

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### CHAPTER 9.21 CANNABIS REGULATIONS

#### Section 9.21.010. Purpose and Intent.

The purpose and intent of this Chapter is to comprehensively regulate cannabis within the City of Guadalupe, as authorized by State law.

#### Section 9.21.020. Definitions.

For purposes of this Chapter, the following definitions apply:

- (a) "Cannabis" and "marijuana" mean all parts of the plant *Cannabis sativa* L., *Cannabis Indica*, or *Cannabis Ruderalis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (b) "Commercial marijuana activity" means the cultivation, harvesting, manufacture, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana or marijuana products.
- (c) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (d) "Cultivation site" means any facility or location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- (e) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.
- (f) "Distribution" means the procurement, sale and transport of marijuana and marijuana products between parties to a transaction.
- (g) "Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- (h) "Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana or marijuana products into the human body.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

- (i) "Marijuana dispensary" or "dispensary" means a facility or location, whether fixed or mobile, where marijuana or marijuana products are made available for sale, whether for medical purposes or otherwise.
- (j) "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.
- (k) "Nursery" means a producer of clones, immature plants, seeds and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.
- (l) "Sell," "sale" and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of same and soliciting or receiving an order for same.
- (m) "Smoke" and "smoking" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" and "smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.
- (n) "Testing service" means a laboratory, facility or entity that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility or entity.

### **Section 9.21.030. Marijuana Dispensaries Prohibited.**

Marijuana dispensaries are prohibited in the City. No person shall operate or allow to be operated a marijuana dispensary in or upon any premises in the City.

### **Section 9.21.040. Commercial Marijuana Activity Prohibited.**

Commercial marijuana activities are prohibited in the City. No person shall operate or allow to be operated a commercial marijuana activity in or upon any premises in the City.

### **Section 9.21.050. Cultivation Prohibited.**

Cultivation of marijuana is prohibited in the City, except for cultivation of up to six (6) living plants for personal use as permitted by California Health and Safety Code section 11362(a)(3) and when located within a private residence or inside an accessory structure of a private residence located upon the grounds of a private residence that is fully enclosed and secure on the grounds of a private residence. Outdoor cultivation of marijuana for person use on the grounds of a private residence (e.g., in a garden area) is prohibited. No person shall operate or allow to be operated a cultivation site or nursery in or upon any premises in the City.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### **Section 9.21.060. Delivery Restricted.**

Delivery of marijuana or marijuana products is limited to the delivery for medical purposes to a qualified patient or primary caregiver pursuant to Health and Safety Code Section 11362.5 from dispensaries located outside of the City.

### **Section 9.21.070. Distribution Prohibited.**

The distribution of marijuana or marijuana products is prohibited in the City.

### **Section 9.21.080. Manufacture Prohibited.**

The manufacture of marijuana or marijuana products is prohibited in the City. No person shall manufacture or allow the manufacturing of marijuana or marijuana products in or upon any premises in the City.

### **Section 9.21.090. Testing Services Prohibited.**

The provision of testing services of marijuana or marijuana products is prohibited in the City. No person shall operate or allow testing services of marijuana or marijuana products in or upon any premises in the City.

### **Section 9.21.100. Smoking Prohibited.**

Smoking marijuana and ingesting marijuana products are subject to the regulations contained in California Health and Safety Code section 11362.3.

### **Section 9.21.110. Public Nuisance.**

- (a) The operation of a marijuana dispensary, commercial marijuana activities, cultivation sites and nurseries, distribution, provision of testing services, and manufacturing of marijuana and marijuana products from any property, structure or building in the City is declared to be a public nuisance.
- (b) In addition to the penalties provided in Section 9.21.140, any violation of this Chapter shall constitute a public nuisance and may be abated by the City by administrative process, or by civil restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of a nuisance. All remedies herein are cumulative and non-exclusive.
- (c) Any person, including the City, who prevails in an action or proceeding for the abatement of a public nuisance as provided herein shall be entitled to recover attorney's fees and costs incurred in any such action or proceeding.

### **Section 9.21.120. Confiscation of Marijuana and Marijuana Products.**

Any peace officer who issues a criminal citation under this Chapter shall confiscate any marijuana or marijuana products and store them according to law, pending the conclusion of the criminal case.

### **Section 9.21.130. Suspension or Revocation of Business License.**

No person or business holding a City business license and owning or operating a business in the City may use that business to operate a marijuana dispensary, conduct commercial marijuana activities, operate a cultivation site or nursery, distribute, provide testing services or manufacture of marijuana and marijuana products. A violation of this Chapter shall constitute grounds for suspension or revocation of a business.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### **Section 9.21.140. Penalties.**

(a) Failure to comply with this Chapter is a misdemeanor punishable by imprisonment in the County Jail for a period not exceeding six (6) months, or by fine not exceeding \$1,000.00, or by both, provided that where the City Attorney determines that such action would be in the interest of justice, he/she may specify in the accusatory pleading that the offense is an infraction.

(b) Each person committing, causing, or maintaining a violation of this Chapter, or failing to comply with the requirements set forth herein shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued, maintained, or permitted by such person and shall be punishable accordingly.

### **Section 9.21.150. Exclusions.**

(a) Nothing in this Chapter is intended to prohibit individuals from cultivating not more than six (6) living marijuana plants and possessing the marijuana produced by the plants when in compliance with the restrictions set forth at Health and Safety Code Section 11362.2(a) and when located within a private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secure.

(b) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without compensation, not more than 28.5 grams of marijuana and not in the form of concentrated cannabis, as set forth at Health and Safety Code Section 11362.1(a)(1).

(c) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, process, transport, purchase, obtain or give away to persons 21 years of age or older without any compensation, not more than eight (8) grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products, as set forth at Health & Safety Code Section 11362.1(a)(2).

(d) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without compensation, as set forth at Health and Safety Code Section 11362.1(a)(S).

(e) Marijuana and marijuana products involved in any way with conduct deemed lawful by this Section are not contraband and not subject to seizure. No conduct deemed lawful by this Section shall constitute the basis for detention, search or arrest.

### **Section 9.21.160. Severability.**

If any section, subsection, sentence, clause or phrase of this Chapter is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction or preempted by State or Federal legislation, such decision or legislation shall not affect the validity of the remaining provisions of this Chapter.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### 15.14.010 Purpose.

The purpose of the Ordinance is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. The Ordinance encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City of Guadalupe, and expanding the ability of property owners to install solar energy systems. The Ordinance allows the City of Guadalupe to achieve these goals while protecting the public health and safety.

### 15.14.020 Definitions.

- A.** A "Solar Energy System" means either of the following:
1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
  2. Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.
- B.** A "small residential rooftop solar energy system" means all of the following:
1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
  2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City of Guadalupe and all state and City of Guadalupe health and safety standards.
  3. A solar energy system that is installed on a single or duplex family dwelling.
  4. A solar panel or module array that does not exceed the maximum legal building height as defined by City of Guadalupe.
- C.** "Electronic submittal" means the utilization of one or more of the following:
1. Email;
  2. The Internet;
  3. Facsimile.
- D.** An "association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- E.** A "common interest development" means any of the following:
1. A community apartment project.
  2. A condominium project.
  3. A planned development.
  4. A stock cooperative.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

- F. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- G. "Reasonable restrictions" on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.
- H. "Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:
  - 1. For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.
  - 2. For Photovoltaic Systems: an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

### 15.14.030 Applicability.

- A. This Ordinance applies to the permitting of all small residential rooftop solar energy systems in the City of Guadalupe, California.
- B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Ordinance are not subject to the requirements of this Ordinance unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

### 15.14.040 Solar Energy System Requirements.

- A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the City of Guadalupe's Building Division and Fire Department.
- B. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.
- C. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### **15.14.050 Duties of the Building Department and Building Official.**

- (a) All documents required for the submission of an expedited solar energy system application shall be made available on the publicly accessible City of Guadalupe Website.
- (b) Electronic submittal of the required permit application and documents by email or the Internet shall be made available to all small residential rooftop solar energy system permit applicants.
- (c) An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.
- (d) The City of Guadalupe's Building Department shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.
- (e) The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.
- (f) All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

### **9-18.06. Permit Review and Inspection.**

- (a) The City of Guadalupe's Building Department shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within thirty (30) days of the adoption of this Ordinance. The Building Division shall issue a nondiscretionary building permit the same day for over-the-counter applications, if possible, or otherwise, within twenty-four (24) hours, or within three (3) business days for electronic applications, of receipt of a complete application that meets the requirements of the approved checklist and standard plan. The Building Official may require an applicant to apply for a use permit pursuant to Guadalupe Municipal Code Section 18.12.010 if the Building Official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the City of Guadalupe Planning Commission.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

- (b) Review of the application shall be limited to the Building Official's review of whether the application meets local, state, and federal health and safety requirements.
- (c) If a use permit is required, the Building Official may deny an application for the use permit if the Building Official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the Planning Commission.
- (d) Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.
- (e) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City of Guadalupe on another similarly situated application in a prior successful application for a permit. The City of Guadalupe shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.
- (f) The City of Guadalupe shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.
- (g) If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission. Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review. Notwithstanding the foregoing, the applicant may voluntarily waive the requirement for a single inspection and agree to multiple inspections on an agreed upon schedule. Any such waiver and agreed upon schedule shall be in writing. (i) The inspection shall be done in a timely manner and should include consolidated inspections. An inspection will be scheduled within two [2] business days of a request and provide a two (2) hour inspection window.
- (j) If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this Ordinance.



# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### Chapter 18.04 GENERAL PROVISIONS

#### 18.04.010 Provisions adopted - Statutory authority.

A substantially revised ordinance of the City, establishing regulations for the use of land and entitled "Zoning Ordinance," is adopted by the City Council. The regulations within this Zoning Ordinance are enacted based on the authority vested in the City of Guadalupe by the State of California, including: the California Constitution; the Planning and Zoning Law (Government Code Section 65000 et seq.); the California Coastal Act (Public Resources Code Section 30000 et seq.); the Subdivision Map Act (Government Code Section 66410 et seq.); and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)

#### 18.04.020 - Purpose of Zoning Ordinance.

The City of Guadalupe Municipal Zoning Ordinance, hereafter referred to as the "Zoning Ordinance," constitutes a portion of Chapter 18 of the City of Guadalupe Municipal Code. This Zoning Ordinance carries out the policies of the City of Guadalupe General Plan by classifying and regulating the uses of land and structures within the City, consistent with the General Plan. The purpose of this Zoning Ordinance is to protect and to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the City. More specifically, the purposes of this Zoning Ordinance are to:

- A. Provide standards and guidelines for the continuing orderly growth and development of the City that will assist in protecting the character and stability (social and economic) of agricultural, residential, commercial and industrial uses, as well as the character and identity of communities within the City;
- B. Create a comprehensive and stable pattern of land uses upon which to plan transportation, water supply, sewerage, energy, and other public facilities and utilities;
- C. Encourage the most appropriate uses of land in order to prevent overcrowding of land and avoid undue concentration of population, and maintain and protect the value of property; and
- D. Ensure compatibility between different types of development and land uses.

#### 18.04.030 - Responsibility for Administration

- A. Responsible bodies and individuals.** This Zoning Ordinance shall be administered by:
1. The Guadalupe City Council, hereafter referred to as the "Council;"
  2. The Planning Director of the Planning Department, hereafter referred to as the "Planning Director;" and
  3. The Planning Department, hereafter referred to as the "Department or designee."

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

**B. Responsibility and authority of Planning Director.** Whenever this Chapter refers to the Department, it is expressly understood that the Department staff are acting under the direction and control of the Planning Director and that they report directly and act as the designee to the Planning Director, or in the absence of a Planning Director, the City Administrator rather than the City Council.

### **18.04.040 - Applicability of the Zoning Ordinance.**

This Zoning Ordinance applies to all land uses, subdivisions, and development within the City of Guadalupe as follows.

**A. New land uses or structures, changes to land uses or structures.** It shall be unlawful, and a violation of this Zoning Ordinance for any person to establish, construct, reconstruct, alter, or replace any use of land or structure, except in compliance with the requirements of Section 18.12.010 (Zoning Clearance requirements) and Chapter 18.68 (Nonconforming Uses and Structures). No Building Permit, Grading Permit, or Zoning Clearance shall be issued by the Department unless the proposed construction complies with all applicable provisions of this Zoning Ordinance and is consistent with applicable provisions of the General Plan.

**B. Subdivisions.** Any subdivision of land proposed within the City after the effective date of this Zoning Ordinance shall be consistent with the minimum lot area and width requirements of Chapter 18.52 (Design and Development Requirements) unless a reduction is allowed in compliance with Section 18.72.060 (Variances), the City's subdivision regulations (Guadalupe Municipal Code, Chapter 17) and all other applicable requirements of this Zoning Ordinance.

**C. Continuation of an existing land use.** An existing land use is lawful and not in violation of this Zoning Ordinance only when operated and maintained in compliance with all applicable provisions of this Zoning Ordinance, including Chapter 18.68 (Nonconforming Uses and Structures). However, the requirements of this Zoning Ordinance are not retroactive in their effect on a land use that was lawfully established before the effective date of this Zoning Ordinance or any applicable Amendment, except as otherwise provided by Chapter 18.68 (Nonconforming Uses and Structures).

**D. Effect of Zoning Ordinance changes on projects in progress.** A project that is under construction on the effective date of this Zoning Ordinance or any Amendment, need not be changed to satisfy any new or different requirements of this Zoning Ordinance, provided that the construction, i.e., the placing of construction materials in permanent position and fastened in a permanent manner, was lawfully begun prior to the effective date of this Zoning Ordinance or any Amendment.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### E. Conflicting requirements.

#### 1. Zoning Ordinance and Guadalupe Municipal Code provisions.

If conflicts occur between requirements of this Zoning Ordinance or between this Zoning Ordinance and the Guadalupe Municipal Code, or other regulations of the City, the most restrictive shall control unless specifically indicated otherwise. Within the Coastal Zone, conflicts shall be resolved in manner which on balance is the most protective of significant coastal resources.

**2. Development Agreements or Specific Plans.** If conflicts occur between the requirements of this Zoning Ordinance and standards adopted as part of any Development Agreement or applicable Specific Plan, the requirements of the Development Agreement or Specific Plan shall apply.

**3. Private agreements.** This Zoning Ordinance applies to all land uses and development regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction (for example, CC&Rs) without affecting the applicability of any agreement or restriction. The City shall not enforce any private covenant or agreement unless it is a party to the covenant or agreement, or a portion thereof.

**F. State, City, Local Agency, and School District sites and facilities.** Within the City, the provisions of this Zoning Ordinance do not apply to the following governmental properties and activities.

- a. Development by the Federal Government on long-term leased or federally owned land.
- b. Development by the State or an agency of the State acting in its sovereign (governmental) capacity.
- c. Development by the City or any district of which the Council is the governing body.

**G. Other requirements may apply.** Nothing in this Zoning Ordinance eliminates the need for obtaining any other permits required by the City, or any permit, approval or entitlement required by any other applicable special district or agency and/or the regulations of any State, or Federal agency.

#### 18.04.050 -Validity.

If any division, section, sentence, clause or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this Zoning Ordinance. The Council hereby declares that it would have passed this Zoning Ordinance and each section, sub-section, sentence, clause or phrase hereof irrespective of the fact that anyone or more sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional or invalid.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### Chapter 18.12 ADMINISTRATION

#### 18.12.010 Zoning clearance requirements.

- A. Zoning clearance shall be required prior to the issuing of building permits, and shall be issued by the persons designated by the City Administrator as "Planning Director or designee," after it has been determined that any proposed construction is in conformity with the regulations set forth in this title and applicable sections of the General Plan.
- B. Zoning clearance shall consist of a stamp of approval and a signature of the Planning
- C. Director or designee, along with appropriate notes placed upon all copies of the applicant's plot plan, which are required for application for a building permit. No building permit shall be issued until the plot plan has been approved and stamped by the Director or designee.
- D. The Planning Director or designee shall not accept and approve plot plans which do not contain all information needed to clearly indicate the proposed construction, its use and its exact placement on the property, and a legal description sufficient to locate the property on the City's zoning map and County's Assessor's Parcel Map.
- E. A fee set by resolution shall accompany the application.

#### 18.12.020 Denial of General Plan or zoning amendment, or discretionary permit-Effect.

In case an application for an amendment to this title, an amendment to the General Plan, design review permit, conditional use permit, tentative parcel map, tentative tract map (including vesting maps), or variance is denied, said application shall not be eligible for reconsideration for one year subsequent to such denial unless a new application affecting or including all or a part of the same property is substantially different from the application denied, in the opinion of the Planning Director or designee. Appeal of the Planning Director or designee shall comply with the process set forth in Section 18.80.010.

#### 18.12.030 Conflicts-Request for Planning Commission review.

In any case, when interpreting and applying the provisions of this title, if the Planning Director or designee, or the applicant finds that there is an irreconcilable difference of opinion as to the intent or definition of any part of this title, either party may make a written request that the matter be reviewed and interpreted by the City Council. Once the written request is received, the matter shall be placed upon the agenda of the next regularly scheduled City Council meeting that falls more than 20 days after the written request was received.

#### 18.12.040 Notice of hearings.

- A. Whenever the provisions of this title state that a public hearing shall be held on the applications for use permits, variances, appeals, amendments to this title, amendments to the General Plan, design review, tentative parcel map, or tentative tract map (including vesting maps), or changing the boundaries of any district, notices of public hearings shall be given by the body conducting such hearings in a manner conforming with the requirements of Sections 65090 through 65091 and Sections 65853 through 65857, inclusive, of Article 2 of the government Code. In addition, the City may give notice of the hearing in such other manner as it may deem necessary or desirable.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

B. Upon completion of publication or other notice as provided for in this section, the City Clerk shall cause an affidavit of such publication to be filed in the permanent records of the particular proceedings to which such notices pertain.

### Chapter 18.20 R-1 SINGLE-FAMILY (LOW-DENSITY) RESIDENTIAL DISTRICT

#### 18.20.020 Permitted uses.

Permitted uses in the R-1 district include:

- A. One single-family dwelling; the dwelling shall be of a permanent character, placed upon a permanent foundation, and shall not be a mobile home or other temporary or vehicular type of dwelling;
- B. Accessory buildings or uses, such as garages, patios, swimming pools or storage sheds, which are normally incidental to a single-family residence if constructed simultaneously with or subsequent to the main building on the same lot;
- C. The storage of recreational (trailer) vehicles within the rear yard provided that said vehicle is located a minimum of 5 feet from all property lines and structures;
- D. The storage of recreational (trailer) vehicles within the side yard (or street side yard of corner lots) provided that all of the design standards contained in Municipal Code Section 18.60.035 can be met;
- E. Group dwellings with 6 or fewer residents, such as boardinghouses, family care homes, rest homes, convalescent homes, or other similar residential uses, provided that there shall not be more than one residing occupant for each 500 square feet of land within the lot or parcel on which the dwellings are located.
- F. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required
- G. Small family daycares.
- H. Large family daycares, provided that no large family daycare is closer than 300 feet from
- I. Home Occupations, consistent with the provisions of Section 18.55 (Home Occupations).
- J. Keeping household pets.

#### 18.20.030 Conditional uses.

Uses permitted subject to obtaining a conditional use permit in the R-1 district include:

- A. A church, public or private elementary school, park, playground, public utility building or public building, along with required parking;
- B. Accessory buildings or uses normally incidental to a single-family residence, if constructed or installed prior to the main building on the same lot;

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### CHAPTER 18.21 R-1 (SP) RESIDENTIAL SINGLE-FAMILY-LOW DENSITY (SPECIFIC PLAN)

#### 18.21.010 Specific plan.

A final specific plan for the Point Sal Dunes residential development dated January 8, 1990 has been approved by the City Council. A final specific plan for the DJ Farms project dated September 27, 1993 has been approved by the City Council and amended on June 12, 2018 along with a Memorandum of Agreement, dated June 6, 2018, which regulates driveway parking on certain parcels of Lot 4 (FM 29,062). Future development in this zoning district must be consistent with the approved and adopted specific plan, unless the specific plan is amended as required by State law.

#### 18.21.031 Uses permitted in the rear yard setback.

The uses permitted in the rear yard setback are limited to the following:

D. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

### Chapter 18.24 R-1-M SINGLE-FAMILY (MEDIDM-DENSITY) RESIDENTIAL DISTRICT

#### 18.24.050 Minimum lot area and dimensions.

Lots or parcels in the R-1-M district shall have a minimum area of 4,300 square feet. No lot shall contain less than 40 feet of lot frontage, except where a detached garage is served from an alley, where the minimum width shall be 35 feet. Minimum lot depth shall be 80 feet. On cul-de-sac lots, the required lot width must be provided within the front yard setback.

#### 18.24.090 Rear yard.

In the R-1-M district, a rear yard setback of at least 15 feet shall be provided, except that an open patio awning will be permitted to be constructed with an eave to within 10 feet of the rear property line. (Ord. 196 §1, 1980; Ord. 189 Art. 3 §2.4(C), 1980) A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

### 18.28 R-2 MULTIPLE DWELLING (MEDIUM-DENSITY) RESIDENTIAL DISTRICT

#### 18.28.020 Permitted uses.

Uses permitted in the R-2 district include:

F. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### 18.32 R-3 MULTIPLE DWELLING (HIGH-DENSITY) RESIDENTIAL DISTRICT

#### 18.32.020 Permitted uses.

Uses permitted in the R-3 district include:

E. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

### 18.37 GENERAL STANDARDS FOR COMMERCIAL AND LIGHT INDUSTRIAL DEVELOPMENT

#### 18.37.010 - General Standards

D. All roof-mounted air conditioning or heating equipment, vents or ducts shall not be visible from any abutting lot, or any public street or right-of-way. This shall be accomplished through the extension of the main structure or roof or screened in a manner which is architecturally integrated with the main structure(s). If desired, the owner may incorporate appropriate landscape screening to be substituted or used in conjunction with a roof screening system, provided the screening is approved by the Planning Director or designee.

### 18.44 G-I GENERAL INDUSTRIAL

#### 18.44.040 General standards.

The following standards shall apply to development in the General Industrial District, except as otherwise provided for in this code.

- A. Outdoor uses (e.g., Box and container making or assembling, agricultural industries, lumber yards or lumber assembly, contractor storage yards, shipping and transportation, equipment rental, etc.) should generally be screened from public view in an appropriate manner.
- B. There shall be no visible storage of motor vehicles, trailers, boats, or their composite parts; loose rubbish, garbage or junk, or their receptacles. No storage shall occur on any vacant parcel, unless first permitted by Planning.
- C. Every parcel shall have a trash receptacle on the premises. The trash receptacle shall be screened on 3 sides by a solid enclosure 6 feet in height, and on the 4th side by a solid gate not less than 5 feet in height. The gate shall be maintained in working order and shall remain closed except when in use. The wall and gate shall be architecturally compatible with the surrounding structures.
- D. All roof-mounted air conditioning or heating equipment, vents or ducts shall not be visible from any abutting lot, or any public street or right-of-way. This shall be accomplished through the extension of the main structure or roof or screened in a manner which is architecturally integrated with the main structure(s). If desired, the owner may incorporate appropriate landscape screening to be substituted or used in conjunction with a roof screening system, provided the screening is approved by the Planning Director or designee.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### CHAPTER 18.49 PF - PUBLIC FACILITIES AND INSTITUTIONAL ZONE DISTRICT

#### 18.49.010 Purpose of district.

The PF district is designed and intended to provide for those uses and activities which serve the public and are generally conducted by government agencies or charitable and philanthropic nonprofit organizations.

#### 18.49.020 Permitted uses.

- A. Governmental buildings and facilities designed for public use and accommodation;
- B. Public libraries, museums, schools, and colleges;
- C. Charitable and philanthropic institutions;
- D. Cemeteries, crematories or mausoleums;
- E. Water and wastewater treatment plants, substations and other public service facilities of a similar nature;
- F. Uses, buildings and structures incidental, accessory and subordinate to permitted uses;
- G. Churches;
- H. Student housing;
- I. Any uses which the City Council find to be similar to and within the intent and purpose of the PF district, that are no more obnoxious or detrimental to the public welfare, and are found by the City Council to be compatible with adjoining land uses, and which are of a comparable nature and of the same class as the uses enumerated above.

#### 18.49.030 Accessory uses.

Premises in the PF (public facilities) district may be used for accessory uses, provided such uses are established on the same lot or parcel of land, are incidental to and do not substantially alter the character of any permitted principal use.

#### 18.49.040 Development standards.

Development, uses and structures in the PF district are subject to the development standards set out in Sections 18.49.050 through 18.49.100.

#### 18.49.050 Lot coverage.

No development shall cover in excess of fifty percent (50%) of the total area of the property (exclusive of public streets).

#### 18.49.060 Height.

No building or structure shall exceed a height of three (3) stories or thirty-five (35) feet as measured from finished grade on the site, unless so authorized by the City Council, upon the approval of a Design Review Permit and making the finding that unique circumstances apply to the particular property or development proposed which justify an exception and which, if allowed, will nevertheless be compatible with adjoining properties.



# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### **18.49.070 Setbacks.**

- A. Front yard: No building or structure shall be located closer than fifteen (15) feet to the right-of-way line of any public street.
- B. Required side yard is ten (10) feet.
- C. Required rear yard is ten (10) feet.

### **18.49.080 Project review.**

- A. No permit shall be issued for the grading of land nor for the construction, erection or moving of any buildings or structure, nor the use of any land in the PF district until a Design Review permit has been approved by the City Council. Three (3) copies of a Design Review application shall be submitted to the Planning Department and shall include the following:
  - 1. A plot plan of the proposed development drawn to scale showing the boundaries of the property, topography, and a proposed grading plan; the width, location and names of surrounding streets; the location, dimensions and uses on adjacent property of all existing buildings and structures within fifty (50) feet of the boundary line of the subject property; the location, dimension, ground floor area, and uses of all existing and proposed buildings and structures on the subject property; landscaping, parking areas, including the size and number of parking spaces and the internal circulation pattern; signs, including location, size and height; pedestrian, vehicular and service ingress and egress; location, height and material of walls and fences; and a designation of the specific uses of the property;
  - 2. Schematic drawings and renderings to scale showing architectural design of buildings and structures proposed to be constructed;
  - 3. Statistical information including the following:
    - a. Acreage or square footage in the property,
    - b. Height, ground floor area and total floor area of each building,
    - c. Number of buildings on the site,
    - d. Building coverage expressed as a percentage of the total lot area,
    - e. Parking ratio, expressed as the number of parking spaces to the square footage of building area,
    - f. Area of land devoted to landscaping and/or open space usable for recreation purposes and its percentage of the total land area,
    - g. The sequence of construction of various portions of development,
    - h. A statement as to the source of water and method of waste water disposal.
- B. Upon receipt of a Design Review permit, together with the required supplemental data, the Planning Department shall transmit copies of the Design Review application to various City department for review. The Director or designee shall determine if the application is Complete or Incomplete for processing. If Incomplete, a letter will be transmitted within 30 days of application submittal and identify missing items and all items requiring revisions. If Complete, a letter will be transmitted indicating that the application is Complete and once the California Environmental Quality Act (CEQA) process is completed, a staff report will be prepared with recommendations to City Council. All departmental conditions shall be included with the staff report to City Council. The City Council shall consider the application and the recommendations of the staff and shall approve, conditionally approve, or disapprove the Design Review permit at a noticed public hearing per Section 18.12.040.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### **18.49.090 Parking.**

For provisions on parking, see Chapter 18.60 of this title.

### **18.49.100 Signs.**

For provisions on signs, see Chapter 18.51 of this title.

## **Chapter 18.53 ACCESSORY DWELLING UNITS**

### **18.53.010 Purpose and intent.**

The purpose of this chapter is to comply with Government Code Section 65852.2 which provides for cities to set standards for the development of accessory dwelling units (ADU) so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood. Accessory dwelling units are considered to be a residential use, consistent with the General Plan objectives and zoning regulations, and enhance housing opportunities, including near transit on single family lots. This chapter is intended to implement the City's Housing Element of the General Plan, and is adopted to comply with State law (Government Code Section 65852.2), by allowing accessory dwelling units through ministerial review in all Residential Districts, subject to meeting the standards prescribed below.

### **18.53.020 Regulations designated.**

- A.** The provisions of this Chapter apply to all lots that are zoned residential (R-I, R-I (SP), R-I-M, R-2, and R-3) and are occupied with one single family dwelling unit or vacant with approved plans for the construction of a single family dwelling unit.
- B.** Accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.
- C.** R-2 and R-3 zones. Property owners living in R-2 and R-3 zones with an existing single family structure on site may elect to build an accessory dwelling unit. In addition, if an R-2 or R-3 lot is vacant and the property owner proposed to construct a single family dwelling on the lot, an accessory dwelling unit may also be constructed. However, if an R-2 or R-3 lot has a single family structure with an accessory dwelling unit or approved plans issued by the Planning Department to construct a single family structure with an accessory dwelling unit, and if the property owner applies to build any additional units, each unit, including the single family structure and the accessory dwelling unit, will be subject to all zoning requirements and development standards for R-2 and/or R-3 zones.

### **18.53.030 Definitions.**

- A.** An "accessory dwelling unit, (ADU)" is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a primary dwelling unit is situated. An accessory dwelling unit also includes the following:
  - 1.** An efficiency unit, as defined in Section 17958.1 of Health and Safety Code
  - 2.** A manufactured home, as defined in Section 18007 of the Health and Safety Code

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

- B. The term "existing structure," for the purposes of defining an allowable space that can be converted to an accessory dwelling unit means, within the four walls and roofline of any structure legally existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official.
- D. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, not including the garage or any non-habitable accessory structure.
- E. "Passageway" is a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- F. "Public transit" means a public transit corridor as defined by Health and Safety Code Section 50093.5, which is that area within one-half mile of a route on which the level of service is at or above the average for the transit system as a whole, according to the transit operator serving the area, and on which regularly scheduled public mass transit service stops are located a, or within one-half mile of an existing or planned public mass transit guideway or busway station, or within one-half mile of a multimodal transportation terminal serving public mass transit operations.
- G. "Majority owner" means the owner that holds more than an equal share of the property.

### 18.53.040 Application requirements

- A. Application. Requests for an accessory dwelling unit shall be submitted on an application form provided by the Planning Department and shall contain the following information:
  1. A plot plan (drawn to scale). Provide dimensions of the perimeter of parcel on which the accessory dwelling unit will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50-feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included.
  2. Floor Plans. Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.
  3. Elevation views. Provide north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed accessory dwelling unit.
  4. Cross Section. Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
  5. Fees. The fee for review shall be as set forth in the currently adopted fee resolution.
  6. Copies. One original and five (5) copies of the application package shall be submitted for each ADU request.

### Section 18.53.050 Design and development standards.

- A. Accessory structures within existing space. An accessory dwelling unit within an existing structure (e.g. the primary dwelling unit, attached or detached garage or other accessory structure) shall be permitted ministerially with a zoning clearance and building permit if it:
  1. Complies with building and safety codes;
  2. Provides independent exterior access from the existing residence;
  3. Provides sufficient side and rear setbacks for fire safety.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### B. Accessory structures (attached and detached).

#### 1. General.

- a. Sale of Unit. The unit may not be sold separate from the primary dwelling unit. All conditions of the use permit, restrictive covenants, and other contractual agreements with the
- b. City apply to the property.
- c. Rental of Unit. Rental of the accessory dwelling unit is allowed.
- d. Owner-Occupancy. For properties in the R -1 zoning district, either the primary dwelling unit or the Accessory Dwelling Unit shall be owner-occupied as a primary dwelling unit and permanent residence by the property owner(s). Exceptions to the owner-occupied requirement may be considered on a case-by-case basis by the Zoning Administrator or designee after an administrative hearing. Upon making written findings that the purpose of the owner-occupancy requirement is met even though the property owner does not reside in either the primary residence or the Accessory Dwelling Unit, the Zoning Administrator may issue a Zoning Permit pursuant to Guadalupe Municipal Code section 18.12.010.A.
  - i. If the Planning Director or designee determines that neither of the units are occupied by the property owner, and no exception has been granted in (c) above, the ministerial approval of the accessory dwelling unit shall terminate immediately and the unit shall not be rented, leased, or occupied as a separate dwelling.
  - ii. For the purposes of this Chapter, the property owner is the majority owner of the property as shown in the most recent Santa Barbara County Assessor's roll. If no majority exists, any property owner of record holding an equal share interest in the property may be deemed the majority property owner.

#### 2. Covenant Agreement. A covenant agreement is required prior to issuance of a building permit. The covenant agreement shall state that

- a. The accessory dwelling unit shall not be sold separately.
  - (i) The unit is restricted to the approved size.
  - (ii) Notwithstanding (b)(l)(c.) above, the property owner is required to reside in the primary dwelling unit or the accessory dwelling unit.
  - (iii) The use of the accessory dwelling unit shall be in effect only so long as the property is in compliance with the provisions of this chapter.
  - (iv) The above declarations are binding upon any successor in ownership of the property; lack of compliance shall be cause for zoning enforcement.
  - (v) The covenant agreement shall terminate upon removal of the accessory dwelling unit.
  - (vi) The covenant agreement shall be recorded by the County Recorder for the County of Santa Barbara at the expense of the property owner.

### C. Zoning District. Accessory dwelling units are only allowed on lots that are zoned for residential uses with an existing legal single-family dwelling, or in connection with a proposed single-family dwelling for a vacant lot.

1. Number of Accessory Dwelling Units. Only one accessory dwelling unit shall be allowed for each lot.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

2. Unit Types. The accessory dwelling unit may be within the living area of the existing dwelling, attached to the existing dwelling, or detached from the existing dwelling and shall be located on the same lot as the existing dwelling.
  3. Junior accessory dwelling units as defined by Government Code Section 62582.22 are not permitted.
  4. Building Codes. Local building code requirements apply to attached and detached accessory dwelling units, as appropriate.
  5. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
  6. Fire Sprinklers. Fire sprinklers are not required unless the existing residence is equipped with fire sprinklers, or unless the Fire Marshall determines that due to special circumstances sprinklers are necessary for life and safety. Fire sprinklers may be considered as mitigation for sub-standard Fire Department access or water supply.
  7. Utility Meters. Accessory dwelling units shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. Accessory dwelling units contained within an existing residence or an existing accessory structure are not required to install new or separate utility connections, or pay a related connection fee or capacity charge. For new attached and detached accessory dwelling units, the connection fee and/or capacity charge must be proportionate to the burden of the unit on the water or sewer system based on the size or the number of plumbing fixtures.
  8. Growth mitigation fees: Accessory dwelling units are required to pay any applicable growth mitigation fees in effect at the time a zoning clearance and building permit are requested.
  9. Access. Two-story detached accessory dwelling units shall limit the major access to stairs, decks, entry doors, and windows to the interior of the lot or an alley, and comply with all development standards. Only one (1) curb cut shall be permitted per parcel and no additional driveways or access points shall be created to accommodate the accessory or main dwelling unit.
  10. Openings. If located outside the standard side and rear yard setbacks for the district, windows which face an adjoining residential property shall be designed to protect the privacy of neighbors; alternatively, fencing or landscaping shall be required to provide screening.
  11. Private Open Space. The main dwelling unit and the additional dwelling unit shall each be provided with a minimum of fifteen (15) feet by fifteen (15) feet of usable private open yard area.
  12. Home Occupations. Home occupations are permitted within an accessory dwelling unit or primary dwelling unit, or both.
- D. Building site.**
1. Lot Size. The underlying zoning district requirements for the minimum lot size on which an accessory dwelling unit is allowed shall apply.
  2. Unit Size.
    - a. Floor Area. The floor area of an attached accessory dwelling unit shall not exceed 50% of the existing primary dwelling unit's living area.
    - b. Notwithstanding (2)(a) above, no ADD shall be larger than 1,200 square feet.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

- c. Minimum size. The minimum total square footage of the accessory dwelling unit shall be 150 square feet.
3. Site Planning. Accessory dwelling units should be located behind or above the existing dwelling on the site, whenever possible. Designs that significantly alter the street appearance of the existing residence shall be discouraged.
4. Lot Coverage. In no case may any combination of buildings occupy more than 50% of the required rear yard for the district in which it is located, except for units which face an alley.

**E. Height.** A detached accessory dwelling unit shall meet the height requirements of its underlying zoning district. An attached accessory dwelling unit may occupy any level of the primary dwelling unit if it is designed as an integral part of the primary dwelling unit.

### **F. Setbacks.**

1. Setbacks. No setback shall be required for an existing garage that is converted to an accessory dwelling unit
  - a. An ADU that is constructed above a garage shall be setback a minimum of five (5) feet from the side and rear lot lines.
  - b. Detached ADU: The side yard and rear yard setbacks for construction of detached single story structures containing an accessory dwelling unit shall be according to the underlying zoning district.
  - c. Attached ADD: Attached accessory dwelling units that increase the square footage of the existing single-family dwelling shall meet the same setbacks as the primary dwelling unit in the zoning district.
2. Space between Buildings. The space required between buildings shall be what is required in the underlying zoning district.

### **G. Parking.**

1. Parking for accessory dwelling units shall be provided at a rate of one parking space per ADU. These spaces shall be provided in conformance with Section 18.60.020.1, except that tandem parking is allowed for ADUs as stated in Government Code Section 65852.2(a)(l)(D)(x) unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions. Notwithstanding the foregoing, tandem parking shall be permitted only if the length of the driveway is sufficient for a vehicle to be parked on the driveway without any encroachment on a sidewalk or street.
2. Parking requirements for an accessory dwelling unit are in addition to the required parking for the primary dwelling unit.
3. ADU parking is not required in the following instances:
  - a. The accessory dwelling unit is located within one-half mile of public transit.
  - b. The accessory dwelling unit is located within any Historic Overlay District that may be in existence at the time a zoning clearance or building permit for an ADU is requested.
  - c. The accessory dwelling unit is part of the existing single family residence, or an existing accessory structure (except as provided in (4) below).

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

4. 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 shall be provided in conformance with this Chapter and Chapter 18.60 (Off Street Parking). Covered parking is not required.
5. Covered Parking Design. Any newly constructed covered parking shall conform to architectural and aesthetic standards of the underlying zone.

**H. Architectural and aesthetic standards and compatibility.** The accessory dwelling unit's scale, appearance, and character shall be similar to and compatible in design with the primary dwelling unit (e.g. compatible exterior wall materials, window types, door and window trims, roofing materials and roof pitch). Additionally, it shall be visually subordinate to the primary single-family dwelling on the parcel. The exterior entry to the ADU shall clearly appear as a secondary entry when compared to the entry for the primary single-family dwelling.

1. Outside stairways. Any stairways leading to a second story ADU shall not be in the front of the primary single-family dwelling, or in an exterior side yard if visible from the public right-of-way. Access to a first story unit or ADA accessible ramp may be permitted in the front of the primary dwelling.

### **Section 18.53.060 Permit requirements.**

- A. Accessory Dwelling Units shall be permitted ministerially through the zoning clearance and building permit process, in compliance with this Chapter within 120 days of the filing of a complete application. The applicant shall be informed within 30 days after submission of an application if the application is complete. The Planning Director or designee shall issue zoning clearance to establish an accessory dwelling unit in compliance with this Chapter if all applicable requirements in this Chapter are met, as appropriate. An application for building permit may be submitted at any time during the processing of the ADD application, but under no circumstances shall it be issued prior to zoning clearance approval.
- B. Planning Director. Requests for an ADD shall be reviewed by the Planning Director or designee.
- C. Other Review Authority. Requests for an ADD submitted for concurrent review with a discretionary land use application shall continue to be reviewed by the Director or designee and approved subsequent to the discretionary action.

### **Section 18.53.070 Findings.**

Zoning clearance findings. The ADD shall be consistent with all applicable provisions of Section 18.53. Further, the ADD shall be consistent with applicable provisions of the Guadalupe Municipal Code and applicable sections of the General Plan.

### **18.53.080 Existing non-conforming ADUs.**

This chapter shall not validate any existing illegal additional dwelling unit(s). The standards and requirements for the conversion shall be the same as for a newly proposed accessory dwelling unit, but an application for an administrative use permit review may be made under the provisions set forth in Chapter 18.72 of the Guadalupe Municipal Code if the unit does not comply with the standards or requirements in Section 18.53.050.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### **18.53.090 Review process for accessory dwelling unit not complying with development standards.**

An accessory dwelling unit that does not comply with standards or requirements in Section 18.53.050 may be permitted with an administrative use permit as provided in Section 18.72.150, et seq. (Administrative Use Permits).

### **18.53.100 Appeals of Planning Director or designee's decision.**

Appeals of any Planning Director or designee final decisions under this chapter to the City Council shall be permitted and shall conform to the requirements of Chapter 18.80 for such appeals.

SECTION 2. Article IV, consisting of Sections 18.72.150 through 18.72.200 regarding administrative use permits for Accessory Dwelling Units is hereby added to Chapter 18.72 of the Guadalupe Municipal Code as follows:

Article IV. Administrative Use Permits

### **18.72.150 Issuance conditions.**

Administrative use permits (AUP) are limited to permit applications for an Accessory Dwelling Unit and shall be issued only if the findings identified in Section 18.72.190 can be made. The Planning Director or designee shall impose such conditions as deemed necessary to serve the purposes of this title, and may require tangible guarantees or evidence that such conditions are being or will be complied with.

### **18.72.160 Application - Information required**

Application for an AUP shall be made in writing by the majority owner. A copy of the application for Accessory Dwelling Unit (ADU) may be considered the official application for an AUP at the discretion of the Planning Director or designee.

### **18.72.170 Application Fee**

No additional fee shall be required to process an AUP once the ADU processing fee has been paid.

### **18.72.180 Application - Director Determination.**

Upon receipt of the application for an administrative use permit, the Planning Director or designee shall evaluate the request and determine if the findings listed in Section 18.72.090 can be made to approve the request.

### **18.72.190 Findings for Approval**

- A.** In order to approve an administrative use permit under Section 18.53.080 to waive any development standard or other requirement set forth in Section 18.53.050, the Planning Director or designee shall make specific findings that granting the waiver will meet the purposes of Chapter 18.53 (Accessory Dwelling Units) and this title and not be detrimental to public health and safety, introduce unreasonable adverse impacts to the immediate neighbors, and would not overburden sewer and water services, or overburden traffic flow.



# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

- B. In order to deny an administrative use permit under Section 18.53.080, the Planning Director or designee shall find that the ADU would be detrimental to the public health and safety, would introduce unreasonable adverse impacts to the immediate neighbors, would overburden sewer and water services, or overburden traffic flow.

### **18.72.200 Administrative Hearing**

Prior to issuing an administrative use permit under this chapter, the Planning Director or designee shall cause an administrative hearing to be noticed and held in the following manner:

- A. Notice of hearing. Notice of a public hearing shall contain the information required by Government Code Section 65094 and any additional information the Director deems appropriate. In addition, the notice shall declare that the application for the administrative use permit will be acted on without a public hearing if no request for a hearing is made.
- B. Method of notice/distribution. Notice of public hearings shall be given as provided by Government Code Section 65091.
- C. Public hearing. A public hearing on an administrative use permit shall occur only when a hearing is requested by the applicant or other interested person(s). This request shall be made in writing to the Planning Director or designee no later than seven days after the date of the public notice. In the event a public hearing is requested, the hearing on the administrative use permit shall be held on the date and time as defined in the public notice. At the request of the project applicant and/or at the discretion of the Planning Director or designee, a public hearing may be continued from time to time, but notice of the further hearings may be required to be provided again in the same manner as provided by subsection A.
- D. Conduct of hearing. At the public hearing, interested persons may present information and testimony relevant to a decision on the proposed AUP.
- E. Final decision. Immediately after the conclusion of public testimony in the case of a public hearing, or no sooner than the date of the meeting specified in the public notice required by subsection A, the Planning Director or designee shall announce the final decision, continue the decision to a future date, or announce that the matter will be referred to the City Council for a final decision

### **18.80.010 Appeal open to all persons.**

Any person may appeal to the City Council any order, requirement, decision or determination of the Planning Commission, Planning Director or designee in the manner provided in this chapter.

### **18.80.020 Method and filing-Public hearing.**

Appeals shall be made in writing and filed with the City Clerk within 10 days after the final action of the Planning Commission, Planning Director or designee. Upon receipt of notice of such appeal, the City Clerk shall set a time within 30 days after the receipt of such appeal for the public hearing on the appeal. Notice of the hearing shall be given as set forth in Chapter 18.12 of this title. The City Clerk shall also notify the Planning Commission, Planning Director or designee of such appeal.

# Guadalupe Municipal Code

## Amendments

August 2017 to January 2019

### **18.80.030 Planning Commission, Planning Director or designee report preparation.**

The Planning Commission, Planning Director or designee upon receipt of the notice of appeal, shall prepare a report of the facts pertaining to the decision of the Planning Commission, Planning Director or designee and shall submit such report to the City Council along with the reason for the Commission's, Planning Director or designee's action.

### **18.80.040 City Council action.**

The City Council shall refer any matter back to the Planning Commission, Planning Director or designee if any evidence is presented to the Council that was not presented to the Planning Commission, Planning Director or designee.

### **18.80.050 Public hearing-City Council determination.**

At the close of the public hearing, the City Council may affirm, revise or modify the decision of the Planning Commission, Planning Director or designee. If the Council does not take any action on the appeal within 60 days after the filing thereof, the Commission's, Planning Director or designee's action shall be deemed affirmed.