Undocumented Dwellings

Division of Planning, Engineering, and Environmental Compliance
City of Monterey

Introduction
Property owners of illegal and undocumented rental units in residential zones shall either remove or legalize the unit. The legalization process depends on how and when the unit was created.

Criteria for Legalizing Units in Existence Pre April 24, 1964
If City records show the unit was clearly illegally created, the property owner must remove the illegal unit if it is in a single family residential zone. If it is in a multiple family residential zone, the owner must remove it or request it to remain if it meets all current zoning standards.

If City records do not show how and when an undocumented unit was created, the owner shall provide evidence it was in existence prior to April 24, 1964 to legalize it. Examples of evidence are listed in the Submittal Checklist page.

Criteria for Legalizing Units in Existence Post April 24, 1964
The property owner shall provide conclusive proof that a rental unit was legal both in terms of Zoning Ordinance and Uniform Building Code compliance whether it is in a single family or multiple family residential zone. Otherwise, the illegal unit shall be required to be removed. Only a bona fide purchaser providing written documentation they had no knowledge of an illegal unit may request a Variance to keep the unit.

Additional Variance Findings Required to Keep a Non-Conforming Unit:

1. The General Plan Residential Medium Density maximum of 30 dwelling units per acre is not exceeded.
2. The Floor Area Ratio maximum may be exceeded on an individual basis for those units constructed prior to August 3, 1999.
3. Required private open space, storage area, and laundry area for all units (legal and illegal) are provided and available for use.
4. The illegal unit does not increase lot coverage.
5. Required parking for the legal units is provided and available for use on site. Required parking for the illegal units is provided and available for use on site, unless a Variance is granted.
6. A Variance requested for tandem parking to meet the required parking for an illegal unit is for a maximum of two tandem parking spaces that do not render other spaces on site unusable.
7. A Variance requested to waive the required parking for an illegal unit is for the waiver of a maximum one parking space.
8. Variances to setbacks may be allowed as long as they do not affect the privacy of adjacent properties.

Process
The applicant submits to the Planning Office required information and evidence of unit’s dates of existence to establish legal non-conformity of the unit. Planning staff make a decision on the adequacy of the evidence submitted. If evidence is adequate, staff will notify by mail adjoining properties, properties across the street, and the appropriate Neighborhood Association of its decision to establish legal non-conformity. The undocumented unit will be inspected by the Permits and Inspection Services Office; the owner will be required to resolve all identified life safety issues in a timely manner. Staff's decision may be appealed to the Planning Commission (PC) within 10 days of the date of notification. If denied by the PC, the decision may be appealed to the City Council. A fee applies to appeal applications.

Fees (see current fee schedule)
- Undocumented Dwellings
**TYPICAL REVIEW PROCESS**

<table>
<thead>
<tr>
<th>APPLICANT</th>
<th>STAFF</th>
<th>PERMITS AND INSPECTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>START HERE</strong></td>
<td>Review Application for Completeness</td>
<td></td>
</tr>
<tr>
<td>Submit Application</td>
<td><strong>Incomplete</strong></td>
<td>Continued for Redesign, etc.</td>
</tr>
<tr>
<td>Make Corrections to Application</td>
<td><strong>Complete</strong></td>
<td>Inspection for Life and Safety Issues</td>
</tr>
<tr>
<td></td>
<td><strong>Denied</strong></td>
<td>Building Permit</td>
</tr>
<tr>
<td></td>
<td><strong>Approved</strong></td>
<td></td>
</tr>
<tr>
<td>Appeal to Planning Commission</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SUBMITTAL CHECKLIST

Every application must include both Application Forms and Plans. The specific requirements are described below.

1. PROJECT APPLICATION FORM
   - Wet or digital signatures are required. Digital signatures must comply with Govt. Code section 16.5 requirements.
   - This form has three pages. Complete all three pages with necessary signatures.
   - Available online at http://monterey.org/Portals/0/Forms/Planning/Planning-Project-Application.pdf

2. EVIDENCE OF UNIT’S DATES OF EXISTENCE
   Evidence may include the following:
   - Income Tax records showing rental income for the undocumented unit.
   - County Assessor’s property tax information recognizing the undocumented unit.
   - Utility bills where there were separate utility meters for the undocumented unit.
   - Tenant, past tenant, neighbor, or past neighbor written documentation which can be clearly linked to a date prior to April 24, 1964.
   - The undocumented unit can be clearly identified on pre April 24, 1964 Sanborn Map.

3. PARKING SURVEY
   - If a Variance is requested to waive the required parking for an illegal unit, the property owner must submit a parking survey showing that the waiver of the parking will not affect surrounding properties.

4. GENERAL REQUIREMENTS
   - Two (2) full-sized plan sets (24”x36”)
     - Use a minimum 1/8”=1’ scale for Site Plans and 1/4” = 1’ scale for all others.
     - One (1) reduced-size set in 11”x17”, unless all details are legible in 8.5”x11”.
     - Electronic copy of plans in PDF form.
     - Title block with applicant’s name, owner’s name, contact information, project address or APN, and date.
   - Project Summary.
     - Lot Area
     - Floor Area – Existing, proposed, and total. Measure to outside of exterior walls and count stairs twice
     - Lot Coverage – Existing, proposed, and total
     - Floor Area Ratio (FAR) – Existing and proposed
     - Yard Setbacks – Existing and proposed
     - Grading – Existing, proposed, and total
     - Building Heights – Existing and proposed
     - Impervious surfaces calculation (driveways, parking areas, walkways, or patios), including calculating total impervious surface area for the entire site in Project Data Sheet
       - Include a North Arrow on each plan sheet.
       - Table of Tree Removal Schedule (include tree size, species, and health status). Indicate locations on site plan.

5. SITE PLANS – EXISTING AND PROPOSED
   - Property lines & required yard setbacks. Include dimensions of each.
   - Show the following site features and indicate their status (to be added, removed, relocated, or unchanged).
     - All existing structures (house, garage, shed, gazebo, hot tub, patio cover, trellis, etc.),
     - Impervious surfaces (driveways, parking areas, walkways, or patios), including calculating total impervious surface area for the entire site in Project Data Sheet,
     - Adjacent off-site improvements (sidewalk, curb, gutter, or street trees),
     - All landscape areas, fences, retaining walls, and manufactured slopes,
     - On-site trees and large shrubs (over 6” in diameter as measured 4.5’ above the ground) and indicate their status (to be preserved, removed, or relocated). If property is vacant, show all trees over 2” in diameter as measured 4.5’ above the ground,
     - Existing and/or proposed floor elevation of the first floor and garage.
     - Illustrate all drainage across, into, and leaving the site. Include all applicable easements.
     - Illustrate all proposed grading, including cut/fill, etc.
     - Identify all proposed on-site and immediate off-site stormwater drainage facilities.

At the discretion of the Chief of Planning, Engineering and Environmental Compliance, submittal of any submittal items may be waived if the project can be sufficiently described and considered without such information. Please inquire prior to submittal of an application.
As applicable, submit Landscape Documentation Package to comply with Water Efficient Landscape Ordinance.

A Topographic Survey prepared by a licensed surveyor is required for all projects that involve new work within 3’ of a required front, rear, or side yard setback, or within 3’ of the maximum height. Include spot elevations at property corners, at building corners, and at driveway corners and include slope contours, as appropriate. Shade areas of slope greater than 25%.

6. FLOOR PLANS – EXISTING AND PROPOSED (1/4” SCALE PREFERRED)
   - Rooms - label and identify each room.
   - Doors and Windows – show operation and size.
   - Fixtures - all plumbing fixtures, appliances, ranges, water heaters, etc.
   - Show second-story outline on first story.
   - Show finish floor elevations at each floor level change.

7. ROOF PLAN
   - Show roof slope, overhangs, skylights, chimneys, etc.
   - Identify roof material.

8. ELEVATIONS – EXISTING AND PROPOSED
   - Show all exterior finish materials
   - Identify roof slopes
   - Doors and Windows – show operation and size
   - Show the Following Elevations:
     - Finished Grade at each corner
     - Finish Floor of First and Second Floor
     - Plate Height of First and Second Floor
     - Rafter Edge
     - Midpoint of Roof
     - Ridge of Roof

8. STORMWATER FACILITIES – As applicable, new and redevelopment projects are required to demonstrate conformance with Post-Construction Storm Water Design Requirements (PCRs), and may include a requirement that property owners enter into a legal agreement or covenant with the City to provide verification of maintenance of any necessary stormwater facilities. The applicant may be required to submit a Storm Water Control Plan (SWCP) in support of the proposed project. Technical guidance, templates, and calculation information for design may be found online at http://montereysea.org/job-site/.

For additional information and/or clarification, please contact the Engineering Office at (831) 646-3921.

9. OTHER INFORMATION – May be required
   - Building Sections – a minimum of two are required for two-story additions.
   - Engineer Verification Letter: If the project includes a new second or third-story over an existing one or two-story building and the plan does not include demolition of the existing building and there are existing site nonconformities, please submit a signed letter from a licensed Civil or Structural Engineer that clearly states that the existing building is structurally sound enough to support the second story without demolition.

If you have any questions regarding the above submittal requirements, please contact the Planning Office at (831) 646-3885.