



MEMORANDUM

TO: CITY COUNCIL

FROM: TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR

BY: SAM ANDERSON, PLANNING TECHNICIAN

SUBJECT: CONSIDERATION OF ADOPTION OF ORDINANCE - DEVELOPMENT CODE AMENDMENT 17-002 – AMENDMENTS TO TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS FOR COMPLIANCE WITH STATE LAW; AMENDMENT RELATED TO ROOFTOP DECKS AND THE UNDERGROUNDING OF UTILITIES; LOCATION – CITYWIDE; APPLICANT – CITY OF ARROYO GRANDE

DATE: OCTOBER 24, 2017

SUMMARY OF ACTION:

Adopt an Ordinance modifying City rules for accessory dwelling units, rooftop decks, and the threshold triggering the requirement to underground utilities.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There is no new direct impact to financial and personnel resources.

RECOMMENDATION:

It is recommended that the City Council adopt an Ordinance amending Title 16 of the Arroyo Grande Municipal Code regarding accessory dwelling units for compliance with State law as well as rooftop decks and undergrounding of utilities.

BACKGROUND:

On October 10, 2017, the City Council unanimously introduced the proposed Ordinance amending Title 16 of the Arroyo Grande Municipal Code (AGMC) regarding accessory dwelling units for compliance with State law as well as rooftop decks and undergrounding of utilities with the following modification:

1. Remove AGMC Subsection 16.52.150.C.10 which stated “Deed Restriction. A deed restriction shall be recorded against the title of the property containing an accessory dwelling unit prior to issuance of a building permit. Such deed

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restriction shall stipulate that the accessory dwelling units cannot be sold apart from the primary residence and, within Single-Family zoning districts, the owner of the property must occupy one of the dwellings on the premises. The owner occupancy restriction shall not apply to properties containing accessory dwelling units located in Multi-Family zoning districts.”

The ordinance is now before the Council for adoption. The Ordinance will become effective thirty (30) days after final passage of the Ordinance.

ALTERNATIVES:

The following alternatives are provided for the Council’s consideration:

1. Adopt the Ordinance as proposed;
2. Modify and reintroduce the Ordinance;
3. Provide direction to staff.

ADVANTAGES:

Adoption of the Ordinance will bring AGMC Section 16.52.150 into conformance with State law, reduce regulatory barriers for the construction of rooftop decks, and reduce the financial impact of the AGMC undergrounding requirement on small residential projects.

DISADVANTAGES:

None identified.

ENVIRONMENTAL REVIEW:

In compliance with the California Environmental Quality Act (CEQA), the Community Development Department has determined that the project is statutorily exempt per Section 15282(h) of the Guidelines regarding projects involving the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city, as well as categorically exempt per Section 15308 of the Guidelines regarding actions by regulatory agencies for protection, maintenance, and enhancement of the environment.

PUBLIC NOTIFICATION & COMMENTS:

A summary of the Ordinance was published in The Tribune on October 16, 2017, pursuant to State law. The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2. At the time of report publication, no comment letters have been received.

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS FOR COMPLIANCE WITH STATE LAW AND ADDITIONALLY ROOFTOP DECKS AND UNDERGROUNDING OF UTILITIES; LOCATION – CITYWIDE; APPLICANT – CITY OF ARROYO GRANDE

WHEREAS, the City of Arroyo Grande (“City”) currently does not regulate rooftop decks; and

WHEREAS, the City, through the Minor Use Permit – Viewshed Review process, does regulate similar second story additions with similar impacts; and

WHEREAS, the City Council finds that, unless properly regulated, rooftop decks can result in adverse impacts to adjacent properties; and

WHEREAS, The purpose of these regulations is to ensure that new rooftop decks constructed in the City conform to the scale and character of the neighborhood in which they are located and do not unnecessarily or unreasonably infringe upon the privacy of adjacent properties.; and

WHEREAS, on September 27th, 2016, Assembly Bill (AB) 2299 and Senate Bill (SB) 1069 regarding Accessory Dwelling Units (ADUs) were signed into law; and

WHEREAS, AB 2299 and SB 1069 became effective January 1st, 2017; and

WHEREAS, AB 2299 and SB 1069 require the City to amend Title 16.52.150 of the Arroyo Grande Municipal Code (AGMC) for consistency with State law; and

WHEREAS, this Ordinance further amends the City’s ADU regulations in order to comply with AB 2299 and SB 1069; and

WHEREAS, the City currently requires the placement of service connections underground as part of all projects that involve the addition of over one hundred (100) square feet of habitable space; and

WHEREAS, the requirement to underground service connections on additions of one hundred (100) square feet discourages minor projects and investments in the City; and

WHEREAS, the City wishes to promote growth and minor projects in the City; and

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WHEREAS, on August 1, 2017, the Planning Commission held a duly noticed public hearing and recommended the City Council introduce an Ordinance amending the City's rooftop deck, ADU, and service connection undergrounding regulations; and

WHEREAS, the City Council held a duly noticed public hearing on October 10, 2017 and, after consideration of all testimony and relevant evidence, determined that the following Development Code Amendment findings can be made in the affirmative manner:

- A. The proposed revisions to Title 16 is consistent with the goals, objectives, policies and implementation measures of the General Plan, particularly the Land Use Element, and is therefore desirable to implement the provisions of the General Plan.

The proposed Development Code Amendment is consistent with the General Plan by protecting the physical, social, and economic stability and viability of residential, commercial, industrial, public/quasi-public, and open space uses within the City, by reducing or eliminating the visual and aesthetic impacts created by rooftop decks, maintaining the City's conformance with State regulations regarding ADUs, and reducing barriers to residential growth.

- B. The proposed revisions to Title 16 will not adversely affect the public health, safety, and welfare or result in an illogical land use pattern.

The proposed Development Code Amendment will not adversely affect the public health, safety, and welfare or result in an illogical land use pattern because the amendments proposed will protect the public welfare by regulating the visual and aesthetic impacts created by rooftop decks, will bring City ADU regulations into conformance with State law, and promote the public welfare by reducing barriers to residential additions.

- C. The proposed revisions to Title 16 are consistent with the purpose and intent of Title 16.

The proposed Development Code Amendment is consistent with the purpose and intent of Title 16 due to the revisions being made to protect the aesthetic and physical advantages through the reduction or elimination of visual and aesthetic impacts of rooftop decks, the protection of the physical and economic stability of the residential market through conformance with State ADU regulations, and the protection of economic stability increasing flexibility of residential additions.

- D. The potential environmental impacts of the proposed revisions to Title 16 are insignificant, or there are overriding considerations that outweigh the potential impacts.

The proposed Development Code Amendment is statutorily exempt per Section 15282(h) of the Guidelines regarding projects involving the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city, as well as categorically exempt per Section 15308 of the Guidelines regarding actions by regulatory agencies for protection, maintenance, and enhancement of the aesthetic environment.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Arroyo Grande as follows:

SECTION 1. The above recitals and findings are true and correct and incorporated herein by this reference.

SECTION 2. Subsection 16.52.150 of the Arroyo Grande Municipal Code is hereby amended in its entirety as follows:

16.52.150 - Accessory Dwelling Units.

- A. Purpose and Intent. The purpose of these standards is to ensure that accessory dwelling units located in residential districts do not adversely impact either adjacent residential parcels or the surrounding neighborhood, and are developed in a manner which protects the integrity of the residential district, while providing for needed housing opportunities. There are environmental and service constraints the city faces, which limit the addition of accessory dwelling units. In particular, such dwellings may not be appropriate on hillside lots because of environmental constraints. The addition of an accessory dwelling is limited by urban service capacity, public safety standards, traffic conditions, fire hazards, privacy impacts and compatibility with neighboring uses and structures. This chapter addresses these limitations.
- B. Applicability.
1. Accessory dwelling units may be permitted in any residential district, subject to the standards set forth in this section.
 2. Accessory dwelling units may be attached to or detached from the main dwelling, but are not allowed on the second floor above the primary residence or garage unless approved through the minor use permit – Viewshed Review process. If the accessory dwelling unit is attached to the main dwelling, each shall be served by separate outside entrances. The interior wall(s) of an attached dwelling which separate it from the main unit shall be fire rated according to the most recent uniform building code.
 - a. An "attached accessory dwelling unit" shall mean a dwelling that is either combined within the living area or attached to the primary residence.
 - b. A "detached accessory dwelling unit" shall mean a dwelling that is not combined within or attached to the primary residence.

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- c. For the purposes of this chapter, "a dwelling" shall not include a garage or any accessory structure.
 - d. "Primary residence" shall mean an existing detached residential structure that conforms with all applicable zoning regulations.
3. An accessory dwelling unit may be constructed simultaneously with or after construction of the principal residence. In addition, an existing principal residence may be considered the accessory dwelling unit, and a new residence may be constructed which would then be considered the primary residence, provided the standards set forth in this section are met.
- C. Property Development Standards. The accessory dwelling unit shall comply with all zoning regulations and property development standards of the district in which it is located, existing building, health, safety and fire codes, and architectural review criteria, including, but not limited to, setbacks, height limits, floor area ratio, and maximum lot coverage. In addition, the following standards shall apply:
- 1. Minimum Lot Size. The minimum lot size for a parcel to be eligible for an accessory dwelling unit shall be six thousand seven hundred-fifty (6,750) square feet, excluding all rights of way and private access easements.
 - 2. Building Separation. A detached accessory dwelling unit shall be located a minimum distance equal to that identified for the applicable zoning district in Table 16.32.050-A.
 - 3. Yard Setbacks. The accessory dwelling unit shall have the same minimum yard setback requirements as the base zone of the primary residence on the parcel as outlined in Table 16.32.050-A and Table 16.32.050-B. Setbacks outlined in Appendix C.W.D.219 as referenced in Table 16.32.050-B and Table 16.32.050-A shall not be applicable to second residential dwellings. Accessory dwelling units constructed above a garage shall have the setback requirements of five feet (5') in the side and rear yard, regardless of underlying minimum setback requirements.
 - 4. Architectural Compatibility. The accessory dwelling unit shall be architecturally compatible with the primary residence and the surrounding neighborhood, and shall incorporate the same colors and materials as the primary residence.
 - 5. Maximum Size. Table 16.52.150-A defines the maximum square footage allowed for an accessory dwelling unit in each residential zoning district. In no case shall the square footage of an accessory dwelling unit exceed fifty (50) percent of the square footage of the primary residence.

Table 16.52.150-A

Zoning Designation	Maximum Size of Accessory Dwelling Unit
Village Residential (VR)	850 square feet
Single-Family (SF)	850 square feet

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Zoning Designation	Maximum Size of Accessory Dwelling Unit
Residential Suburban (RS)	1,200 sq. ft. for lots ≥ 12,000; 850 s.f. for lots < 12,000 s.f.
Residential Rural (RR)	1,200 square feet
Residential Hillside (RH)	1,200 square feet
Residential Estate (RE)	1,200 square feet
Condominium/Townhouse (MF)	1,200 square feet
Apartments (MFA)	1,200 square feet
Multifamily Very High Density (MFVH)	1,200 square feet
Mobilehome Park (MHP)	Not Permitted (NP)

6. **Maximum Slope.** The building site upon which the accessory dwelling unit will be constructed shall not have an average slope in excess of twenty percent. A topographic map and slope analysis, as recommended by the community development director, shall be stamped and signed by either a registered civil engineer, registered architect, or registered landscape architect. Average slope is defined as follows:

S =	$I \times L$	$\times 100$
	$A \times 43,560$	

Where

S = average natural slope, in percent.

I = interval, in feet, of the contour lines.

L = the sum, in feet, of the length of the contour lines, at selected contour interval "I".

A = the total area, in acres, of the site.

7. **Parking.** A minimum of one off-street parking space shall be provided for each bedroom in the accessory dwelling unit, up to a maximum requirement of two off-street parking spaces, in addition to the off-street parking spaces required for the main dwelling. Such parking spaces shall be located in close proximity to the accessory dwelling unit so as to provide convenient access for the occupant. These spaces may be provided as tandem parking, including on an existing driveway or in setback areas, excluding the non-driveway front yard setback.

- a. Additional parking shall not be required in the following cases:

- i. If the accessory dwelling unit is located within one-half mile by travelled distance of an existing transit stop;
 - ii. The accessory dwelling unit is located in the D-2.4 Historic Character Overlay District;
 - iii. The accessory dwelling unit is located in a neighborhood where on-street parking permits are required but not offered to the occupant of the accessory dwelling unit;
 - iv. A car share vehicle is located within one block of the accessory dwelling unit.
 - v. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- 8. Replacement Parking. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This requirement shall not apply to projects described in Arroyo Grande Municipal Code Subsection 16.52.150.C.7.a.
- 9. Driveway Access. Accessory dwelling units shall be served by the same driveway access to the street as the primary residence. Properties located on a corner of two public streets are allowed a separate access from the primary residence, provided that access for the accessory dwelling unit is from a different public street than the primary residence.
- 10. Utility Meters. For any lot zoned for multiple family or single-family uses, the accessory dwelling unit may, but is not required to, have an electric, gas, or water meter, or sewer lateral, separate from the primary residence on the property. Applicable utility and development impact fees for the accessory dwelling unit will be assessed at the time a building permit is issued, based on building area and fixtures added.
- 11. Conditional Use Permit or Minor Use Permit. Any proposed deviation from these standards shall be processed through a conditional use permit or minor use permit application as determined by the community development director.
- 12. Other Conditions.
 - a. Accessory dwelling units shall be served by city water. Accessory dwelling units shall be prohibited on lots containing a guesthouse, converted garage, mobile home, or more than one existing single-family dwelling.
 - b. Accessory dwelling units shall comply with such other conditions or standards which, in the judgment of the city, are necessary or appropriate to mitigate possible adverse impacts on the neighborhood.
- D. Notwithstanding anything herein to the contrary, the city shall ministerially approve an application for a building permit to create within a single-family residential zone

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one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.

- E. State Law Applicable. The provisions of this section shall be subordinate to and superseded by the controlling provisions of any applicable state law or laws.

SECTION 3. Subsection 16.48.180 of the Arroyo Grande Municipal Code is hereby added in its entirety as follows:

16.48.180 – Rooftop Decks

- A. Purpose and Intent. The purpose of these regulations is to ensure that new rooftop decks constructed in the City conform to the scale and character of the neighborhood in which they are located and do not unnecessarily or unreasonably infringe upon the privacy of adjacent properties.
- B. Definition. Any deck supported by a structure, with no portion cantilevered past the exterior walls of the structure it exists upon.
- C. Applicability. All rooftop decks shall comply with the design standards listed in subsection (D). Rooftop decks constructed above a second story may be permitted only with the approval of a Minor Use Permit – Viewshed Review. Rooftop decks constructed above a single story are exempt from the Minor Use Permit – Viewshed Review requirement.
- D. Design Standards for Rooftop Decks.
1. Side yard setback. If constructed above a second story, the rooftop deck shall be setback an additional minimum of five feet (5') from applicable side yard setbacks.
 2. Front and rear yard setback. If constructed above a second story, the rooftop deck shall be setback an additional minimum of five feet (5') from applicable front and rear yard setbacks.
 3. Rooftop deck access. Access to the rooftop deck shall be architecturally integrated into the structure and shall be located in such a way to minimize visual impact to neighboring properties. Interior access or concealed exterior access is encouraged.
 4. Maximum height. Guards or guardrails as defined in the Building Code shall be required of all rooftop decks and shall count towards the maximum height of a structure. Furniture and other accessory items shall also count towards the maximum height of a structure. Rooftop deck guards and associated accessory items shall not exceed the maximum height identified in development standards of the underlying Zoning District.
 5. Lighting. Lighting shall be designed to prevent unnecessary or excessive lighting impacts onto neighboring properties. Rooftop decks with proposed

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lighting shall include a lighting plan in submittals demonstrating conformance with this standard.

SECTION 4. Subsection 16.68.050.B.1.a of the Arroyo Grande Municipal Code is hereby amended as follows:

16.68.050 - Underground utilities

B. Applicability.

1. Service Drops.

- a. All projects (discretionary or ministerial) that involve the addition of over five hundred (500) square feet of habitable space shall be required to place service connections underground.

SECTION 5. If any section, subsection, subdivision, paragraph, sentence, or clause of this Ordinance or any part thereof is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, or clause thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, or clause be declared unconstitutional.

SECTION 6. A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council Members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 7. This Ordinance shall take effect thirty (30) days after its adoption.

On motion of Council Member _____, seconded by Council Member _____, and on the following roll call vote to wit:

AYES:

NOES:

ABSENT:

The foregoing Ordinance was adopted this ____ day of _____, 2017.

JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY

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