

**ORDINANCE NO. 3560 C.S.**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY**

**AMENDING CITY CODE SECTION 38-11 TO ADD DEFINITIONS FOR ACCESSORY DWELLING UNITS; SECTIONS 38-22, 38-23, AND 38-25 TO ALLOW ACCESSORY DWELLING UNITS AS PERMITTED USES; REPLACING SECTION 38-23(F) (PROHIBITION OF SECOND UNITS) AND SECTION 38-25(D)(K) & (I) WITH NEW SECTION 38-26(S) (ACCESSORY DWELLING UNITS); AMENDING SECTION 38-115 TO ADD PARKING REQUIREMENTS FOR ACCESSORY DWELLING UNITS; AND AMENDING SECTION 38-153(B) TO ADD ADMINISTRATIVE PROCEDURES FOR ACCESSORY DWELLING UNITS**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

**SECTION 1:**

WHEREAS, State law (Senate Bill 1069 and Assembly Bill 2299, Statutes of 2016) requires jurisdictions to amend their local zoning ordinances to conform to Government Code Section 65852.2 as amended effective January 1, 2017. Failure to amend the City's zoning to meet the requirements of the legislation will render the City's existing accessory dwelling unit (second unit) regulations null and void as of January 1, 2017;

WHEREAS, adopting an ordinance consistent with Section 65852.2 will ensure that the character of the City is preserved to the maximum extent possible and that the City's regulations regarding accessory dwelling units will continue to promote the health, safety, and welfare of the community;

WHEREAS, the City has designated areas where accessory dwelling units may be located, where permitted by Section 65852.2, based on the limited availability of water within the City, consideration of the areas where accessory dwelling units will be most compatible with the existing character of the City, and consideration of areas closest to transit and services, which is appropriate for rental units;

WHEREAS, on November 22, 2016, the Planning Commission held a duly noticed public hearing, took public testimony, and recommended that the City Council adopt the ordinance amendments;

WHEREAS, the City Council held a duly noticed public hearing on December 20, 2016, took public testimony, and considered the ordinance amendments; and,

WHEREAS, the City of Monterey Planning Office has determined that the project is statutorily exempt from the California Environmental Quality Act (CEQA) as provided by Public Resources Code Section 21080.17, because it is the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 38, Section 11 is hereby amended to add the following definition:

Accessory Dwelling Unit: An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, which is located on the same parcel as a single-family dwelling. An accessory dwelling unit may consist of an efficiency unit, as defined in Section 17958.1 of Health and Safety Code; or a manufactured home, as defined in Section 18007 of the Health and Safety Code.

Accessory Dwelling Unit, Interior: An accessory dwelling unit which is constructed in an R-E zone or R-1 zone entirely within the existing and legally created space of a single-family home or accessory structure.

Accessory Dwelling Unit, Other: An accessory dwelling unit which is constructed either as a new detached accessory structure; as an addition to an existing single family home or an existing accessory structure; or entirely within the existing and legally created space of a single-family home or accessory structure but not in an R-E or R-1 zone.

SECTION 3: Monterey City Code, Chapter 38, Section 22 R-E District Land Use Regulations Table is hereby amended to add:

Accessory dwelling units, interior                        P

SECTION 4: Monterey City Code, Chapter 38, Section 23 R-1 District Land Use Regulations Table is hereby amended to add:

Accessory dwelling units, interior                        P

SECTION 5: Monterey City Code, Chapter 38, Section 23(F) Prohibition of Second Units is hereby deleted.

SECTION 6: Monterey City Code, Chapter 38, Section 25 R-3 District Land Use Regulations Table is hereby amended to add:

Accessory dwelling units, other                                P

SECTION 7: Monterey City Code, Chapter 38, Section 25 R-3(D) Property Development Standards, subsections (k) and (l), are hereby deleted.

SECTION 8: Monterey City Code, Chapter 38, Section 26 Supplemental Regulations Applicable in R Districts is hereby amended to add:

S. Accessory Dwelling Units.

1. All accessory dwelling units shall conform with the following:

- a. The lot must contain an existing single-family home and no other dwelling units. No more than one accessory dwelling unit may be constructed on any lot.

- b. At the time of application, the property owner shall acknowledge in writing that: (i) the accessory dwelling unit may not be sold separately from the existing single-family home; (ii) either the existing single-family home or the accessory dwelling unit must be owner-occupied; and (iii) neither the accessory dwelling unit nor the single-family home may be used for short-term residential rentals. Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant in a form approved by the city to notify future owners of the requirements of this paragraph (b).
  - c. Except as modified by this subsection S, the accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this chapter, including but not limited to height, setback, lot coverage, floor area ratio, landscape, and historic preservation requirements; unless the unit is contained in a nonconforming structure and does not expand the nonconformity.
  - d. The accessory dwelling unit shall conform to all applicable state and local building code requirements, including verification from the applicable water district (submitted with the application for a building permit) that sufficient on-site water credits are available for the accessory dwelling unit. Fire sprinklers may not be required for the accessory dwelling unit unless they are required for the existing single-family home.
  - e. An accessory dwelling unit conforming to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which the unit is located and shall be deemed to be a residential use consistent with the existing general plan and zoning designations for the lot.
  - f. An accessory dwelling unit conforming to the provisions of this subsection S shall be approved ministerially as provided in Section 38-153(B).
2. Accessory dwelling units, interior, shall additionally conform with the following:
- a. The accessory dwelling unit must be constructed entirely within the existing and legally created space of a single-family home or accessory structure in the R-E or R-1 District.
  - b. The accessory dwelling unit must have exterior access independent from the existing single-family home.
  - c. Side and rear setbacks must be sufficient for fire safety.
  - d. No additional parking for the accessory dwelling unit may be required. However, if the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, replacement spaces must be provided to meet the requirements of Article 18 of this Chapter 38 but may be provided as covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts.
  - e. No new or separate utility connection directly between the accessory dwelling unit and the utility may be required.

3. Accessory dwelling units, other, shall additionally conform with the following:
  - a. The lot proposed for the accessory dwelling unit must be 5,000 square feet or larger.
  - b. All of the existing and proposed structures on the lot, excluding floor area exemptions listed in section 38-25(D)(j), and including the proposed accessory dwelling unit, may not exceed a floor area ratio of 0.40.
  - c. The accessory dwelling unit may not exceed 12 feet in height.
  - d. The increased floor area of an accessory dwelling unit attached to the existing single-family home shall not exceed the lesser of fifty percent of the living area (as defined in Section 65852.2(i) or successor provision) of the existing single-family home or 1,200 square feet. The total floor area of a detached accessory dwelling unit may not exceed 1,200 square feet.
  - e. One additional parking space shall be provided per bedroom, which may be provided as tandem parking on an existing driveway, and shall meet applicable setback requirements for parking. Notwithstanding this provision, no additional parking may be required for accessory dwelling units located within one-half mile of a public transit stop or car share vehicle pickup location, located entirely within an existing primary residence or an existing accessory structure, within an architecturally and historically significant historic district, or otherwise exempt under Government Code Section 65852.2(d) or successor provision.
  - f. If the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, replacement spaces must be provided to meet the requirements of Article 18 of this Chapter 38 but may be provided as covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts.
  - g. A separate utility connection between the accessory dwelling unit and all utilities shall be required.
  - h. Accessory dwelling units shall comply with the following design standards:
    - a. the accessory dwelling shall be constructed with facade materials identical in color, and similar in texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors; and,
    - b. the accessory dwelling shall match the roof pitch and roof form of the primary dwelling in order to blend with the architecture of the primary dwelling.

SECTION 9: Monterey City Code, Chapter 38, Section 115 Off-Street Parking and Loading Spaces Required Table is hereby amended to add:

Accessory dwelling units	As specified in Section 38-26(S)
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SECTION 10: Monterey City Code, Chapter 38, Section 153(B) is hereby amended to read as follows:

B. Administrative Approval. The Public Works Director may administratively approve over the counter minor projects that do not require a public hearing and ministerial permits for accessory dwelling units conforming to the provisions of Section 38-26(S) within the time limits specified by Government Code Section 65852.2 or successor provision.

SECTION 11: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

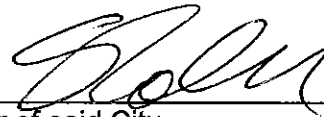
SECTION 12: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 17th day of January, 2017, by the following vote:

AYES:	5	COUNCILMEMBERS:	Albert, Barrett, Haffa, Smith, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



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Mayor of said City

