

ORDINANCE NO. 2017 - 1445

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA AMENDING VARIOUS PROVISIONS UNDER TITLE 20 OF THE SAN MARCOS MUNICIPAL CODE (ZONING ORDINANCE) TO REGULATE LAND USES RELATING TO ACCESSORY DWELLING UNITS AND DENSITY BONUSES

WHEREAS, the City desires to amend certain provisions under Title 20 of the San Marcos Municipal Code (SMMC) (Zoning Ordinance) consistent with updated State laws and to clarify the City's desired land use practices; and

WHEREAS, the City currently regulates accessory dwelling units (ADUs), which are presently referred to as "second dwelling units" under Chapter 20.410, Section 20.600.210 and Tables 20.210-2 and 20.215-2 of the Zoning Ordinance. Effective January 1, 2017, State laws governing ADUs were modified with the adoption of Assembly Bill (AB) 2299 and Senate Bill 1069, and impose additional limitations on the ability of local agencies to regulate the development of ADUs. The City's existing ADU provisions under the Zoning Ordinance do not fully conform to the new State laws, and therefore are deemed to be null and void by State law. The City desires to repeal and replace Chapter 20.410 in its entirety and amend any other references to and provisions governing second dwelling units under the Zoning Ordinance to bring those regulations in compliance with the new State laws governing ADUs; and

WHEREAS, the City currently regulates density bonuses under Chapter 20.305 of the Zoning Ordinance to grant a density bonus and other incentives or concessions, waivers or reductions of development standards and decreased parking ratios to developers who agree to construct or donate land for certain percentages of affordable housing units and/or that serve specified percentages of the target populations. The City's existing density bonus provisions are outdated and do not reflect current State laws and requirements consistent with the adoption of AB 1934, 2442, 2501 and 2556,

which went into effect on January 1, 2017. The City desires to amend certain provisions under SMMC Chapter 20.305 to update the City's density bonus ordinance consistent with the new State laws; and

WHEREAS, regulating land use provisions governing ADUs and density bonuses is necessary to protect and preserve the health, safety and welfare of the community; and

WHEREAS, the Development Services Department did study said request and recommends approval of said request; and

WHEREAS, the required public hearing held on May 15, 2017 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider this request as exempt from the California Environmental Quality Act (CEQA) because this is not a project within the meaning of Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. In the event this Resolution is found to be subject to CEQA, it is exempt from CEQA pursuant to the exemption contained in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment.

NOW, THEREFORE, the City Council of the City of San Marcos, California, in accordance with the freedom afforded to charter cities generally, and by the Charter of the City of San Marcos specifically, does ordain as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Existing Chapter 20.410 of the Zoning Ordinance is hereby repealed in its entirety, and existing Tables 20.210-2, 20.215-2, 20.340-1 of the Zoning

Ordinance; and Sections 20.215.050, 20.260.050, 20.310.030, 20.400.220, 20.600.030 and 20.600.210 of the Zoning Ordinance are hereby amended as shown in the attached Exhibit A.

Section 3. Existing Chapter 20.305 of the Zoning Ordinance is hereby amended as shown in the attached Exhibit B.

Section 4. This is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. In the event this Ordinance is found to be subject to CEQA, it is exempt from CEQA pursuant to the exemption contained in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment.

Section 5. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted this Ordinance, and each section, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 6. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall certify to the passage of this Ordinance and cause the same, or the title thereof as a summary, to be published in a newspaper of general circulation

designated for the publication of legal notices in the City of San Marcos in accordance with the provisions of State Law.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos held on the 27th day of June, 2017, and thereafter

PASSED, APPROVED AND ADOPTED at a regular meeting of the San Marcos City Council on the 11th day of July, 2017, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

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James M. Desmond, Mayor

ATTEST:

APPROVED AS TO FORM:

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Phillip Scollick, City Clerk

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Helen Holmes Peak, City Attorney

**EXHIBITS**

- A** Repealed and replaced SMMC Chapter 20.410; and Amended SMMC Tables 20.210-2, 20.215-2, 20.340-1, and SMMC Sections 20.215.050, 20.260.050, 20.310.030, 20.400.220, 20.600.030 and 20.600.210 governing ADUs
- B** Amended SMMC Chapter 20.305 governing density bonuses