

ORDINANCE NO. 3650 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**AMENDING CHAPTER 38 OF THE CITY OF MONTEREY CODE
RELATED TO ACCESSORY DWELLING UNITS (MCC SEC. 38-112.6)**

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 sections 65852.2 and 65852.22 require 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;

WHEREAS, on November 2, 2021, the City Council adopted Ordinance No. 3641, to amend the City Code to include ADU zoning regulations consistent with Government Code sections 65852.2 and 65852.22;

WHEREAS, City staff has identified opportunities to clarify the ADU zoning regulations and to allow development standard exemptions for ADUs up to 25' that are constructed above garages and carports;

WHEREAS, ADUs may share a sewer lateral line with the main residence as long as the sewer lateral meets City standards and specifications, at a substantially reduced cost;

WHEREAS, the 2015-2023 Housing Element Goal b is to broaden the choice of rental housing types available to residents of Monterey in all price ranges and for all family sizes while maintaining neighborhood compatibility and, where possible, using second units to encourage owner opportunities;

WHEREAS, the Planning Commission finds that the amendment is consistent with the purposes of the General Plan, the purposes of the Municipal Code, and other applicable City ordinances;

WHEREAS, on March 8, 2022, 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 public hearing on April 19, 2022, took public testimony, and considered the ordinance amendments; and

WHEREAS, the City of Monterey City Council has determined that the adoption of those provisions is statutorily exempt from the California Environmental Quality Act (CEQA) as provided by Public Resources Code Section 21080.17 and by CEQA Guidelines Article 18, Section 15282.h, 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 does ordain as follows:

SECTION 1. The above 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 38-112.6(2)(d)(ii), Second Story Attached Accessory Dwelling Unit/Above Garage is hereby amended to read as follows:

- ii. Second Story Attached Accessory Dwelling Unit/Above Garage or Carport. If an Accessory Dwelling Unit exceeds the maximum permitted height set forth in subsection (2)(d)(i) above, the applicant may apply for an exception through the discretionary architectural review process pursuant to Municipal Code Chapter 38, Article 25 if:
 - (1) The total height of the building, as defined in Section 38-11 (Height, Building), is 25 feet or less;
 - (2) The parcel is within the R-3 zone;
 - (3) The garage or carport is at the ground level
 - (4) No windows or openings are permitted for that portion of the building that is closer than four feet to a property line; and
 - (5) Any window parallel to an adjoining property line and closer than 10 feet shall be either:
 - a. Opaque and inoperable; or
 - b. Clerestory windows with a minimum height no less than six feet above floor level.

SECTION 3. Monterey City Code, Section 38-112.6(2)(e) is hereby amended to read as follows:

- e. Limits on lot coverage, floor area ratio, open space, and size must permit or shall be waived to allow a detached or attached Accessory Dwelling Unit, with a maximum floor area of 800 square feet, maximum height of 25 feet, and minimum four-foot side and rear yard setbacks, if the proposed Accessory Dwelling Unit is in compliance with all other development standards, including but not limited to front yard setbacks.

SECTION 4. Monterey City Code, Section 38-112.6(2)(h), Historic Review is hereby amended to delete the heading "Historic Review" and replace it with the heading "Properties with Historic Overlay Zoning or Historic Zoning." The remainder of the subsection remains unchanged.

SECTION 5. Monterey City Code, Section 38-112.6(3)(b), Roof Pitch is hereby amended to read as follows:

- b. Roof Pitch. The Accessory Dwelling Unit shall match the roof pitch and roof form of the primary dwelling in order to blend with the architecture of the primary dwelling. The applicant may apply for an exception through the discretionary architectural review process pursuant to Municipal Code Chapter 38, Article 25. The Architectural Review Committee may grant such an exception if it finds that an alternative roof pitch and form design are compatible with the primary structure and neighborhood.

SECTION 6. Monterey City Code, Section 38-112.6(5)(a) is hereby amended to read as follows:

- a. Except as provided in subsection (5)(b), below, an accessory dwelling unit shall provide a new or separate utility connection, including a separate sewer lateral, between the accessory dwelling unit and the utility, unless the applicant has obtained a sewer lateral inspection performed by a licensed plumber which demonstrating that the sewer lateral meets the City's standards and specifications. Proof that the sewer later meets the City's requirements shall be submitted on a sewer lateral inspection form provided by the City and completed by the professional who completed the inspection. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values. Separate electric and water submeters shall be required for the accessory dwelling unit, except that separate water meters shall be required for accessory dwelling units if and when California American Water is allowed to connect new water meters.

SECTION 7. Monterey City Code, Section 38-112.6(6)(a)(iii) is hereby amended to read as follows:

- iii. The applicant requests discretionary architectural review for an accessory dwelling unit more than 16 feet high and/or for alternative roof pitch/form, as provided in Section 112-6(2)(d)(ii) or (6)(3)(b), above.

SECTION 8. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. Severability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have adopted the Ordinance and each section, sub-section, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases or portions to be declared invalid or unconstitutional.

SECTION 10. This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

SECTION 11. Publication. Pursuant to Charter section 4.4, this ordinance shall be published in the Monterey County Herald, a newspaper printed and published in the County of Monterey, at least three days before its adoption.

SECTION 12. The City Clerk shall send a copy of this Ordinance to the Department of Housing and Community Development within 60 days after adoption, as required by State law.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 3rd day of May, 2022, 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:

FA19812179EE4FB

 Mayor of said City

DocuSigned by:

ED8453A4E62C4AA

 City Clerk thereof