

ORDINANCE NO. 2023-06

AN ORDINANCE AMENDING TITLE 17, ARTICLE 4, SECTION 17.46.040 OF THE MARINA MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNITS.

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1. The Community Development Department (CDD) for the City of Marina (City), in response to Senate Bill (SB) 897, has recommended changes to several sections to bring the Marina Municipal Code (MMC) into compliance with state law.

2. Through this amendment, staff seeks to amend standards pertaining to building height for attached and detached accessory dwelling units (ADUs), parking standards, fire sprinklers, and junior accessory dwelling units (JADUs).

3. The City's adopted fee schedule allows the Building Department to collect permitting fees for ADUs and JADUs based on the construction valuation of the project. The City's adopted fee schedule does not currently allow CDD to collect impact fees or ADUs larger than 750 square feet. No additional fees may be assessed under state law. No change to the adopted fee schedule is proposed or required at this time.

4. An amendment to the City's Municipal Code is needed to provide clarity and transparency in this Section, and to bring this Section into compliance with state law. The proposed ordinance amendment is referenced herein as **Exhibit 1** and is provided in a ~~strike-through~~ and underline format.

5. The City Council of the City of Marina reviewed the proposed amendments and considered the recommendations of the Planning Commission and held a duly noticed public hearing on March 7, 2023.

6. The City of Marina Planning Commission, at a duly noticed public hearing on January 26, 2023, adopted Resolution 2023-06 recommending that the City Council adopt the proposed amendment.

7. Environmental. In accordance with the California Environmental Quality Act (CEQA), this ordinance is not subject to CEQA pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Section 15303(a), pertaining to new construction or conversion of small structures. Therefore, the adoption of this ordinance is exempt from CEQA and no further environmental review is necessary.

NOW, THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The City Council of the City of Marina determines the proposed ordinance amendment is not a project pursuant to CEQA Guidelines Section 15303(a).

SECTION 3. The City Council hereby adopts the ordinance amendment attached herinto as **Exhibit 1** and incorporated by reference.

SECTION 4. Severability. If any portion of this Ordinance is found to be unconstitutional or invalid the City Council hereby declares that it would have enacted the remainder of this Ordinance regardless of the absence of any such invalid part.

SECTION 5. The City Manager is directed to execute all documents and to perform all other necessary acts to implement this Ordinance.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect on thirty (30) days after its final passage and adoption.

The foregoing Ordinance was introduced on March 21, 2023, and passed and adopted by the City Council of the City of Marina at a regular meeting duly held on April 4, 2023 by the following vote:

AYES: COUNCIL MEMBERS: Visscher, McCarthy, Biala, Medina Dirksen, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

Exhibit 1

17.42.040 Accessory Dwelling Units

This section establishes standards for the location and construction of accessory dwelling units and junior accessory dwelling units (jointly referred to as “accessory units” in this section) in conformance with California Government Code Sections [65852.2](#) and [65852.22](#). These standards are intended to allow for accessory units as an important form of affordable housing and to comply with state law.

A. *Permits Required.*

1. Accessory units consistent with the requirements of this section are allowed by right with the issuance of a building permit.
2. *Time Limit to Act.* The city shall complete its review of an accessory unit application and approve or deny the application within sixty days of receipt of the application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory unit is submitted with a permit application to create a new single-family dwelling on the lot, the city shall delay acting on the permit application for the accessory unit until the city acts on the permit application to create the new single-family dwelling. If the applicant requests a delay, the sixty-day time limit shall be extended for the period of the requested delay. In either case the application to create the accessory unit shall be considered without discretionary review or hearing.

B. *Permitted Zoning Districts.*

1. Accessory dwelling units are permitted in any zoning district where single-family or multifamily dwellings are a permitted or conditionally permitted land use as identified in this title. Junior accessory dwelling units are permitted in any zoning district where single-family dwellings are a permitted or conditionally permitted land use as identified in this title.

C. *Site and Design Standards.*

1. *General.* Accessory units are subject to the same requirements that apply to primary dwellings on the same lot in the applicable zoning district except as specified in this section.
2. *Number of Accessory Units.* No more than one junior accessory dwelling unit and one accessory dwelling unit is permitted on a single lot with a single-family dwelling. Lots with existing multifamily dwellings shall have a number of internal or attached accessory dwelling units equal to twenty-five percent of the existing multifamily dwelling units. Fractions of units of one-half and above shall be rounded up. Accessory dwelling units may include portions of dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; provided, that each unit complies with state building standards for dwellings. At least one accessory dwelling unit shall be permitted per lot within existing multifamily dwellings. Not more than two detached accessory dwelling units shall be permitted on lots with existing multifamily dwellings.
3. *Relationship to Primary Dwelling.*
 - a. An accessory dwelling unit may be within, attached to, or detached from the primary dwelling. Attachment to the primary dwelling shall be by sharing a common interior wall or

common roof. No passageway (as defined in California Government Code Section [65852.2](#)) is required in conjunction with the construction of an accessory dwelling unit.

b. An accessory dwelling unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.

c. The city shall allow junior accessory dwelling units as defined in California Government Code Section [65852.22](#) to be constructed within the walls of the proposed or existing single-family residence with a separate entrance from the main entrance to the primary dwelling, an efficiency kitchen as defined herein, and shared or independent bathroom facilities.

4. *Height.*

a. A detached accessory dwelling unit is limited to sixteen feet in height. A detached accessory dwelling unit may be up to eighteen feet in height if it is (a) within one-half mile walking distance of a major transit stop or high quality transit corridor, or (b) on a lot that has an existing multifamily, multistory dwelling.

b. An attached accessory dwelling unit is limited to twenty-five feet in height or the height limitation that applies to the primary dwelling, whichever is lower.

~~An accessory unit is limited to sixteen feet in height; however, an accessory dwelling unit may be up to a maximum height limitation of twenty-four feet; provided, that it is constructed on a vacant lot in conjunction with a newly constructed primary single-family dwelling located on the same lot, and that the first story of the accessory dwelling unit structure includes parking for the unit and access to that parking is provided from the street with an unobstructed driveway or alleyway access of at least twelve feet in width.~~

5. *Maximum Unit Size.*

a. The maximum floor area for a studio or one-bedroom accessory dwelling unit shall be eight hundred fifty square feet, except accessory dwelling units which do not conform to subsections [\(A\)\(3\)\(d\)\(i\)](#) and [\(A\)\(3\)\(f\)\(iii\)](#) of this section which shall be limited to eight hundred square feet. The maximum floor area for an accessory dwelling unit of two bedrooms or more shall be one thousand square feet. In situations where an existing accessory structure is being converted to an accessory dwelling unit, an additional one hundred fifty square feet are allowed for expansion beyond the physical dimensions of the accessory dwelling unit, limited to providing ingress and egress only.

b. The maximum floor area of a junior accessory dwelling unit shall be five hundred square feet.

6. *Property Line Setbacks.*

a. No setback is required for an existing accessory structure or living area as defined herein that is converted to an accessory dwelling unit.

b. No setback is required for an accessory dwelling unit constructed in the same location and the same footprint as an existing accessory structure.

c. A minimum setback of four feet from the side and rear property lines is required for an accessory dwelling unit ~~twenty-four~~ twenty-five feet in height or less. If there is a recorded constraint, such as a no-build easement (e.g., public utility easement), then the recorded constraint prevails in determining the setback. Front ~~and street-side~~ yard setbacks shall be the

same as the underlying zoning district. An accessory dwelling unit in excess of ~~twenty-four~~ twenty-five feet in height shall comply with setback requirements of the main structure of the applicable zoning district.

7. *Parking.*

- a. Except as specified in this subsection, on-site parking for accessory dwelling units shall comply with all parking requirements in Chapter [17.44](#).
- b. On-site parking is not required for junior accessory dwelling units.
- c. In addition to on-site parking spaces required for the primary dwelling, one on-site parking space shall be provided for each accessory dwelling unit per unit or bedroom, whichever is less.
- d. On-site parking spaces for accessory dwelling units may be covered or uncovered, may be tandem, and may be located within the front, side, or rear setback areas unless there is a specific site or regional condition related to fire or life safety that would make parking in setback areas unsafe.
- e. No on-site parking is required for an accessory dwelling unit in the following cases:
 - i. The accessory dwelling unit is located within one-half mile walking distance of public transit.
 - ii. The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the city council.
 - iii. The accessory dwelling unit is constructed within the primary residence or within an accessory structure.
 - iv. On-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. A car-share vehicle pick-up/drop-off location is located within one block of the accessory dwelling unit.
 - vi. The accessory dwelling unit is part of an application to create a new single-family or multifamily dwelling on the same lot.

8. *Utility Connections.*

- a. *General.* An accessory unit shall not be considered a new residential use for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service, unless constructed in conjunction with a new single-family residence.
- b. *Accessory Units in Existing Space.* For accessory units within an existing primary dwelling, garage, or other accessory structure, the city shall not require an applicant to install a new or separate utility connection directly between the accessory unit and utility or impose a related connection fee or capacity charge.
- c. *Attached and Detached Accessory Dwelling Units.* Consistent with California Government Code Section [66013](#), a utility connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or

charge shall not exceed the reasonable cost of providing this service.

d. *Fire Sprinklers.* ~~The installation of fire sprinklers shall not be required in an accessory unit if sprinklers are not required for the primary residence~~ Accessory units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of a dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

9. *Septic Tank Disposal System.*

a. In areas where septic tank disposal systems are allowed due to lack of sanitary sewer lines, detached accessory dwelling units shall be served by separate and independent septic tank sewage disposal systems. All leach lines shall be designed and installed in accordance with current septic system requirements of the county of Monterey health department.

b. In other areas of the city, accessory dwelling units shall be connected to the sanitary sewer system through the existing lateral line serving the primary dwelling.

10. *Deed Restrictions.*

a. *Deed Restriction Required.* Before obtaining a building permit for an accessory unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:

i. The accessory unit may not be sold separately from the primary dwelling.

ii. The accessory unit is restricted to the approved size as set forth in subsection (A)(3)(e) of this section.

iii. The accessory unit shall not be rented for a period of less than thirty-one days.

iv. *Binding on Future Owners.* The above declarations shall be binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the city's approval of the accessory unit.

11. *Fees.*

a. Impact fees shall not be imposed on an accessory dwelling unit less than seven hundred fifty square feet in size.

b. Impact fees charged for an accessory dwelling unit of seven hundred fifty square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling.

FINDINGS

Staff finds that this project:

General Plan Compliance

1) General Plan Policy 2.31

“It is the City of Marina’s intent to promote construction of new housing that is environmentally and socially responsible.”

a. General Plan Policy 2.31.1

“In order to promote the social and fiscal well-being of the community, new housing shall be phased and shall provide for the needs of all economic groups.”

b. General Plan Policy 2.31.4

“New housing shall accommodate a broad range of lifestyles.”

c. General Plan Policy 2.31.6

“New housing shall be constructed at densities and in patterns which conserve land, reduce reliance on the private automobile, and result in walkable, attractive neighborhoods.”

Evidence: The development of ADUs and JADUs is consistent with General Plan Policy 2.31 in that accessory units are more environmentally sustainable and more accessible to a broad range of income groups than a traditional single-family house.

Zoning Compliance

2) Lateral consistency with Title 17, Section 17.42.040

Evidence: The amended ordinance is consistent with the state law and the City’s adopted standards for accessory units.

California Environmental Quality Act (CEQA) Compliance

The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15303(a) of the State CEQA Guidelines. Staff has determined that the exemption applies in this case because this Section exempts up to three single-family residences in urbanized areas.