

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development

BY: Michael P. Rocque, Assistant Planner

DATE: April 10, 2013

SUBJECT: Consideration of Zoning Code and Local Coastal Program Amendments to Implement the Newly Adopted and Certified Housing Element Update (2008-2014)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING, DISCUSS** the information presented and **ADOPT THE ATTACHED RESOLUTION** recommending that the **CITY COUNCIL ADOPT** the proposed Municipal Code amendments.

BACKGROUND

On December 12, 2012 the Planning Commission reviewed and recommended approval of the draft 2008-2014 Housing Element, and on January 16, 2013 the Housing Element was adopted by the City Council. On February 4, 2013 the California Department of Housing and Community Development (HCD) issued a letter stating that the adopted Housing Element is in full compliance with State law. Implementation programs in the certified Housing Element require that the City process some amendments to the Zoning Code and Local Coastal Program (LCP) in order to comply with requirements of state law.

Draft Code amendments have been prepared in consultation with the City Attorney and are described below. The Planning Commission's recommendation on the Amendments will then be forwarded to the City Council at a public hearing, and the City Council will take final action on the Zoning Code and the LCP Amendments. The LCP Amendments will be submitted to the California Coastal Commission for approval. Attachment A presents a draft Resolution for the proposed amendments, which are discussed in detail below.

DISCUSSION

Program 3b-Facilitate Multi-family development- Affordable units-(Sections 3&4, Reso pages #3-5)

This program consists of two changes to existing regulations intended to facilitate affordable housing development: 1) establishment of a new Precise Development Plan (PDP) process; and 2) creating incentives for the consolidation of small parcels into a larger building site.

- *Precise Development Plan*

Under the Precise Development Plan (PDP) process, developments that meet minimum affordability requirements would be eligible for a simplified plan review. Projects with 5 units or less would be reviewed administratively (i.e., without a public hearing) by the Director, while projects with 6 or more units would be reviewed by the Planning Commission at a public hearing. Under current zoning regulations, multi-family residential projects with 4 or more units require approval of a Use Permit by the Planning Commission. The PDP process would reduce permit processing time and costs, while maintaining a thorough project review process that is appropriate to the size of the project. In order to be eligible for the new PDP process, a project would be required to satisfy the minimum affordability standard under state density bonus law, which is as follows:

- 5% of units deed-restricted for very-low-income households in a rental project, or;
- 10% of units deed-restricted for low-income households in a rental project, or;
- 10% of units deed-restricted for moderate-income households in a condominium project.

Income limits and housing costs that would apply to qualifying affordable units are summarized as follows:

2012 County Median Income = \$64,800	Income Limits	Affordable Rent	Affordable Price (est.)
Very Low (31-50%)	\$42,150	\$1,054	\$150,000
Low (51-80%)	\$67,450	\$1,686	\$250,000
Moderate (81-120%)	\$77,750	\$1,944	\$300,000

Assumptions:

- Based on a family of 4 (income limits and housing costs are adjusted for family size)
- 30% of gross income for rent or PITI
- 10% down payment, 4% interest, 1.25% taxes & insurance, \$200 HOA dues

Source: Cal. HCD; J.H. Douglas & Associates

The PDP would be considered a “non-discretionary” permit, which means the review would focus on physical design and ensuring conformance with objective development standards, rather than examining the appropriateness of the use itself. In addition, non-discretionary actions are not subject to the California Environmental Quality Act (CEQA), although all projects are required to comply with applicable Municipal Code and other regulations and standards.

- *Lot Consolidation Incentives*

In addition to the PDP process, Program 3b includes provisions to facilitate the consolidation of small parcels into larger building sites by providing a graduated density incentive for affordable housing developments that combine two or more parcels according to the following formula:

Combined Parcel Size	Base Density Increase*
Less than 0.50 acre	No increase
0.50 acre to 0.99 acre	5% increase
1.00 acre or more	10% increase

*Excluding density bonus

As with the PDP process, projects would need to satisfy minimum affordability requirements in order to take advantage of this incentive. Consolidation of small parcels is desirable because it allows for better project design, a higher level of amenities through economies of scale, and minimizes the number of driveways thereby helping to improve circulation.

Program 3d-Revise Development Standards for Residential Uses in the CD and CNE districts-Affordable units (Section 9, Reso page #7)

- *Parking Standards*

The Code amendment proposed under this program would allow reduced parking standards consistent with state density bonus law for affordable housing developments in the CD and CNE zones, as follows:

Unit Size	# of parking spaces
Studio or 1-bedroom	One space
2 and 3 bedrooms	Two spaces
4 or more bedrooms	Two and one-half spaces

In order to be eligible for this parking standard, projects would be required to meet the same minimum affordability standards as described in Program 3b above.

- *Maximum allowed number of units-smaller units in mixed-use*

This program also includes a commitment to review and evaluate the feasibility of a Code amendment to eliminate the current maximum number of units per lot in mixed-use developments, so long as all other development standards are satisfied, in order to facilitate the provision of smaller units for single persons and seniors. This could be accomplished through an “Equivalent Dwelling Units” (EDU) calculation whereby a project’s density would be based on the size of units, or an alternative approach. Staff is continuing to research how other cities have used this concept and it is suggested that this issue be addressed in the 2013 Housing Element update that will be reviewed this summer.

Program 5a-Density Bonus-Affordable and Senior Housing (Section 11, Reso pages # 14-24)

State density bonus law requires cities to grant a density bonus and other incentives when projects include affordable housing or senior housing. State law on this matter has been amended from time to time, and the Municipal Code has not yet been revised to reflect the most recent

version of density bonus requirements. The proposed amendment incorporates the sliding-scale density bonus formula contained in State law, which allows a density bonus of up to 35% above the maximum permitted density when the required percentage of affordable units are provided. The City has very little flexibility with this program since they are basic requirements of State law.

Program 5b-Streamline the Development Process-Site Development Permit (Section 10 Reso pages #7-13)

This program includes a commitment to streamline the review process for multi-family developments by replacing the current Use Permit with a Site Development Permit (SDP). Projects with up to 5 units would be reviewed administratively by the Director while projects with 6 or more units would be reviewed by the Planning Commission at a public hearing. As with the Precise Development Plan (PDP) described above, the SDP process would reduce processing time and costs, while maintaining a thorough project review process that is appropriate to the size of the project. The SDP would be a discretionary review process that would focus on compliance with objective development standards rather than examining the appropriateness of the use itself. SDPs would be subject to the same CEQA review process as is currently in effect. The PDP process is for developments providing affordable multi-family units, while the SDP process is for market-rate multi-family developments.

Program 5e-Second Units

State law requires cities to adopt regulations that allow construction of second residential units subject to certain limitations. The City does not currently have a second unit ordinance, and therefore is required to defer to the provisions of State law. Housing Element Program 5e calls for the City to adopt an ordinance to establish regulations and procedures for second units. The key provisions of the proposed second unit regulations are as follows:

- Second units shall be approved administratively (i.e., no discretionary permit or public hearing)
- One second unit is permitted on any residential lot where a detached residential unit exists (or will be constructed in conjunction with the second unit)
- The second unit provides an independent living unit with separate kitchen and bathroom facilities from the main unit
- Either the primary unit or the second unit must be owner-occupied

Staff is currently researching second unit policies in other similar cities and it is suggested that this issue be addressed in the 2013 Housing Element update that will be reviewed this summer.

Program 7d-Reasonable accommodations (Section 7, Reso page #5)

State law requires cities to make reasonable accommodation in their application of zoning and building regulations to allow persons with disabilities full use of their residence. Housing Element Program 7d calls for the City to process a Code amendment to establish procedures for reviewing and approving such requests. This would include procedural requirements such as

application forms, review authority, time periods, application fees and appeal provisions. The amendment would not identify any specific changes to zoning or building standards, but rather would establish procedures for reviewing such requests administratively by the Director of Community Development. As noted above in Program 5a, the City has very little flexibility with this program since they are basic requirements of State law and will require further review by the City Attorney.

Program 7e-Emergency shelters and Transitional/Supportive Housing (Section 8, Reso pages #5-6)

State law was amended in 2007 to establish specific requirements for local governments with regard to emergency shelters and transitional/supportive housing. Program 7e would implement the new state requirements as follows:

Emergency shelters. An emergency shelter is a year-round facility that provides temporary housing with minimal supportive services. The proposed amendment would allow emergency shelters by-right in the Public and Semi-Public (PS) Zone and the Industrial Park (IP) Zone subject to appropriate development standards, including the following:

- Maximum of 10 beds
- Minimum separation of 300 feet between emergency shelters
- Off-street parking ratio of one space per 4 beds plus one space for each staff member on duty
- Management and operations plan required specifying hours of operation, staffing levels and training procedures, maximum length of stay, size and location of exterior and interior on-site waiting and intake areas, admittance and discharge procedures, provisions for on-site or off-site supportive services, house rules regarding use of alcohol and drugs, on-site and off-site security procedures, and protocols for communications with local law enforcement agencies and surrounding property owners.

Transitional and Supportive Housing. State law defines transitional and supportive housing as residential uses that are permitted subject to the same standards and procedures as apply to other residential uses of the same type in the same zone. The proposed amendment would update the Municipal Code in conformance with these definitions.

Authority of the Planning Commission

Before the City Council may adopt a Zoning Ordinance amendment, pursuant to MBMC 10.96 the Planning Commission must hold a duly noticed public hearing and make a recommendation to the City Council. Specific findings as to whether the proposed zoning regulation is consistent with the Goals and Policies of the General Plan and the purposes of Title 10 are required.

General Plan Goals and Policies

The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. The items discussed above are consistent with and will advance the following Goals and Policies of the Manhattan Beach General Plan:

- *Goal LU-1: Maintain the low-profile development and small-town atmosphere of Manhattan Beach.*
- *Policy LU-1.1: Limit the height of new development to three stories where the height limit is thirty feet, or to two stories where the height limit is twenty-six feet, to protect the privacy of adjacent properties, reduce shading, protect vistas of the ocean, and preserve the low-profile image of the community.*
- *Goal LU-3: Achieve a strong, positive community aesthetic.*
- *Policy LU-3.1: Continue to encourage quality design in all new construction.*
- *Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics.*
- *Goal I-3: Ensure that adequate parking and loading facilities are available to support both residential and commercial needs.*
- *Policy I-3.4: Review development proposals to ensure potential adverse parking impacts are minimized or avoided.*

CEQA Compliance

A Negative Declaration was prepared and adopted by the City Council for the 2008-2014 Housing Element. The Negative Declaration evaluated the potential environmental impacts of the Housing Element and its implementation programs, which included the proposed Code amendments, and concluded that no significant impacts would occur.

Next Steps

The attached Resolution (Attachment A) contains recommended Code amendment language for the Commission's review and adoption. The Planning Commission recommendation will then be forwarded to the City Council. The City Council will also conduct a public hearing and will take action on the Zoning Ordinance text and Local Coastal Program amendments. Amendments to the Local Coastal Program will also require review and certification by the California Coastal Commission. As mentioned prior in the report staff is currently researching second unit policies and "Equivalent Dwelling Units" (EDU) regulations in other similar cities and it is suggested

that this issue be addressed in the 2013 Housing Element update that will be reviewed this summer. Staff is also still reviewing the entire Zoning Code to confirm that current code sections do not conflict with the new standards, and further modifications may be needed at the City Council level. Additionally, City Attorney review and input of final language is required.

Public Input

A ¼ page display ad public notice for the proposed Code Amendments was published in the Beach Reporter newspaper on February 28, 2013 in compliance with state and local law for the March 13, 2013 Planning Commission meeting and was continued to tonight’s meeting so no new notice is required. The draft code amendments have been made available at the Library and at the Department of Community Development. The staff reports and attachments are also posted on the City website.

CONCLUSION

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING, DISCUSS** the information presented and **ADOPT THE ATTACHED RESOLUTION** recommending that the **CITY COUNCIL ADOPT** the proposed Municipal Code amendments.

Attachments:

- A. PC Reso 13-03

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RESOLUTION NO. PC 13-03

**RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MANHATTAN BEACH RECOMMENDING
TO THE CITY COUNCIL AMENDMENTS TO TITLE 10
OF THE MANHATTAN BEACH MUNICIPAL CODE
(MBMC) TO IMPLEMENT 2008-2014 HOUSING
ELEMENT PROGRAMS, GOALS, AND POLICIES**

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES
HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. On December 12, 2012 the Planning Commission reviewed and recommended approval of the draft 2008-2014 Housing Element, and on January 16, 2013 the Housing Element was adopted by the City Council. As required by State law, the adopted element was submitted to the California Department of Housing and Community Development (HCD) for review, and on February 4, 2013 HCD issued a letter stating that the adopted Housing Element is in full compliance with State law.
- B. On March 13, 2013 the Planning Commission reviewed the draft Code amendments and continued the public hearing to April 10, 2013 for further review and discussion.
- C. All of the Planning Commission and City Council public hearings included public notices published in The Beach Reporter, a newspaper of general circulation in Manhattan Beach.
- D. The applicant for the subject project is the City of Manhattan Beach. The application is intended to establish new Zoning Code and Local Coastal Program (LCP) Amendments in order to implement the adopted Housing Element programs, goals, and policies.
- E. Pursuant to California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, a Negative Declaration was prepared and adopted by the City Council for the 2008-2014 Housing Element. The Negative Declaration evaluated the potential environmental impacts of the Housing Element and its implementation programs, which included the proposed Code amendments, and concluded that no significant impacts would occur.

**ATTACHMENT A
PC MTG 4-10-13**

- F. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code.
- G. The Planning Commission finds that the proposed amendments will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- H. The proposed amendments to Title 10 of the Municipal Code (Zoning Ordinance) is consistent with the General Plan and will advance the following goals and policies of the Manhattan Beach General Plan:

Goal LU-1: Maintain the low-profile development and small-town atmosphere of Manhattan Beach.

Policy LU-1.1: Limit the height of new development to three stories where the height limit is thirty feet, or to two stories where the height limit is twenty-six feet, to protect the privacy of adjacent properties, reduce shading, protect vistas of the ocean, and preserve the low-profile image of the community.

Goal LU-3: Achieve a strong, positive community aesthetic.

Policy LU-3.1: Continue to encourage quality design in all new construction.

Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics.

Goal I-3: Ensure that adequate parking and loading facilities are available to support both residential and commercial needs.

Policy I-3.4: Review development proposals to ensure potential adverse parking impacts are minimized or avoided.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.04.030—Definitions of the Manhattan Beach Municipal Code by adding the following definitions in their alphabetical order:

10.04.030—Definitions

Emergency Shelter: Housing with minimal supportive services for homeless persons that limits occupancy by homeless persons to six months or less and that does not deny emergency shelter due to a person's due to a person's inability to pay.

Supportive Housing: Housing occupied by a specified target population that has no limit on length of stay, and that is linked to onsite or offsite services that assist the resident in retaining the housing, improving his or her health status, maximizing his or her ability to live, and – when possible – work in the community. Supportive housing is a residential use subject to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

Transitional Housing: Housing operated under program requirements that terminates assistance to residents and recirculates the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no later than six months from the initial occupancy date of the recipient. Transitional housing is a residential use subject to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

SECTION 3. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.12.020—Land Use Regulations RS, RM, RH, RPD, and RSC districts of the Manhattan Beach Municipal Code to amend as follows:

RS, RM, RH, RPD and RSC Districts Land Use Regulations						P – Permitted PDP – Precise Development Plan SDP – Site Development Permit U – Use Permit L – Limited (see additional use regulations) - Not permitted
	RS	RM	RH	RPD	RSC	Additional Regulations
Multi-Family Residential						
5 or fewer	-	P	P	P	U	(B)(C)(L)
6 or more	-	PDP/SDP	PDP/SDP	PDP/SDP	U	(B)(C)(L)(O)

(O) Residential developments that qualify for a density bonus pursuant to Section 10.52.090 shall be eligible for a non-discretionary Precise Development Plan controlling project design.

SECTION 4. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.12.030—Land Use Regulations RS, RM, RH, districts of the Manhattan Beach Municipal Code to add as follows:

Note “U” is added to the “Additional Regulations” column in the “Property Development Standards” tables for “Minimum Lot Area per Dwelling Unit (sq. ft.)”:

U. Multi-family residential developments meeting the minimum requirements for a density bonus pursuant to Section 10.52.090 shall be granted a lot consolidation bonus incentive when two or more parcels are consolidated into a single building site according to the following formula:

<u>Combined Parcel Size Base Density Increase</u>	
<u>Less than 0.50 acre</u>	<u>No increase</u>
<u>0.50 acre to 0.99 acre</u>	<u>5% increase</u>
<u>1.00 acre or more</u>	<u>10% increase</u>

This lot consolidation bonus incentive shall be calculated prior to determining any density bonus pursuant to Section 10.52.090.

Note “V” is added to the “Additional Regulations” column in the “Property Development Standards” tables for “Maximum Lot Area (sq. ft.)”:

V. Multi-family residential developments meeting the minimum requirements for a density bonus pursuant to Section 10.52.090 shall be exempt from these maximum lot size limitations.

SECTION 5. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.20.020—I Industrial Districts of the Manhattan Beach Municipal Code to add as follows:

Section 10.20.020 (IP District):

Emergency shelters	P	(K)
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(K) Emergency shelters shall be permitted subject to the provisions of Sec. 10.56.080

SECTION 6. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.28.030—PS Public and Semi Public Districts of the Manhattan Beach Municipal Code to add as follows:

Section 10.28.030 (PS District):

Emergency shelters	P	(C)
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(C) Emergency shelters shall be permitted subject to the provisions of Sec. 10.56.080

SECTION 7. The Planning Commission of the City of Manhattan Beach hereby recommends adding Section 10.12.060-Reasonable Accommodations to the Manhattan Beach Municipal Code as follows:

10.12.060 Reasonable Accommodations

The City shall adopt administrative procedures for reviewing and approving requests for reasonable accommodation in housing from persons with disabilities in conformance with state and federal fair housing laws.

SECTION 8. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.56.080-Emergency Shelters of the Manhattan Beach Municipal Code to add as follows:

10.56.080 Emergency Shelters

This Section sets forth requirements for the establishment and operation of emergency shelter facilities.

A. Permit and Operational Requirements. The approval and operation of an emergency shelter shall be subject to the following requirements:

1. **Zoning Conformance Required.** Emergency shelters may be established and operated in the Public/Semi-Public (PS) District and Industrial Park (IP) District subject to non-discretionary approval of a Zoning Clearance in compliance with Chapter 10.80;

2. **Management and Operations Plan.** An application for a permit to establish and operate an emergency shelter shall be accompanied by a Management Plan, which shall establish hours of operation, staffing levels and training procedures, maximum length of stay, size and location of exterior and interior onsite waiting and intake areas, admittance and discharge procedures, provisions for on-site or off-site supportive services, house rules regarding use of alcohol and drugs, on-site and off-site security procedures, and protocols for communications with local law enforcement agencies and surrounding property owners.

B. Development Standards. In addition to other standards set forth in the Municipal Code, emergency shelters shall conform to the following standards.

1. Maximum of 10 Beds.
2. Minimum separation of 300 feet between emergency shelters.
3. One parking space per 4 beds, plus one space for each staff member on duty

SECTION 9. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section Chapter 10.64.230—Off-Street Parking and Loading Regulations of the Manhattan Beach Municipal Code by adding the following regulations:

10.64.230 Parking for Affordable Housing Developments

When requested by the applicant, multi-family residential developments meeting the minimum requirements for a density bonus pursuant to Section 10.52.090 shall provide off-street parking according to the following formula:

<u>Unit Size</u>	<u>Parking Spaces</u>
<u>Studio or 1-bedroom</u>	<u>One space</u>
<u>2 or 3 bedrooms</u>	<u>Two spaces</u>
<u>4 or more bedrooms</u>	<u>Two and one-half spaces</u>

The number of required parking shall be inclusive of guest parking.

SECTION 10. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section Chapter 10.84.—Use Permits, Variances, and Minor Exceptions of the Manhattan Beach Municipal Code by amending and adding the following regulations:

Chapter 10.84 – PRECISE DEVELOPMENT PLANS, SITE DEVELOPMENT PERMITS, USE PERMITS, VARIANCES AND MINOR EXCEPTIONS

10.84.010 - Purposes.

This chapter provides the flexibility in application of land-use and development regulations necessary to achieve the purposes of the ordinance codified in this title by establishing procedures for approval, conditional approval, or disapproval of applications for precise development plans, site development permits, use permits, variances and minor exceptions.

A Precise development plan or site development permit is required for a multi-family residential development with 6 or more units in the RM, RH and RPD zones.

Projects that qualify for a density bonus pursuant to Section 10.52.090 shall be eligible for a non-discretionary precise development plan controlling project design while other multi-family projects shall require approval of a site development permit. A precise development plan is a non-discretionary approval.

Use permits are required for use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area.

Variations are intended to resolve practical difficulties or unnecessary physical hardships that may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity of the site.

Variations may be granted with respect to fences, walls, landscaping, screening, site area, site dimensions, yards, height of structures, distances between structures, open space, off-street parking and off-street loading, and performance standards.

Authorization to grant variations does not extend to use regulations because sufficient flexibility is provided by the use permit process for specified uses and by the authority of the Planning Commission to determine whether a specific use belongs within one (1) or more of the use classifications listed in Chapter 10.08. Further, Chapter 10.96 provides procedures for amendments to the zoning map or zoning regulations. These will ensure that any changes are consistent with the General Plan and the land use objectives of the ordinance codified in this title.

Minor exceptions are generally intended to allow certain alterations and additions to certain nonconforming pre-existing structures. Minor Exceptions are also intended to encourage home remodeling and additions to existing smaller older legal non-conforming homes. The provisions strive to balance the communities desire to maintain smaller older homes while still allowing some flexibility to encourage these homes to be maintained and upgraded, as well as enlarged below the maximum allowed square footage instead of being replaced with larger new homes.

10.84.020 - Authority of Planning Commission.

The Planning Commission shall approve, conditionally approve, or disapprove applications for precise development plans, site development permits, use permits or variations.

10.84.030 - Initiation.

Applications for precise development plans, site development permits, use permits and variances shall be initiated by submitting the following materials to the Community Development Department:

10.84.040 - Notice and public hearing.

A. **Public Hearing Required.** The Planning Commission shall hold a public hearing on an application for a precise development plan, site development permit, use permit or variance.

D. **Multiple Applications.** When applications for multiple precise development plans, site development permits, use permits or variances on a single site are filed at the same time, the Community Development Director shall schedule a combined public hearing.

10.84.060 - Required findings.

An application for a precise development plan, site development permit, use permit or variance as it was applied for, or in modified form as required by the Commission, shall be approved if, on the basis of the application, plans, materials, and testimony submitted, the Commission finds that:

A. For Precise Development Plans.

1. The proposed project is in conformance with applicable General Plan policies;
2. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located; and
3. The proposed use will comply with the provisions of this title, including physical development standards and any specific condition required for the proposed use in the district in which it would be located.

B. For Site Development Permits.

1. The proposed project is in conformance with applicable General Plan policies;
2. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located; and
3. The proposed use will comply with the provisions of this title, including physical development standards and any specific condition required for the proposed use in the district in which it would be located.

C. For All Use Permits.

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located;
2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;
3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located; and
4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

D. For Variances.

1. Because of special circumstances or conditions applicable to the subject property—including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions—strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property;
2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare; and
3. Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.
4. OS District Only. Granting the application is consistent with the requirements of Section 65911 of the Government Code and will not conflict with General Plan policy governing orderly growth and development and the preservation and conservation of open-space laws.

E. Mandatory Denial. Failure to make all the required findings under (A), (B), (C) or (D) shall require denial of the application for a precise development plan, site development permit, use permit or variance.

10.84.070 - Conditions of approval.

In approving a precise development plan, site development permit, use permit or variance, reasonable conditions may be imposed as necessary to:

- A. Achieve the general purposes of this ordinance or the specific purposes of the zoning district in which the site is located, or to make it consistent with the General Plan;
- B. Protect the public health, safety, and general welfare; or
- C. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.
- D. Provide for periodic review of the use to determine compliance with conditions imposed, and Municipal Code requirements.

10.84.080 - Effective date—Appeals.

Unless appealed in accordance with Chapter 10.100, a precise development plan, site development permit, use permit or variance shall become effective after expiration of the time limits for appeal set forth in Section 10.100.030.

10.84.090 - Lapse of approval—Transferability—Discontinuance—Revocation.

A. Lapse of Approval. A precise development plan, site development permit, use permit or variance shall lapse two (2) years or at an alternative time specified as a condition of approval after its date of approval unless:

- 1. A building permit has been issued and substantial expenditures have been made in reliance on that permit; or
- 2. A certificate of occupancy has been issued; or
- 3. The use is established; or
- 4. The use permit or variance is renewed.

A precise development plan, site development permit, use permit or variance also shall lapse upon termination of a project or expiration of a building permit.

B. Transferability. The validity of a precise development plan, site development permit or use permit shall not be affected by changes in ownership or proprietorship provided that the new owner or proprietor applies to the Community Development Director for a transfer which may be comprised of a business license. No notice or public hearing on a transfer shall be required.

C. Discontinuance. An implemented use permit shall lapse if the exercise of rights granted by it is discontinued for twelve (12) consecutive months provided that time for plan check, construction or reconstruction activities shall not be counted toward the twelve (12) months.

D. Revocation. A use permit or variance that is exercised in violation of a condition of approval or a provision of this title may be revoked, or modified, as provided in Section 10.104.030

E. Renewal. A use permit or variance may be renewed by the Community Development Director for periods of time up to one (1) year without notice or public hearing, if the findings required by Section 10.84.060 remain valid. Such requests for renewal are subject to the review and approval of the original reviewing body.

10.84.100 - Changed plans—New application.

A. Changed Plans. A request for changes in conditions of approval of a precise development plan, site development permit, use permit or variance, or a change to development plans that would affect a condition of approval, shall be treated as a new application.

B. New Application. If an application for a precise development plan, site development permit, use permit or variance is disapproved, no new application for the same, or substantially the same, use permit or variance shall be filed within one (1) year of the date of denial of the initial application, unless the denial is made without prejudice.

(remaining sections of this Chapter unchanged)

SECTION 11. The Planning Commission of the City of Manhattan Beach hereby recommends deleting Section Chapter 10.52.090.—Affordable Housing Incentive Program of the Manhattan Beach Municipal Code and adding a new Section Chapter 10.94-Affordable Housing Density Bonus Program as follows:

Chapter 10.94 AFFORDABLE HOUSING DENSITY BONUS AND INCENTIVE PROGRAM.

Section 10.94.010 General Affordable Housing Provisions

A. **State Law Governs.** The provisions of this chapter shall be governed by the requirements of Government Code Section 65915, as that statute is amended from time-to-time. Where conflict occurs between the provisions of this chapter and State law, the State law provisions shall govern, unless otherwise specified.

B. **Compatibility.** All affordable housing units shall be dispersed within market-rate projects whenever feasible. Affordable housing units within market-rate projects shall be comparable with the design and use of market-rate units in appearance, use of materials, and finished quality. The design and appearance of the affordable housing units shall be compatible with the design of the total housing project and consistent with the surrounding neighborhood. Forms, materials and proportions that are compatible with the character of the surroundings shall be used.

C. **Availability.** All affordable housing units shall be constructed concurrently with, and made available for qualified occupants at the same time as, the market-rate housing units within the same project unless both the City and the developer agree in the Affordable Housing Agreement to an alternative schedule for development.

D. **Affordable Housing Agreement.** An Affordable Housing Agreement shall be made a condition of the planning permits for all projects granted a density bonus, pursuant to this Chapter. The Agreement shall be recorded as a restriction on the parcel or parcels on which the affordable housing units will be constructed. The Agreement shall be consistent with Section 10.94.50.D., Affordable Housing Agreement Required.

E. **Median Income Levels.** For the purpose of determining the income levels for Households under this Chapter, the City shall use the Los Angeles County income limits found in Title 25, Section 6932 of the California Code of Regulations, and regularly updated and published by the State Department of Housing and Community Development, or other

income limits adopted by the City Council if the State Department of Housing and Community Development fails to provide regular updates.

F. **Effect of Granting Density Bonus.** The granting of a density bonus shall not, in and of itself, be interpreted to require a general plan amendment, zoning change, or other discretionary approval.

Section 10.94.020 State Affordable Housing Density Bonus.

A. **Density Bonus.** Pursuant to Government Code Section 65915, the City shall grant a density bonus in the following amounts over the otherwise allowable maximum residential density permitted by this Chapter and the General Plan, and 1 or more of the Affordable Housing Incentives set forth in Section 10.94.40 Affordable Housing Concessions and Incentives, below, if the applicant agrees or proposes to construct any one of the following:

1. **Lower Income Units.** A density bonus of 20% if 10% of the total units of a housing development are Target Units affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

2. **Very Low Income Units.** A density bonus of 20%, if 5% of the total units of a housing development are Target Units affordable to very low income households, as defined in Section 50105 of the Health and Safety Code.

3. **Senior Citizen Housing Development.** A density bonus of 20%, if a housing development qualifies as a Senior Citizen Housing Development, as defined in Section 51.3 of the Civil Code.

4. **Moderate Income Units in Condominium and Planned Unit Developments.** A density bonus of 5% if 10% of the total dwelling units in a condominium project, as defined in subdivision (f) of, or in a Planned Development, as defined in subdivision (k) of Section 1351 of the Civil Code, are Target Units affordable to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

5. **Housing Accompanied by Land Donation.** A density bonus of 15%, if a housing developer agrees to donate land to the City, subject to the requirements of Section 10.94.60: Density Bonuses for Housing Developments Accompanied by Land Donation, below.

B. Applicability. The provisions of subsection A shall be applicable to residential projects of 5 or more units, and senior citizen housing developments of at least 35 units.

C. Calculation of Density Bonuses.

1. **Density Bonus Units.** When calculating the number of permitted density bonus units, all fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the number of target affordable or senior housing units to be provided in a development project;

2. **Sliding Scale for Greater Density Bonus.** An applicant is entitled to receive a bonus larger than the percentages specified in subsection A if the percentage of affordable housing exceeds the percentages specified in subsection A, subject to the following provisions:

a. **Lower Income Dwellings.** For each additional 1% increase above 10% in the proportion of units affordable to lower income households, the density bonus shall be increased by 1.5% up to a maximum of 35% of the maximum allowable residential density for the site.

b. **Very Low Income Dwellings.** For each additional 1% increase above 5% in the proportion of units affordable to very low income households, the density bonus shall be increased by 2.5% up to a maximum of 35% of the maximum allowable residential density for the site.

c. **Condominium and Planned Unit Developments.** For each additional 1% increase above 10% in the proportion of units affordable to moderate income households in condominium and planned unit developments, the density bonus shall be increased by 1% up to a maximum of 35% of the maximum allowable residential density for the site.

d. **Housing Accompanied by Land Donation.** For each additional 1% increase above the minimum 10% land donation described in Section 10.94.60: Density Bonuses for Housing Developments Accompanied by Land Donation, below, the density bonus shall be increased by 1%, up to a maximum of 35% of the maximum allowable residential density for the site.

D. Applicant May Request Smaller Density Bonus. Notwithstanding the foregoing, the City may award a smaller density bonus than specified in this section if the Applicant so requests.

Section 10.94.30 State Childcare Facility Density Bonus.

A. **Density Bonus.** When an applicant proposes to construct a housing development that conforms to the requirements of Section 10.94.020: Density Bonus, above, and includes a childcare facility other than a family day care home that will be located on the premises of, as part of, or adjacent to, the project, the City shall grant either of the following:

1. **Additional Density Bonus.** A density bonus of additional residential units equal in square footage to the amount of square feet of the childcare facility, or

2. **Additional Concession or Incentive.** An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

B. **Conditions of Approval.** The City shall require as a condition of approving the housing development that the following occur:

1. **Length of Operation.** The childcare facility remains in operation for a period of time that is as long as, or longer than the length of time during which Section 10.94.50.B: Duration of Affordability of Rental Units, following, requires that the affordable housing units remain affordable.

2. **Attending Children.** The percentage of children of very low, low or moderate income households who attend the childcare facility shall be the same or greater than the percentage of dwelling units in the project that are required for households at each income level, pursuant to Section 10.94.30.A: Density Bonus, above.

C. **Exceptions.** The City shall not be required to provide a density bonus or concession for a childcare facility if it finds that, based upon substantial evidence, the community has adequate childcare facilities.

Section 10.94.40 Affordable Housing Concessions and Incentives.

A. **Number of Incentives or Concessions.** In addition to a density bonus, an applicant is entitled to receive incentives or concessions as follows:

1. One incentive or concession for projects that include at least

10% of the total units for lower income households, at least 5% for very low income households, or at least 10% for persons and families of moderate income in a condominium or planned development, or

2. One incentive or concession for senior citizen housing developments, or

3. Two incentives or concessions for projects that include at least 20% of the total units for lower income households, at least 10% for very low income households, or at least 20% for persons and families of moderate income in a condominium or planned development, or

4. Three incentives or concessions for projects that include at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons and families of moderate income in a condominium or planned development.

B. Proposal of Incentives and Findings. An applicant may propose specific incentives or concessions that would contribute significantly to the economic feasibility of providing affordable units pursuant to this chapter and State law. In addition to any increase in density to which an applicant is entitled, the City shall grant one or more incentives or concessions that an applicant requests, up to the maximum number of incentives and concessions required pursuant to subsection A, unless the City makes a written finding that either:

1. The concession or incentive is not necessary in order to provide the proposed targeted units, or

2. The concession or incentive would have a specific adverse impact that cannot be feasibly mitigated on public health and safety or the physical environment or any property that is listed in the California Register of Historical Resources.

C. Types of Affordable Housing Incentives. Affordable housing incentives may consist of any combination of the items listed below. In addition to the incentives listed, the City may allow for fast track and priority processing for a project with affordable housing.

1. **Modification of Development Standards.** Up to 20% in modification of site development standards or zoning code requirements that exceed minimum building code standards and fire code standards, including, but not limited to:

- a. Reduced minimum lot sizes and/or dimensions.
- b. Reduced minimum building setbacks and building separation requirements.
- c. Reduced minimum outdoor and/or private outdoor living area requirements.
- d. Increased maximum lot coverage.
- e. Increased maximum building height.

2. Reduced Parking.

a. Upon the applicant's request, the City shall allow a reduction in required parking, excluding handicapped parking. Notwithstanding the foregoing, the parking must satisfy at least the following minimum ratios:

- i. One on-site space for 0 to 1 bedroom units;
- ii. Two on-site spaces for 2 to 3 bedrooms;
- iii. Two and a half spaces for 4 or more bedrooms.

b. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

c. At the applicant's request, tandem parking may be counted toward meeting these parking requirements.

3. Mixed Use Zoning. Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development and such uses are compatible with the housing project and the surrounding area.

4. Other Incentives. Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable cost reductions or avoidance.

D. Additional Affordable Housing Incentives. The City may allow for additional affordable housing incentives to be granted on a case-by-case basis, when

requested by an applicant when more than 50% of the affordable housing units provided contain 3 or more bedrooms to meet the needs of large families.

Section 10.94.50 Administration.

A. Application and Review Process. A preliminary review of development projects proposed pursuant to this Chapter is encouraged to discuss and identify potential application issues, including proposed modifications to development standards. The applicant shall request in the application the incentives the applicant wishes to obtain. The application shall include financial data showing how the incentives are necessary to make the affordable units feasible. Applications shall be reviewed and processed according to the provisions of Chapter 10.12: Residential Districts.

B. Duration of Affordability of Rental Units. All lower income and very low income housing units shall be kept affordable for a minimum period of 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program, consistent with State law.

C. Definition of Affordability. Those units targeted for lower income households as defined in Section 10.94.020: State Affordable Housing Density Bonus, above, shall be affordable at a rent that does not exceed 30% of 60% of the area median income. Units targeted for very low income households shall be affordable at a rent that does not exceed 30% of 50% of area median income. Units targeted for moderate income households shall be affordable at a rent that does not exceed 35% of 110% of area median income. Median income levels shall be the income limits for Orange County households as provided for in Section 10.94.10.E: Median Income Levels, above.

D. Affordable Housing Agreement Required. All affordable housing projects shall be subject to the approval of an affordable housing agreement conforming to the provisions of Title 7, Division 1, Chapter 4, Article 2.5 of the Government Code, which shall be recorded as a covenant on the title to the Property. The terms of the Agreement shall be reviewed and revised as appropriate by the Director and/or City Attorney, who shall formulate a recommendation to the Planning Commission for final approval. This Agreement shall include, but is not limited to, the following:

1. Number of Units. The total number of units approved for the projects, including the number of affordable housing units.

2. Target Units. The location, unit sizes (in square feet) and number of bedrooms of the affordable housing units.

3. Target Group. A description of the household income groups to be accommodated by the project and a calculation of the Affordable Rent or Sales Price, or a commitment to provide a Senior Citizen Housing Development.

4. Certification Procedures. The party responsible for certifying rents or sales prices of inclusionary units, and the process that will be used to certify renters or purchasers of such units.

5. Schedule. A schedule for the completion and occupancy of the affordable housing units.

6. Remedies for Breach. A description of the remedies for breach of the Agreement by either party.

7. Required Term of Affordability. For lower income and very low income units, duration of affordability of the housing units, pursuant to Section 10.94.50.B: Duration of Affordability of Rental Units, above. Provisions should also cover resale control and deed restrictions on targeted housing units that are binding on property upon sale or transfer.

8. Expiration of Agreement. Provisions covering the expiration of the agreement, including notice prior to conversion to market rate units and right of first refusal option for the City and/or the distribution of accrued equity for for-sale units.

9. Other Provisions. Other provisions to ensure implementation and compliance with this Chapter.

10. Condominium and Planned Unit Developments. In the case of condominium and planned unit developments, the Affordable Housing Agreement shall provide for the following conditions governing the initial sale and initial resale and use of affordable housing units:

a. Target Units shall, upon initial sale, be sold to eligible Very Low, Lower, or Moderate Income Households at an Affordable Sales Price and Housing Cost, or to Qualified Residents as defined by this Chapter.

b. Target Units shall be initially owner-occupied by eligible Very Low, Lower, or Moderate Income Households.

c. Upon resale, the seller of a Target Unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall be used to promote home ownership opportunities as provided for in Health and Safety Code Section 33334.2. The City's proportionate share shall be equal to the percentage by which the initial sale price to the targeted household was less than the fair market value of the dwelling unit at the time of initial sale.

11. Rental Housing Developments. In the case of rental housing developments, the Affordable Housing Agreement shall provide for the following conditions governing the use of Target Units during the use restriction period:

a. The rules and procedures for qualifying tenants, establishing affordable rent rates, filling vacancies, and maintaining Target Units for qualified tenants.

b. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter.

c. Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying Target Units, and which identifies the bedroom size and monthly rent or cost of each Target Unit.

E. Notice of Conversions. Notice of conversions of affordable units to market-rate units shall be provided pursuant to the following requirements:

1. General. At least a one year notice shall be required prior to the conversion of any rental units for affordable households to market-rate.

2. Required Notice. Notice shall be given to the following:

a. The City;

b. The state Housing and Community Development Department (HCD);

c. The Los Angeles County Housing Authority;

d. The residents of the affordable housing units proposed to be converted; and

e. Any other person deemed appropriate by the City.

F. Conversion of Affordable Rental Units. If an owner of a housing development issues a notice-of-intent to convert affordable housing rental units to market-rate housing, the City shall consider taking one or more of the following actions:

1. Meet with the owner to determine the owner's financial objectives;
2. Determine whether financial assistance to the current owner will maintain the affordability of the rental housing development or whether acquisition by another owner dedicated to maintaining the affordability of the development would be feasible; and
3. If necessary to maintain the affordability of the housing unit or facilitate sale of the rental development, consider the use of redevelopment housing set-aside funds or assistance in accessing state or federal funding.

Section 10.94.60 Density Bonuses for Housing Developments Accompanied by Land Donation.

The City shall grant a density bonus pursuant to Section 10.94.020: State Affordable Housing Density Bonus, above, to a housing development if the applicant agrees to donate land to the City and the applicant satisfies all of the following requirements:

- A. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application;
- B. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 % of the number of residential units of the proposed development;
- C. The transferred land is at least 1 acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure, as determined by the Director;
- D. The transferred land has appropriate zoning and development standards to make the development of the affordable units feasible, as determined by the Director;

E. Prior to the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land has all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review if the design is not reviewed by the City prior to the time of transfer;

F. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units meeting the requirements of an affordable housing agreement as set forth in Section 10.94.50.D: Affordable Housing Agreement Required;

G. The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer; and

H. The transferred land is within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

SECTION 12. Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

SECTION 13. If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 14. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of April 10, 2013 and that said Resolution was adopted by the following votes:

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD THOMPSON
Secretary to the Planning Commission

ROSEMARY LACKOW
Recording Secretary