

**ORDINANCE NO. 17-013**

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE  
AMENDING CHAPTER 23.80, AND DELETING SECTION 23.64.360 OF THE  
PACIFIC GROVE MUNICIPAL CODE  
REGARDING ACCESSORY DWELLING UNITS**

**WHEREAS**, since 2003, the City of Pacific Grove (City) has regulated second dwelling units as set forth in Pacific Grove Municipal Code (PGMC) Chapter 23.80;

**WHEREAS**, on September 27, 2016, Governor Brown signed into law AB 1069 intended to increase the state's supply of affordable housing by further facilitating the construction of Accessory Dwelling Units (ADUs), which are also known as second units, "granny flats", or "in-law units";

**WHEREAS**, this new law requires cities, counties, and utility districts to relax their regulations to facilitate the construction of ADUs, rather than unduly burdening their development;

**WHEREAS**, AB 1069 specifically eases limitations on unit size, parking requirements, setbacks, fire sprinklers, garage conversions, and utility connections;

**WHEREAS**, the City has determined that it is appropriate to amend its current ordinance to bring the City into compliance with AB 1069 and maintain its regulatory authority;

**WHEREAS**, the City has regulated permitting of undocumented dwelling units as set forth in PGMC § 23.64.360;

**WHEREAS**, regardless of when an accessory unit was built or established, property owners may obtain permits to recognize those assessor dwelling units under the new Ordinance such that Section 23.64.360 is no longer necessary and should be repealed;

**WHEREAS**, the City currently monitors 61 units for tenant income and owner occupancy; however, AB 1069 imposes no monitoring requirements for ADUs; therefore, those formerly established should no longer be monitored by the City, unless the property is governed by an existing deed restriction, use permit, or development agreement that specifies a monitoring component to ensure affordability;

**WHEREAS**, Notice of the public hearing was published or posted on June 29, 2017; and

**WHEREAS**, this ordinance amends PGMC Chapter 23.80, Second Units, and retitles it as "Accessory Dwelling Units"; and

**WHEREAS**, this ordinance repeals PGMC Section 23.64.360 regarding permitting of undocumented dwelling units and monitoring;

**WHEREAS**, in the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.; and

**WHEREAS**, enactment of this Ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines (the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code).

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:**

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

SECTION 2. Existing Municipal Code Chapter 23.80 entitled "Second Units" shall be retitled "Accessory Dwelling Units" and shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

**Chapter 23.80**

**~~SECOND~~ ACCESSORY DWELLING UNITS**

**23.80.010 Purpose and intent.**

**23.80.020 Definition.**

**23.80.030 Location.**

**23.80.040 Permitting procedures.**

**23.80.050 Submittal requirements and application processing.**

**23.80.060 Development standards.**

**23.80.070 ~~Deed restrictions.~~ Occupancy and Ownership.**

**23.80.080 Fees and Charges.**

**~~23.80.080 Annual certification~~**

**23.80.010 Purpose and intent.**

The city recognizes the importance of a suitable living environment for all residents. The State Legislature has declared that ~~second units~~ 'accessory dwelling units' (*ADUs*) are a valuable form of housing in California. It is the intent of the city to permit ~~second~~ accessory dwelling units, in conformance with state law, subject to standards that will ensure the units contribute to a suitable living environment for all residents.

**23.80.020 Definition.**

*“Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:*

*(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.*

*(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.*

~~“Second unit” means any residential dwelling unit which provides complete independent living facilities on the same building site as a legal single-family residence, including permanent provisions for living, sleeping, cooking, eating, and sanitation, as defined in Government Code Section 65852.2(i)(4).~~

**23.80.030 Location.**

~~(a). One second unit *accessory dwelling unit whether contained within the existing space of an existing primary residence or accessory structure or attached or added on to a primary residence or a detached unit* may be located on any residentially zoned site which is either undeveloped or contains *a lot zoned for single-family residential use as an allowed use, which contains or is being developed for* only a legal single-family detached dwelling. However, pursuant to the local coastal program land use plan, second units are not allowed in the R-1-B-4 zoning district. Second units are not required to meet the density requirements of the general plan or zoning ordinance. *with the following exceptions:*~~

*(1). Areas as listed below are exempt from the development of accessory dwelling units that are attached or added on to a primary residence or are detached :*

*(i) R-1-B-4 zoning district, pursuant to the local coastal program land use plan,*

*(ii) R3-PGB zoning district including the portion of the Pacific Grove Beach Tract bounded by Lorelei Street on the east, Ocean View Boulevard on the north, Sea Palm Avenue on the west, and the southerly property line of property on the south side of Mermaid Avenue to the south due to the dense nature of existing development on small lots.*

*(2). Monarch Pines Mobile Home Park (M-H zoning district) is exempt from development of all accessory dwelling units pursuant to senior citizen owner occupancy requirements of the Monarch Pines Mobile Home Park community.*

~~(b) Second~~Accessory dwelling units that conform to this ordinance are not considered to exceed the allowable density for the lot upon which the unit is located and shall be deemed to be consistent with the existing general plan and zoning designation for the lot. ~~are not required to meet the density requirements of the general plan or zoning ordinance. A detached second~~ accessory dwelling unit is not considered an accessory building.

#### **23.80.040 Permitting procedures.**

(a) Any application in any single family residential zone to create one accessory dwelling unit, per single family lot, that is contained within the existing space of a primary residence or accessory structure, has independent exterior access from the existing residence and has side and rear setbacks sufficient for fire safety shall be approved ministerially, including in non-conforming structures or on non-conforming lots, subject to the building permit requirements.

~~(a)~~ Any application for an accessory dwelling ~~second~~-unit that meets all the location and development standards contained in this chapter shall be approved ministerially without discretionary review or public hearing.

~~(b) A use permit shall be required for establishment of a second unit which does not meet all the development standards contained in this chapter.~~

#### **23.80.050 Submittal requirements and application processing.**

(a) Step One – Submittal. The application package for an accessory dwelling ~~second~~-unit permit to the Community and Economic Development Department shall include:

(1) Site Plan (Drawn to Scale). Dimension the perimeter of parcel on which the accessory dwelling ~~second~~-unit will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site. Include all easements, building envelopes, trees, and features in the adjacent public right-of-way.

(2) Floor Plans. Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.

(3) Elevations. North, south, east and west elevations which show all openings, exterior materials and finishes, original and finish grades, and roof pitch for the existing residence and the proposed accessory dwelling ~~second~~-unit.

(4) Cross Section. Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor-to-ceiling heights.

(5) Color Photographs of the Site and Adjacent Properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of the photograph.

~~(6) Deed Restriction. Completed as required, signed and ready for recordation.~~

(6) Water. A completed Monterey Peninsula Water Management District residential water release form and water permit application, showing the existing and proposed fixture units. If sufficient fixture units are not available on the site to serve the accessory dwelling second unit, the applicant shall request the project be placed on the Pacific Grove water waiting list.

~~(7) Fee. A permit application fee in the amount established from time to time by resolution of the city council.~~

(b) Step Two – Issuance.

~~The community development director shall issue a second unit permit if the application conforms to all the specific standards contained in PGMC 23.80.060.~~

*(1) If the application conforms to the provisions of PGMC 23.80.040 (a) a non appealable ministerial permit for accessory dwelling units within an existing residence or accessory structure shall be issued, subject to the building permit requirements.*

*(2) If the application conforms to the specific standards contained in PGMC 23.80.060, the community development director shall issue an accessory dwelling unit permit ministerially without discretionary review.*

The decision of the community development director is final and is not subject to appeal.

**23.80.060 Development standards.**

~~A second~~ An accessory dwelling unit permit will be issued only if it complies with all the following development standards:

~~(a) Existing Development. A single-family dwelling must exist on the site or shall be constructed on the site in conjunction with the construction of the second unit.~~

~~(b) Number per Building Site. A maximum of one second unit shall be permitted on any building site.~~

~~(c) Unit Size. No second unit may have more than one bedroom and one bathroom, nor contain more than 600 square feet.~~

~~(d) Setbacks. The setback requirements of the zoning district in which the second unit is located shall apply; however, existing units may be permitted in legally constructed structures located within required setbacks. A detached second unit shall be at least five feet from any building on the same site.~~

~~(e) Height. An attached second unit shall comply with the height limit applicable to the zoning district in which it is located. A detached second unit shall be no greater than 15 feet in height unless it is located above a detached garage in which case the height limit is 25 feet.~~

~~(f) Lot Coverage and Floor Area. A second unit shall be included in the lot coverage and floor area requirements applicable to the site. Floor area is measured to the outside surface of exterior walls, with no exceptions.~~

~~(g) Off-Street Parking. The second unit shall provide one off-street parking space. This parking space may be uncovered and either standard or compact size. It may not be located in required setbacks and must not impede access to other parking spaces on the site.~~

~~(h) Permanent Foundation. A permanent foundation shall be required for all second units.~~

***(a) TABLE 1***

	<i>Accessory Dwelling Unit</i>		
	<i><u>Within Existing Residence or Accessory Structure</u></i>	<i><u>Attached to the Primary Residence</u></i>	<i><u>Detached</u></i>
<i><u>Existing Development</u></i>	<i><u>Single-family dwelling or accessory structure must exist on the site.</u></i>	<i><u>Single-family dwelling must exist on the site or be constructed on the site in conjunction with the construction of the accessory dwelling unit.</u></i>	
<i><u>Number per Lot</u></i>	<i><u>One</u></i>	<i><u>One</u></i>	<i><u>One</u></i>
<i><u>Minimum Lot Size</u></i>	<i><u>No limitation</u></i>	<i><u>4,000 sf</u></i>	<i><u>4,000 sf.</u></i>
<i><u>Maximum</u></i>	<i><u>No limitation</u></i>	<i><u>No more than 50 percent</u></i>	<i><u>800 sf.</u></i>

<u>Unit Size</u>		<u>of the existing living area to a maximum of 800 sf.</u>	
<u>Minimum Setback<sup>1, 2</sup></u>			
<u>Front Side</u>	<u>Existing</u>	<u>As required by the applicable zoning district</u>	
	<u>Sufficient for fire access</u>		
<u>Rear</u>	<u>Sufficient for fire access</u>		
<u>Separation between buildings</u>	<u>Not applicable</u>	<u>5 feet from detached structures on the same site</u>	<u>5 feet from other structures on the same site</u>
<u>Maximum Height</u>	<u>Existing residence or accessory structure (including non-conforming structures)</u>	<u>Height limit applicable to the zoning district</u>	<u>15 feet<sup>3</sup></u>
<u>Access</u>	<u>Independent exterior entrance to the unit required.</u>	<u>Independent exterior entrance to the unit required. Both entrances may not be located on the building elevation fronting the street</u>	
<u>Lot Coverage and Floor Area<sup>4</sup></u>	<u>Existing</u>	<u>Included in lot coverage and floor area applicable to the site</u>	
<u>Off Street Parking<sup>5</sup></u>		<u>None required</u>	

1. No setback is required for an existing garage conversion to accessory dwelling unit.
2. five feet side and rear setback is required for an accessory dwelling unit constructed above a garage.
3. 25 feet if unit is located above a detached garage.
4. Floor area is measured to the outside surface of exterior walls, with no exceptions.
5. When a garage, carport or covered parking is eliminated in conjunction with the construction of an accessory dwelling unit, replacement spaces in accordance with the requirements of the applicable zoning district shall be provided. These spaces may be uncovered and located in any configuration on the same lot.

**(b) Architectural Compatibility.**

(1) Where the development of an accessory dwelling unit includes exterior alterations, additions, or construction of new structure, the accessory dwelling ~~The second unit shall incorporate the same or similar architectural features, and building materials, including window style and materials, and roof slopes as the main dwelling unit or dwellings located on adjacent properties and shall be consistent with the city of Pacific Grove Architectural Review Guidelines for Single Family Residences.~~

(2) Any exterior alteration or addition to a dwelling on the historic resources inventory shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, standards and guidelines.

~~(j)~~ **(c) Permanent Foundation. A permanent foundation shall be required for all accessory dwelling units.**

**(d) Fire Sprinklers: Fire sprinklers shall be required in an accessory dwelling unit only if they are required in the primary residence on the lot.**

**(e) Utilities.** All utilities for detached units shall be installed underground. **Installation of a separate direct connection between the accessory dwelling unit and the utility is not required for an accessory dwelling unit contained within the existing space of the existing primary residence or accessory structure.**

~~(k)~~ **(f) Sewer.** Prior to issuance of a building permit, the applicant shall submit certification by a licensed plumbing contractor, ~~the city engineer~~ or his or her designee, that the existing lateral sewer line is of adequate size and condition to support projected sewage flow for the primary and ~~second~~ **accessory dwelling** units. The certification shall be based on the recommendation of the applicant's professional representative for both capacity and condition analysis. If the capacity or condition of the existing lateral line is found to be inadequate to serve the existing and proposed units on the property, the lateral line shall be replaced to the main line, to include the connection at the main line, at the expense of the applicant, **subject to PGMC 23.80.080.**

~~(l)~~ **Accessibility.** All newly constructed first floor ~~second~~ units shall be adaptable for use by persons with ADA defined disabilities as follows:

~~The bathroom shall provide minimum clearances as specified for accessible units per California state accessibility requirements, and grab bar blocking shall be installed in the walls.~~

~~Entry doors shall have a minimum width of three feet.~~

~~Interior doors shall have a minimum width of 2 feet 10 inches.~~

~~Thresholds shall meet California state accessibility requirements.~~

~~The kitchen shall meet the minimum clearances specified in California state accessibility requirements.~~

~~(m) Occupancy:~~

~~(1) The principal place of residence of the building site owner shall be either the second unit or the primary unit.~~

~~(2) Occupancy of the unit not occupied as the principal place of residence by the owner shall meet at least one of the following criteria:~~

~~(A) Occupant(s) shall qualify as no greater than a median income household according to HUD income level guidelines, as determined by the community development director. Rent charges shall not exceed 30 percent of median or below median income levels as determined annually by HUD.~~

~~(B) No rent or other consideration is asked, required or paid as a condition of occupancy.~~

~~(3) Occupancy of a second unit is limited to two persons.~~

~~(4) The restrictions of subsections (m)(1) and (2) of this section shall not apply to properties with second units constructed prior to August 5, 1992, provided the primary or second unit is a second home to be occupied by the property owner. Under no circumstances are both units to be rented. [Ord. 14-013 § 2, 2014; Ord. 04-03 § 5, 2004; Ord. 03-08 § 8, 2003].~~

~~23.80.070 Deed restrictions:~~

~~Before obtaining a second unit building permit, the property owner shall file with the county recorder a declaration or an agreement of restrictions, which has been approved by the city attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:~~

~~(a) The second unit shall not be sold separately.~~

~~(b) The second unit shall be considered legal and available for occupancy only so long as either the primary residence or the second unit is occupied by the owner of record of the property.~~

~~(c) Occupancy of the unit not occupied as a principal place of residence by the owner shall meet at least one of the following criteria:~~

~~(1) Occupant(s) shall qualify as no greater than a median income household according to HUD income level guidelines, as determined by the community development director. Rent charges~~

shall not exceed 30 percent of median or below median income levels as determined annually by HUD.

~~(2) No rent or other consideration is asked, required or paid as a condition of occupancy.~~

~~(d) Occupancy of the second unit is limited to two persons.~~

~~(e) The property owner agrees to an annual certification by the community development department to ensure that the provisions of the second unit ordinance are being complied with. The property owner agrees to pay a fee as prescribed by council resolution to cover the cost of this certification.~~

~~(f) In obtaining this permit the property owner understands and acknowledges that the city of Pacific Grove has the right to enter and inspect for compliance with the rules and regulations enforced by the city. The property owner acknowledges that right and agrees to pay all costs incurred by the city in securing any judicial writ or inspection warrant to fulfill that right if the property owner fails to give consent for inspection. Said costs shall include all personnel time, attorney fees and the court cost incurred by the city to procure any judicial writ or inspection warrant.~~

~~(g) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner. [Ord. 03-08 § 8, 2003].~~

**Section 23.80.070. Occupancy and Ownership**

**(a) Both the principal place of residence and the accessory dwelling unit may be rented.**

**(b) The rental shall only be for terms of 30 days or longer.**

**(c) Neither the primary residence nor the accessory dwelling unit shall be available for short term vacation rental.**

**(d) The accessory dwelling unit shall not be sold separately from the primary residence.**

**23.80.080 Fees and Charges**

**(a) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges.**

**(b). Connection fee or capacity charges may be imposed for accessory dwelling units that are not contained within the existing space of an existing primary residence or accessory**

*structure. The local jurisdiction may require new or separate utility connections for which an agency may institute a connection fee or capacity charge that shall be proportionate to the burden imposed by the accessory dwelling unit based upon its size or number of plumbing fixtures.*

~~23.80.080 Annual certification:~~

~~The community development director shall provide for annual owner certification that all provisions of this chapter and all conditions attached to the specific approval are being complied with. The council may, by resolution, provide for fees to cover the cost of certification. [Ord. 03-08 § 8, 2003].~~

SECTION 3. Section 23.64.360 of Pacific Grove Municipal Code Chapter 23.64 is hereby repealed in its entirety.

~~**23.64.360 Permitting of undocumented dwelling units.**~~

~~When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented status of the unit(s). Permitting of such unit(s) shall be limited to the location, size, and form of the unit(s) as they existed as of the effective date of this section.~~

~~In the absence of a city permit, the property owner shall provide: documentation that the unit(s) (including kitchen facilities) existed and were used as separate, independent dwelling unit(s) prior to January 1, 1987 (when the state Real Estate Disclosure Law went into effect); and documentation that the unit(s) existed prior to the current owner purchasing the property.~~

~~(a) Evidence that the undocumented dwelling unit(s) (including kitchen facilities) existed prior to January 1, 1987, shall include one or more of the following:~~

~~(1) Tax records that show income from the unit(s) prior to that date.~~

~~(2) Monterey County assessor's property tax information recognizing the unit(s) prior to that date.~~

~~(3) Utility bills prior to that date if there were separate meters.~~

~~(4) Personal references from tenants or neighbors verifying occupancy of the unit(s) prior to that date.~~

~~(5) Property sales information prior to that date that notes the separate unit(s).~~

~~(6) Other substantial evidence that similarly documents the existence of the unit(s) prior to that date.~~

~~(b) Evidence that the unit(s) (including kitchen facilities) existed prior to the current owner purchasing the property shall consist of the evidence in subsection (a) of this section, plus one of the following:~~

~~(1) Recorded deed demonstrating the date of purchase by the current owner.~~

~~(2) Other substantial evidence that similarly documents the date of purchase by the current owner.~~

~~(c) Before applying for permitting of an undocumented unit, the owner shall also:~~

~~(1) Have an inspection of the undocumented unit(s) by the building official to verify that there are no health and life safety conditions that render the unit(s) unsafe, and correct any unsafe conditions required by the building official.~~

~~(2) Obtain the final building inspection record, including inspection sign-off of any corrections required.~~

~~(3) For undocumented units created after March 1, 1985, obtain verification from the Monterey Peninsula Water Management District of legal water fixture units through use of on-site water credits.~~

~~(d) Upon completion of the above steps, the owner shall submit to the community development department a short application for a staff approval, with the above evidence and documentation.~~

~~(e) Conditions placed on second units pursuant to Chapter 23.80 PGMC shall not apply to undocumented units permitted through this process.~~

SECTION 4. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE  
THIS 5<sup>th</sup> day of July, 2017, by the following vote:

AYES: Mayor Kampe, Councilmembers Cuneo, Fischer, Garfield, Huitt, Peake, and Smith.

NOES: None.

ABSENT: None.

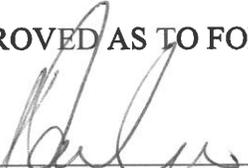
APPROVED:

  
\_\_\_\_\_  
BILL KAMPE, Mayor

ATTEST:

  
\_\_\_\_\_  
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DAVID C. LAREDO, City Attorney