ORDINANCE NO. 20-007

AN ORDINANCE OF THE CITY OF PACIFIC GROVE REPEALING AND REENACTING CHAPTER 23.80 OF THE PACIFIC GROVE MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS

WHEREAS, Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are a form of housing in the state of California and in the City of Pacific Grove (City); and

WHEREAS, the City has regulated ADUs since 1983 as set forth in Pacific Grove Municipal Code (PGMC) Chapter 23.80; and

WHEREAS, in 2017, in response to State law, the City Council amended Chapter 23.80 to reduce barriers, streamline approval, and further accommodate the development of ADUs; and

WHEREAS, the California State Legislature brought forward several bills in 2019 relating to the planning and permitting of ADUs and JADUs; and

WHEREAS, in October 2019, Governor Newsom signed numerous housing bills related to the development and regulation of ADUs and JADUs, which requires the City to make certain additional amendments to PGMC Chapter 23.80; and

WHEREAS, the new standards will facilitate the development of ADUs and JADUs within the City, and are necessary for maintaining orderly growth and development patterns; and

WHEREAS, the new laws took effect on January 1, 2020, and contain a clause providing that a local government's ordinance that does not comply with all provisions of the State law shall become null and void; and

WHEREAS, the City has determined that it is appropriate to repeal and reenact PGMC Chapter 23.80 to comply with State law and to provide a more streamlined process for the development of ADUs and JADUs in an effort to provide additional affordable housing opportunities; and

WHEREAS, notice of a public hearing before the Planning Commission was published in the Monterey County Weekly and the Monterey Herald on December 5, 2019, posted at City Hall on December 5, 2019, continued by the Planning Commission to its meeting on January 9, 2020, and continued again to its meeting on February 13, 2020; and

WHEREAS, this Ordinance repeals and reenacts PGMC Section 23.80, entitled "Accessory Dwelling Units"; and

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, repeal and reenactment of PGMC Section 23.80 pertaining to ADUs is statutorily exempt from review under the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines as it implements Government Code Sections 65852.1 and 65852.2 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. Pacific Grove Municipal Code Chapter 23.80 is hereby repealed, and reenacted to read as follows:

Chapter 23.80

ACCESSORY DWELLING UNITS

Sections:

23.80.010 Purpose and intent.

23.80.020 Effect of nonconforming.

23.80.030 Definitions.

23.80.040 Approvals.

23.80.050 General ADU and JADU Requirements.

23.80.060 Specific ADU Requirements.

23.80.070 Fees and charges.

23.80.080 Nonconforming ADUs and Discretionary Approval.

23.80.010 Purpose and intent.

The purpose of this Chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code sections 65852.2 and 65852.22, as may be amended.

23.80.020 Effect of nonconforming.

An ADU or JADU that conforms to the standards in this section will not be:

(a) Deemed to be inconsistent with the City's General Plan and zoning designation for the lot on which the ADU or JADU is located.

(b) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.

(c) Considered in the application of any local ordinance, policy, or program to limit residential growth.

(d) Required to correct a nonconforming zoning condition, as defined in Section 23.80.030. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

23.80.030 Definitions.

As used in this section, terms are defined as follows:

"Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

(a) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code, as may be amended; and

(b) A manufactured home, as defined by Section 18007 of the California Health and Safety Code, as may be amended.

"Accessory structure" means a building or structure that is incidental to that of the main building on the same lot.

"Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

"Efficiency kitchen" means a kitchen that includes each of the following:

(a) A cooking facility with appliances;

(b) A food preparation counter or counters that are adequate for the size of the unit; and

(c) Food storage cabinets that are adequate for the size of the unit.

"Junior accessory dwelling unit" or "JADU" means a residential unit that:

(a) Is no more than 500 square feet in size;

(b) Is contained entirely within an existing or proposed single-family structure;

(c) Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; and

(d) Includes an efficiency kitchen, as defined in this Chapter.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

"Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

"Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

"Public transit" means a location, including, but not limited to, any fixed-route bus stop or other transit stop with transportation that runs on fixed routes, and is available to the public.

"Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

23.80.040 Approvals.

The following approvals apply to ADUs and JADUs under this section:

(a) Building-permit only.

If an ADU or JADU complies with each of the general requirements in Section 23.80.050 below, it is allowed with only a building permit:

(1) Converted on single-family lot: Only one ADU and JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

(A) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress;

(B) Has exterior access that is independent of that for the single-family dwelling; and

(C) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

(2) Limited Detached on single-family lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (a)(a)(1) above), if the detached ADU satisfies the following limitations:

(A) The side- and rear-yard setbacks are at least three-feet;

(B) The total maximum floor area is up to 1,000 square feet; and

(C) The peak height above grade is 16 feet or less.

(3) Converted on multi-family lot: Multiple ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multi-family dwelling, or up to 25 percent of the existing multi-family dwelling units may each have a converted ADU under this subsection.

(4) Limited Detached on multi-family lot: No more than two detached ADUs on a lot that has an existing multi-family dwelling if each detached ADU satisfies the following limitations:

(A) The side- and rear-yard setbacks are at least three-feet (corner and exterior setbacks for the zoning district apply); and

(B) The total floor area is 800 square feet or smaller.

(b) Process and Timing.

(1) An ADU or JADU permit is considered and approved ministerially, without discretionary review or a hearing, if it meets the minimum standards above.

(2) The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:

(A) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

(B) In the case of a JADU and the application to create a JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.

23.80.050 General ADU and JADU Requirements.

The following requirements apply to all ADUs and JADUs that are approved under Section 23.80.040(a).

(a) Zoning. An ADU or JADU subject only to a building permit under Section 23.80.040(a) may be created on a lot in any zone that allows residential uses.

(b) Fire Sprinklers. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

(c) Rental Term. No ADU or JADU may be rented for a term that is less than 30 days.

(d) No Separate Conveyance. An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

(e) Septic System. If the ADU or JADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

23.80.060 Specific ADU Requirements.

(a) Size.

(1) The total maximum floor area is up to 1,000 square feet.

(2) The minimum size is 150 square feet. ADUs that meet these requirements shall be approved ministerially.

(3) An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling, but may not exceed the sizes in section (1) above.

(b) Height.

(1) A single-story attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure.

(2) A second story or two-story attached ADU addition may be permitted subject to an Architectural Permit and may not exceed the height of the zoning district.

(c) Passageway. No passageway, as defined in section 23.80.030, is required for an ADU.

(d) Parking.

(1) Generally. Off-street parking is not required for an ADU or JADU located less than one half-mile walking distance of public transit. If a property is not within a half-mile of walking distance to a transit stop, one off-street parking space shall be provided and may be located in setback areas or as tandem parking, as defined in Section 23.80.030.

(2) No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

(e) Architectural Requirements.

(1) Where the development of an ADU includes exterior alterations, additions, or construction of new structure, the ADU shall incorporate the same or similar architectural features, building materials, including window style and materials, and roof slopes as the main dwelling unit or dwellings located on adjacent properties.

(f) Landscape Requirements.

The site plan shall provide open space and landscaping that are useful for both the ADU and the principal single-family dwelling. Landscaping shall provide for the privacy and screening of adjacent properties.

(g) Historical Protections. Historic review shall be required for properties listed on the California Register of Historic Resources.

23.80.070 Fees and charges.

(a) Impact Fees.

(1) No impact fee is required for an ADU or JADU that is less than 750 square feet in size.

(2) Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (e.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.

(b) Utility Fees.

Converted ADUs and JADUs on a single-family lot, created under Section 23.80.040(a)(1), are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required unless the ADU or JADU is constructed with a new single-family home.

23.80.080 Nonconforming ADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in this Chapter may be allowed by the City with a Use Permit, in accordance with the other provisions of this Title.

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 4. Severability. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

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 18th day of March, 2020, by the following vote:

AYES: Mayor Peake, Mayor Pro Tem Huitt, Councilmembers Amelio, Garfield, Smith and Tomlinson.

NOES: None.

ABSENT: Councilmember McAdams.

APPROVED:

Bill Peake

BILL PEAKE, Mayor

ATTEST:
DATED: 3/23/2020

Sandra Kandell

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney