
COUNTY OF SAN LUIS OBISPO
ACCESSORY DWELLING ORDINANCE
PHASE II -
PUBLIC REVIEW DRAFT



January 9, 2019

Introduction

On January 1, 2017, California Government Code section 65852.2 governing Accessory Dwelling Units, or ADUs (“Secondary Dwellings” per current County Ordinance), as amended, became effective. The County Board of Supervisors identified the Accessory Dwelling ordinance revisions as a top priority, and specifically, directed staff to explore the removal of barriers to their creation to provide for affordable housing.

The Board of Supervisors adopted two amendments (Phase I) to the existing ordinance in 2017, to remove road surfacing and owner occupancy requirements for ADUs. The current effort, Phase II, is intended to further remove regulatory barriers to the creation of ADUs.

Ordinance Framework and Public Outreach

The Board of Supervisors, on August 21, 2018, supported the ordinance framework for the amending ordinance. This framework was based on staff’s research, input from the ADU technical advisory committee (TAC), and a public workshop on October 24, 2018. The attached Administrative Draft Ordinance has been crafted to include these framework recommendations:

- Elimination of most ADU exclusion areas. One well known example is South Atascadero. Some exclusion areas reflect environmental or resource constraints and others are based on land use planning concerns. In some cases, exclusion areas may be redundant since other ordinances already address the underlying concern. Elimination of the 34 exclusion areas would free up about 17,000 parcels for ADUs. Staff recommends retaining the RWQCB exclusion for areas with known wastewater concerns.
- Removal of requirement excluding ADUs on parcels with non-conforming development. For instance, when the existing primary dwelling is non-conforming

to a setback but the proposed ADU would comply with setbacks and all other Title 22 requirements.

- Elimination of the minimum lot size for parcels on sewer and community water. Currently Title 22 requires a minimum lot size of 6,000 square feet for an ADU with water and sewer and 1-acre for sites served by a septic system. In areas without a community sewer, the minimum size will be determined by the Local Agency Management Plan (LAMP).
- Allowance of larger ADUs on parcels less than 2 acres. The proposed amendments tie the size of the ADU to a percentage of the size of the primary dwelling, similar to the current rules for a guesthouse (maximum of 60 percent of the size of the primary dwelling).
- Elimination of parking requirements for ADUs, but require replacement of required parking spaces that would be removed through conversion of an existing garage to an ADU.
- Elimination of maximum separation distance between the primary dwelling and the ADU. Currently Title 22 requires an ADU to be within 50 feet of the primary dwelling for 2-acre or smaller parcels and within 250 feet of the primary dwelling on larger parcels. Title 22 currently allows this requirement to be waived with Minor Use Permit approval.
- Prohibition of ADUs as short-term rentals to ensure they are used for the purpose of housing affordable to the county's workforce and aging family members.
- Expansion of land use categories where ADUs are allowed to include RMF, CR, and O/P. Currently ADUs are allowed on parcels in the RSF, RS, RR, or REC land use categories. They are currently only allowed in the RMF, CR, and O/P categories when included as part of a Workforce Housing Subdivision.

Please submit comments on the Public Review Draft to Brian Pedrotti, Senior Planner, by Friday, March 8, 2019. Comments may be submitted by e-mail (bpedrotti@co.slo.ca.us) or mail (County Planning and Building, Attn: Brian Pedrotti)

**Proposed Amendments to
Title 22 (Land Use Ordinance) and Title 23 (Coastal Zone Land Use Ordinance)**

Accessory Dwellings – Phase II
Administrative Draft (December 2018)

Item #1 – Proposed amendments to Article 8, Section 22.80.030 (Definitions Of Land Uses, And Specialized Terms And Phrases):

Remove existing definition for “Secondary Dwelling (land use)” and add new definition for “Accessory Dwelling (land use)”.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

~~Secondary Dwelling (land use). A second permanent dwelling that is accessory to a primary dwelling on a site. (Amended 1995, Ord. 2740)~~

Accessory Dwelling (land use). An attached or detached residential dwelling that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. An accessory dwelling is an accessory use to the primary dwelling and shall be located on the same parcel as the primary dwelling.

Item #2 – Proposed amendments to Article 4, Section 22.30.470 (Residential - Secondary Dwellings):

Update land use regulations pertaining to accessory dwellings in accordance with Government Code Section 65852.2.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

22.30.470 - Residential - ~~Secondary~~Accessory Dwellings

An ~~second permanent~~accessory dwelling may be allowed, in compliance with this Section, in addition to ~~the first~~primary dwelling on a site as allowed by Section 22.10.130 (Residential Density), provided the site and the existing primary dwelling comply with all other applicable provisions of this Title. ~~(A caretaker residence is subject to Section 22.30.430, farm support quarters are subject to Section 22.30.480.)~~

A. Authority. Secondary~~Accessory~~ dwellings are authorized in compliance with the authority established by Government Code Sections 65852.2 et seq. An accessory dwelling that complies with the standards and regulations contained in this section shall be subject to ministerial review, without discretionary review or public hearing.

B. Limitations on use.

- 1. Accessory unit only.** An secondary accessory dwelling shall be accessory to a primary dwelling and shall not be established on any site containing a guesthouse (~~Section 22.30.410~~) or more than one dwelling unit, except where a guesthouse is ~~proposed~~ to be converted to an secondary unit accessory dwelling in compliance with this Section. A maximum of one accessory dwelling shall be allowed per lot.
- 1.2. Density.** An accessory dwelling that conforms to this section shall be deemed to be a residential accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located.
- 2. In Residential Multi-Family, Commercial Retail, and Office/Professional.** ~~Secondary units are only allowed within Workforce Housing Subdivisions pursuant to Section 22.30.477.~~
- 3. Nonconforming accessory dwellings.** Accessory dwellings and uses thereof, which have been permitted by the County prior to [EFFECTIVE DATE OF ADU PHASE II ORDINANCE], are deemed nonconforming, but shall be allowed to be used and operated as approved. Any expansion, discontinuance, or modification of a nonconforming accessory dwelling and uses thereof shall be subject to the regulations of Chapter 22.72 (Nonconforming Uses, Structures, Parcels, and Signs).
- 4. Rental of accessory dwelling.**

 - a. 30 days or more.** An accessory dwelling may be rented separate from the primary dwelling, but shall not be sold or otherwise conveyed separate from the primary dwelling.
 - b. Less than 30 days.** Rental of an entire accessory dwelling or portion of an accessory dwelling for less than 30 days shall be prohibited.

C. ~~Limitations on location.~~

- 1. ~~Excluded areas.~~** ~~An secondary accessory dwelling shall not be allowed within the following areas, where secondary units are deemed incompatible with existing development, or where the density increase from secondary units would create adverse cumulative effects on essential community services and natural features. These services and features include but are not limited to water supplies, storm drainage facilities, roadway traffic capacities, and soils with limited suitability for septic system sewage disposal, or that are subject to erosion.~~

 - a. ~~Atascadero.~~** ~~The areas south of the Atascadero urban reserve line within the Residential Suburban land use category, as defined by the Land Use~~

~~Element, Salinas River area plan, except for parcels with direct driveway access to El Camino Real.~~

~~b. **Nacimiento area.** The areas identified by the Land Use Element, Nacimiento area plan as being within the South Shore Area or the villages of Heritage Ranch or Oak Shores.~~

~~c. **Specific subdivisions.** Secondary dwellings are not allowed within Tracts 7, 17, 19, and 502.~~

~~d.C. **Regional Water Quality Control Board (RWQCB) exclusion.** All any areas of the County where the Regional Water Quality Control Board RWQCB has issued a notice of resource constraints through moratoria or other means.~~

D. Application content. In addition to the information required by Section 22.62.030 (Zoning Clearance), information submitted with the Zoning Clearance application shall ~~also~~ indicate whether or not there are conditions, covenants or restrictions applicable to the site that would prohibit an secondary accessory dwelling. ~~This information will not be grounds for county denial of a permit.~~

E. Minimum site area. An secondary accessory dwelling ~~may shall~~ be allowed only on sites that comply with the ~~following~~ minimum site areas specified in this Section, except that where other minimum site area requirements are established by Article 9 (Planning Area Standards) or Article 10 (Community Planning Standards), those requirements shall control.

~~1. 6,000 square feet~~ A minimum site area of 1,750 square feet is required for sites served by community water and sewer facilities.;

~~2. Sites not served by community water and sewer facilities shall be subject to Local Agency Management Program (LAMP) requirements pertaining to parcel size. One acre (net) where on-site water supply and sewage disposal systems are proposed on an existing parcel, provided that all applicable requirements for separation between the existing septic system, new septic system for the secondary dwelling and any on-site and off-site water wells are satisfied, as well as all other applicable provisions of Title 19 of this Code for septic system design and performance; or~~

~~3. One acre (gross) where community water and on-site sewage disposal are proposed on an existing parcel, provided that all applicable provisions of Title 19 of this Code for septic system design and performance are satisfied.~~

~~2. Except that where a larger minimum site area requirement is established by planning area standards (Article 9), the larger area shall be required.~~

F. Design/Development standards.

1. The following apply to all land use categories where secondaryaccessory dwellings are allowed.

<u>SIZE OF LOT/SITE AREA</u>	<u>MAXIMUM SIZE OF UNIT/ACCESSORY DWELLING-(1)</u>	<u>MAXIMUM DISTANCE FROM PRIMARY UNIT/HEIGHT OF ACCESSORY DWELLING</u>
6,000 sq. ft. <u>–</u> 1 acre <u>or less</u>	800 square feet <u>Lesser of 40% of primary dwelling size or 1,200 square feet(2)</u>	50 feet <u>Lesser of 35 feet or height of primary dwelling(3)(4)</u>
>-1 acre <u>to-</u> 2 acres	800 square feet <u>Lesser of 40% of primary dwelling size or 1,200 square feet(2)</u>	50 feet <u>35 feet(4)</u>
>-2 acres	1,200 square feet <u>Lesser of 50% of primary dwelling size or 1,200 square feet(2)</u>	250 feet <u>35 feet(4)</u>

Notes:

- (1) Includes attics greater than six feet in height, unconditioned storage space and lofts.
- (2) If the specified percentage of the primary dwelling size is less than an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, an efficiency unit may be allowed.
- (3) If the accessory dwelling is proposed above an existing garage, the maximum height shall be 35 feet.
- (4) If the accessory dwelling is located within a required side or rear yard of the primary dwelling, the maximum height shall be 17 feet.

- 2. Driveways:** The driveways serving the primary and secondaryaccessory dwelling shall be combined where possible. An adjustment may be granted in compliance with Section 22.70.030 if combining driveways is prohibitedhindered by a physical site constraint, would result in grading on slopes over 15 percent, or would require the removal of oak trees or other native trees.

3. Site design.

- a. Detached accessory dwellings shall:

- i. be provided a minimum setback of at least 25 feet from the nearest point on the front lot line;
- ii. be provided a minimum setback of at least five feet from all side and rear lot lines; and
- iii. not be located closer than 10 feet from any building.

b. Attached accessory dwellings shall:

- i. be located behind or above the primary dwelling; and
- ii. comply with the setback requirements of the primary dwelling.

2. Exception: Setback standards shall not apply to an existing permitted structure or portion thereof that is converted to an accessory dwelling or to a portion of an accessory dwelling. New additions or construction shall comply with the site design requirements of this Section.

3. Entrance to accessory dwelling Within urban and village reserve lines.:

a.4. The secondary dwelling shall employ a design style compatible with the primary dwelling.

a. When an secondary~~accessory~~ dwelling is attached to the primary dwelling, the entrances shall be designed:

- i. to maintain the character of a single-family dwelling; and
- ii. to avoid the attached secondary dwelling changing the appearance of the primary dwelling to resemble a duplex.

b. ~~An accessory dwelling shall have independent exterior access separate from the primary dwelling. The entrance to an attached secondary accessory dwelling shall not be located on the same building face as the entrance to the primary dwelling, unless the entrance to both the primary and secondary dwellings is shared.~~

b.

c. ~~No more than 50 percent of the site shall be covered by structures.~~

5. Conversion of an existing permitted structure. An application to establish an accessory dwelling within an existing single-family dwelling or accessory structure shall be ministerially approved if the following criteria are satisfied:

a. The land use category of the lot allows single-family dwelling use.

- b. The accessory dwelling is located on a lot with a permitted single-family dwelling.
- c. The accessory dwelling is contained within the existing space of a single-family dwelling or accessory structure.
- d. The accessory dwelling has independent exterior access separate from the existing single-family dwelling.
- e. The side and rear setbacks are sufficient for fire safety.
- f. The conversion satisfies all applicable building standards of the San Luis Obispo County Code and all applicable sewage and water requirements.

~~4. — **Exceptions to design standards.** The Review Authority may approve alternatives to the design standards of Subsection F in compliance with Section 22.62.050, but shall not approve alternatives to any other provision of this Section. The maximum size of unit as set forth in Subsection F.1, and the maximum size of the garage workshop as set by Subsection F.6, cannot be modified except by a Variance (Section 22.62.070). The maximum distance from the primary unit may be adjusted in compliance with Section 22.70.030 where the secondary dwelling is proposed within an existing structure legally constructed prior to January 1, 2006 and there will be no physical change to the site (no additional footprint or garage space added to serve the secondary unit). Otherwise, the maximum distance from the primary unit may be modified only where the Review Authority first finds the following:~~

~~a. — Locating the secondary dwelling within the distance as set forth in Subsection F.1. would necessitate the removal of, or impact to, any of the following:~~

~~i. Exiting improvements, such as swimming pools, wastewater disposal fields, drainage facilities, or water storage tanks.~~

~~ii. Sensitive or significant vegetation such as native trees or shrubs, riparian vegetation, vineyards, orchards, or visually prominent trees.~~

~~iii. Significant topographic features (steep slopes, ridgelines, bluffs) water courses, wetlands, lakes or ponds, or rocky outcrops.~~

~~iv. Archaeological resources.~~

~~5. — **Parking.** A secondary dwelling shall be provided one off-street parking space per bedroom to a maximum of two spaces, in addition to those required for the primary residence by Chapter 22.18 (Required Parking Spaces – Residential Uses). The parking space shall be located, designed and constructed in compliance with Chapter 22.18, except that for lots of 7,500 square feet or less, the parking may be located within the front setback and tandem with the parking required for the primary dwelling.~~

~~6. **Garage/workshop.** The garage/workshop for a secondary dwelling is limited to a maximum of 50 percent of the size of the secondary dwelling. Where the secondary dwelling is constructed on the second floor of the primary dwelling's detached garage, no additional attached or detached garage/workshop shall be permitted.~~

~~**G. Parking.** A secondary dwelling shall be provided one off-street parking space in addition to those required for the primary residence by Chapter 22.18 (Required Parking Spaces – Residential Uses). The parking space shall be located, designed and constructed in compliance with Chapter 22.18.~~

~~**1. Accessory dwelling.** No off-street parking spaces are required for an accessory dwelling.~~

~~**2. Primary dwelling.** No accessory dwelling shall be approved unless the required off-street parking spaces for the primary dwelling is provided in accordance with Chapter 22.18 (Parking and Loading Standards).~~

~~**G-3. Exception.** When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling or converted to an accessory dwelling, the replacement off-street parking spaces may be located in any configuration on the same lot as the accessory dwelling, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. For the purposes of this section, “tandem spaces” means that two or more automobiles are parked on an approved driveway or in any other approved location on a lot, lined up behind one another.~~

Item #3 – Proposed amendments to Article 2, Section 22.06.030 (Allowable Land Uses And Permit Requirements):

Replace “secondary dwellings” with “accessory dwellings”, and list accessory dwellings as a permitted use in all land use categories where single-family dwellings or multi-family dwellings are allowed, as required by Government Code Section 65852.2.

Note: Proposed amendments are summarized below.

Summary:

Table 2-2 (Allowable Land Uses and Permit Requirements) would be updated to remove “secondary dwellings” and allow accessory dwellings as a permitted use (P) in the following land use categories:

- Agricultural (AG)
- Rural Lands (RL)

- Residential, Rural (RR)
- Residential, Suburban (RS)
- Residential, Single Family (RSF)
- Residential, Multi Family (RMF)
- Office and Professional (OP)
- Commercial, Retail (CR)
- Recreation (REC)

Item #4 – Proposed amendments to various sections throughout Title 22 (Land Use Ordinance):

Update all sections of Title 22 referencing secondary dwellings to reflect the proposed amendments in Items #1-3 of this document.

Note: Proposed amendments are summarized below.

Summary:

The principal proposed amendments are detailed in Items #1-3 of this document. If adopted, such amendments would affect other sections of Title 22. These sections would be updated for consistency purposes.

Item #5 – Proposed amendments to various sections throughout Title 22 (Land Use Ordinance) and Title 23 (Coastal Zone Land Use Ordinance):

Update sections of Title 22 and 23 pertaining to secondary dwellings for consistency with the proposed amendments in Items #1-3, in accordance with Government Code Section 65852.2.

The sections of Titles 22 and 23 listed below would be updated in accordance with the proposed amendments in Items #1-3. Following each listed section is a brief description denoting how the section would be affected.

Title 22

- Title 22 Table of Contents – Update term
- Section 22.10.095(C)(7)(a) – Update term
- Section 22.10.130(A)(2)(d) – Update term
- Section 22.12.080(B)(2)(r) – Update term
- Section 22.12.080(H)(2)(d) – Update term
- Section 22.18.030(A) – Update to allow replacement off-street parking spaces in required front setback area when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling or converted to an accessory dwelling
- Section 22.22.145(B)(3) – Remove section

- Article 4 Table of Contents – Update term
- Section 22.30.410(D)(1)(c) – Update term
- Section 22.30.475(B) – Update term
- Section 22.30.477(E)(2)(b)(2) – Remove section
- Section 22.30.510(B)(6) – Update term and remove section reference
- Section 22.80.030 – Update “Residence, Primary and Secondary” definition
- Section 22.94.032(B)(6) – Update term
- Section 22.94.042(C)(7)(a) – Eliminate section
- Section 22.94.082(G)(5)(a) – Update term and remove section reference
- Section 22.96.050(E)(2)(a) – Update term
- Section 22.96.050(E)(4)(a) – Remove term
- Section 22.96.050(E)(5)(a) – Remove term
- Section 22.96.050(E)(8) – Eliminate restriction on secondary dwellings
- Section 22.96.050(E)(9)(a) – Eliminate restriction on secondary dwellings
- Section 22.96.050(E)(10)(b) – Eliminate restriction on secondary dwellings
- Section 22.96.060(F)(1)(b) – Eliminate restriction on secondary dwellings
- Section 22.96.060(F)(2)(b) – Eliminate restriction on secondary dwellings
- Section 22.98.052(B)(1)(b) – Eliminate restriction on secondary dwellings
- Section 22.98.070(I)(10) – Update term
- Section 22.98.072(H)(4)(c) – Update term
- Section 22.98.072(H)(9)(g) – Update term and ensure consistency with State Code
- Section 22.104.030(A)(2) – Update term and removal of language, “Secondary dwellings are not permitted”.
- Section 22.104.050(F)(7) – Update term and removal of sentence, “A secondary dwelling constructed concurrently with, or after, construction of the primary dwelling and meeting the standards set forth in Section 22.30.470 is not subject to the Minor Use Permit requirement”.
- Section 22.104.070(A)(2)(a) – Update term
- Section 22.104.080(A)(17)(b) – Update term
- Section 22.104.090(A)(2)(a) – Update term
- Section 22.106.010(F)(1)(b) – Update term
- Section 22.106.010(F)(1)(e) – Update term
- Section 22.108.040(H)(1)(f) – Elimination of this section
- Section 22.108.050(H)(1)(d) – Update term
- Section 22.113.043(B)(8) – Update term
- Section 22.113.050 – Update “Secondary Dwelling” definition

Title 23

- Title 23 Table of Contents – Update term
- Section 23.02.032(f) – Update term
- Section 23.04.082(b)(4) – Update terms
- Section 23.04.096((b)(1)(xv) – Update term
- Section 23.04.096(h)(2)(iv) – Update term

- Chapter 8 Special Uses – Update term
- Section 23.08.014 – Update term
- Section 23.08.032(e)(1)(ii) – Update term
- Section 23.08.160 – Update term
- Section 23.08.161(f) – Update term and remove section reference