



MEMORANDUM

TO: PLANNING COMMISSION

FROM: TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR

BY: S.A. SAM ANDERSON, PLANNING TECHNICIAN

SUBJECT: CONSIDERATION OF DEVELOPMENT CODE AMENDMENT 17-002; AMENDMENTS TO TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING ROOFTOP DECKS, ACCESSORY DWELLING UNITS, AND UNDERGROUNDING OF UTILITIES; LOCATION – CITYWIDE; APPLICANT – CITY OF ARROYO GRANDE

DATE: AUGUST 1, 2017

RECOMMENDATION:

It is recommended that the Planning Commission adopt a Resolution recommending the City Council adopt the proposed Ordinance regarding rooftop decks, accessory dwelling units, and undergrounding of utilities.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

No impacts to financial and personnel resources are projected as a result of adopting the Ordinance.

BACKGROUND:

Accessory Dwelling Units

On January 1, 2017, SB 1069 and AB 2299 went into effect, which are intended to further reduce barriers and streamline approval for the development of new accessory dwelling units (ADUs). These ADU regulations, among other things, reduce, and in some cases completely remove, parking requirements, prohibit local governments from adopting ordinances that preclude ADUs, and make any local ordinance that does not conform to new state regulations null and void upon January 1, 2017. Due to this, the City's regulations are currently not enforceable until updated to be in conformance with State regulations.

Rooftop Decks

On February 21, 2017, the Planning Commission considered an interpretation regarding the definition of a "story," and the applicability of the Viewshed Review process in respect to the construction of a new rooftop deck. A Viewshed Review permit is required whenever any "...second-story addition (is) erected or enlarged

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on any single-family home within the PD, PS, SF and MF districts.” The request for interpretation was to clarify whether a new rooftop deck should be considered a “second story addition” and be subject to the Viewshed Review process. At that meeting, the Planning Commission directed staff to formulate a directive series of regulations to provide a more clear process for the construction of rooftop decks.

Undergrounding Utilities

On May 25, 2017, the Community Development Director received information from a local building contractor. It was recommended the City re-examine Arroyo Grande Municipal Code (AGMC) Section 16.68.050.B.1.a, which states “All projects (discretionary or ministerial) that involve the addition of over one hundred (100) square feet of habitable space shall be required to place service connections underground.” It was believed that, in comparison with neighboring jurisdictions, the City’s undergrounding requirement was overly onerous, and prevented minor investments and projects from taking place, impacting both local residents and the City.

ANALYSIS OF ISSUES:

Accessory Dwelling Units

The proposed Ordinance will amend AGMC Section 16.52.150 to be brought into conformance with state law. In general, these regulations include provisions regarding:

- Changing all references to “second residential dwellings” to “accessory dwelling units;”
- Setback modifications for ADUs constructed above garages;
- Provisions regarding on-site parking for new ADUs;
- Replacement parking when garages or other parking structures are converted into ADUs; and
- Modification to owner occupancy requirements.

The most significant impact to existing ADU regulations are provisions modifying on-site parking requirements. ADUs constructed within one-half (½) mile of an existing transit stop, such as a bus stop (Attachment 1), cannot be required to provide on-site parking beyond the currently required two (2) enclosed parking spaces per single family dwelling. Additionally, in locations where parking standards will not be exempted, additional parking shall be able to be provided as tandem parking, and may be located anywhere on the property besides the non-driveway front yard setback. When existing garages are converted to ADUs, replacement parking will still be required but will be able to be provided in any configuration, such as uncovered or tandem spaces.

All changes, besides the modification to owner occupancy requirements, are mandatory under State law. The existing AGMC Section regarding occupancy currently states that “second residential dwellings shall not be offered for sale

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apart from the primary residence and shall be occupied on a month-to-month basis or longer.” In light of the Vacation Rental and Homestay Ordinance approved in 2014, the proposed Ordinance will remove the month-to-month occupancy requirement in order to allow property owners to rent their ADUs as vacation rentals or homestays. The property owner is still required to record a deed restriction against the title of the property restricting sale of the ADU apart from the primary residence, and is still required to occupy one of the dwellings on the premises in any Single-Family zoning district. Property owners in the Multi-Family zoning districts will not be required to occupy one of the dwellings on the premises, but will still be unable to sell an ADU apart from the primary residence.

General Plan

The General Plan, and more specifically the Housing Element, repeatedly calls for the construction of secondary (accessory) dwelling units. For example, Policy A.2 states “The City shall continue to utilize the following incentives for the production of affordable housing: a) allowing secondary dwelling units under specified criteria...” and program G.1-1 states “The City shall encourage construction and/or rehabilitation of housing units for low, very-low, and extremely low income households by... updating the City’s second unit ordinance to reduce barriers to second units development in residential zone...” The State required modifications to the City’s ADU Ordinance reinforce these General Plan policies and programs.

Rooftop Decks

The proposed Ordinance will add Subsection 16.48.180 to the AGMC in order to ensure that new rooftop decks in the City do not unnecessarily or unreasonably infringe upon the privacy of adjacent properties. The proposed Ordinance also provides a simpler and clearer path forward for a property owner to construct a new rooftop deck. The Ordinance provides a series of design standards to facilitate permitting and plan review. The Ordinance allows for the construction of a rooftop deck above a single story structure with the issuance of a Building Permit, contingent upon compatibility with the proposed design standards. A rooftop deck constructed above a two-story structure will require the issuance of a Viewshed Review permit prior to Building Permit submissions due to the more impactful nature created by the viewing angles of second story rooftop decks.

The proposed Ordinance will reduce the cost of submittal and time invested in project review for applicants by no longer requiring the Viewshed Review process and associated fee of \$768.00. Additionally, as a consequence of no longer requiring the Viewshed Review process, applicants proposing new single-story rooftop decks will no longer be required to notice neighbors within 300’ of an addition that will likely generate similar viewing angles to a standard second story addition. The design standards for rooftop decks are in place to offset the reduction in review of potential privacy impacts created by elevated construction.

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These standards include increased setbacks for decks, access requirements, lighting restrictions, and maximum height.

Maximum height for all residential districts is currently thirty feet (30') or two (2) stories, not including properties located in height restricting overlays. Mandatory guard rails and other accessory structures and furniture located on the roof deck will be counted towards maximum height and shall not at any time be located any further than thirty feet (30') from the average finished grade of the home.

The Ordinance is designed to apply only to decks that are proposed to be located on top of existing structures. A standard deck that extends past the exterior walls of a structure will not be held to the proposed design standards, but will be required to obtain a Viewshed Review permit prior to construction.

General Plan

The Land Use Element of Arroyo Grande aims to protect the character and feel of Arroyo Grande. Policies such as LU12-2.3 state "provide building elevations that are well-articulated in order to break up building bulk. Incorporate one-story elements in two-story structures," and LU12-2.7 states "Use appropriate and simple roof forms, including shed, gable, and hip roofs, alone or in combination, to achieve a variety of roof lines along the streetscape; avoid unarticulated flat roofs." Undesirable flat roofs can be redesigned into rooftop decks to create a more interesting and diverse visual aesthetic.

Undergrounding Utilities

The City's undergrounding requirements are significantly more stringent than other neighboring communities. Arroyo Grande is the only local community that requires the undergrounding of utilities for projects involving single-family homes that were not required to underground utilities at the time of construction. Other communities, such as San Luis Obispo and Paso Robles, focus on establishing undergrounding districts that are funded by impact fees collected from development projects.

The proposed Ordinance will modify the AGMC Section 16.68.050.B.1.A requirement to underground service drops whenever any addition of over one hundred (100) square feet of habitable space is approved to a three hundred (300) square foot minimum addition. This change will reduce the financial burden that can be imposed by undergrounding requirements on minor additions and other projects. It is important to note that projects where the cost of undergrounding is greater than twenty-five percent (25%) of the cost of the total project, waivers are granted to waive the undergrounding requirement. The three hundred (300) square foot limit is intended to be flexible enough to allow minor residential additions but still require undergrounding of utilities as prioritized by the City Council when the one hundred (100) square foot limit was implemented.

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General Plan

The Housing and Land Use Elements do not specifically mention the aesthetic benefits of undergrounding utility lines, but general aesthetic recommendations found in the Economic Development Element such as ED5-1.4 call for “infrastructure projects that ... include underground utility projects ...” Changing the requirements for undergrounding utilities could allow for minor additions while still requiring undergrounding on larger additions, in conformance with the intent of the undergrounding regulations, which is to “increase the aesthetic appearance of residential, commercial and mixed use areas by avoiding or eliminating the concentration of overhead service and distribution facilities, (2) promote the safe and orderly control of pedestrian and vehicular traffic along streets, roads or rights-of-way, and (3) provide a coordinated and economical method of placing existing utilities underground.”

ALTERNATIVES:

The following alternatives are provided for the Planning Commission’s consideration:

- Adopt the attached Resolution recommending the City Council adopt the Ordinance as proposed;
- Modify and adopt the attached Resolution recommending the City Council adopt the Ordinance; or
- Provide direction to staff.

ADVANTAGES:

Accessory Dwelling Units

Bringing AGMC Section 16.52.150 into conformance with State law will re-enable the City to have local control over the establishment and construction of ADUs.

Rooftop Decks

The proposed Ordinance will simplify and elucidate the process for the construction of a rooftop deck. The proposed Ordinance will remove regulatory barriers while establishing regulations that will provide for orderly and appropriate deck design and, at the same time, protecting the privacy of neighboring properties.

Undergrounding Utilities

The proposed Ordinance will reduce the financial burden created by the existing AGMC undergrounding requirements, promoting small residential projects.

DISADVANTAGES:

Accessory Dwelling Units

None identified.

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Rooftop Decks

The current interpretation of the Viewshed Review process requires the issuance of a Minor Use Permit – Viewshed Review prior to construction of a rooftop deck. This process both permits a higher level of review over the impacts to the surrounding areas created by new two-story construction as well as notifying the neighboring community of impending development. Removal of the Viewshed Review requirement for single-story rooftop decks may potentially lead to an increase in privacy concerns created by this type of project.

Undergrounding Utilities

Overhead utility lines are typically viewed as an aesthetic blight upon the Cityscape, and reduction of undergrounding requirements will slow the rate at which this aesthetic issue is corrected. Although the one hundred (100) square foot limitation is stricter than surrounding jurisdictions, waiving of the requirement is common when reviewing minor additions.

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 NOTICE AND COMMENT:

A notice of public hearing was published in The Tribune and posted at City Hall and on the City's website on Friday, July 21, 2017. 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 comments have been received.

Attachments:

1. Map showing ½ mile radius of transit stops in Arroyo Grande
2. Correspondence received from Linda Keating

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARROYO GRANDE RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING DEVELOPMENT CODE AMENDMENT NO. 17-002; AMENDING TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING ROOFTOP DECKS, ACCESSORY DWELLING UNITS, AND UNDERGROUND UTILITIES; LOCATION – CITYWIDE

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 Planning Commission 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 Planning Commission finds, after due study, deliberation and public hearing that the proposed Ordinance will further promote the health, safety and welfare of the community 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.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Arroyo Grande hereby recommends the City Council adopt an Ordinance approving Development Code Amendment No. 17-002 amending Title 16 of the Arroyo Grande Municipal Code as attached hereto as Exhibit "A" and incorporated herein by this reference.

On a motion by Commissioner _____, seconded by Commissioner _____ and by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

The foregoing Resolution was adopted this 1st day of August, 2017.

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**GLENN MARTIN
CHAIR**

ATTEST:

**DEBBIE WEICHINGER
SECRETARY TO THE COMMISSION**

AS TO CONTENT:

**TERESA MCCLISH
COMMUNITY DEVELOPMENT DIRECTOR**

EXHIBIT A

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING ROOFTOP DECKS, ACCESSORY DWELLING UNITS, AND UNDERGROUND UTILITIES

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 has held a duly noticed public hearing on TBD, 2017 and, after consideration of all testimony and relevant evidence, has 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.

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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 a second residential 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. ~~16.52.150 – Second residential dwellings~~ Accessory Dwelling Units.

A. Purpose and Intent. The purpose of these standards is to ensure that ~~second residential dwellings~~ 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 ~~second dwellings~~ accessory dwelling units. In particular, such dwellings may not be appropriate on hillside lots because of environmental constraints. The addition of a second residential 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. ~~Second residential dwellings~~ Accessory dwelling units may be permitted in any residential district, subject to the standards set forth in this section.

2. ~~Second residential dwellings~~ 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 ~~second dwelling~~ 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. An "attached ~~second residential dwelling~~ accessory dwelling unit" shall mean a dwelling that is either combined within the living area or attached to the primary residence. A "detached ~~second residential dwelling~~ accessory dwelling unit" shall mean a dwelling that is not combined within or attached to the primary residence. For the purposes of this chapter, "a dwelling" shall not include a garage or any accessory structure. "Primary residence" shall mean an existing detached residential structure that conforms with all applicable zoning regulations.
 3. An ~~second residential dwelling~~ 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 ~~second residential dwelling~~ 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 ~~second residential dwelling~~ 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 a ~~second dwelling~~ 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 ~~second residential dwelling~~ accessory dwelling unit shall be located a minimum distance equal to twice the applicable side yard setback from the primary residence.
 3. Yard Setbacks. The ~~second residential dwelling~~ 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 ~~second residential dwelling~~ 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 ~~second dwelling~~ accessory dwelling unit in each residential zoning district. In no case shall the square footage of an accessory dwelling unit ~~second dwelling~~ exceed fifty (50) percent of the square footage of the primary residence.

Table 16.52.150-A

| Zoning Designation | Maximum Size of Second Dwelling <u>Accessory Dwelling Unit</u> |
|--------------------------------------|--|
| Village Residential (VR) | 640 square feet |
| Single-Family (SF) | 850 square feet |
| 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 ~~second residential dwelling~~ 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 x L | x 100 |
| | A x 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 second residential dwelling 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. All parking spaces shall be exclusive of front and street side yard setbacks. Such parking spaces shall be located in close proximity to the second residential dwelling 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. Proposed tandem parking requires approval of a conditional use permit.
 - 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. Occupancy Requirements. Second residential dwellings not be offered for sale apart from the primary residence and shall be occupied on a month-to-month basis or longer. Either the primary residence or the second residential dwelling must be occupied by the owner of the property.

10. Driveway Access. ~~Second residential dwellings~~ 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 ~~second dwelling~~ accessory dwelling unit is from a different public street than the primary residence.
11. Deed Restriction. A deed restriction shall be recorded against the title of the property containing an ~~second residential dwelling~~ accessory dwelling unit prior to issuance of a building permit. Such deed restriction shall stipulate that the ~~second dwelling~~ 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.
12. Utility Meters. For any lot zoned for multiple family or single-family uses, the ~~second residential dwelling~~ 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 ~~second dwelling~~ accessory dwelling unit will be assessed at the time a building permit is issued, based on building area and fixtures added.
13. 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.
14. Other Conditions.
 - a. ~~Second residential dwellings~~ Accessory dwelling units shall be served by city water. ~~Second residential dwellings~~ Accessory dwelling units shall be prohibited on lots containing a guesthouse, converted garage, mobile home, or more than one existing single-family dwelling.
 - b. ~~Second residential dwellings~~ 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. State Law Applicable. The provisions of this section shall be subordinate to and superceded 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.

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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.

4. 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.

5. 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.

6. Lighting. Lighting shall be designed to prevent unnecessary or excessive lighting impacts onto neighboring properties. Rooftop decks with proposed 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 in its entirety as follows:

16.68.050 - Underground utilities

B. Applicability.

1. Service Drops.

a. All projects (discretionary or ministerial) that involve the addition of over one hundred ~~(100)~~ three hundred (300) 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.

ORDINANCE NO.

PAGE 9

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



COMMUNITY



Debbie Weichinger

From: Linda Keating [REDACTED]
Sent: Wednesday, July 26, 2017 2:36 PM
To: Debbie Weichinger
Subject: AG Public Hearing 8/1 Accessory Dwelling Units
Attachments: Letter to J_Hill.pdf

Importance: High

Sent via e-mail to dweichinger@arroyogrande.org and delivered hard copy.

Subject: Public Hearing 8/1--Use of Accessory Dwelling Units for Homestay vacation rentals

Planning Commission Members:

I received a notice that you will be discussing Accessory Dwelling Units at a Public Hearing 8/1. The notice did not include discussion points. If not included, I would like to propose that you add the issue of the rental use of these ADUs. Currently, there are three ADUs that are being used as Homestay short term vacation rentals. This conflicts with the stated purpose and use of these units. But, the city has allowed this to occur.

I have attached a copy of a letter sent to the Mayor and City Manager last month that details the situation. I have also attached the response from the City Manager.

When Assembly Bill 1866 went into effect in 2003, it made it easier to build Accessory Dwelling Units. An updated ADU bill went into effect this January that lifted even more restrictions, allowing these units to be created at an even a lower cost.

The [Arroyo Grande Housing Element 2014-2019](#) document adopted by the City Council as Resolution No. 4715 on 3/2016, the City recognized the significance of Accessory Dwelling Units (Formerly Second Residential Dwelling). Quoting from this document:

- Stated definition of a Second Residential Dwelling.

“In the City’s Development Code, second dwelling units are referred to as a “Second Residential Dwellings”. A Second Residential Dwelling is either a detached or attached dwelling unit that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence.”

- Expressed the importance of Second Residential Dwelling units.

“Second units can be an important source of affordable housing since they are smaller than primary units and they do not have direct land costs. Second units can also provide supplemental income to the homeowner, thus allowing the elderly to remain in their homes or moderate-income families to afford housing.”

- Rental of Second Residential Dwelling units (Arroyo Grande Development Code)

“Shall be occupied on a month-to-month basis or longer. Either primary residence or second residential dwelling must be occupied by the owner of property.”

One major demographic segment effected by the lack of affordable housing is the over 55 group – of which I am a member. According to published data, 35.7% of the Arroyo Grande population is in this age group. Over the last 10

years, this group's retirement funds were hit very hard by the recession/market downturn and housing collapse. I have several friends who had to pull out funds to live at the market low, lost houses and have been forced out of rentals because they were sold due to the recovery. Unable to find housing, they have moved out of the area or into temporarily living with family/friends while wait-listed for low-income facilities.

Other local cities (San Luis Obispo and Morro Bay) specifically exclude Accessory Dwelling Units from their Vacation Rental programs. In fact, I was only able to find one California city with a Vacation Rental policy that permitted the use of Accessory Dwelling Units as short-term rentals. This was Oakland.

I urge the city of Arroyo Grande to take a responsible position on this issue and encourage the construction of Accessory Dwelling Units but only for their intended use.

PROVIDE THE AFFORDABLE HOUSING UNITS THAT ARE SO DEPAERATELY NEEDED –
NOT AFFORDABLE AIRBNB LODGING

Sincerely,

Linda Keating
[REDACTED] Myrtle Drive
Arroyo Grande, CA 93420

July 5, 2017

(Sent via e-mail and USPS)

Mr. Jim Hill
Mayor City of Arroyo Grande
300 E. Branch St.
Arroyo Grande, CA 93420

Dear Mayor Hill:

I am writing because of the Airbnb Homestay that is operating across from my property. The unit being rented was permitted for construction 10/2015 as a Second Residential Dwelling. The Homestay usage of this property is in direct conflict with the purpose, intended use and standards set forth by the City of Arroyo Grande in its Housing Element 2014-2019 document for Second Residential Dwelling units.

Additionally, since the Second Residential Dwelling rental unit is NOT an owner-occupied dwelling unit, it falls outside the definition of a Homestay rental.

To date, there have been three Second Residential Dwellings that have received Homestay permits. It seems very odd that two of the three are associated with City Council members. One is owned directly by Council member Caren Ray. Another is owned by the father of Council member Kristen Barneich, Chuck Fellows who was a former Council member and now a current member of the City's TBID Advisory Board.

Second Residential Dwellings – Definition, Importance and Development Standards

Assembly Bill 1866 (Wright) went into effect on July 1, 2003 making the approval of Second Residential Dwellings a governmental rather than discretionary process. Which means that a request to build could not be denied by a local government if the project met the basic State requirements.

In the Arroyo Grande Housing Element 2014-2019 document adopted by the City Council as Resolution No. 4715 on 3/2016, the City recognized the significance of this bill and its intent. (Section attached.) The Housing Element document did the following:

- Stated definition of a Second Residential Dwelling.

“In the City’s Development Code, second dwelling units are referred to as a “Second Residential Dwellings”. A Second Residential Dwelling is either a detached or attached dwelling unit that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence.”

- Expressed the importance of Second Residential Dwelling units.

“Second units can be an important source of affordable housing since they are smaller than primary units and they do not have direct land costs. Second units can also provide supplemental income to the homeowner, thus allowing the elderly to remain in their homes or moderate-income families to afford housing.”

- Set Standards for Second Residential Dwelling units.

| Standards | Second Residential Dwelling |
|-----------------------|--|
| Development Standards | Shall comply with all zoning regulations and property development standards of the district in which it is located. Any proposed deviation from standards of Development Code Section 16.52.150 (Second residential dwellings) shall be processed through a conditional use permit or minor use permit application as determined by the Community Development Director. |
| Minimum Lot Size | 6,750 sf |
| Maximum Size | 50% of square footage of primary residence ¹ |
| Rental of Unit | Shall be occupied on month-to-month basis or longer. Either primary residence or second residential dwelling must be occupied by owner of property |
| Building Separation | Detached second residential dwelling - located a minimum distance equal to twice the applicable side yard setback from primary residence. |
| Average Slope | 20% max. |
| Parking | 1 space/bedroom (max. 2 spaces) |

Source: City of Arroyo Grande Development Code

“Rental of Unit: Shall be occupied on month-to-month basis or longer. Either primary residence or second residential dwelling must be occupied by owner of property.”

Arroyo Grande Vacation Rental Policy

In May 2014, Arroyo Grande modified the city’s ordinance to allow permitting vacation rentals. The modifications defined two types of rentals. The least expensive and easiest to obtain is called Homestay.

Definition: “Homestay” means an owner-occupied dwelling unit where a maximum of two (2) short-term lodging rooms are provided for compensation.

Pertinent Homestay Conditions:

5. The owner shall reside on the premises.
6. Individual guest stays shall be limited to fourteen (14) days with a seven-day period between stays.

Homestay Permits granted to Second Residential Dwellings

To date, three Homestay permits have been granted to properties that are Second Residential Dwellings. All are being actively advertised on Airbnb. These are:

- PPR 14-008_202 Canyon Way Owned by Council member Kristen Barnich’s father Chuck Follows, (appointed to Arroyo Grande TBID Advisory Board 6/13/2017).
- PPR 15-012-709 Mustang Cir -- Owned by Michael Chaney
- PPR 17-001_756 Myrtle St. – Owned by Council member Caren Ray

The advertising for these three units is attached.

Need for affordable housing is real

Again, quoting the City's Land Use document -- *"Second units can be an important source of affordable housing since they are smaller than primary units and they do not have direct land costs"*. Attached is a recent article from The Tribune *"Affordable housing tough to find in San Luis Obispo County"*. I personally have friends who have been forced out of their long-time rental units because they have been sold to investors. As a result, they had to move away or in with friends. They are now on long waiting-lists for low-income apartments.

Major cities, New York, San Francisco, Chicago, Portland to name a few are taking aggressive measures to make it very difficult to operate an Airbnb profitably. These cities all face affordable housing crises. Having investors purchase low-end units that they rent on Airbnb, is squeezing out the people who really need the units. There is an attached article describing San Francisco actions. *"Airbnb, San Francisco settle lawsuit over short term rental suit"*.

I am not asking that any ordinances or laws be altered. I am simply asking that the codes be observed as intended.

I am requesting that the city of Arroyo Grande immediately stop issuing Homestay permits for Second Residential Dwellings. Second Residential Dwellings are to be rented on a month to month basis or longer. If the owner of a Second Residential Dwellings elects to rent a room in the Primary Residential Dwelling as a Homestay, this could be done. But, the Secondary Residential Dwelling, must be reserved for its intended use.

I am requesting that all Homestay licenses for the three Second Residential Dwellings be terminated. When the owners of these properties took advantage of the legislation allowing them ability to construct a Second Residential Dwelling, they were aware of the intended and permitted use of these units. Especially those who were/are members of the City Council. Hopefully, these owners will respect the intended use of these structures and put these Second Residential Dwellings into the rental pool to help provide the affordable housing this area so desperately needs. This provides the owners income as well as maintaining the character of the existing neighborhood.

I am also requesting that an investigation be conducted to determine how the Homestay permits were issued when the language defining a Homestay and the City of Arroyo Grande Development code seems to clearly prohibit these Dwellings. San Luis Obispo specifically excludes them on the permit form (See attached). Morro Bay recently voted to exclude them.

Additionally, I would suggest that Arroyo Grande follow the actions that San Francisco has taken with Airbnb – no license, no listing. If an unlicensed property is listed, Airbnb pays a hefty fine to the City until it is removed.

Thank you in advance for your prompt attention to this matter.

Sincerely,

Linda Keating
313 Myrtle Dr.
Arroyo Grande, CA 93420

CC: Jim Bergman, City Manager
Heather Whitham, City Attorney



CLEAN QUAIN T WINE-COUNTRY COTTAGE

Arroyo Grande, CA, United States ★★★★★ 92 reviews



Linda And
Chuck



Entire home/apt



2 Guests



1 Bedroom



1 Bed

About this listing

Spotless, peaceful cottage w/ private back deck, fire pit, and full kitchen. Walk to charming, historic village of Arroyo Grande = boutiques, restaurants, bars, bakeries, coffee houses, groceries & antique shops. Reach over 200 WINERIES in 45 minutes



Private Guest House- modern farmhouse design

Arroyo Grande, CA, United States ★★★★★ 13 reviews



Caren



Entire home/apt



4 Guests



1 Bedroom



2 Beds

About this listing

Private guest house that's brand new (2017), with modern conveniences and antique design touches. It's a short easy walk to the historic Village of Arroyo Grande, and a 5 minute drive to area beaches. The guest house is a gorgeous addition to our historic farmhouse. The proceeds from your stay will go toward the restoration and renovation of the main house, so you're contributing to saving a historic landmark! See more by searching historic rice house arroyo grande.



Beautiful Central Coast Guesthouse

Arroyo Grande, CA, United States ★★★★★ 61 reviews



Mike



Entire home/apt



8 Guests



3 Bedrooms



4 Beds

About this listing

Private, 3 bedroom 1600 sq ft guesthouse in Arroyo Grande, CA (Central Coast) 3 miles from Pismo Beach. 1st class accommodations close to beaches, wineries, golf, restaurants, and shopping. Pool/hot-tub, game-room, and laundry. Kids and pet friendly. Large patio and garden/lawn area. Fully stocked kitchen with everything needed to prepare and serve meals. Induction style cook tops, plenty of pans, knives, settings, etc. Coffee maker, crock pot, microwave. Table seating for 8.

Emergency Shelters and Transitional Housing

State legislation SB 2 requires jurisdictions to permit emergency shelters without a Conditional Use Permit (CUP) or other discretionary permits, and transitional housing and supportive housing must be considered residential uses and must only be subject to the same restrictions that apply to the same housing types in the same zone. Programs K.2-1 and K.2-2 are proposed to amend the Development Code to allow emergency shelters without any discretionary review (by right) in at least one zone and to define transitional and supportive housing as required per SB2.

Secondary Dwelling Units

To encourage establishment of secondary dwelling units on existing developed lots, State law requires cities to either adopt an ordinance based on standards set out in the law authorizing creation of second units in residentially zoned areas, or where no ordinance has been adopted, to allow second units if they meet standards set out in the State law. State law requires ministerial consideration of second unit applications in zones where single-family dwellings are permitted. Local governments are precluded from totally prohibiting second units in residentially zoned areas unless they make specific findings (Government Code §65852.2). Second units can be an important source of affordable housing since they are smaller than primary units and they do not have direct land costs. Second units can also provide supplemental income to the homeowner, thus allowing the elderly to remain in their homes or moderate-income families to afford housing.

In the City’s Development Code secondary dwelling units are referred to as a “second residential dwellings”. A second residential dwelling is either a detached or attached dwelling unit that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence.

Table 5-5 sets out the primary standards for second residential dwellings in the City. The City’s standards do not conflict with State law governing second units. However, having a minimum parcel size requirement for a second residential dwelling can often be a constraint to developing secondary units.

| Table 5-7 Second Residential Dwellings Development Standards | |
|--|---|
| Standards | Second Residential Dwelling |
| Development Standards | <p>Shall comply with all zoning regulations and property development standards of the district in which it is located.</p> <p>Any proposed deviation from standards of Development Code Section 16.S2.1S0 (Second residential dwellings) shall be processed through a conditional use permit or minor use permit application as determined by the Community Development Director.</p> |
| Minimum Lot Size | 6,750 sf |
| Maximum Size | 50% of square footage of primary residence ¹ |
| Rental of Unit | Shall be occupied on month-to-month basis or longer. Either primary residence or second residential dwelling must be occupied by owner of property |
| Building Separation | Detached second residential dwelling - located a minimum distance equal to twice the applicable side yard setback from primary residence. |
| Average Slope | 20% max. |
| Parking | 1 space/bedroom (max. 2 spaces) |

Source: City of Arroyo Grande Development Code

Development Processing and Development Impact Fees

Like most cities in California, Arroyo Grande charges planning, building, and impact fees for residential developments. Table 5-6 summarizes the planning fees charged by the Community Development Department for processing residential applications. These fees are established by the City Council to cover the staff and other costs associated with processing a housing development application. These fees are comparable to other area jurisdictions and not considered excessive.

The fees charged at the time of the issuance of a building permit for residential development include standard building permit plan check and inspection fees as well as impact fees set by the City. Building fees are set by the Building Code and represent the costs for plan review and inspection of the project construction. Given the nature of these fees, they are not considered excessive in that they are essential to ensure the health and safety of the project construction.

Impact fees cover the costs of infrastructure and public services. Given the current tax structure the City must operate under, there are not adequate general funds to provide the services and infrastructure necessary for new residential development, thus development impact fees must be charged to cover the costs of the services or infrastructure requirements.

High housing costs play a big role in the Central Coast's unaffordability, as underscored by National Low Income Housing Coalition data released this week. Affordable rental housing — units that cost residents no more than 30 percent of their income — is tough to find in San Luis Obispo County and across the country, especially for those working for minimum wage. Joe Johnston
jjohnston@thetribunenews.com

May 27, 2016 8:19 PM

Affordable housing tough to find in SLO County, California

By Lindsey Holden

It's not easy being poor in San Luis Obispo County. Or even middle class, for that matter. High housing costs play a big role in the Central Coast's unaffordability, as underscored by [National Low Income Housing Coalition data](#) released this week. Affordable rental housing — units that cost residents no more than 30 percent of their income — is tough to find in San Luis Obispo County and across the country, especially for those working for minimum wage.

The [U.S. Department of Housing and Urban Development](#) estimates a fair market two-bedroom apartment averages about \$1,056 in the U.S. A resident would need to earn about \$20.30, or \$42,240 per year, to afford such housing. The federal minimum wage is currently \$7.25 per hour, meaning a worker would have to work about 112 hours per week to pay for their housing.

In California, where the minimum wage is \$10 per hour, the Housing Coalition's study ranks California as having the third most expensive housing in the country. A resident must earn about \$28.59 per hour, or \$59,464 per year, to afford the \$1,487 monthly rent for a typical two bedroom apartment. Although the state's minimum wage is set to go up to \$15, the cost of housing still outpaces the jump in salary.

SLO County's rental housing costs more than in most other areas of the country, but it still costs residents less than those living in the famously expensive San Francisco Bay Area. SLO County residents need a job paying about \$25.19 per hour, or \$52,400 per year, to rent a \$1,310-permonth two-bedroom apartment, which makes SLO County the 17th most expensive county in California.

In Marin County — the most expensive county in California — residents must earn \$44.02 per hour, or \$91,560 per year, to afford the typical \$2,289-per-month rent for a two-bedroom apartment.

Even so, young professionals juggling student loans with rent and other monthly expenses find it tough to eke out a living in SLO County.

Ray Scott, a physical therapist assistant, said he and his wife are preparing to move in with family in the Bay Area because they can't afford to live in the area and pay rent on their own. They pay about \$1,100 per month to live in a guest house in San Luis Obispo, which he said is hard to manage, especially because his wife wants to go back to school.

"As far as wages versus rent, it's just not sustainable," Scott said.

Even though SLO County isn't the priciest place to live in California, its highly competitive housing market makes a decent apartment hard to find. The countywide vacancy rate is 1.7 percent, said Scott Smith, executive director of the [Housing Authority of San Luis Obispo](#). A healthy vacancy rate is about 5 percent, Smith said.

"It's a supply issue," said John Fowler, president of nonprofit Peoples' Self-Help Housing.

Smith said affordable housing is important to consider because it affects employers as well as residents. It's hard to convince both professionals and minimum wage earners to work in an area with such high rents, Smith said.

HASLO helps low-income residents with housing subsidies and builds affordable units throughout the county. People's Self-Help does similar work as a private nonprofit in SLO, Santa Barbara and Ventura counties.

Fowler said he's seen some area officials push back against building more housing, especially due to concerns about water and limited resources. Even so, he said it's possible to balance such concerns with the need for housing.

Read more here: <http://www.sanluisobispo.com/news/local/article80507357.html#storylink=cpy>

Airbnb, San Francisco settle lawsuit over short-term rental law

By [Heather Somerville](#) and [Dan Levine](#) | SAN FRANCISCO

Airbnb Inc and the city of San Francisco have settled a year-long lawsuit over a local ordinance forbidding the home-rental company from taking bookings from hosts who have not properly registered their homes.

The settlement, which Airbnb announced during a call with reporters on Monday, marks the latest effort by the company to compromise with cities and improve its relationship with regulators globally as it eyes an initial public offering. Airbnb is an online marketplace for short-term lodging, with "hosts" who rent their homes in 65,000 cities.

City officials across the globe have sought to minimize Airbnb's impact on tight housing supplies and rental costs, sparking legal fights with the company, which has argued that, as an Internet platform, it is not responsible for the listings on its website.

As part of the settlement with San Francisco, where Airbnb is headquartered, the company will create a registration system requiring that anyone in the city who wants to rent room or house on Airbnb must first supply their name, address and zip code, said Airbnb global policy chief Chris Lehane. Only after registering can hosts list their homes for rent.

"Every host on the Airbnb platform will be registered, which is what the city has said it will be looking for," Lehane said.

The company will turn over host registration information to city officials. The city last year enacted an ordinance, sparking the lawsuit, making it illegal for Airbnb to collect fees for providing booking services for rentals that had not been properly registered. Airbnb makes money by charging a service fee on bookings.

Airbnb's new registration system, expected to roll out in early 2018, will not prevent hosts that are not compliant with city laws from registering, meaning there could be a lag period during which illegal hosts can rent out homes before city officials identify them. San Francisco limits each host to one rental unit and caps the number of nights a unit can be rented.

Airbnb will also deactivate listings if there is an invalid registration, San Francisco City Attorney Dennis Herrera said in a statement. Currently, there are 2,100 registered short-term rental hosts in San Francisco, but Airbnb has more than 8,000 listings in the city.

Herrera called the settlement "a turning point when it comes to enforcement."

The settlement must still be approved by the San Francisco mayor and board of supervisors. Airbnb has similar registration systems in the works in Denver, New Orleans and Chicago.

In a statement, Mayor Ed Lee said the settlement "protects our rental housing stock while allowing residents who follow the rules to gain income to help make ends meet."

The settlement is the latest evidence that Airbnb has lessened its long-standing resistance to turning over data to city officials. In his remarks, Lehane also indicated that Airbnb has backtracked somewhat from its previous argument that any city rules to limit listings published on its website violated a broad federal law that protects internet companies from liability for content posted on their platforms.

"We fundamentally do believe that platforms need to take responsibility," Lehane said.

Airbnb still has ongoing litigation in Miami and Santa Monica, California.

(Reporting by Heather Somerville and Dan Levine in San Francisco; Editing by Jonathan Oatis and Marguerita Choy)



City of San Luis Obispo Homestay Permit

Community Development Department - 919 Palm Street, San Luis Obispo, CA 93401-3218 (805) 781-7170

Please print clearly or type. Return this completed form with your \$ _____ application fee. This form will be your permit when approved. In some cases, you may have to comply with additional conditions.

NOTE: Private property regulations such as deed restrictions or Conditions, Covenants, and Restrictions (CC&R's) of homeowners' associations may restrict or prohibit homestays even if such use is allowed by City Regulations. Applicants are encouraged to determine compliance with any applicable private regulations before applying for City approval.

Applicant _____ Business Name (optional): _____ Phone _____

Address: _____ Zone: _____

This residence is: a Mobile Home Yes No a Condominium Yes No in a Homeowner's Association Yes No

Accurately describes your homestay rental: _____

A more detailed description of your homestay rental may be required later. In some cases, a hearing may be required.

Requirements for Approval

1. **Planning Application:**

Completed planning application

2. **Business License & Tax Certificate:**

Completed Business License & Tax Certificate application

3. **Verification of Owner Occupancy:**

The operator of the homestay must provide verification that the lawfully permitted dwelling unit is their primary residence and is occupied by them for the major portion of the year. Please include a copy of the Homeowner's Property Tax Exemption at the subject property. If the applicant is unable to provide this information, please consult with Planning staff for other appropriate documentation.

Copy of Homeowner's Property Tax Exemption at the subject property

Other documentation, please specify: _____

4. **Responsible Party:**

The operator of the homestay must provide the name and contact information of a responsible party if the owner-occupier anticipates he or she may not be on the premises at all times during the homestay rental. A Responsible Party is a person eighteen years of age or older who is designated by the owner of the property as a point of contact for the homestay rental in the event the owner-occupier is not on the property at all times during the rental to answer for the maintenance of the property and conduct and acts of homestay guests. The responsible party's contact information must be provided to homestay guests and adjacent neighbors.

Designate responsible party

Name: _____

Phone: _____

Address: _____

5. **Parking:**

Operators shall maintain at least one (1) on-site customer parking space in addition to their required residential parking.

Parking in a driveway that has a minimum depth of 20 feet from the back of sidewalk and is made available to guests during homestay rentals shall meet the definition of a parking space.

6. **Site Plan:**

Site plan indicating: property lines, building floor plan indicating rooms to be rented; dimensions of all paved parking spaces; location of recycling and refuse containers; any proposed improvements and/or demolitions (e.g. walls, fences, exterior lights, parking spots)

7. **Other Requirements:**

a. Contact information for the property owner and responsible party must be provided to homestay guests and adjacent neighbors.

b. At all times when a homestay rental is occurring, the property owner or responsible party must be within a fifteen-minute drive of the property and available via telephone twenty-four hours a day, seven days a week, to respond to complaints regarding the homestay.

c. Homestay rentals shall comply with the property development and performance standards listed in Chapters 17.18 and 17.19 of the San Luis Obispo Municipal Code.

d. All building and fire code regulations shall be met.

e. The number of overnight guests shall be limited to four adults and bedrooms shall meet the minimum size requirements as defined in the building code.

f. The homestay shall be limited to only the owner-occupied dwelling unit on the property.

g. Homestay rentals are not permitted in guest houses or guest quarters.

h. Any advertisements for the homestay shall include the business license number. On-site advertising of the homestay is prohibited.

APPLICANT: I understand that if a permit is issued, I must meet the requirements listed above. If the requirements are not met, the permit will be void and the homestay must cease immediately.

Applicant's Signature _____

Date _____

Received by _____ Date: _____