

**ORDINANCE NO. 3633 C.S.**

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

**AN URGENCY ORDINANCE EXTENDING ORDINANCE 3626 TO COMPLY WITH STATE  
LAW AND TO CREATE A MAXIMUM HEIGHT LIMIT OF SIXTEEN FEET FOR ACCESSORY  
DWELLING UNITS**

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

**SECTION 1:**

WHEREAS, California is experiencing a housing crisis, with housing demands outstripping supply. The California State Legislature brought forward several bills in 2019 relating to the planning and permitting of accessory dwelling units (ADUs) to address the housing supply crisis. In October 2019, the Governor signed into law Assembly Bill (AB) 68, AB 881, and Senate Bill (SB) 13. Additionally, AB 68 amended standards for Junior ADUs (JADUs) and SB 13 made additions to the State Health and Safety Code (added new Section 17980.12). The new laws took effect on January 1, 2020;

WHEREAS, Government Code section 65852.2 requires cities to adopt ADU zoning regulations consistent with the new state law. In the absence of a valid local ordinance, the new state law provides a set of default standards governing local agencies' regulation and approval of ADUs. The City's existing ADU regulations are almost entirely inconsistent with state law. This inconsistency is causing confusion among applicants, which could defeat the intent of the new legislation which is to encourage additional and expedient construction of new housing;

WHEREAS, state law allows jurisdictions to impose a height limitation of 16' on accessory dwelling units. However, the City has not imposed this height limitation so it is possible that state law can be interpreted that the maximum height is the height restriction of the underlying zoning district;

WHEREAS, at a recent Council meeting, the Council directed the Planning Commission to hold policy discussions to consider if the City should allow ADUs over 16' in height, and, if so, recommend regulations to guide this process;

WHEREAS, on October 20, 2020, the City Council adopted Urgency Ordinance No. 3626;

WHEREAS, this urgency ordinance extension is intended to prevent accessory dwelling units over 16' in height until the Planning Commission has an opportunity to provide policy

recommendations;

WHEREAS, an urgency ordinance that is effective immediately is necessary to avoid an immediate threat to the public peace, health, and safety as failure to adopt this urgency ordinance could nullify local values expressed in the City's current ADU regulations and result in the construction of housing with heights that exceed 16 feet, which is inconsistent with well-established community values. An urgency ordinance is also needed to eliminate confusion over the applicable laws. Repeal of the City's existing ADU ordinance and incorporation of the state standards will provide clarity to applicants and facilitate permit processing;

WHEREAS, it is the intent of this Urgency Ordinance to implement California Government Code section 65852.2 and 65852.22 and to increase the overall supply and range of housing options in the City; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378 and California Public Resources Code 21080.17). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project.

NOW THEREFORE, the Monterey City Council declares as follows:

**SECTION 1:** The foregoing recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

**SECTION 2:** Extension. Ordinance No. 3626, attached hereto as and incorporated by reference as Exhibit A, is extended from its original expiration date for a period of 10 months and 15 days to October 19, 2021, unless further extended pursuant to Government Code section 65858 or other applicable law, or repealed before its expiration, by the City Council.

**SECTION 3:** Effective Date. As set forth in the findings above, this Ordinance is necessary for preserving the public safety, health, and welfare. Pursuant to Government Code section 65858, this Ordinance is effective immediately by a 4/5 vote of the City Council.

SECTION 4. The City Clerk shall transmit a copy of this ordinance to the California Department of Housing and Community Development within 60 days of its adoption pursuant to Government Code section 65852.2(h).

SECTION 5: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 1<sup>st</sup> day of December, 2020, by the following vote:

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

APPROVED:

ATTEST:

DocuSigned by:  
  
FA1981217DEE4FB...  
Mayor of said City

DocuSigned by:  
  
Cfrosh  
ED8453A4F62C4AA...  
City Clerk thereof

**ORDINANCE NO. 3626 C.S.****AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY****AN INTERIM URGENCY ORDINANCE TO COMPLY WITH STATE LAW AND TO CREATE A  
MAXIMUM HEIGHT LIMIT OF SIXTEEN FEET FOR ACCESSORY DWELLING UNITS**

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

**SECTION 1:**

WHEREAS, California is experiencing a housing crisis, with housing demands outstripping supply. The California State Legislature brought forward several bills in 2019 relating to the planning and permitting of accessory dwelling units (ADUs) to address the housing supply crisis. In October 2019, the Governor signed into law Assembly Bill (AB) 68, AB 881, and Senate Bill (SB) 13. Additionally, AB 68 amended standards for Junior ADUs (JADUs) and SB 13 made additions to the State Health and Safety Code (added new Section 17980.12). The new laws took effect on January 1, 2020;

WHEREAS, Government Code section 65852.2 requires cities to adopt ADU zoning regulations consistent with the new state law. In the absence of a valid local ordinance, the new state law provides a set of default standards governing local agencies' regulation and approval of ADUs. The City's existing ADU regulations are almost entirely inconsistent with state law. This inconsistency is causing confusion among applicants, which could defeat the intent of the new legislation which is to encourage additional and expedient construction of new housing;

WHEREAS, state law allows jurisdictions to impose a height limitation of 16' on accessory dwelling units. However, the City has not imposed this height limitation so it is possible that state law can be interpreted that the maximum height is the height restriction of the underlying zoning;

WHEREAS, at a recent Council meeting, the Council directed the Planning Commission to hold policy discussions to consider if the City should allow ADUs over 16' in height, and, if so, recommend regulations to guide this process;

WHEREAS, this urgency ordinance is intended to prevent accessory dwelling units over 16' in height until the Planning Commission has an opportunity to provide policy recommendations;

WHEREAS, an urgency ordinance that is effective immediately is necessary to avoid an immediate threat to the public peace, health, and safety as failure to adopt this urgency

ordinance could nullify local values expressed in the City's current ADU regulations and result in the construction of housing with heights that exceed 16 feet, which is inconsistent with well-established community values. An urgency ordinance is also needed to eliminate confusion over the applicable laws. Repeal of the City's existing ADU ordinance and incorporation of the state standards will provide clarity to applicants and facilitate permit processing;

WHEREAS, it is the intent of this Urgency Ordinance to implement California Government Code section 65852.2 and 65852.22 and to increase the overall supply and range of housing options in the City; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378 and California Public Resources Code 21080.17). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 1: The foregoing recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2: Monterey City Code section 38-26(S) is hereby repealed.

SECTION 3. Permit Procedures and Criteria. Permits will be issued for Accessory Dwelling Units and Junior Accessory Dwelling Units pursuant to Government Code section 65852.2 and 65852.22.

SECTION 4: Height Development Standards for Accessory Dwelling Units in all Zoning Districts. No Accessory Dwelling Unit in the City shall exceed 16 feet in height.

SECTION 5. Any provision of the City of Monterey City Code or Specific Area Plans that are inconsistent with this Urgency Ordinance, to the extent of such inconsistency, and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this ordinance.

SECTION 6: The City Clerk shall transmit a copy of this ordinance to the California

Department of Housing and Community Development within 60 days of its adoption pursuant to Government Code section 65852.2(h).

**SECTION 7:** This ordinance shall be in full force after its passage and adoption.

**SECTION 8:** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 20<sup>th</sup> day of October, 2020, by the following vote:

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

APPROVED:

ATTEST:

DocuSigned by:  
  
FA1091217DDE4FB...  
Mayor of said City

DocuSigned by:  
  
ED8453A4F62C4AA...  
City Clerk thereof