

ORDINANCE NO. 601

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17
OF THE MORRO BAY MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR
REVIEW OF SECONDARY DWELLING UNITS AND GUESTHOUSES**

**THE CITY COUNCIL
City of Morro Bay, California**

Case No. A00-029 (Local Coastal Plan/Zoning Ordinance Amendment)

WHEREAS, it is the purpose of Title 17 of the Morro Bay Municipal Code (“MBMC”) (the “Zoning Ordinance”) to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

WHEREAS, it is important to have clear, consistent, and easy to use and interpret regulations within the Zoning Ordinance; and

WHEREAS, California State Law §65852.2 requires cities to establish standards to allow for secondary dwelling units so as to increase the supply of smaller, affordable housing compatible with the surrounding neighborhood; and

WHEREAS, the proposed amendments are intended to meet the intent of State Law by providing an option to build a secondary dwelling unit in certain zones that permit single-family dwellings and have no more than one existing single-family home on the property; and

WHEREAS, after duly noticed Public Hearings on January 5, 2016, February 16, 2016, and May 3, 2016, the Planning Commission of the City of Morro Bay did forward a recommendation, by adoption of Planning Commission Resolution No. 14-16, to the City Council to amend the Zoning Ordinance to comply with the State legislation (AB 1866) and also clarify review standards for secondary dwelling units and guesthouses; and

WHEREAS, a Negative Declaration was prepared to evaluate the environmental impacts as a result of amendments to Title 17 of the MBMC regarding secondary dwelling units and guesthouses, and determined no significant impacts would result.

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain, as follows:

SECTION 1: The City Council finds:

1. The above recitations are true and correct and constitute the findings of the Council in this matter.
2. The Zoning Ordinance Amendment proposal is consistent with the State Statute AB 1866 and includes similar language, which was previously in effect.
3. The previous amendments to the Zoning Ordinance, adopted by Ordinance No. 576, did not reflect the values of the community.
4. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well-being of the persons residing or working in the neighborhood.
5. The proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan because they forward the objective of creating a variety of affordable housing types and ensure protection of coastal resources.
6. The Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and applicable policies and provisions of the California Coastal Act because a finding of no adverse impact on coastal resources is required in order to approve any application for a secondary dwelling unit or guesthouse, and because neither are allowed in the Commercial Visitor Serving zoning district.
7. The proposed amendment is consistent with and implements Housing Element Policy H-10 (Secondary Units) which states, "Allow for the development of secondary housing units as an affordable housing option throughout the city."
8. For purposes of the California Environmental Quality Act, on November, 29, 2011, a Negative Declaration (State Clearing House number 2011101073) was prepared for the then proposed amendments to Title 17 regarding secondary dwelling units and guesthouses. The Negative Declaration concluded those proposed text changes to the Local Coastal Program and Zoning Ordinance would not result in any significant adverse impacts to the built or natural environment. Nothing in the revisions established by this Ordinance materially alters that conclusion.
9. Pursuant to Morro Bay Municipal Code Section 17.64.080, no amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission. If the Coastal Commission certifies this Ordinance conditioned on substantive changes being made, then the Council will introduce and adopt another ordinance to incorporate those substantive changes. If the Coastal Commission certifies this Ordinance conditioned on non-substantive changes being made to this Ordinance, then the City Clerk is authorized to amend this Ordinance to reflect those non-substantive changes.

SECTION 2: The City Council hereby repeals Ordinance No. 507, Ordinance No. 576, and Ordinance No. 585.

SECTION 3: Based upon all the foregoing, Title 17 of MBMC is amended set forth in Exhibit "A," attached hereto and made a part of this Ordinance.

SECTION 4: This Ordinance shall become effective on the 31st day after its adoption but shall not become operative until it is certified by the Coastal Commission.

INTRODUCED at the regular meeting of the City Council held on the 28th day of June 2016, by motion of Councilmember Johnson and seconded by Councilmember Makowetski.

PASSED, APPROVED, AND ADOPTED, by the City Council of the City of Morro Bay, on the 12th day of July, 2016, on the following vote:

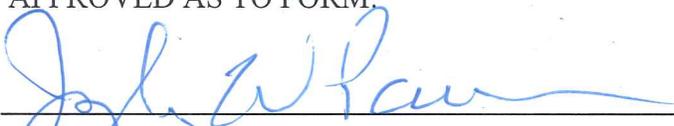
AYES: Makowetski, Headding, Johnson, Smukler
NOES: None
ABSTAIN: Irons
ABSENT: None



JAMIE L. IRONS, Mayor

ATTEST:


DANA SWANSON, City Clerk

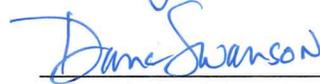
APPROVED AS TO FORM:


JOSEPH W. PANNONE, City Attorney

I, Dana Swanson, City Clerk for the City of Morro Bay, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 28th day of June, 2016, and hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the 12th day of July, 2016, by the following vote, to wit:

AYES: Makowetski, Headding, Johnson, Smukler
NOES: None
ABSTAIN: Irons
ABSENT: None

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this 13th day of July, 2016.



City Clerk of the City of Morro Bay

EXHIBIT A

*The changes to the City's Zoning Ordinance (Title 17), and Local Coastal Program are shown in underline for additions, while ~~strikethrough~~ indicates deletions. Plain text indicates existing zoning ordinance language to be retained. ***Bold italics*** indicate recommended general changes.*

CHAPTER 17.12 DEFINITIONS

Delete Section 17.12.295, definition for "Granny Unit," and replace with new definition for "Secondary Dwelling Unit" as follows:

~~17.12.295~~ ~~GRANNY UNIT~~

~~"Granny Unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons (accessory to a single family residence in specific zones permitting such use). It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single family dwelling.~~

17.12.295 Secondary dwelling unit.

"Secondary dwelling unit" means a dwelling unit that (i) is detached from or attached to the primary residential dwelling unit, which provides complete independent living facilities for one or more persons, (ii) includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the primary residential dwelling unit and (iii) "second unit," as set forth in Sections 65852.150 and 65852.2 of the California Government Code.

Delete Section 17.12.300, definition for "Guesthouse," and replace with new definition for "Guesthouse / Accessory living area" as follows:

~~17.12.300~~ ~~Guesthouse.~~

~~"Guesthouse" means any attached or detached accessory building which does not have enclosed access directly to the interior of the principle residence, which has any bathroom facility and which does not contain a kitchen, cooking facilities, or food preparation or storage facilities, and where no compensation in any form is received or paid for use thereof.~~

17.12.300 Guesthouse / Accessory living area.

"Guesthouse / Accessory living area" means an attached or detached habitable area that is used in conjunction with a primary single-family dwelling on the same lot and may have bathroom facilities, but does not have enclosed access to the interior of that primary single-family dwelling and does not contain a kitchen or any cooking or food preparation facilities, nor more than one bedroom.

In general, replace all references in the Zoning Ordinance to “granny unit” with “secondary dwelling unit”. This includes references in Chapter 17.44, Parking and Chapter 17.24, Primary Districts (discussed below).

CHAPTER 17.24 PRIMARY DISTRICTS

The following changes shall be made to the tables in the Chapter 17.24 in designated areas zoned for single-family and multi-family use:

- *In the AG, RA, R-1, R-2, R-3, and R-4 districts, delete the requirement for a minor use permit for secondary dwelling units that meet the applicable standards in Section 17.48.320 “Secondary Dwelling Units.”*
- *In the AG, RA, R-1, R-2, R-3, and R-4 districts, delete the requirement for a minor use permit for guesthouses that meet the applicable standards in Section 17.48.315 “Guesthouse / Accessory living area.”*
- *Delete references to “granny unit”.*

CHAPTER 17.48 GENERAL REGULATIONS, CONDITIONS AND EXCEPTIONS

17.48.315 ~~GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS~~ Guesthouse / Accessory living area.

Where provided by this Title, guesthouses and habitable structures for accessory living areas may be permitted in conjunction with a ~~dwelling unit~~ primary single-family dwelling, subject to the below requirements:

A. ~~Guesthouse Restrictions.~~ Size.

~~A guesthouse / accessory living area shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the primary single-family dwelling, and no cooking or food preparation or food storage facilities shall be provided.~~

B. ~~Use-Permit Requirements.~~

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

1. Outside the Coastal Commission appeal jurisdiction, guesthouses and accessory living areas may be permitted only after obtaining an administrative coastal development permit pursuant to Chapter 17.58 “Coastal Development Permits and Procedures.”

2. In the CRR zone, a conditional use permit is required pursuant to Chapter 17.60.

3. Inside the Coastal Commission appeal jurisdiction, guesthouses and accessory living may be permitted only after obtaining a regular coastal development permit pursuant to Chapter 17.58 "Coastal Development Permits and Procedures."

C. Location.

Guesthouses and accessory living areas may be established on any lot zoned R-A, R-1, R-2, R-3, R-4, AG and CRR, with the required permit, in accordance with District Tables in Chapter 17.24, where a primary single-family dwelling has been constructed or is proposed to be constructed in conjunction with the guesthouse or living area. Only one guesthouse / accessory living area or secondary dwelling unit is permitted on the same lot; provided, that both may be permitted on any lot which is a minimum of 7,500 square feet in size, subject to approval of a conditional use permit. Guesthouses and accessory living areas are prohibited in the S.2B Overlay.

D. Development Standards.

Guesthouses and accessory living areas shall comply with all development standards applicable to the zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage, cumulatively with the primary residence.

E. Parking.

As part of the permit process, additional parking may be required for guesthouses and accessory living areas.

F. Design.

Guesthouses and accessory living areas shall be consistent and compatible with the architectural style of the primary single-family dwelling and the neighborhood, and shall be located on the same lot as the primary residence.

G. Covenant Agreement.

Prior to the issuance of any building or grading permit, a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as a "guesthouse / accessory living area." That agreement shall be recorded in the Office of the County Recorder for San Luis Obispo County to provide constructive notice to future property owners. The covenant agreement also may contain authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and State and local health and safety codes.

H. No Separate Rental.

A guesthouse / accessory living area may not be rented separately from the primary single-family dwelling. Public notice of each application for a proposed guesthouse or an accessory living area shall clearly state within the project

description it may not be rented separately from the primary single-family dwelling on site.

I. Consistency with the Coastal Act.

Establishment of a guesthouse / accessory living area shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

17.48.320 ~~Granny Units~~—Secondary dwelling units.

The purpose of this Section is to provide affordable low- and moderate-income housing. Pursuant to ~~Government Code Section 65852.2~~, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single family residence, subject to the following provisions: The following supplemental regulations are intended to comply with Government Code sections 65852.150 and 65852.2 on second units and implement the General Plan, by allowing secondary dwelling units subject to the following requirements. Nothing in Government Code sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for coastal development permit applications for second units. (Government Code subsection 65852.2(j).) Noticing for interested parties and surrounding properties shall be the same as required for coastal development permits. An approval of any secondary dwelling unit in the California Coastal Commission appeal jurisdiction will continue to be appealable to the Coastal Commission.

A. Minor Use Permit and Deed Restriction Required

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

A.B. Location.

~~Said A secondary dwelling unit may be located, as an accessory use, on any lot zoned for single family or multi-family uses zoned R-A, R-1, R-2, R-3, R-4, and AG, in accordance with District Tables in Chapter 17.24, where a primary single-family residential use has been established or is proposed to be constructed in conjunction with that unit. Only one guesthouse / accessory living area or secondary dwelling unit is permitted on the same lot; provided, that both may be permitted on any lot which is a minimum of 7,500 square feet in size, subject to approval of a conditional use permit. A secondary dwelling unit may be allowed on any lot zoned AG only if the unit is expressly designated and used for farm laborer quarters.~~

B.C. Lot Coverage Development Standards.

~~Maximum lot coverage allowed for the District that they are located in. Secondary dwelling units shall comply with all development standards applicable to the~~

zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage, cumulatively with the primary residence.

C.D. Design.

~~Said~~ A secondary dwelling unit shall be consistent and compatible with the architectural style of the main residencee primary single-family dwelling and the neighborhood, and shall be located on the same lot as the primary single-family dwelling. All secondary dwelling units shall have a separate outdoor entrance in addition to any enclosed access to the interior of the primary single-family dwelling.

D.E. Size.

~~The total floor area, not including a garage, for a granny second unit shall not exceed 1,200 square feet. The total floor area, including a garage, for a detached secondary dwelling unit shall not exceed the lesser of 900 square feet, as per State guidelines or fifty percent of the living area of the primary single-family dwelling on the same lot; provided, that up to 1,200 square feet, including a garage, may be allowed for a detached secondary dwelling unit with a Conditional Use Permit pursuant to Chapter 17.60 "Use Permits, Procedures, Notices and Variances." The floor area of an attached secondary dwelling unit shall not exceed thirty percent of the living area of the primary single-family dwelling.~~

E.F. Parking.

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking spaces may be open and uncovered and may be located in setback areas, however they may not be in tandem with the required parking of the primary single-family dwelling. When more than one space is required for a secondary dwelling unit, tandem spaces shall only be allowed for those two spaces with a Conditional Use Permit pursuant to Chapter 17.60. The primary single-dwelling unit must conform to the parking requirements of Chapter 17.44 "Parking, Driveway and Loading Facilities." Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions,~~
or
- ~~2. That it is not permitted anywhere else in the City.~~

G. Water Equivalencies and Other Public Facilities.

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

H. Compliance with Title 14.

A granny secondary dwelling unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

F. Water Service and Meter Requirements.

A separate water service and meter is required for detached secondary dwelling units pursuant to Title 13 of the Morro Bay Municipal Code. An attached secondary dwelling unit may be served by a separate water service and meter or may share the water service and meter with the primary single-family dwelling.

G. Permit Requirements.

1. No use permit shall be required for secondary dwelling units except as noted in this section and where a secondary dwelling unit is proposed as an addition to a nonconforming structure pursuant to Chapter 17.56 "Nonconforming Uses and Structures."

2. Outside the Coastal Commission appeal jurisdiction, an administrative coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.

3. Inside the Coastal Commission appeal jurisdiction, a regular coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.

H. Prohibited Use as Vacation Rental.

Secondary dwelling units shall not be rented as vacation rentals. Public notice of applications for secondary dwelling units shall clearly state within the description of the project that they may not be used as vacation rentals.

1. Exemption. Each legal conforming secondary dwelling unit for which the City has issued a valid business tax certificate prior to March 1, 2016, for use of that unit as a vacation rental, may continue to be used as a vacation rental, provided, that (i) the business tax certificate has remained valid continuously from that date, (ii) ownership of that secondary unit is not transferred in any way, by sale, foreclosure, inheritance or otherwise and (iii) the habitable area of that secondary dwelling unit is not enlarged in any way. If any or all of the conditions set forth in (i), (ii), and (iii) are not met, then the rental activity shall immediately cease and said secondary dwelling unit shall no longer be exempt from prohibition of use as a vacation rental.

I. Consistency with the Coastal Act.

Establishment of a secondary dwelling unit shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

J. Density.

A secondary dwelling unit, which conforms to the requirements of this section, shall not be considered to exceed the allowable density for the lot upon which it is located.

K. No Subdivision of Property.

The secondary dwelling unit shall not be sold separately and no subdivision of property shall be allowed where a secondary dwelling unit has been constructed, unless the subdivision meets all requirements of zoning and subdivision regulations. Nothing in this section shall prohibit joint ownership of the property where a secondary dwelling unit has been constructed.

L. Covenant Agreement.

Prior to the issuance of any building or grading permit, a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as a "secondary dwelling unit." This agreement shall be recorded in the Office of the County Recorder for San Luis Obispo County to provide constructive notice to all future owners of the property. The covenant agreement also may contain authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and State and local health and safety codes.

M. Acceptance of Existing Secondary Dwelling Units.

1. Exemption. Each secondary dwelling unit that existed on or before March 1, 2016, ("Existing Secondary Dwelling Unit") and that meets the requirements of the Uniform Housing Code, as determined by the Building Inspector, on a lot that includes the required number of parking spaces for both the primary single-family dwelling and the secondary dwelling unit, is exempt from the unit size and design requirements of this section; provided that to be able to benefit from this exemption an Existing Secondary Dwelling Unit must be issued a timely Acceptance Certificate, as provided in subsection 2., below.

2. Acceptance Certificate Required. To obtain an Acceptance Certificate, an owner of an Existing Secondary Dwelling Unit must file an application with the Community Development Department for acceptance of the unit on or before [DATE]. (within two years of certification of this ordinance)

3. Application and Procedure. An application for a certificate timely filed must include a site and floor plan, documentation of ownership, additional materials as

required to establish the approximate date the secondary dwelling unit was built, and a fee, as established by City Council resolution. Upon receipt of the application, the Building Inspector will schedule an inspection.

4. If the secondary dwelling unit meets basic health and safety standards as identified in the then current Uniform Housing Code, then an Acceptance Certificate will be issued and the secondary dwelling unit address will be entered into the City's database indicating the secondary dwelling unit is legal.

5. If the required inspection determines the secondary dwelling unit does not meet health and safety standards identified in the then current Uniform Housing Code, and it is brought into compliance within a period of not more than 12 months after the date of inspection, then an Acceptance Certificate will be issued and the secondary dwelling unit address will be entered into the City's database indicating the secondary dwelling unit is legal.

6. If the required inspection determines the secondary dwelling unit does not meet health and safety standards identified in the then current Uniform Housing Code, and it is not brought into compliance within a period of not more than 12 months after the date of inspection, then that unit shall be deemed an illegal non-conforming use and demolished within 6 months after notice from the City.

7. Notwithstanding the foregoing application, inspection and certification process, no person shall rent or occupy a secondary dwelling unit that fails to meet the standards required by the Uniform Housing Code.

8. A secondary dwelling unit, which receives an Acceptance Certificate, but does not meet site development standards, will be considered a legal nonconforming unit.

Chapter 17.58 COASTAL DEVELOPMENT PERMITS AND PROCEDURES

17.58.020(G) Additions to Single-Family Homes.

2.b. Regular coastal permit required for additions greater than ten percent of gross floor area, fences, garages, and other ancillary structures, including secondary units (secondary dwelling units) and guesthouses and accessory living areas.

17.58.020(I) Secondary Dwelling Units.

1. Outside the Coastal Commission appeal jurisdiction, an administrative coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.

2. Inside the Coastal Commission appeal jurisdiction, a regular coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.