

ORDINANCE NO. 2023-07

AN ORDINANCE AMENDING MARINA MUNICIPAL CODE SECTIONS 17.04, 17.06, 17.08, 17.10, 17.12, 17.16, 17.22, AND 17.45, AND REPEALING AND REPLACING SECTIONS 17.48.040 AND 17.48.050 WITH ADOPTION BY REFERENCE OF THE STATE DENSITY BONUS LAW GC §§ 65915-65918 AND ADDING 17.51 – EMPLOYEE HOUSING.

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1. The Community Development Department (CDD) for the City of Marina (City), through its regular use and implementation of the Marina Municipal Code (MMC), has discovered several sections that are out of date or may otherwise not conform to State housing law.

2. Through this proposed amendment, staff seeks to modify and add sections to the MMC to simplify the implementation of several state requirements and to incorporate by reference certain housing laws that are frequently changing. Specifically, California statutes pertaining to Supportive Housing (Government Code (GC) §§65650-65656) and Density Bonus (GC §§ 65915-65918) are incorporated by reference to ensure that the City's implementation of these regulations will always be in accordance to state law as it may be amended by the legislature from time to time.

3. Furthermore, the amendments are implementation measures adopted as *Program 3.2: Zoning Ordinance Amendments*, in the City's 5th Cycle Mid-Term Review (2015-2023) that have not yet been implemented. This action adds to the recent amendments undertaken for Reasonable Accommodation and Low-Barrier Navigation Centers that strive to correctly implement adopted Housing Element measures as well as more recent state regulations.

4. An amendment to these Sections of the MMC is needed to provide clarity, transparency, and compliance with state law. The proposed ordinance amendments are referenced herein under SECTION 3. and are provided in a ~~strike through~~ and underline format. Findings for the proposed amendment are included herein.

5. The City of Marina Planning Commission, at a duly noticed public hearing on April 27, 2023, adopted Resolution 2023-11 recommending that the City Council adopt the proposed amendments.

6. The City Council reviewed the proposed amendments and considered the recommendations of the Planning Commission and held a duly noticed public hearing on June 6, 2023.

8. 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, Article 5, Sections 15060(c)(2) and 15061(b)(3) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and the proposed ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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 Guideline Sections 15060(c)(2) and 15061(b)(3).

SECTION 3. The City Council hereby adopts the ordinance amendments as follows noting that ~~striketrough~~ and underlined sections refer to those that are recommended for addition or deletion, respectively:

Article 1

17.04

DEFINITIONS

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17.04.292 Emergency Shelter.

17.04.296 Employee Housing.

“Employee housing” means housing that provides for five (5) or more employees under specified circumstances as defined in the California Employee Housing Act (Public Health & Safety Code Sections 17000-17062.5), as may be amended. Employee housing is privately-operated and does not include government-owned and -operated migrant worker facilities. Employee housing includes living quarters provided in connection with any work, whether or not rent is involved.

Employee housing that provides for six (6) or fewer employees shall be deemed a single-family structure with a residential land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be included within the definition of a boarding house, rooming house, hotel, dormitory, or other similar term that implies that the employee housing is a business run for profit or differs in any other way from a family dwelling. No

conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves six (6) or fewer employees that is not required of a family dwelling of the same type in the same zone. Use of a family dwelling for purposes of employee housing serving six (6) or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) or local building codes. (Health & Safety Code § 17021.5)

17.04.300 Family.

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Article 2

Chapter 17.06

R-1 OR SINGLE-FAMILY RESIDENTIAL DISTRICT

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17.06.020 Permitted uses.

Uses permitted in the R-1 districts shall be as follows:

- A. One single-family dwelling per lot;
- B. Accessory dwelling units pursuant to the provisions of Section [17.42.040](#), except in the Coastal Zone where this provision shall not be effective unless and until approved by the California Coastal Commission;
- C. Small residential care homes;
- D. Large family day care homes pursuant to Section [17.42.135](#);
- E. Home occupations pursuant to Section [17.42.110](#);
- F. Transitional housing pursuant to Section [17.04.711](#);
- G. Supportive housing pursuant to Section [17.04.698](#) and subject to the following review timelines per Government Code § 65653(b), as may be amended: The local government shall notify the developer whether the application is complete within thirty (30) days of receipt of an application to develop supportive housing in accordance with this section. The City shall complete its review of the application within sixty (60) days after the application is complete for a project with fifty (50) or fewer units, or within 120 days after the application is complete for a project with more than fifty (50) units;
- H. Employee housing pursuant to Section [17.04.296](#);
- ~~H.~~I. Other uses accessory and incidental to residential use pursuant to Section [17.42.040](#) and those uses accessory and incidental to a residential use located within the R-1/C-P district, including but not limited to: small family day care and foster home care; rooming and boarding of not more than two persons; the keeping of not more than four dogs and/or cats; and the keeping of domestic chickens pursuant to Section [17.42.160](#).

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Chapter 17.08

R-2 OR DUPLEX RESIDENTIAL DISTRICT

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17.08.020 Permitted uses.

Uses permitted in the R-2 districts shall be as follows:

- A. Single-family dwellings;
- B. Accessory dwelling units pursuant to the provisions of Section [17.42.040](#);
- C. Small residential care homes;
- D. Large family day care homes pursuant to Section [17.42.135](#);
- E. Home occupations pursuant to Section [17.42.110](#);
- F. Transitional housing pursuant to Section [17.04.711](#);
- G. Supportive housing pursuant to Section [17.04.698](#) and subject to the following review timelines per Government Code § 65653(b): The City shall notify the developer whether the application is complete within thirty (30) days of receipt of an application to develop supportive housing in accordance with this section. The City shall complete its review of the application within sixty (60) days after the application is complete for a project with fifty (50) or fewer units, or within 120 days after the application is complete for a project with more than fifty (50) units;
- H. Employee housing pursuant to Section 17.04.296;
- ~~H.I.~~ Other uses accessory and incidental to residential use pursuant to Section [17.08.040](#), including but not limited to: small family day care and foster home care; rooming and boarding of not more than two persons; the keeping of not more than four dogs and/or cats; and the keeping of domestic chickens pursuant to Section [17.42.160](#).

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Chapter 17.10

R-3 OR LIMITED MULTI-FAMILY RESIDENTIAL DISTRICT

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17.10.020 Permitted uses.

Uses permitted in the R-3 districts shall be the following:

- A. Single-family dwellings;
- B. Accessory dwelling units pursuant to the provisions of Section [17.42.040](#);
- C. Small residential care homes;
- D. Large family day care homes pursuant to Section [17.42.135](#);

E. Home occupations pursuant to Section [17.42.110](#);

F. Transitional housing pursuant to Section [17.04.711](#);

G. Supportive housing pursuant to Section [17.04.698](#) and subject to the following review timelines per Government Code §6 5653(b): The City shall notify the developer whether the application is complete within thirty (30) days of receipt of an application to develop supportive housing in accordance with this section. The local government shall complete its review of the application within sixty (60) days after the application is complete for a project with fifty (50) or fewer units, or within 120 days after the application is complete for a project with more than fifty (50) units;

H. Employee housing pursuant to Section [17.04.296](#);

H.I. Other uses accessory and incidental to residential use pursuant to Section [17.10.040](#), including but not limited to: small family day care and foster home care, rooming and boarding of not more than two persons, the keeping of not more than two dogs and/or cats, and on-site property management.

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Chapter 17.12

R-4 OR RESIDENTIAL MULTI-FAMILY DISTRICT

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G. Transitional housing pursuant to Section [17.04.711](#);

H. Supportive housing pursuant to Section [17.04.698](#) and subject to the following review timelines per Government Code § 65653(b): The City shall notify the developer whether the application is complete within thirty (30) days of receipt of an application to develop supportive housing in accordance with this section. The City shall complete its review of the application within sixty (60) days after the application is complete for a project with fifty (50) or fewer units, or within 120 days after the application is complete for a project with more than fifty (50) units;

I. Emergency shelters pursuant to Section [17.04.292](#);

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Chapter 17.16

C-R COMMERCIAL/MULTIPLE-FAMILY RESIDENTIAL DISTRICT

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H. Transitional housing pursuant to Section [17.04.711](#);

I. Supportive housing pursuant to Section [17.04.698](#) and subject to the following review timelines per Government Code § 65653(b): City shall notify the developer whether the application is complete within thirty (30) days of receipt of an application to develop supportive housing in accordance with this section. The City shall complete its review of the application within sixty (60) days after the application is complete for a project with fifty (50) or fewer units, or within 120 days after the application is complete for a project with more than fifty (50) units;

J. Emergency shelters pursuant to Section [17.04.292](#).

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Chapter 17.22

PC OR PLANNED COMMERCIAL DISTRICT

17.22.050 Conditional uses.

The following conditional uses may be permitted when found by the planning commission and the city council to be, by reason of sensitive planning and attractive design, consistent with the purposes and objectives of the planned commercial zone; provided, however, that such uses will not be permitted within the Coastal Zone.

A. Laboratories, research or development installations, specialized light manufacturing institutions, and administrative or executive offices related to such uses, when of a non-nuisance type;

B. Residential uses, including transitional housing and supportive housing, not exceeding ten percent of total floor area of all uses in the district. Supportive housing pursuant to Section [17.04.698](#) and subject to the following review timelines per Government Code § 65653(b): City shall notify the developer whether the application is complete within thirty (30) days of receipt of an application to develop supportive housing in accordance with this section. The City shall complete its review of the application within sixty (60) days after the application is complete for a project with fifty (50) or fewer units, or within 120 days after the application is complete for a project with more than fifty (50) units;

C. Cannabis retailer;

D. Cannabis manufacturing, cannabis distribution and cannabis testing labs.

Article 4

17.45.040.D.1 and 17.45.040.D.2

REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

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D. The requested accommodation will not require fundamental alteration or frustrate application of the city's zoning or building laws, policies and/or procedures, as defined in the Fair Housing Laws and interpretive case law. The city may consider, ~~but is not limited to,~~ whether granting the accommodation would substantially undermine any express purpose of either the city's general plan or an applicable specific plan and shall apply objective standards to the review of a request for reasonable accommodation as needed. ~~the following factors to determine whether the requested accommodation would or fundamentally alter or frustrate application of the city's zoning or building program:~~

1. ~~Whether granting the accommodation would fundamentally alter the character of the neighborhood.~~

~~2. Whether granting the accommodation would result in a substantial increase in traffic or insufficient parking.~~

~~3. Whether granting the accommodation would substantially undermine any express purpose of either the city's general plan or an applicable specific plan.~~

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Article 5

~~17.48.040 AND 17.48.050~~

DENSITY BONUS

17.48.040 Adoption of State Density Bonus Law by reference

The State Density Bonus law by reference commencing with Government Code §§65915-65918, as may be amended, is adopted by reference. Except as provided in a development agreement approved by the City Council pursuant to Government Code section 65864, et seq., an applicant for a housing development shall not be entitled to, and shall not be granted:

- A. A density bonus in excess of the maximum density bonus required under the state density bonus law;
- B. A number of concessions in excess of the maximum number of concessions required under the state density bonus law;
- C. Waivers to which the applicant is not otherwise entitled pursuant to the state density bonus law; and
- D. A parking ratio and other provisions for parking more favorable than required under the state density bonus law, except as otherwise permitted pursuant to another provision of this code or other state law.

SECTION 4. Findings. Staff finds the proposed Code amendments compliant with the General Plan and the Marina Municipal Code as follows:

General Plan Compliance

1) General Plan Policy 2.36 - Existing Neighborhoods

Limited opportunities exist for new housing within the City's already established neighborhoods. The available land supply in these areas consists of a limited number of single-family lots scattered throughout existing neighborhoods, multi-family-designated parcels along Del Monte Boulevard north of Reservation Road, and multiple-use commercial areas in which housing is permitted. The latter comprises approximately 18 acres of vacant and economically underutilized land located along Sunset Avenue and Carmel Avenue. The combined capacity of these areas is approximately 200 units.

Evidence: The adoption of the State Density Bonus law, as well as updates to the zoning code for Supportive Housing and Employee Housing, will assist with the implementation of the policy above through infill development of housing for disadvantaged communities.

2) 5th Cycle Interim Housing Element (2015-2023) – Program 3.2 Zoning Ordinance Amendments

Evidence: The updates will help to bring the 5th Cycle Housing Element into compliance with the requirements of State law and will assist the City in the preparation of the 6th Cycle Housing Element for certification by the State Housing and Community Development (HCD) Department as required by law.

Zoning Compliance

3) Lateral consistency with Marina Municipal Code (MMC) Title 17, Article 1. General Provisions (Ch. 17.04 – Definitions), Article 2. Zoning Districts, Uses and Development Standards (Chs. 17.06, 17.08, 17.10), Article 3. Overlay Zones (Ch. 17.38), Article 4. Regulations and Standards Applicable to All Zones, and Article 5. Regulations for Specific Land Uses (Ch. 17.48).

Evidence: The proposed changes to the above sections are intended to bring the MMC in compliance with State law addressing Employee Housing, statutory timelines for Supportive Housing projects, and Density Bonus.

4) Compliance with Section 17.40 – Coastal Zoning

Evidence: The proposed changes will not be in effect in the Coastal zone until such time as a Local Coastal Program (LCP) amendment is approved by the City Council and certified by the California Coastal Commission.

5) Compliance with Section 17.72.010

“This title may be amended by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and the general welfare require such amendment by following the procedure of this chapter.”

Evidence: The proposed changes are intended address provisions of the housing sections that are not in compliance with State law or are unclear to the user. The adoption of the State’s Density Bonus regulations by reference will aid in the City’s ongoing compliance with this set of housing regulations that are constantly changing at the State level. The proposed amendments are a public necessity and are undertaken in accordance with the procedure of this chapter.

SECTION 5. 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 6. The City Manager is directed to execute all documents and to perform all other necessary acts to implement this Ordinance.

SECTION 7. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption.

I HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance passed and adopted by the City Council of the City of Marina at a regular meeting duly held the 20th day of June 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