulate the construction of accessory dwelling units as defined in this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:

Section 1. Applicability: This ordinance is intended to permit the planning, development and use of accessory dwelling units and establish reasonable regulations governing the same, with an emphasis on safety of occupants and compliance with safety and fire regulations while providing for less restrictive uses of owned property.

Section 2. Definitions: As used in this ordinance terms shall have the following meanings:

Accessory Dwelling Unit (ADU) means a dwelling unit of permanent construction added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation.

Apartment House means a single building having three or more dwelling units.

Dwelling Unit means a building or portion of a building intended as living quarters for a single family, having both a bathroom and a single set of kitchen facilities (stove plus either or both a refrigerator and sink) not shared with any other unit.

Multiple Dwelling Units (MDU) means a collection of three or more dwelling units on a single lot.

Principal Unit means the original dwelling unit from which the ADU was created or in the case of a detached ADU, the original single family dwelling and larger of the two units.

Single Family Dwelling (SFD) means a detached building designed for or occupied by one family. The addition of a conforming ADU to a SFD shall not change its status as a SFD.

Section 3: Accessory Dwelling Units Permitted: The following types of ADU are permitted within the Town boundaries subject to compliance with this ordinance and all other applicable ordinances and regulations:

Section 3. (a): An ADU may be created from a single family dwelling, or as a detached unit on any conforming lot that includes a single family dwelling. Two types of ADUs are permitted:

- i. Type I: An ADU that is detached from the principal unit
- ii. Type II: An ADU located within a SFD provided the occupants of the ADU and the occupants of the principal unit do not live together as a single household unit; and provided the ADU has separate and exclusive access from the principal unit.

Section 3. (b): Conforming and nonconforming ADUs existing as of May 1st, 2017 are allowed to continue as permitted uses provided the property owner meets the requirements listed in Sections 6, 7 and 8 of this ordinance.

Section 3. (c): ADUs may be included in the construction of any new SFD.

Section 3. (d): ADUs are permitted solely as an accessory use subordinate to and located upon the same property as a principal unit. Interests in ADUs shall never be conveyed separately from the property, lot or parcel upon which the ADUs are located.

Section 4. Accessory Dwelling Units – Prohibitions: ADUs shall not be added to apartment houses or any existing dwelling units within an apartment house. ADUs shall not be added to lots containing multiple dwelling units (MDUs). This ordinance is not intended address the construction of apartment houses, cluster homes, duplex homes or any other multi- family housing. Mobile homes shall be prohibited for use as an ADU except in accordance with Ordinance 4, Series 1995, as in effect and as may be amended from time to time.

Section 5. Size and Number of ADUs: ADUs shall not exceed 50% of the total square footage of the principal unit, not including the square footage of any attached or detached garage or storage shed; provided further, that the maximum square footage of an individual ADU shall be twelve hundred (1200) square feet. The number of ADUs on a property shall be limited to one.

Section 5. (a) Exceptions: At its sole discretion, the Town Board may approve nominal (100 square feet or less) exceptions to the formula above, provided such exception does not cause the ADU to exceed the twelve hundred (1200) square foot limit.

Section 5. (b): Variance: The property owner may apply for a variance setting forth compelling reasons and/or equivalent standards for a variance to the requirements of this section.

- The property owner shall be responsible for any additional costs that may be incurred by the Town relating to the application for a variance.
- For each application for variance permit, the Board of Trustees shall fix a reasonable time for a public hearing on the application. At least fifteen days before the hearing, the property owner shall provide notice by mail to property owners within 300 feet of the subject property and by posting notice of the hearing on the subject property.
- Only the Town Board of Trustees can grant a variance.
- All variances are considered on their own merits by the Town Board of Trustees. An approved variance shall not be considered a precedent to any other variance application.
- In order to grant a variance, the Board of Trustees shall find that the following criteria have been satisfied:
 - There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;
 - Because of these physical circumstances, the strict application of this ordinance would create an exceptional or undue hardship upon the property owner;

- The hardship is not self-imposed;
- The variance, if granted, will not adversely affect the use of adjacent property;
- That the variance, if granted, will not change the character of the neighborhood in which the property is located and is in keeping with the intent of Town's Comprehensive Plan; and
- That the variance, if granted, does not adversely affect the health, safety and welfare of the citizens of the Town.

Section 6. Safety and Responsibilities Requirements: ADUs shall be constructed in accordance with applicable building codes and shall include safe emergency access and egress, fire/smoke alarms and carbon monoxide detectors. The property owner of the principal unit and associated ADU shall provide current contact information to the Town Clerk's Office in order to be available in case of emergencies or other concerns.

Section 7. Environmental Requirements: SFDs with ADUs shall meet State and County regulations for On-Site Wastewater Systems.

Section 8. Water Utilities: An ADU shall be connected to and receive water from the Municipal Waterworks or other water system that is approved by the town and complies with all applicable state, county and Town regulations. Properties with ADU's served by the Municipal Waterworks shall be subject to a separate ADU charge established by ordinance, in accordance with article II, Section 21, Ordinance 1, Series 2015 as revised or any subsequent ordinance that repeals or amends this ordinance.

Section 9. Other considerations: Property owners shall consider providing at least one (1) off-street parking space, if practical, for occupants of any SFD containing ADUs.

Section 10. Notice: The property owner of any SFD with an ADU or planning to construct an ADU shall contact the Town Clerk and fill out a form that will include the address of the ADU property, the size and type of ADU, and certify, in writing that the ADU or proposed ADU meets the requirements of this ordinance. Upon receipt of a building permit, a copy of the permit shall be posted in a conspicuous location on the property at least 14 days prior to the commencement of the construction of the ADU.

Section 11. Repeal: All other ordinances, including Ordinance 05-02 Series 2017, or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 12. Severability: If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part thereof irrespective of the fact that any one part be declared invalid.

Section 13. Penalty Clause and Delinquency Remedies: It shall be unlawful for any person to commit any act or omission in violation of this ordinance and any such act shall constitute a municipal offense. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this ordinance is committed, continued or permitted. Such person shall be punishable by fine of not more than one thousand dollars. In addition to the foregoing, the Town shall have the right to maintain an action for injunctive relief to enjoin any act in violation of this ordinance, or to enforce the provisions hereof. In the event any such action for injunctive relief is brought, the Town, if it prevails in such action, shall be entitled to recover from the defendant the Town's reasonable attorney fees and costs of suit.

Section 14. Safety Clause; Ordinance Immediately Effective: The Board of Trustees herewith finds, determines and declares that this ordinance is necessary to the immediate preservation of the public health and safety in order to timely provide for safety of citizens and preservation of property. This ordinance shall be effective upon adoption and signing by the Mayor if approved by three-fourths of the members of the Board of Trustees.

INTRODUCED, READ, ADOPTED, APPROVED, SIGNED AND ORDERED PUBLISHED BY TITLE THIS 6TH DAY OF MAY, 2019.

TOWN OF JAMESTOWN, CO

Kenneth Lenarcic

Kenneth Lenarcic, Mayor

ATTEST:

Kristi Rutledge, Town Clerk