

ATTACHMENT 13: MONTECITO PLANNING COMMISSION RESOLUTION NO. 17 - 05

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ATTACHMENT C: 16ORD-00000-00015 RESOLUTION AND ORDINANCE

RESOLUTION OF THE SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE BOARD)
OF SUPERVISORS THE ADOPTION OF AN AMENDMENT)
TO SECTION 35-2, THE SANTA BARBARA COUNTY)
MONTECITO LAND USE AND DEVELOPMENT CODE,)
OF CHAPTER 35, ZONING, OF THE COUNTY CODE,) RESOLUTION NO.: 17 - 05
AMENDING DIVISION 35.2, MONTECITO ZONES AND)
ALLOWABLE LAND USES, DIVISION 35.3, MONTECITO) CASE NO.: 16ORD-00000-00015
SITE PLANNING AND OTHER PROJECT STANDARDS,)
DIVISION 35.4, MONTECITO STANDARDS FOR SPECIFIC)
LAND USES, DIVISION 35.6, MONTECITO SITE)
DEVELOPMENT REGULATIONS, DIVISION 35.7,)
MONTECITO PLANNING PERMIT PROCEDURES,)
DIVISION 35.9, MONTECITO LAND USE AND)
DEVELOPMENT CODE ADMINISTRATION, AND)
DIVISION 35.10, GLOSSARY, REGARDING THE)
PERMITTING OF ACCESSORY DWELLING UNITS IN)
COMPLIANCE WITH STATE GOVERNMENT CODE)
65852.2.)

WITH REFERENCE TO THE FOLLOWING:

- A. On November 27, 2007, by Ordinance 4660, the Board of Supervisors adopted the Santa Barbara County Montecito Land Use and Development Code, Section 35-2 of Chapter 35 of the Santa Barbara County Code; and
- B. The Montecito Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety and general welfare of the residents of the County to recommend that the Board of Supervisors adopt an ordinance (Case No. 16ORD-00000-00015) amending Section 35-2 of Chapter 35 of the Santa Barbara County Code, the Santa Barbara County Montecito Land Use and Development Code, to implement new regulations regarding the permitting of accessory dwelling units in compliance with State Government Code Section 65852.2.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Santa Barbara County Comprehensive Plan including the Montecito Community Plan, and the requirements of the State Planning, Zoning and Development Laws.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to implement the requirements of State law that promote the development of accessory dwelling units that will increase the supply of housing in the Montecito Community Plan area.
- E. This Montecito Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the Government Code, on the proposed Ordinance at which hearing the

proposed Ordinance was explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. In compliance with the provisions of Section 65855 of the Government Code, this Montecito Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this Commission, based on the findings included as Attachment A of the Montecito Planning Commission Memorandum dated May 10, 2017.
3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the Montecito Planning Commission.

PASSED, APPROVED AND ADOPTED this May 17, 2017 by the following vote:

AYES: Keller, Brown, Senauer, Eidelson

NOES: Newman

ABSTAIN:

ABSENT:



SUSAN KELLER, CHAIR
SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION

ATTEST:



DIANNE MEESTER BLACK
SECRETARY TO THE MONTECITO PLANNING COMMISSION

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By 
Deputy County Counsel

EXHIBITS:

1. 16ORD-00000-00015

EXHIBIT 1: MONTECITO LUDC ORDINANCE AMENDMENT

(Revised May 17, 2017)

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-2, THE SANTA BARBARA COUNTY MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE LAND USES, DIVISION 35.3, MONTECITO SITE PLANNING AND OTHER PROJECT STANDARDS, DIVISION 35.4, MONTECITO STANDARDS FOR SPECIFIC LAND USES, DIVISION 35.6, MONTECITO SITE DEVELOPMENT REGULATIONS, DIVISION 35.7, MONTECITO PLANNING PERMIT PROCEDURES, DIVISION 35.9, MONTECITO LAND USE AND DEVELOPMENT CODE ADMINISTRATION, AND DIVISION 35.10, GLOSSARY, TO IMPLEMENT NEW REGULATIONS AND DEVELOPMENT STANDARDS REGARDING ACCESSORY DWELLING UNITS.

16ORD-00000-00015

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend the Residential section of Table 2-7, Allowed Land Uses and Permit Requirements for Residential Zones, of Section 35.423.030, Residential Zones Allowable Land Uses, of Chapter 35.423, Residential Zones, to read as follows:

Table 2-7 Allowed Land Uses and Permit Requirements for Residential Zones	E		Allowed use, no permit required (Exempt)
	P		Permitted use, Land Use Permit required (2)
	CUP		Conditional Use Permit required
	S		Permit determined by Specific Use Regulations
	—		Use Not Allowed
LAND USE (1)	PERMIT REQUIRED BY ZONE		Specific Use Regulations
	R-1/E-1	R-2	
RESIDENTIAL			
Accessory dwelling unit	S	=	35.442.015
Artist studio	P	—	35.442.120
Dwelling, one-family (3)	P	P	35.442.140
Dwelling, two-family	—	P	
Dwelling, multiple	—	—	
Farmworker dwelling unit	P (3)	P (3)	35.442.105
Farmworker housing complex	CUP	CUP	35.442.105
Guesthouse	P	—	35.442.120
Home occupation	P	P	35.442.130
Mobile home park	CUP	CUP	
Organizational house (fraternity, sorority, etc.)	—	—	
Residential accessory use or structure	P	P	35.442.020
Residential project convenience facilities	—	—	
Residential second unit	P	—	35.442.160
Special care home, 7 or more clients	CUP	CUP	35.442.070

Key to Zone Symbols

R-1/E-1	Single One-Family Residential
R-2	Two-Family Residential

Notes:

- (1) See Division 35.10 (Glossary) for land use definitions.
- (2) Development Plan approval may also be required; see 35.423.030.C (Development Plan approval required).
- (3) One-family dwelling may be a mobile home on a permanent foundation, see Section 35.442.140 (Mobile Homes on Foundations).

SECTION 2:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend the Residential section of Table 2-8, Allowed Land Uses and Permit Requirements for Residential Zones, of Section 35.423.030, Residential Zones Allowable Land Uses, of Chapter 35.423, Residential Zones, to read as follows:

Table 2-8 - Continued Allowed Land Uses and Permit Requirements for Residential Zones	E Allowed use, no permit required (Exempt)		
	P Permitted use, Land Use Permit required (2)		
	CUP Conditional Use Permit required		
	S Permit determined by Specific Use Regulations		
	— Use Not Allowed		
LAND USE (1)	PERMIT REQUIRED BY ZONE		Specific Use Regulations
	DR	PRD	

RESIDENTIAL

Accessory dwelling unit	—	—	
Artist studio	—	—	
Dwelling, one-family	P	P	
Dwelling, two-family	P	P	
Dwelling, multiple	P	P	
Farmworker dwelling unit	P	P	35.442.105
Farmworker housing complex	P	—	35.442.105
Guesthouse	—	—	
Home occupation	P	P	35.442.130
Mobile home parks	CUP	CUP	
Organizational house (fraternity, sorority, etc.) (3)	CUP	—	
Residential accessory use or structure	P	P	35.442.020
Residential project convenience facilities	P	P	
Residential second unit	—	—	
Special care home, 7 or more clients	CUP	CUP	35.442.070

Key to Zone Symbols

DR	Design Residential
PRD	Planned Residential Development

Notes:

- (1) See Division 35.10 (Glossary) for land use definitions.
- (2) Development Plan approval may also be required; see Section 35.423.030.C (Development Plan approval required).
- (3) Limited to student housing facilities located in an area where such facilities are to be used by students of a permitted educational facility.

SECTION 3:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend the R-1/E-1 and R-2 portion of Table 2-10, Residential Zones Development Standards, of Section 35.423.050, Residential Zones Development Standards, of Chapter 35.423, Residential Zones, to read as follows:

Table 2-10 Residential Zones Development Standards

Development Feature	Requirement by Zone	
	R-1 /E-1 & R-1/E-1 (CZ) Single One-Family Residential	R-2 & R-2 (CZ) Two-Family Residential
Minimum lot size	<i>Minimum area and width for lots proposed in new subdivisions.</i>	
Area, width	See Subsection 35.423.040.A (Minimum lot size)	
Residential density	<i>Maximum number of dwelling units allowed on a lot. The actual number of units allowed will be determined through subdivision or planning permit approval.</i>	
Maximum density	1 one-family dwelling per lot; plus one second accessory dwelling unit where allowed by Section 35.442.160 (Residential Second Units) Section 35.442.015 (Accessory Dwelling Units).	1 one-family dwelling or 1 two-family dwelling per lot.
Setbacks	<i>Minimum setbacks required. See Section 35.430.150 (Setback Requirements and Exceptions) for exceptions.</i>	
Front - Primary	Inland—50 ft from road centerline and 20 ft from the edge of the right-of-way. Coastal—50 ft from road centerline and 20 ft from right of way, or 20 ft from private easement serving 5 or more lots.	
Front - Secondary	Lot less than 100 ft wide - 20% of lot width - 10 ft. minimum Lot 100 ft wide or more - Same as primary front setback.	
Side	10% of lot width, where minimum lot area requirement is: 2 acres or less - 5 ft. minimum, 10 ft. maximum required; 3 acres or more - 10 ft. minimum, 20 ft. maximum required.	10% of lot width, 5 ft. minimum, 10 ft. maximum required.
Rear	Inland— 25 ft. Coastal— 25 ft; 15 ft if rear abuts permanent open space or a street without access.	
Accessory structures	See Section 35.442.020 (Accessory Structures and Uses)	
Building separation	Inland—10 ft. between a dwelling or guesthouse and any other detached structure on the same site. Coastal— 5 ft between a dwelling or guesthouse and another detached structure	
Site coverage	<i>Maximum percentage of net site area that may be covered by buildings.</i>	
Maximum coverage	None	
Height limit	<i>Maximum allowable height of structures, except where a lesser height is required by design review or other provisions of this Development Code. See Section 35.430.090 (Height Measurement, Exceptions and Limitations) for height measurement requirement and height limit exceptions.</i>	
Maximum height	Inland— 35 ft and 2 stories Coastal—25ft	25 ft
Exception	The height is restricted to 16 ft for any portion of a structure located above an area of the site where the finished grade is 10 ft or more above the existing grade, except where a project received final design review approval prior to 11/5/92.	
Landscaping	See Chapter 35.434 (Landscaping Standards).	
Parking	See Chapter 35.436 (Parking and Loading Standards).	
Signs	See Chapter 35.438 (Sign Standards).	

SECTION 4:

DIVISION 35.3, Montecito Site Planning and Other Project Standards, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection C, Exceptions, of Section 35.430.025, Agricultural Buffers, of Chapter 35.430, Standards for All Development and Land Uses, to read as follows:

C. Exceptions. This Section does not apply to the following:

1. ~~Single One~~-family dwellings, ~~residential second~~ accessory dwelling units and residential accessory structures.
2. Farm employee dwellings and farm labor camps.
3. Non-agricultural, discretionary development approved prior to May 9, 2013.
4. Changes to a non-agricultural, discretionary project approved prior to May 9, 2013, provided that prior to an action by the review authority to approve an application in compliance with Subsection 35.474.040 C or D the review authority shall first determine that the changes to the project proposed by the application do not result in any new or greater impacts to agriculture than those resulting from the already approved project.
 - a. If the review authority cannot make the determination required in compliance with Subsection C.4, above, then the project shall be subject to the provisions of this Section.
5. **Non-commercial agricultural uses.** An agricultural buffer is not required adjacent to a common lot line between the project site and an adjacent agriculturally zoned lot if the adjacent lot is used for non-commercial agriculture.
6. State and County roadway projects.
7. Lot line adjustments and modifications to lot line adjustments that:
 - a. Do not exceed a 10 percent increase or decrease in the area of the smallest existing lot; and
 - b. Do not result in an increase in the number of developable lots in compliance with Subsection 35.430.110.B.3.c.

SECTION 5:

DIVISION 35.3, Montecito Site Planning and Other Project Standards, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Section 35.430.090, Height Measurement, Exceptions and Limitations, of Chapter 35.430, Standards for All Development and Land Uses, to add a new Subsection E titled "Accessory dwelling units" to read as follows; to re-letter existing Subsection E, Fences and Walls, and Subsection F, Guesthouses, artist studios and cabañas, as Subsections F and G, respectively; and delete existing Subsection G, Residential second units:

E. Accessory dwelling units. See Section 35.442.015 (Accessory Dwelling Units) for height limits and exceptions for accessory dwelling units.

SECTION 6:

DIVISION 35.3, Montecito Site Planning and Other Project Standards, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa

Barbara County Code, is hereby amended to amend Table 3-4 - Residential Parking Standards, of Section 35.436.050, Required Number of Spaces: Residential Uses, of Chapter 35.436, Parking and Loading Standards, to read as follows:

Table 3-4 - Residential Parking Standards

Residential	Parking Spaces Required
One-family and two-family dwellings	2 covered spaces per dwelling unit and; 1 uncovered space per dwelling unit (1)
Multiple dwelling units - Single bedroom or studio dwelling unit (3)	1 space per dwelling unit (2) and; 1 space per 5 dwelling units (for visitor parking)
Multiple dwelling units - 2 bedrooms (3)	2 spaces per dwelling unit (2) and; 1 space per 5 dwelling units (for visitor parking)
Multiple dwelling units - 3 bedrooms or more (3)	2.5 spaces per dwelling unit (2) and; 1 space per 5 dwelling units (for visitor parking)
Dormitories, boarding and lodging houses	1 space per 4 beds and; 1 space per 2 employees
Retirement and special care homes (not including senior housing) (3) (4)	1 space per guest room and; 1 space per 2 employees
Guesthouse	1 space per guesthouse
Residential second <u>Accessory</u> dwelling unit	1 space per bedroom <u>As determined by Section 35.442.015 (Accessory Dwelling Units)</u>

Notes:

- (1) A minimum of two covered or uncovered parking spaces shall be required for all additions, individually or combined with previous additions permitted subsequent to May 16, 1995 of less than 50 percent of the floor area of the principal dwelling as it existed as of May 16, 1995. One-family and two-family dwellings legally existing as of May 16, 1995 shall not be considered nonconforming solely because the parking required by this section is not provided.
- (2) If located within a one-mile radius of the boundaries of a college or university, a minimum of 2 parking spaces shall be provided, one of which shall be covered.
- (3) See Section 35.423.060.D for parking requirements for qualifying affordable housing, senior housing, and special care housing developments.
- (4) Does not apply to special care homes serving 6 or fewer clients that are permitted as a one-family dwelling.

SECTION 7:

DIVISION 35.3, Montecito Site Planning and Other Project Standards, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection K, Modifications of parking requirements, of Section 35.436.070, Standards for All Zones and Uses, of Chapter 35.436, Parking and Loading Standards, to read as follows:

K. Modifications of parking requirements. Modifications to the parking requirement may be granted, in compliance with ~~Section 35.442.160 (Residential Second Units)~~ Section 35.442.015 (Accessory Dwelling Units), Section 35.472.060 (Conditional Use Permits), Section 35.472.080 (Development Plans), Section 35.472.120 (Modifications), or Section 35.472.180 (Variances).

SECTION 8:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Chapter 35.442, Standards for Specific Land Uses, to add a new Section 35.420.015 titled as “Accessory Dwelling Units” and to read as follows:

35.442.015 - Accessory Dwelling Units

- A. Purpose and intent.** The purpose of this Section is to establish permit procedures and development standards for attached and detached accessory dwelling units in compliance with California Government Code Section 65852.2. The intent is to encourage the development of accessory dwelling units that contribute needed housing to the community's housing stock.
- B. Applicability.** Accessory dwelling units may be located on a lot zoned One-Family Residential (R-1/E-1) in compliance with Table 1-1 (Zones) of Section 35.404.020 (Zoning Map and Zones).
- C. Allowed density and use.**
1. In compliance with Government Code Section 65852.2, an accessory dwelling unit shall:
 - a. Be deemed to be an accessory use or an accessory building.
 - b. Not be considered to exceed the allowable density for the lot upon which it is located.
 - c. Be deemed to be a residential use that is consistent with the existing Comprehensive Plan and zoning designation for the lot the accessory dwelling unit is located on.
 - d. Not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 2. A lot may contain only one accessory dwelling unit.
- D. Application and processing requirements.**
1. **Permit required.** Prior to the development or use of a building or portion thereof as an accessory dwelling unit an application for Zoning Clearance or a Land Use Permit, as applicable, shall be submitted in compliance with Section 35.470.030 (Application Preparation and Filing), and the Land Use Permit or Zoning Clearance shall be issued in compliance with Section 35.472.110 (Land Use Permits) or Section 35.472.190 (Zoning Clearances), as applicable.
 - a. **Zoning Clearance required.** An application for an accessory dwelling unit that is in compliance with the development standards of Subsection E (Accessory dwelling units located entirely within existing buildings), below, may be permitted with a Zoning Clearance issued in compliance with Section 35.472.190 (Zoning Clearances).
 - b. **Land Use Permit required.**
 - (1) An application for an accessory dwelling unit that is in compliance with the development standards of Subsection F (Accessory dwelling units located either partially within existing buildings or new accessory buildings), below, may be permitted with a Land Use Permit issued in compliance with Section 35.472.110 (Land Use Permits).
 - (2) An application for an accessory dwelling unit that is in compliance with the development standards of Subsection G (Development standards for accessory dwelling units that are not accessory to existing one-family dwellings), below, may be permitted with a Land Use Permit issued in compliance with Section 35.472.110 (Land Use Permits).
 2. **Ministerial review.** An application for a Zoning Clearance or Land Use Permit for an accessory dwelling unit shall be considered ministerially without discretionary review or hearing.
 - a. The Director shall approve, conditionally approve, or deny an application for an accessory dwelling unit that complies with either Subsection E (Accessory dwelling units located

entirely within existing buildings, or Subsection F (Accessory dwelling units located either partially within existing buildings or new accessory buildings), below, within 120 days following the submittal of an application to the Department in compliance with Section 35.470.030 (Application Preparation and Filing).

- 3. Conflicts with other Sections of this Development Code. Where there are conflicts between the standards in this Section 35.442.015 (Accessory Dwelling Units), the standards in Section 35.442.020 (Accessory Structures and Uses), and the standards in the specific zone regulations (Division 35.2 (Montecito Zones and Allowable Land Uses), the provisions of this Section shall prevail.**

E. Accessory dwelling units located entirely within existing buildings. A permit for an accessory dwelling unit that is proposed to be located entirely within an existing one-family dwelling or an existing accessory building on a lot that contains an existing one-family dwelling at the time the application for the accessory dwelling unit is submitted shall not be issued unless it complies with all of the following development standards contained in this Subsection E (Accessory dwelling units located entirely within existing buildings).

- 1. Appearance and style. Any exterior alterations to an existing building that are the result of the conversion of all or a portion of the existing building to an accessory dwelling unit are limited to those that are determined to be minor by the Director (e.g., the addition of doors and windows).**
- 2. Fees. The applicant will be required to pay development impact mitigation fees in compliance with ordinances and/or resolutions adopted by the County. The amount of the required fee shall be based on the fee schedules in effect when paid.**
- 3. Height limit. No additional height limit shall apply to an accessory dwelling unit that is proposed to be located entirely within an existing one-family dwelling or an existing accessory building.**
- 4. Maximum and minimum living area requirements. For the purposes of this Subsection E (Accessory dwelling units located entirely within existing buildings), living area means the interior habitable area of a dwelling unit including basements and attics but not including an attached garage or any other attached accessory building.**
 - a. Maximum living area. The living area of the accessory dwelling unit shall not exceed the following standards:**
 - (1) Attached accessory dwelling unit: The living area of an attached accessory dwelling unit shall not exceed 50 percent of the living area of the principal dwelling that exists at the time of application for the accessory dwelling unit, provided that the living area of the accessory dwelling unit does not exceed 1,200 square feet.**
 - (2) Detached accessory dwelling unit: 1,200 square feet.**
 - b. Minimum living area. The living area of an accessory dwelling unit shall be a minimum of 300 square feet unless the accessory dwelling unit qualifies as an Efficiency Unit in compliance with Health and Safety Code Section 17958.1 and California Building Code Section 1208.4.**
- 5. Parking requirements. Additional parking spaces are not required to be provided for accessory dwelling units permitted in compliance with this Subsection E (Accessory dwelling units located entirely within existing buildings).**
 - a. When a garage, carport, or covered parking structure is converted or demolished in conjunction with the construction of an accessory dwelling unit, any replacement parking spaces which are required to satisfy the parking requirement for the principal dwelling may be**

provided in any configuration on the same lot as the accessory dwelling unit, including covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

6. Passageway not required. A passageway shall not be required to be provided in conjunction with the construction of an accessory dwelling unit.

7. Private and public services.

a. Potable water. Where service by a public water district or mutual water company is not available, the accessory dwelling unit may be served by a private water system subject to review and approval by the Public Health Department or State as applicable.

b. Wastewater. Where public sewer service is not available, the accessory dwelling unit may be served by an onsite wastewater treatment system subject to review and approval by the Public Health Department.

8. Rental, sale and subdivision.

a. An accessory dwelling unit may be used for rentals provided that the length of any rental shall be longer than 30 consecutive days.

b. An accessory dwelling unit shall not be sold separately from the principal dwelling.

c. Upon the development of an accessory dwelling unit on a lot, the lot shall not be subdivided unless there is adequate land area to divide the lot in compliance with:

(1) The Comprehensive Plan including the Montecito Community Plan.

(2) This Development Code.

9. Residency of lot owner.

a. The owner of the lot shall:

(1) Reside on the lot, either in the principal dwelling or in the accessory dwelling unit except when:

(a) A disability or infirmity requires institutionalization of the owner, or

(b) The Director approves in writing the owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause.

(2) Prior to issuance of a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances):

(a) Have received a Homeowners' Property Tax Exemption from the County Assessor, or

(b) Have submitted to the Department a signed and notarized affidavit stipulating that the lot is owner-occupied.

b. Upon sale or transfer of ownership of the lot, the new owner shall reside on the lot and shall, within 90 days of taking possession of the property, either receive a Homeowners' Property Tax Exemption from the County Assessor or submit to the Department a signed and notarized affidavit stipulating that the lot is owner-occupied or the use of the accessory dwelling unit shall be discontinued and the accessory dwelling unit shall be:

(1) **Attached accessory dwelling unit.** Removed or converted into a portion of the principal dwelling or a legal attached accessory structure.

(2) **Detached accessory dwelling unit.** Removed or converted into a legal detached accessory structure.

c. **Notice to Property Owner required.** Before the issuance of a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances), the owner-occupant shall sign and record a Notice to Property Owner that includes at a minimum the requirement that the owner reside on the lot.

10. Setbacks. No additional setback shall be required provided the existing side and rear setbacks are sufficient for fire safety purposes.

F. Accessory dwelling units located either partially within existing buildings or new accessory buildings. A permit for an accessory dwelling unit that is proposed to be located either partially within an existing one-family dwelling or existing accessory building, or within a new accessory building, on a lot that contains an existing one-family dwelling at the time the application for the accessory dwelling unit is submitted shall not be issued unless it complies with all of the following development standards contained in this Subsection F (Accessory dwelling units located either partially within existing buildings or new accessory buildings).

1. Appearance and style. The exterior appearance and architectural style of the proposed accessory dwelling unit shall be subject to review and approval by the Chair of the Montecito Board of Architectural Review, or designee, except where any changes to an existing building are restricted to those that are determined to be minor by the Director.

a. In order to approve the exterior appearance and architectural style of the proposed accessory dwelling unit the Chair shall determine that:

(1) The design of an accessory dwelling unit that will be attached to an existing building reflects the exterior appearance and architectural style of the existing building and uses the same or comparable exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features.

(2) The design of an accessory dwelling unit that will not be attached to an existing building reflects the exterior appearance and architectural style of the principal dwelling and uses the same or comparable exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features.

(3) The entrance to an accessory dwelling unit that will be attached to the principal dwelling is structurally shielded so that the entrance is not visible when viewed from any street abutting the lot on which the accessory dwelling unit is located. This standard may be waived by the Chair if it would prohibit the construction of an attached accessory dwelling unit on the lot.

(4) All exterior lighting complies with Section 35.430.120 (Outdoor Lighting).

(5) Proposed landscaping will screen the accessory dwelling unit, including any architectural elements such as foundations and retaining walls, mechanical equipment, and parking required to be provided for the accessory dwelling unit, from public viewing areas (e.g., public road, trails, recreation areas). Said landscaping shall be compatible with existing landscaping on the lot in terms of plant species and density of planting.

b. If the Chair does not approve the exterior appearance and architectural style of the accessory dwelling unit, then the Director shall deny the Land Use Permit application for the accessory dwelling unit. The action of the Director is final subject to appeal in compliance with Chapter 35.492 (Appeals).

2. Environmentally sensitive habitat areas. The development of an accessory dwelling unit shall be in compliance with the requirements of Section 35.428.040 (Environmentally Sensitive Habitat (ESH) Overlay Zone).

3. Fees. The applicant will be required to pay development impact mitigation fees in compliance with ordinances and/or resolutions adopted by the County. The amount of the required fee shall be based on the fee schedules in effect when paid.

4. Height limit.

a. An accessory dwelling unit shall be in compliance with the following height limits as applicable. However, these height limits may be exceeded when the portion of the accessory dwelling unit that would exceed these height limits is:

(1) Located within the existing space of a one-family dwelling or an accessory building.

(2) A proposed addition to an existing building and increased height is necessary to allow the roofline of the addition to match the roofline of the existing building that is being added to.

b. **Attached accessory dwelling units.** The height of an accessory dwelling unit that is attached to the principal dwelling shall not exceed a vertical distance of 16 feet as measured from the lowest finished floor of the accessory dwelling unit to:

(1) **Located below an existing floor.** The bottom of the support system of the floor above.

(2) **Located above an existing floor or on-grade where there is no floor above.** The highest points of the coping of a flat roof or to the mean height of the highest gable of a pitch or hip roof that covers the accessory dwelling unit.

c. **Detached accessory dwelling units.**

(1) **Detached accessory dwelling unit not connected to a detached accessory structure.** A detached accessory dwelling unit that is not connected by any means to another structure shall not exceed a height of 16 feet as determined in compliance with Section 35.430.090 (Height Measurement, Exceptions and Limitations).

(2) **Detached accessory dwelling unit connected to a detached accessory structure.**

(a) The height of a detached accessory dwelling unit that is connected to a detached accessory structure shall not exceed a vertical distance of 16 feet as measured from the lowest finished floor of the accessory dwelling unit to:

(i) **Located below an existing floor.** The bottom of the support system of the floor above.

(ii) **Located above an existing floor or on grade where there is no floor above.** The highest points of the coping of a flat roof or to the mean height of the highest gable of a pitch or hip roof that covers the accessory dwelling unit.

(b) The height of the combined structure shall not exceed a height of 25 feet as determined in compliance with Section 35.430.090 (Height Measurement, Exceptions and Limitations).

5. Historic Landmarks Advisory Commission. If the accessory dwelling unit is proposed to be located entirely or partially within a building that is 50 years old or greater, then the application shall be submitted to the Historic Landmarks Advisory Commission for review and comment as to the compatibility of the proposed development with the historical context of the building, whether the development will result in a detrimental effect on any existing or potential historical significance of the building, and other factors that the Historic Landmarks Advisory Commission may choose to comment on.

6. Location on lot. A detached accessory dwelling unit shall not be located closer to the principal abutting street than the principal dwelling unless other provisions of this Development Code such as setback requirements prohibit compliance with this standard.

a. Where the lot abuts two or more streets, the principal abutting street shall be considered to be the street that has the highest traffic volumes.

7. Maximum and minimum living area requirements. For the purposes of this Subsection F (Accessory dwelling units located either partially within existing buildings or new accessory buildings), living area means the interior habitable area of a dwelling unit including basements and attics but not including an attached garage or any other attached accessory structure.

a. **Maximum living area.** The living area of the accessory dwelling unit shall not exceed the maximum living area shown in the table below for the applicable lot area:

Lot Area (unless specified = net lot area)	Maximum Accessory Dwelling Unit Living Area
0 - 9,999 square feet	400 square feet
10,000 - 19,999 square feet	600 square feet
20,000 square feet - 1 acre	800 square feet
Over 1 acre to 2 acres	1,000 square feet
Over 2 acres	1,200 square feet

(1) **Attached accessory dwelling unit.** In addition to the maximum living area specified in the table above, the living area of an attached accessory dwelling unit shall not exceed 50 percent of the living area of the principal dwelling that exists at the time of application for the accessory dwelling unit.

b. **Minimum living area.** The living area of an accessory dwelling unit shall be a minimum of 300 square feet unless the accessory dwelling unit qualifies as an Efficiency Unit in compliance with Health and Safety Code Section 17958.1 and California Building Code Section 1208.4.

8. Maximum lot coverage. The total gross floor area of all buildings located on a lot, including an accessory dwelling unit, shall not exceed 40 percent of the gross lot area of the lot on which the accessory dwelling unit is proposed to be located.

(1) For the purposes of this Subsection F.8, gross floor area includes any partially enclosed or unenclosed floor area covered by a permanent roof.

9. Parking requirements.

a. Except as provided in Subsection F.9.b, below, in addition to the required parking for the principal dwelling, a minimum of one off-street parking space shall be provided on the same lot that the accessory dwelling unit is located on for each bedroom or other room used for

sleeping in the accessory dwelling unit. The additional parking shall be provided as specified in the base zone and in Chapter 35.436 (Parking and Loading Standards) except that said parking may be provided as tandem parking on a driveway and in compliance with the following:

- (1) The additional parking shall be permitted in setback areas or through tandem parking, excluding the front setback area, unless:
 - (a) Specific findings are made by the Director that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or
 - (b) The project site is located in a very high fire hazard severity zone.
- b. Additional off-street parking spaces are not required to be provided for accessory dwelling units that comply with any of the following criteria:
 - (1) The accessory dwelling unit is located within one-half mile of public transit (e.g., a bus stop).
 - (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (3) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (4) When there is a car share vehicle located within one block of the accessory dwelling unit.
- c. When a garage, carport, or covered parking structure is converted or demolished in conjunction with the construction of an accessory dwelling unit, any replacement parking spaces which are required to satisfy the parking requirement for the principal dwelling may be provided in any configuration on the same lot as the accessory dwelling unit, including covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

10. Passageway not required. A passageway shall not be required to be provided in conjunction with the construction of an accessory dwelling unit.

11. Private and public services.

- a. **Potable water.** Where service by a public water district or mutual water company is not available, the accessory dwelling unit may be served by a private water system subject to review and approval by the Public Health Department or State as applicable.
- b. **Wastewater.** Where public sewer service is not available, the accessory dwelling unit may be served by an onsite wastewater treatment system subject to review and approval by the Public Health Department.

12. Rental, sale and subdivision.

- a. An accessory dwelling unit may be used for rentals provided that the length of any rental shall be longer than 30 consecutive days.
- b. An accessory dwelling unit shall not be sold separately from the principal dwelling.
- c. Upon the development of an accessory dwelling unit on a lot, the lot shall not be subdivided unless there is adequate land area to divide the lot in compliance with:

- (1) The Comprehensive Plan including the Montecito Community Plan.
- (2) This Development Code.

13. Residency of lot owner.

- a. The owner of the lot shall:
 - (1) Reside on the lot, either in the principal dwelling or in the accessory dwelling unit except when:
 - (a) A disability or infirmity requires institutionalization of the owner, or
 - (b) The Director approves in writing the owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause.
 - (2) Prior to issuance of a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances):
 - (a) Have received a Homeowners' Property Tax Exemption from the County Assessor, or
 - (b) Have submitted to the Department a signed and notarized affidavit stipulating that the lot is owner-occupied.
- b. Upon sale or transfer of ownership of the lot, the new owner shall reside on the lot and shall, within 90 days of taking possession of the property, either receive a Homeowners' Property Tax Exemption from the County Assessor or submit to the Department a signed and notarized affidavit stipulating that the lot is owner-occupied or the use of the accessory dwelling unit shall be discontinued and the accessory dwelling unit shall be:
 - (1) **Attached accessory dwelling unit.** Removed or converted into a portion of the principal dwelling or a legal attached accessory structure.
 - (2) **Detached accessory dwelling unit.** Removed or converted into a legal detached accessory structure.
- c. **Notice to Property Owner required.** Before the issuance of a Land Use Permit in compliance with Section 35.472.110 (Land Use Permits), the owner-occupant shall sign and record a Notice to Property Owner that includes at a minimum the requirement that the owner reside on the lot.

14. Setbacks. An accessory dwelling unit shall comply with the setback regulations that apply to the principal dwelling except as provided below.

- a. A setback of five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above an existing garage.

15. Site preparation.

- a. Grading associated with the development of the accessory dwelling unit shall not exceed 1,500 cubic yards of cut and fill.
- b. Any freestanding retaining wall shall not exceed eight feet in height. The height of the wall shall be measured from the natural or finished grade at the base of the lower side of the wall to the top edge of the wall material.

16. Tree protection. All development associated with the accessory dwelling unit shall avoid the removal of or damage to all native trees including native oak trees, and specimen trees.

- a. No grading, paving, and other site disturbance shall occur within the dripline of the tree including the area six feet outside of tree driplines.
- b. For the purposes of this Subsection F.16, specimen trees are defined as mature native trees that are healthy and structurally sound and have grown into the natural stature particular to the species.

G. Development standards for accessory dwelling units that are not accessory to existing one-family dwellings. A permit for an accessory dwelling unit that is proposed to be constructed on a lot that does not contain an existing, one-family dwelling at the time the application for the accessory dwelling unit is submitted and is proposed to be constructed in conjunction with the construction of a one-family dwelling shall not be issued unless it complies with all of the following development standards contained in this Subsection G (Development standards for accessory dwelling units that are not accessory to existing one-family dwellings).

1. Accessory to a principal dwelling. The application for the accessory dwelling unit shall be submitted in conjunction with the application for a principal dwelling. The accessory dwelling unit shall not be occupied prior to occupation of the principal dwelling.

2. Appearance and style. The exterior appearance and architectural style of the proposed accessory dwelling unit shall be subject to review and approval by the Chair of the Montecito Board of Architectural Review, or designee, except where any changes to an existing building are restricted to those that are determined to be minor by the Director.

a. In order to approve the exterior appearance and architectural style of the proposed accessory dwelling unit the Chair shall determine that:

- (1) The design of an accessory dwelling unit that will be attached to an existing building reflects the exterior appearance and architectural style of the existing building and uses the same or comparable exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features.
- (2) The design of an accessory dwelling unit that will not be attached to an existing building reflects the exterior appearance and architectural style of the principal dwelling and uses the same or comparable exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features.
- (3) The entrance to an accessory dwelling unit that will be attached to the principal dwelling is structurally shielded so that the entrance is not visible when viewed from any street abutting the lot on which the accessory dwelling unit is located. This standard may be waived by the Chair if it would prohibit the construction of an attached accessory dwelling unit on the lot.
- (4) All exterior lighting complies with Section 35.430.120 (Outdoor Lighting).
- (5) Proposed landscaping will screen the accessory dwelling unit, including any architectural elements such as foundations and retaining walls, mechanical equipment, and parking required to be provided for the accessory dwelling unit, from public viewing areas (e.g., public road, trails, recreation areas). Said landscaping shall be compatible with existing landscaping on the lot in terms of plant species and density of planting.

b. If the Chair does not approve the exterior appearance and architectural style of the accessory dwelling unit, then the Director shall deny the Land Use Permit application for the accessory

dwelling unit. The action of the Director is final subject to appeal in compliance with Chapter 35.492 (Appeals).

- 3. Environmentally sensitive habitat areas.** The development of an accessory dwelling unit shall be in compliance with the requirements of Section 35.428.040 (Environmentally Sensitive Habitat (ESH) Overlay Zone).
- 4. Fees.** The applicant will be required to pay development impact mitigation fees in compliance with ordinances and/or resolutions adopted by the County. The amount of the required fee shall be based on the fee schedules in effect when paid.
- 5. Height limit.**
 - a. An accessory dwelling unit shall be in compliance with the following height limits as applicable. However, these height limits may be exceeded when the portion of the accessory dwelling unit that would exceed these height limits is:
 - (1) Located within the existing space of a building.
 - (2) A proposed addition to an existing building and increased height is necessary to allow the roofline of the addition to match the roofline of the existing building that is being added to.
 - b. **Attached accessory dwelling units.** The height of an accessory dwelling unit that is attached to the principal dwelling shall not exceed a vertical distance of 16 feet as measured from the lowest finished floor of the accessory dwelling unit to:
 - (1) **Located below a floor.** The bottom of the support system of the floor above.
 - (2) **Located above a floor or on-grade where there is no floor above.** The highest points of the coping of a flat roof or to the mean height of the highest gable of a pitch or hip roof that covers the accessory dwelling unit.
 - c. **Detached accessory dwelling units.**
 - (1) **Detached accessory dwelling unit not connected to a detached accessory structure.** A detached accessory dwelling unit that is not connected by any means to another structure shall not exceed a height of 16 feet as determined in compliance with Section 35.430.090 (Height Measurement, Exceptions and Limitations).
 - (2) **Detached accessory dwelling unit connected to a detached accessory structure.**
 - (a) The height of a detached accessory dwelling unit that is connected to a detached accessory structure shall not exceed a vertical distance of 16 feet as measured from the lowest finished floor of the accessory dwelling unit to:
 - (i) **Located below a floor.** The bottom of the support system of the floor above.
 - (ii) **Located above a floor or on-grade where there is no floor above.** The highest points of the coping of a flat roof or to the mean height of the highest gable of a pitch or hip roof that covers the accessory dwelling unit.
 - (b) The height of the combined structure shall not exceed a height of 25 feet as determined in compliance with Section 35.430.090 (Height Measurement, Exceptions and Limitations).

- 6. Historic Landmarks Advisory Commission.** If the accessory dwelling unit is proposed to be located entirely or partially within a building that is 50 years old or greater, then the application shall be submitted to the Historic Landmarks Advisory Commission for review and comment as to the compatibility of the proposed development with the historical context of the building, whether the development will result in a detrimental effect on any existing or potential historical significance of the building, and other factors that the Historic Landmarks Advisory Commission may choose to comment on.
- 7. Location on lot.** A detached accessory dwelling unit shall not be located closer to the principal abutting street than the principal dwelling unless other provisions of this Development Code such as setback requirements prohibit compliance with this standard.
- a. Where the lot abuts two or more streets, the principal abutting street shall be considered to be the street that has the highest traffic volumes.
- 8. Lot area and coverage requirements.**
- a. **Minimum lot area.**
- (1) **Attached accessory dwelling units.** The minimum net lot area on which attached accessory dwelling units may be located shall be 7,000 square feet; however, for lots legally created before June 2, 1966 this minimum lot area shall be 6,000 square feet.
- (2) **Detached accessory dwelling units.** The minimum gross lot area on which detached accessory dwelling units may be located shall be five acres.
- b. **Maximum lot coverage.** The total gross floor area of all buildings located on a lot, including an accessory dwelling unit, shall not exceed 40 percent of the gross lot area of the lot on which the accessory dwelling unit is proposed to be located.
- (1) For the purposes of this Subsection G.8.b, gross floor area includes any partially enclosed or unenclosed floor area covered by a permanent roof.
- 9. Maximum and minimum floor area requirements.** For the purposes of this Subsection G.9 (Maximum and minimum floor area requirements), gross floor area relates only to directly accessible appurtenant interior spaces and does not include any floor area not contained within the accessory dwelling unit, including the floor area of any attached accessory structures or spaces not directly accessible from the living area of the accessory dwelling unit.
- a. **Maximum gross floor area.** The gross floor area of an accessory dwelling unit shall not exceed the maximum shown in the table below for the applicable lot area:

<u>Type of Accessory Dwelling Unit</u>	<u>Lot Area (unless specified = net lot area)</u>	<u>Maximum Accessory Dwelling Unit Gross Floor Area</u>
<u>Attached</u>	<u>6,000 - 9,999 square feet</u>	<u>400 square feet</u>
	<u>10,000 - 19,999 square feet</u>	<u>600 square feet</u>
	<u>20,000 square feet - 1 acre</u>	<u>800 square feet</u>
	<u>Over 1 acre</u>	<u>1,000 square feet</u>
<u>Detached</u>	<u>5 acres (gross) or greater</u>	<u>1,000 square feet</u>

- (1) **Attached accessory dwelling unit.** In addition to the maximum gross floor area specified in the table above, an attached accessory dwelling unit shall be located within the living area of the principal dwelling, or if an increase in floor area is requested, the increase in floor area shall not exceed 30 percent of the existing living area.
- (a) The floor area of the garage attached to the principal dwelling may be included in the calculation of existing living area provided the garage is to be converted to

living area of the principal dwelling as part of the same permit to allow the attached accessory dwelling unit.

- (b) In the event that an application proposes an addition to the living area of the existing principal dwelling concurrently with an attached accessory dwelling unit, the proposed additional living floor area for the principal dwelling shall be used to calculate existing living area of the principal dwelling.

- b. Minimum living area.** The living area of an accessory dwelling unit shall be a minimum of 300 square feet unless the accessory dwelling unit qualifies as an Efficiency Unit in compliance with Health and Safety Code Section 17958.1 and California Building Code Section 1208.4.

10. Not allowed if in addition to certain other structures.

- a. An accessory dwelling unit shall not be allowed on a lot in addition to a guesthouse or dwellings other than the principal dwelling that are determined to be nonconforming as to use.
- b. If an accessory dwelling unit has been approved on a lot, a guesthouse or similar structure (e.g., artist studio) shall not subsequently be approved unless the accessory dwelling unit is removed.

11. Parking requirements.

- a. Except as provided in Subsection 11.a.(1), below, in addition to the required parking for the principal dwelling, a minimum of one off-street parking space shall be provided on the same lot that the accessory dwelling unit is located on for each bedroom or other room used for sleeping in the accessory dwelling unit. The additional parking shall be provided as specified in the base zone and in Chapter 35.436 (Parking and Loading Standards).
- (1) Additional off-street parking spaces are not required to be provided for accessory dwelling units that comply with any of the following criteria:
- (a) The accessory dwelling unit is located within one-half mile of public transit (e.g., a bus stop).
- (b) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (c) The accessory dwelling unit is proposed to be located entirely within the existing space of an accessory building.
- (d) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (e) When there is a car share vehicle located within one block of the accessory dwelling unit.
- b. The Director may grant modifications to allow the additional parking required by these provisions to be located within the setbacks, excluding the front setback, based on a finding that because of the topography of the site and the location of the principal dwelling on the site, the setback requirements cannot be met.
- c. The number of additional parking spaces required for the accessory dwelling unit shall not be reduced.

12. Private and public services.

a. Potable water.

- (1) If the principal dwelling is currently served by a public water district or mutual water company not subject to moratorium for new connections, then the accessory dwelling unit shall also be served by the appropriate public water district or mutual water company.
- (2) If the principal dwelling is currently served by a public water district or mutual water company subject to a moratorium for new connections, or if the existing service is by a private water system and the property is not located in an overdrafted water basin, then the accessory dwelling unit may be served by a private water system subject to review and approval by the Public Health Department or State as applicable.

b. Wastewater. Where public sewer service is not available, the accessory dwelling unit may be served by an onsite wastewater treatment system subject to review and approval by the Public Health Department.

13. Rental, sale and subdivision.

- a. An accessory dwelling unit may be used for rentals provided that the length of any rental shall be longer than 30 consecutive days.
- b. An accessory dwelling unit shall not be sold separately from the principal dwelling.
- c. Upon the development of an accessory dwelling unit on a lot, the lot shall not be subdivided unless there is adequate land area to divide the lot in compliance with:
 - (1) The Comprehensive Plan including the Montecito Community Plan.
 - (2) This Development Code.

14. Residency of lot owner.

- a. The owner of the lot shall:
 - (1) Reside on the lot, either in the principal dwelling or in the accessory dwelling unit except when:
 - (a) A disability or infirmity requires institutionalization of the owner, or
 - (b) The Director approves in writing the owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause.
 - (2) Within 90 days of final building permit inspection for the principal dwelling, the owner shall:
 - (a) Have received a Homeowners' Property Tax Exemption from the County Assessor, or
 - (b) Have submitted to the Department a signed and notarized affidavit stipulating that the lot is owner-occupied.
- b. Upon sale or transfer of ownership of the lot, the new owner shall reside on the lot and shall, within 90 days of taking possession of the property, either receive a Homeowners' Property Tax Exemption from the County Assessor or submit to the Department a signed and notarized

affidavit stipulating that the lot is owner-occupied or the use of the accessory dwelling unit shall be discontinued and the accessory dwelling unit shall be:

(1) Attached accessory dwelling unit. Removed or converted into a portion of the principal dwelling or a legal attached accessory structure.

(2) Detached accessory dwelling unit. Removed or converted into a legal detached accessory structure.

c. Notice to Property Owner required. Before the issuance of a Land Use Permit in compliance with Section 35.472.110 (Land Use Permits), the owner-occupant shall sign and record a Notice to Property Owner that includes at a minimum the requirement that the owner reside on the lot.

15. Setbacks. An accessory dwelling unit shall comply with the setback regulations that apply to the principal dwelling.

16. Site preparation.

a. Grading associated with the development of the accessory dwelling unit shall not exceed 1,500 cubic yards of cut and fill.

b. Any freestanding retaining wall shall not exceed eight feet in height. The height of the wall shall be measured from the natural or finished grade at the base of the lower side of the wall to the top edge of the wall material.

17. Tree protection. All development associated with the accessory dwelling unit shall avoid the removal of or damage to all native trees including native oak trees, and specimen trees.

a. No grading, paving, and other site disturbance shall occur within the dripline of the tree including the area six feet outside of tree driplines.

b. For the purposes of this Subsection F.17, specimen trees are defined as mature native trees that are healthy and structurally sound and have grown into the natural stature particular to the species.

H. Public notice. Notice of an application for an accessory dwelling unit shall be given in compliance with Chapter 35.496 (Noticing and Public Hearings).

I. Appeals. The action of the Director to approve, conditionally approve, or deny an application for an accessory dwelling unit is final, subject to appeal in compliance with Chapter 35.492 (Appeals).

J. Revocation. Revocation of a Land Use Permit for an accessory dwelling unit shall be in compliance with Section 35.474.060 (Revocations).

SECTION 9:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection 3, Height restrictions, of Subsection B, Development standards, of Section 35.442.020, Accessory Structures and Uses, of Chapter 35.442, Standards for Specific Land Uses, to read as follows:

3. Height restrictions. Accessory structures shall conform to the following height limits:

- a. ~~Accessory structures other than barns and stables.~~ Except as provided below, the The height limit for accessory structures ~~other than barns and stables~~ is 16 feet unless located in the rear setback, in which case the height limit is 12 feet.
- (1) Accessory dwelling units. See Section 35.442.015 (Accessory dwelling units) for height limits for accessory dwelling units.
- b. (2) Barns and stables. Barns and stables shall comply with the height limit of the applicable zone unless located in the rear setback, in which case the height limit is 12 feet.
- e. (3) Fences and walls. See [Section 35.430.070 \(Fences and Walls\)](#) for height limits for fences and walls.
- d. (4) Guesthouses, artist studios and cabañas. See Section 35.442.120 (Guesthouses, Artist Studios, and Cabañas) for height limits for guesthouses, artist studios and cabañas.
- e. ~~Residential second units.~~ See Section 35.442.160 (Residential Second Units) for height limits for residential second units.
- ~~f.~~ b. Telecommunication facilities. See Chapter 35.444 (Telecommunications Facilities) for height limits and exception for commercial and noncommercial telecommunication facilities.

SECTION 10:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection a, Location in rear setback, of Subsection 4, Setback requirements, of Subsection B, Development standards, of Section 35.442.020, Accessory Structures and Uses, of Chapter 35.442, Standards for Specific Land Uses, to read as follows:

a. Location in rear setback.

- (1) Accessory dwelling units. An accessory dwelling unit may be located in the required rear setback only when allowed in compliance with Section 35.442.015 (Accessory dwelling units).
- (2) Other accessory structures. Except as provided in Subsection B.4.a.(1), above, an ~~An~~ accessory structure, other than guesthouses, artist studios and cabañas (Section 35.442.120), ~~and residential second units (Section 35.442.160)~~ may be located in the required rear setback provided that:
- (+) (a) It is not attached to the principal structure.
- (+) (b) It is not located closer than 10 feet to the principal structure.
- (+) (c) It does not exceed 30 percent of the required rear setback.
- (+) (d) It does not exceed a height of 12 feet.
- (+) (e) If located on a corner lot backing on a key lot, the accessory structure shall be set back from the rear property line by a distance equal to the side setback requirement applicable to the key lot.
- (+) (f) A swimming pool, spa, and appurtenant equipment shall not be located closer than five feet to any property line.
- (+) (g) An accessory structure may otherwise be located adjacent to the rear property line provided that all other provisions (e.g., building code or fire code requirements for separation between structures) are complied with.

SECTION 11:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection 5, Kitchen or cooking facilities/amenities prohibited, of Subsection B, Development standards, of Section 35.442.020, Accessory Structures and Uses, of Chapter 35.442, Standards for Specific Land Uses, to read as follows:

5. **Kitchen or cooking facilities/amenities prohibited.** Accessory structures, including artist studios, cabañas and guesthouses, shall not contain kitchen or cooking facilities unless the accessory structure is specifically permitted as a dwelling (e.g., ~~residential second~~ accessory dwelling units). Artist studios, cabañas and guesthouses are not dwellings.

SECTION 12:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection 8, Use restrictions, of Subsection B, Development standards, of Section 35.442.020, Accessory Structures and Uses, of Chapter 35.442, Standards for Specific Land Uses, to read as follows:

8. **Use restrictions.** Accessory structures shall not be used as guesthouses, artist studios, or cabañas, unless specifically permitted for these uses. Except for guesthouses or structures specifically permitted as dwellings, (e.g., ~~residential second~~ accessory dwelling units) accessory structures shall not be used for overnight accommodations.

SECTION 13:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to add a new Subsection M titled “Accessory dwelling units” to read as follows; renumber existing Subsection M, Cabaña, and Subsection N, Artist studios, as Subsections N and O, respectively, and delete existing Subsection O, Residential second unit, of Section 35.442.120, Guesthouses, Artist Studios, and Cabañas, of Chapter 35.442, Standards for Specific Land Uses:

- M. Accessory dwelling units.** If an accessory dwelling unit exists or is approved for development on a lot, a guesthouse or artist studio shall not also be approved.

SECTION 14:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Chapter 35.442, Standards for Specific Land Uses, to delete existing Section 35.440.160, Residential Second Units, in its entirety and to reserve the section number for future use.

SECTION 15:

DIVISION 35.6, Montecito Site Development Regulations, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County

Code, is hereby amended to amend Subsection 3, Accessory structures, of Subsection B, Standards for address numbers, of Section 35.460.060, Address Numbers - Procedure, Standards, and Display, of Chapter 35.460, Road Naming and Address Numbering, to read as follows:

3. **Accessory structures.** ~~Except for accessory dwellings, including residential second~~ as provided below, an accessory structure shall not be issued a street address number unless the property owner can demonstrate to the satisfaction of the Fire Department that special circumstances justify a separate number.
 - a. A street address number shall be issued for an accessory dwelling unit if required by the Fire Department.

SECTION 16:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection C, Exceptions to Design Review Requirements, of Section 35.472.070, Design Review, of Chapter 35.472, Permit Review and Decisions, to read as follows:

C. Exceptions to Design Review Requirements.

1. Accessory dwelling units; however approval from the Chair of the Montecito Board of Architectural Review Chairperson, or designee, may be required in compliance with Section 35.442.015 (Accessory Dwelling Units).
2. Decks.
- ~~2-3.~~ Fences, gates or walls six feet or less and gateposts of eight feet or less in height; however, fences, gates, gateposts and walls that are integral to the structure (e.g., are connected to the structure or form a courtyard adjacent to the structure) shall be included as part of the Design Review of a new structure or a remodeling or an addition to a structure requiring Design Review in compliance with this Section.
- ~~3-4.~~ Hot tubs, spas, and swimming pools.
- ~~4-5.~~ Interior alterations.
- ~~5-6.~~ Solar panels.
- ~~6-7.~~ Other exterior alterations determined to be minor by the Director.
- ~~7. Residential second units; however approval from the Montecito Board of Architectural Review Chairperson, or designee, is required unless the residential second unit would only require exterior alterations to an existing structure that are determined to be minor by the Director.~~

SECTION 17:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection d, Reduction of parking Spaces, of Subsection 3, Allowed Modifications, of Subsection B, Applicability, of Section 35.472.120, Modifications, of Chapter 35.472, Permit Review and Decisions, to read as follows:

- d. Reduction of parking spaces.** A reduction in the required number and/or a Modification in the design or location of parking spaces and loading zones may be allowed provided that in no case shall:
- (1) The ~~required~~ number of required bicycle parking spaces be reduced.
 - (2) The number of spaces required for ~~a residential second~~ an accessory dwelling unit be reduced or be allowed to be located within the required front setback area, unless such reduction in the number of spaces is allowed in compliance with Section 35.442.015 (Accessory Dwelling Units).
 - (3) Any parking or screening requirement for a vehicle with more than two axles, a recreational vehicle or bus, a trailer, or other non-passenger vehicle be modified.

SECTION 18:

DIVISION 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection 2, Additional requirements for certain appeals, of Subsection C, Requirements for contents of an appeal, of Section 35.492.020, General Appeal Procedures, of Chapter 35.492, Appeals, to read as follows:

- 2. Additional requirements for certain appeals.** The following information is required to be submitted for the appeals listed below in addition to the information required to be submitted by Subsection C.1 (General requirements) above:
- a. Appeals regarding a previously approved discretionary permit.** If the approval of a ~~Coastal Development Permit or Land Use Permit~~ required by a previously approved discretionary permit is appealed, the appellant shall identify:
- (1) How the ~~Coastal Development Permit or Land Use Permit~~ is inconsistent with the previously approved discretionary permit; or
 - (2) How the discretionary permit's conditions of approval that are required to be completed before the approval of a ~~Coastal Development Permit or Land Use Permit~~ have not been completed; or
 - (3) How the approval is inconsistent with Chapter 35.496 (Noticing and Public Hearings).
- b. Appeals regarding ~~residential second~~ accessory dwelling units.**
- ~~(1) **Coastal Zone.** The grounds for an appeal of the approval or conditional approval of a Coastal Development Permit or Land Use Permit for a residential second unit in compliance with Section 35.442.160 (Residential Second Units) shall be limited to whether the approved or conditionally approved project is in compliance with the applicable provisions and policies of the Coastal Land Use Plan and the provisions of this Development Code. If the approval or conditional approval of a Coastal Development Permit or Land Use Permit for a residential second unit is appealed, the appellant shall identify how the approved or conditionally approved project is not in compliance with the applicable provisions and policies of the Coastal Land Use Plan and the provisions of this Development Code.~~
- ~~(2) **Inland Area.**~~
- (1) The grounds for an appeal of the approval or conditional approval of a Land Use Permit for a ~~residential second~~ an accessory dwelling unit in compliance with ~~Section 35.442.160 (Residential Second Units)~~ Section 35.442.015 (Accessory Dwelling Units) shall be limited to whether the approved or conditionally approved project is in compliance with the applicable development standards for ~~residential second~~ accessory dwelling units provided in

~~Subsection 35.442.160.F (Development standards)~~ Section 35.442.015 (Accessory Dwelling Units).

- (2) If the approval or conditional approval of a Land Use Permit for ~~a residential second~~ an accessory dwelling unit is appealed, the appellant shall identify how the approved or conditionally approved project is not in compliance with development standards for ~~residential second~~ accessory dwelling units provided in ~~Subsection 35.442.160.F (Development standards)~~ Section 35.442.015 (Accessory Dwelling Units).

- c. **Appeals of final decision of the Montecito Board of Architectural Review.** A decision of the Montecito Board of Architectural Review to grant final approval may not be appealed to the Montecito Commission unless the appellant can demonstrate that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval. If the Director determines that the appeal does not raise a substantial issue that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval, then the Director shall make that determination in writing, and the appeal shall not be processed. This decision of the Director is final and not subject to appeal.

SECTION 19:

DIVISION 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Subsection e, of Subsection 1, By the Department, of Subsection A, Minimum requirements, of Section 35.496.050, Land Use Permits, of Chapter 35.496, Noticing and Public Hearings, to read as follows:

- e. The contents of the notice shall be in compliance with Section 35.496.080 (Contents of Notice) below.
- (1) Notice of applications for ~~Residential Second~~ Accessory Dwelling Units, and additions thereto, as may be allowed in compliance with ~~Section 35.442.160 (Residential Second Units)~~ Section 35.442.015 (Accessory Dwelling Units) shall include a statement that the grounds for appeal of an approved or conditionally approved Land Use Permit are limited to the demonstration that the project is inconsistent with the applicable provisions of ~~Subsection 35.42.160.F (Development standards)~~ Section 35.442.015 (Accessory Dwelling Units).

SECTION 20:

DIVISION 35.10, Glossary, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Section 35.500.020, Definitions of Specialized Terms and Phrases, of Chapter 35.500, Definitions, to amend the existing definition of “Residential Second Unit” to read as follows:

Residential Second Unit. ~~A dwelling unit on a permanent foundation that provides complete, independent living facilities for one or more persons in addition to the principal dwelling on the same lot. The residential second unit may either be an attached residential second unit or detached residential second unit. See Accessory Dwelling Unit.~~

- ~~1. **Attached Residential Second Unit.** A residential second unit that shares a common wall with the principal dwelling.~~
- ~~2. **Detached Residential Second Unit.** A residential second unit that is not attached to the principal dwelling by a common wall.~~

SECTION 21:

DIVISION 35.10, Glossary, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Section 35.500.020, Definitions of Specialized Terms and Phrases, of Chapter 35.500, Definitions, to add new definitions of “Accessory Dwelling Unit” and “Passageway” to read as follows:

Accessory dwelling unit. An attached or a detached residential dwelling unit on a permanent foundation that is located on the same lot as a one-family dwelling that the accessory dwelling unit is accessory to and (1) provides complete independent living facilities for one or more persons including permanent provisions for cooking, eating, living, sanitation, and sleeping, (2) provides interior access between all habitable rooms, and (3) includes an exterior access that is separate from the access to the principal dwelling or accessory structure that the accessory dwelling unit is located in. An accessory dwelling unit may also include an efficiency unit, as defined in Section 17958.1 of Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

- 1. Attached accessory dwelling unit.** An accessory dwelling unit that shares a common wall with the principal dwelling.
- 2. Detached accessory dwelling unit.** An accessory dwelling unit that is detached from the principal dwelling and is located on the same lot as the principal dwelling.

Passageway. A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

SECTION 22:

DIVISION 35.10, Glossary, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to amend Section 35.500.020, Definitions of Specialized Terms and Phrases, of Chapter 35.500, Definitions, to delete the existing definitions of “Attached Residential Second Unit,” and “Detached Residential Second Unit.”

SECTION 23:

All existing indices, section references, and figure and table numbers contained in Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 24:

Except as amended by this Ordinance, Divisions 35.2, 35.3, 35.4, 35.6, 35.7, 35.9 and 35.10 of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 25:

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names

of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JOAN HARTMAN, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By _____
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By _____
Deputy County Counsel