

ORDINANCE NO. 5341

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING SECTION 21.64.030 AND OTHER SECTIONS OF TITLE 21 (NON-COASTAL ZONING) OF THE MONTEREY COUNTY CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

**County Counsel Summary**

*This ordinance amends the County's zoning regulations for accessory dwelling units in the non-coastal unincorporated area of Monterey County. The ordinance updates section 21.64.030 and other sections of Title 21 (non-coastal zoning) of the Monterey County Code to conform to recently enacted state law requirements for accessory dwelling units. This ordinance also provides regulations for junior accessory dwelling units in conformance with state law.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. Findings and Declarations.**

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its residents.

B. Per amendments to Government Code sections 65852.2 and 65852.22 adopted by the state legislature, the County desires to amend its existing regulations pertaining to Accessory Dwelling Units and enact regulations related to Junior Accessory Dwelling Units to conform to all state law requirements.

C. Accessory Dwelling Units and Junior Accessory Dwelling Units have the potential to increase the stock of affordable housing in Monterey County by creating a wider range of smaller and lower cost housing options within communities.

D. This ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) which provides that CEQA does not apply to adoption of an ordinance by a county to implement the provisions of Government Code section 65852.2. (Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h).)

**SECTION 2.** Section 21.64.030 of the Monterey County Code is amended to read as follows:

**21.64.030 Regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units**

A. Purpose: The purpose of this Section is to establish the regulations, standards and circumstances under which an Accessory Dwelling Unit and Junior Accessory Dwelling Unit, accessory to an existing or proposed main residence on a lot, may be permitted and to establish a means for creating affordable housing in Monterey County. These regulations update prior County regulations related to Accessory Dwelling Units and enact regulations related to Junior Accessory Dwelling Units in order to implement and comply with legislative amendments to

Government Code section 65852.2 regarding Accessory Dwelling Units and Government Code section 65852.22 regarding Junior Accessory Dwelling Units as of January 1, 2020. Accordingly, these regulations shall apply to all applications for Accessory Dwelling Units and Junior Accessory Dwelling Units after the ordinance enacting these updated regulations takes effect.

**B. Definitions:**

The definitions in Chapter 21.06 shall apply. Unless otherwise expressly stated, whenever used in this section 21.64.030, the following terms shall have the meanings set forth below:

1. "Accessory Dwelling Unit" ("ADU") has the same meaning as "Dwelling unit, accessory" set forth in section 21.06.372.
2. "Junior Accessory Dwelling Unit" ("JADU") has the same meaning as "Dwelling unit, junior accessory" set forth in section 21.06.374.
3. "Legally constructed structure" means a structure that was constructed with all land use and construction permits that were required at the time of construction.

**C. Applicability:** This Section is applicable in all zoning districts which allow Single Family and Multiple Family Dwellings.

1. County plans and regulations to limit residential growth, including unit caps, do not apply to ADUs and JADUs. However, except as provided in C.2 below, ADUs are prohibited in certain areas of the unincorporated area of the County because of lack of adequate water and/or sewer services and the impact of ADUS on traffic flow and safety. Pursuant to the 2010 General Plan, adopted Specific Plans, and Title 21, ADUs are not be permitted in the following resource-constrained non-coastal areas of unincorporated Monterey County, except as otherwise provided in these regulations or except as required by Government Code section 65852.2:

- a. Areas subject to a B-8 zoning overlay.
  - b. North County Planning Area per General Plan Policy NC-1.5, except Accessory Dwelling Units may be allowed within the Castroville Community Plan area.
  - c. That portion of the Toro Planning Area which is shown on Figure LU-10 of the 2010 General Plan as being limited to the first single family home on a legal lot of record per General Plan Policy T-1.7.
  - d. That portion of the Greater Salinas Planning Area with residential land use designations north of the City of Salinas, generally between Williams Road and Highway 101 which is shown on Figure LU-7 of the 2010 General Plan as being limited to the first single family home on a legal lot of record per General Plan Policy GS-1.13.
  - e. Areas for which the County has adopted a Specific Plan, except as expressly permitted by the Specific Plan.
2. a. If, per state law, one detached, newly constructed ADU is allowable within the resource-constrained areas designated in Section C.1 above, such ADU shall be subject to the following limitations:
- i. The total floor area of the ADU shall not exceed 800 square feet; and
  - ii. Side and rear lot line setbacks for the ADU shall be a minimum of four (4) feet and must also be sufficient for fire and safety; and

- iii. The height of the ADU shall not exceed 16 feet.
- b. If, per state law, one ADU or JADU within a proposed single family dwelling or within an existing single family dwelling or accessory unit is allowable within the resource-constrained areas designated in Section C.1 above, such ADU or JADU shall be subject to the following limitations:
  - i. The ADU or JADU must be located within the space of an existing or proposed single family dwelling, or if within an existing accessory structure, it may include an expansion of the accessory structure of not more than 150 square feet beyond the existing physical dimensions of the existing accessory structure to accommodate ingress and egress;
  - ii. The space must have exterior access from the proposed or existing single family dwelling;
  - iii. Side and rear lot line setbacks must be sufficient for fire and safety; and
  - iv. A JADU must comply with all requirements of state law and this Section as applicable.
- 3. Units previously permitted by the County as a “Senior Citizen” unit or a “Caretaker” unit prior to the adoption of these regulations shall be considered an ADU for the purposes of this Section.
- 4. Units previously permitted by the County as a “Guesthouse” prior to the adoption of these regulations for ADU may be converted to an ADU subject to these regulations, including in areas listed in Section 21.64.030.C.1 above.

D. In an effort to simplify the application process locally and ensure conformance with state law which has been periodically amended, the County shall apply the regulations and standards contained in Government Code Sections 65852.2 and 65852.22 and Civil Code Section 4751, as applicable and as may be amended, for the permitting of ADUs and JADUs, as supplemented by the standards in this Section; in the event of a conflict between state ADU and JADU law and this Section, state law will control.

E. ADU and JADU Regulations: ADUs and JADUs are subject to the following local regulations in addition to Government Code Sections 65852.2 or 65852.22 and Civil Code Section 4751:

- 1. JADUs are allowed in all unincorporated non-coastal areas of the County, including those areas where new ADUs are strictly prohibited. The County shall ministerially approve a permit for a JADU that meets all applicable requirements. The JADU may share sanitation facilities and central systems (such as HVAC, water service, power service, wastewater service) with the single-family dwelling. The JADU shall have either an efficiency kitchen or access to the kitchen of the primary dwelling. The JADU may, but is not required to, include an interior entry into the main single-family dwelling.
- 2. All ADUs and JADUs that will connect to a private sewage disposal system or that will obtain their water supply from a private well and/or a water system with two (2) to one-hundred and ninety-nine (199) service connections are subject to review and approval by the Director of Environmental Health to ensure adequate sewage disposal facilities and adequate water supply exist or have been demonstrated feasible to construct to serve the unit. The Director of Environmental Health shall evaluate adequacy of water quality and quantity for

ADUs and evaluate adequacy of water quality for JADUs. If either adequate sewage disposal facilities or adequate water supply is not available, an ADU or JADU shall be prohibited.

3. In areas of the County where ADUs and JADUs are allowed, each legal lot with an existing or proposed single-family dwelling is limited to one (1) ADU and one (1) JADU, regardless of the number of single-family dwellings allowed on that lot. A legal lot with a multiple family dwelling is limited to the following: two (2) detached ADUs; and at least one (1) ADU within the existing multiple family dwelling, with the total square footage of ADUs within the existing multiple family dwelling not to exceed 25 percent of the total square footage of the existing multiple family dwelling.

4. An ADU or JADU may be separately rented, provided such rental is for more than 30 days. No ADU or JADU shall be used as a Vacation Rental (rented for 30 consecutive days or less). An ADU or JADU shall not be sold or otherwise conveyed separate from the primary dwelling.

5. An ADU attached to the principal residence shall be subject to the height regulations of the zoning district for the principal residence. An ADU detached from the principal dwelling shall be subject to the height regulations for a habitable accessory structure or allowed to be up to 16-feet in height, whichever is greater. Any ADU which does not comply with height regulations for the zoning district in which it is proposed and that exceeds 16 feet in height shall require a Use Permit. The Zoning Administrator is the Appropriate Authority in the first instance to consider said Use Permit. The Appropriate Authority may approve the Use Permit only if the Appropriate Authority finds that the deviation from the height requirements better achieves the policies of the General Plan and regulations of this Title.

6. No setback shall be required for an existing garage that is converted or demolished and reconstructed as an ADU within the existing footprint of the structure. Side and rear lot line setbacks for ADUs shall be a minimum of four (4) feet and shall also be sufficient for fire and safety. A minimum setback of four (4) feet must be maintained from the side and rear lot lines for an ADU that is constructed above a garage.

7. An ADU shall be designed in such a manner as to be visually consistent and compatible with the existing or proposed principal dwelling and other dwellings in the area.

8. An ADU shall comply with all local building code requirements that apply to detached dwellings, provided, however, that County may approve a delay in enforcement of building standards in accordance with the parameters and procedures set forth in California Health and Safety Code section 17980.12, as may be periodically amended, if compliance with the building standard is not necessary to protect health and safety.

9. ADUs shall not exceed 1,200 square feet.

10. JADUs shall not exceed 500 square feet.

11. The County may issue a building permit for an ADU prior to issuance of building permit for the primary dwelling if the primary dwelling was destroyed or damaged due to a natural disaster.

12. The Davis-Stirling Common Interest Development Act (Civil Code section 4000 et seq. ("the Davis-Stirling Act")) including Civil Code section 4751 has rendered void and unenforceable any restriction in a deed, contract or governing document in a common interest development that prohibits or unreasonably restricts an ADU or JADU. Accordingly, to the extent the Davis-Stirling Act applies, the County is not prohibited from issuing a permit for an

ADU or JADU. If there is a substantive dispute regarding whether Civil Code section 4751 applies, the County shall consider its applicability on a case-by-case basis.

SECTION 3. Section 21.58.040 of the Monterey County Code is amended to read as follows:

21.58.040 PARKING SPACES REQUIRED

The number of off-street parking spaces shall not be less than:

Use	Parking Spaces Required
Agricultural Employee Housing	1 space/dwelling unit or 1 space/4 beds
Agricultural Processing Plant	1 space/500 square feet
Amusement <i>Park</i>	1 space/4 occupant
Appliance Repair	1 space/500 square feet
Art Gallery	1 space/200 square feet
Auditorium	1 space/4 seat. If no fixed seating, 1 space/35 square feet
Automobile Repair	1 space/500 square feet of floor area
Automobile Sales	1 space/500 square feet of floor area plus 1 space/2,000 square feet outdoor sales, display or storage area
Automobile Services Station	1 space/500 square feet floor area
Bank	1 space/200 square feet
Bar, Lounge, Night Club	1 space/3 seats.
Cocktail Lounge	Where seating is not fixed, 1 space 50 square feet
Barber Shop, Beauty Parlor	2 spaces/chair
Baseball <i>Park</i>	1 space/4 seats
Bed and Breakfast Facility	1 space/unit
Billiard Hall	2 spaces/table
Bowling alley	5 spaces/lane
Building Materials	1 space/500 square feet floor area plus 1 space/2000 square feet outdoor use area
Bus Depot	1 space/20 square feet waiting area plus 1 space/300 square feet office area
Cabinet Shop	1 space/500 square feet
Children's Home, Orphanage	1 space/4 seats. If no fixed seating, 1 space/35 square feet

Church	1 space/4 seat. If no fixed seating, 1 space/35 square feet
Cleaners	2 space plus spaces/1,000 square feet
Community Center	1 space/4 seats. If no fixed seating, 1 spaces/35 square feet
Contractor's Yard	1 space/3,000 square feet lot area
Convalescent Home, Nursing Home, Rest Home, Home for the Aged	1 space/3 beds
Convention Center, Meeting Hall, Exhibit Facility	1 space/4 seats or 1 space/50 square feet
Dance Hall	1 space/50 square feet
Dental Clinic/Office	1 space/200 square feet
Driving Range	1 space/tee
Equipment Rental	1 space/500 square feet floor area plus 1 space/2,000 square feet outdoor use area
Family Day Care Facility	1 space/employed plus 1 space/10 children
Farm Equipment and Supplies	1 space/500 square feet floor area plus 1 space/2,000 square feet outdoor use area
Flea Market/Open Air Sales	1 space/200 square feet sales area
Freight Terminals	2 spaces/loading bay plus 1 space/250 square feet office space
Funeral Home, Mortuary	1 space/4 seats. If no fixed seating, 1 space/356 square feet
Golf Course	4 space/hole
Guesthouse	1 space/unit
Gymnasium, Spa, Health Studio	1 space/50 square feet
Heating, Air Conditioning, Electrical Shop	1 space/500 square feet
Homeless Shelter	1 space/employee and 1 space/6 beds or portion thereof
Hospital	12 spaces/bed
Hotel	1 space/unit plus 2 spaces/3 employees on largest shift plus other applicable requirement (i.e. restaurant, lounge, etc.)
Industrial Office	1 space/300 square feet
Laboratory	1 space/250 square feet

Laundromat	1 space/2 machines
Library	1 space/200 square feet
Manufacturing	1 space/500 square feet
Marina	3 spaces/4 boat slips
Medical Clinic/Office	1 space/200 square feet
Miniature Golf	2 spaces/hole
Mini-Storage	2 spaces for manager plus 2 customer spaces
Motel	2 spaces for manager plus 1 space/unit
Museum	1 space/200 square feet
Nursery	1 space/2,000 square feet
Office	1 space/250 square feet
Open Air Sales	1 space/200 square feet sales area
Photography Studio	1 space/400 square feet
Post Office	5 spaces/services window plus 1 space/500 square feet of non-customer area
Printer, Copying, Reproduction	1 space/400 square feet
Race Track	1 space/4 seats
Recreational Enterprises	1 space/4 occupants capacity
Recreational Vehicle <i>Park</i>	1 standard vehicle space/1 R.V. space
Residential:	
Single-Family Detached	2 spaces/unit
ADU/JADU	Not Required
Duplex	2 spaces/unit
Triplex	2 spaces/unit
Multiple-Family Residential, Apartments, Townhouses,	1 space/studio unit 1.5 spaces/1 bedroom unit
Condominiums, Cluster Homes	2 spaces/2 bedroom unit; 2.2 spaces/3 or more bedroom unit; In addition, 1 guest <i>parking</i> space shall be provided for every 4 units
Boarding House, Rooming	1 space/guest room
House, Organizational	1 space/100 sq. ft. of guest room
Large Residential Care Facility	1 space/employee plus 2 additional spaces
Small Residential Care Facility	1 space/employee plus 2 additional spaces

Single Room Occupancy Facility	.5 spaces/unit (Within 2,000 feet of Public Transit)
Single Room Occupancy Facility	1 space/unit (Not within 2,000 feet of Public Transit)
Handicapped Housing	1 space/2 units plus 1 guest space/8 units
Mobile Home Park	2 spaces/unit plus 1 guest <i>parking</i> space/4 units
Restaurant	1 space/4 seats. Where seating is not fixed, 1 space/50 square feet of seating, waiting, or cocktail lounge area
Restaurant, Drive-In	1 space/3 seats enclosed plus 3 and Drive-Through spaces/services window and 3 employee spaces
Retail, General	1 space/250 square feet
Retail, Large Item	1 space/500 square feet (i.e. Appliance Stores)
Savings and Loan	1 space/200 square feet
Schools:	
Pre-School, Day Care	1 space/employee plus 1 space/10 children
Kindergarten through Grade Nine	2 spaces/classroom plus 1 space/50 square feet in the Auditorium
High School	2 spaces/classroom plus 1 space/5 students
College, University	1 space/employee plus 1 space/3 students
Trade School, Vocational School, Business School, Professional School, Art Academy, Craft School, Music School, Dancing School	1 space/employee plus 1 space/3 students
Shopping Center	1 space/250 square feet
Skating Rink	1 space/250 square feet
Social Care Facility	1 space/3 beds plus
Sanitarium, Welfare Institution, Asylum	1 space/employee on the largest shift
Social Club	1 space/50 square feet
Stable, Public	1 space/3 horses
Stadium, Sports Area	1 space/4 seats
Swimming Pool	1 space/100 square feet pool area
Tennis Court, Racquetball Courts	2 spaces/court



Theater	1 space/3 seats
Warehouse	1 space/500 square feet
Veterinary Hospital	1 space/250 square feet

SECTION 4. Section 21.06.372 of the Monterey County Code is amended to read as follows:

21.06.372 Dwelling unit, accessory (“ADU”)

"Accessory dwelling unit" (“ADU”) means an attached or detached residential dwelling unit which meets all of the following requirements: does not exceed 1200 square feet; is located on a lot with a proposed or existing primary dwelling; provides complete independent living facilities for one or more persons; and includes permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the proposed or existing single family dwelling or multiple family dwelling is situated. The term “Accessory Dwelling Unit” also includes but is not limited to the following: an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code; and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. The term “manufactured home” includes “tiny home” if the tiny home meets the requirements of Section 18007 of the California Health and Safety Code.

SECTION 5. Section 21.06.374 is added to the Monterey County Code to read as follows:

21.06.374 Dwelling unit, junior accessory (“JADU”)

“Junior accessory dwelling unit” (“JADU”) means a unit that is created fully within the walls of a proposed or existing single-family dwelling and that is no more than 500 square feet.

SECTION 6. Section 21.36.040 of Chapter 21.36 - REGULATIONS FOR RESOURCE CONSERVATION ZONING DISTRICTS OR "RC" DISTRICTS, of the Monterey County Code is amended to read as follows:

**21.36.040 - Uses allowed, subject to an administrative permit required in each case (Chapter 21.70)**

- A. [Reserved];
- B. [Reserved];
- C. Second residential unit meeting the density limit of the district;
- D. [Reserved];
- E. Small water system facilities and systems of five (5) to fourteen (14) services;
- F. Stands for the sale of agricultural products grown on the premises having permanent electricity, plumbing or paving;
- G. [Reserved];
- H. Other uses of a similar character, density and intensity to those listed in this section;

- I. Reduction in setback requirements for accessory structure, provided the proposed reduction is ten (10) percent or less of the required setback;
- J. Reduction in setback requirements for accessory structures, provided the proposed reduction is eighty (80) percent or less of the required setback;
- K. Supportive housing contained within the housing types of this section;
- L. Transitional housing or transitional housing development contained within the housing types of this section.

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 8. This ordinance shall become effective on the thirty-first day following its adoption.

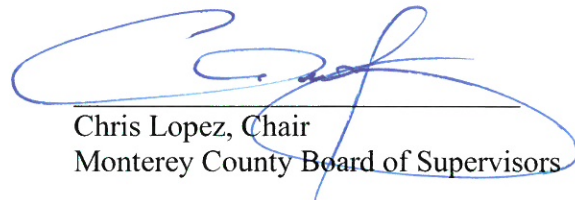
PASSED AND ADOPTED on this 15th day of September, 2020, by the following vote:

AYES: SUPERVISOR ALEJO, PHILLIPS, LOPEZ, PARKER AND ADAMS

NOES: NONE

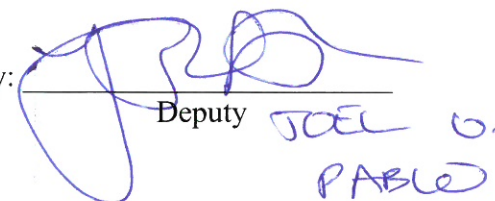
ABSENT: NONE

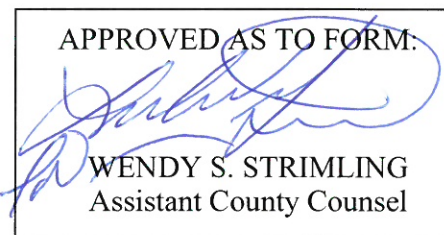
ABSTAIN: NONE

  
Chris Lopez, Chair  
Monterey County Board of Supervisors

ATTEST

VALERIE RALPH  
Clerk of the Board of Supervisors

By:   
Deputy JOEL O. PABLO

APPROVED AS TO FORM:  
  
WENDY S. STRIMLING  
Assistant County Counsel