



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

DATE: July 22, 2020

TO: Planning Commission

FROM: Carrie Tai, AICP, Director of Community Development

BY: Eric Haaland, Associate Planner
Angelica Ochoa, Associate Planner

SUBJECT: Accessory Dwelling Unit Ordinance Study Session

RECOMMENDATION

Staff recommends that the Planning Commission **DISCUSS** the information presented by Staff and **DIRECT** that Public Hearings be scheduled for Municipal Code amendments for permanent Accessory Dwelling Unit and Replacement Unit Ordinances, and associated Local Coastal Program Amendments.

BACKGROUND

At its regular meeting of June 10, 2020, the Planning Commission conducted a study session to discuss the development of permanent ordinances regulating housing developments, including revised regulations for Accessory Dwelling Units (ADUs) and prohibiting the net loss of dwelling units due to housing development. The City's various interim ordinances, adopted in January 2020, responded to new State laws, which require that: (a) local agencies allow for the development of ADUs in accordance with State law, and (b) existing housing units are replaced if a new housing development project on the site requires the demolition of the existing units.

At the conclusion of the study session, the Planning Commission requested a follow-up study session. Specifically, the Planning Commission asked staff to provide information regarding nearby city comparisons, more specific details on the City's ability to set ADU regulations, and identify sections of City's ordinances that need to be updated. The goal ultimately is to allow the Planning Commission

to consider and make recommendations regarding permanent ordinances to replace the various interim ordinances.

In an effort to reduce confusion about the effect of the interim ordinances, this agenda report separates the discussion of ADU regulations from the discussion of the replacement unit requirements. While overlapping in minor ways, these issues ultimately are distinct and require elaboration.

DISCUSSION

Local Authority to Regulate Accessory Dwelling Units

California law related to ADUs was amended by a series of legislative bills in 2019 (Assembly Bill (AB) 881, AB 68, AB 587, AB 670 and Senate Bill (SB) 13), effective January 1, 2020. As revised, Government Code Section 65852.2 further limits local jurisdictions' ability to regulate or limit ADUs in continuation of the State's efforts to facilitate the production of housing. Effective January 1, 2020, cities were required to adopt an ordinance that complies with the new restrictions and includes specific standards.

The City Council adopted an Urgency Ordinance Nos. 20-0004-U and 20-0005-U (extending interim ordinances adopted December 17, 2019) to amend regulations for ADUs and junior accessory dwelling units (JADUs)¹. The interim Urgency Ordinances are set to expire on December 15, 2020.

As currently written, State law allows local agencies to adopt a local ordinance to designate areas where ADUs are permitted (and prohibited) and establish appropriate development standards (within the confines of some parameters set out in State law). Below are a few of the important limitations on local authority with respect to establishing zoning and development standards for ADUs:

- The determination about where ADUs may be permitted must be based on the adequacy of water / sewer service or the impact of ADUs on traffic flow and public safety;
- Setbacks must be established in accordance with specific provisions in State law;
- Maximum unit sizes must be established in accordance with specific provisions in State law;
- When a garage, carport, or covered parking structure is converted or demolished to construct an ADU, cities cannot require replacement of the lost off-street parking spaces;
- Cities cannot require minimum lot sizes for ADUs;

¹ A JADU is a housing unit limited to 500 square feet in size that is contained within the walls of an existing or proposed single-family residence. As such, a JADU is inherently "attached" to the primary single-family residence. In accordance with Government Code Section 65852.22, a JADU must have an efficiency kitchen, with cooking appliances and a small food preparation and storage area. However, a JADU may share a bathroom with the main house; it does not need to have separate bathroom facilities.

- Cities cannot require owner occupancy (except for JADUs); and
- Cities may establish development impact fees for ADUs in accordance with the limitations in State law.

Within the parameters described above, cities may establish development standards for ADUs so long as they are reasonable and do not unduly burden the development of ADUs.

In addition to the local regulations, State law expressly requires that certain ADUs and JADUs be approved through a building permit. The categories that must be approved by building permit generally include:

- **ADUs/JADUs on single-family lots:** One ADU or JADU, within the space of an existing or proposed single-family dwelling or accessory structure. If built in a converted accessory structure, the ADU may expand the existing space up to 150 square feet beyond the existing physical dimensions. Rear and side yard setbacks must be sufficient for fire and safety.
- **Detached ADUs on single-family lots:** One detached, newly constructed ADU per single-family lot, so long as the ADU maintains at least 4-foot rear and side yard setbacks, is no greater than 800 square feet in size, and no higher than 16 feet.
 - Importantly, a detached ADU may be combined with a JADU that complies with the requirements described above, such that two additional units (one detached ADU and one attached JADU) are allowed per lot. Given the size limitations, this means that a property could have a 500-square-foot JADU attached to the house and an up to 800-square-foot detached ADU.
- **Converted ADUs in Existing Multifamily Dwellings:** Multiple ADUs may be built within portions of an existing multifamily dwelling, in spaces not used as livable space (e.g., storage rooms, boiler rooms, attics, basements, and garages). The number of ADUs that may be created per existing multifamily dwelling is equal to 25% of the number of existing units, or one ADU, whichever is greater.
- **Detached ADUs on Multifamily Lots:** Up to two detached ADUs may be built on a lot with an existing multifamily dwelling. These ADUs are subject to a 16-foot height limit and must maintain at least 4-foot rear and side yard setbacks.

The City's initial adoption of these 2019 State regulations was done with temporary urgency ordinances to meet the January 1, 2020, deadline. Given the inherently temporary nature of urgency ordinances, permanent ordinances must be adopted by the City Council, after Planning Commission review and recommendation through the public hearing process. The lack of a local ordinance would require the City to comply only with State law on these matters, taking away the ability for the City to apply regulations specific to the City's character and development patterns (in accordance with State law). Coastal Commission approval would also be required for the Local Coastal Program

ordinances. Since January 21, staff has had an opportunity to evaluate the new State regulations. The permanent ordinances will include staff-recommended provisions to improve the clarity and ease-of-use of the ordinances.

Comparison of ADU Requirements in Nearby Cities

At the request of the Planning Commission, City staff researched ADU provisions in the surrounding cities of Torrance, Hermosa Beach, Redondo Beach, and El Segundo. A few of the highlights from local ordinances are identified below:

Torrance

- ADUs are only allowed in designated areas. Hillside Overlay not allowed due to fire and safety reasons
- Only one curb cut is allowed per lot containing a single-family dwelling
- Mechanical lifts (for parking) are prohibited
- 6-foot separation for detached structures
- Minimum 10 feet exterior side yard setback for corner lots (detached, including above garages)
- Openings to balconies, decks and similar outdoor areas are prohibited
- Full kitchen required

Hermosa Beach

- ADUs are allowed in residential zoned properties except the Mobile Home Park Development District
- Floor area or site coverage limit shall not reduce an ADU below 800 square feet
- Full kitchen required

Redondo Beach – In process of updating Ordinance

- ADUs allowed in all residential zones
- 5-foot separation setback for detached structures
- Curb cut can remain for garage conversions

El Segundo

- ADUs allowed in all residential zones
- Detached accessory structures cannot exceed 1,200 square feet
- 6-foot separation setback for detached structures
- Curb cut can remain for garage conversions
- Detached accessory buildings limited to one story
- Full kitchen required

In summary, because State law for ADUs/JADUs is detailed and prescriptive, a survey of neighboring cities reveals similar approaches to customizing local ADU ordinances. These approaches include allowing driveways/parking to remain after garage conversions to ADUs to allow for on-site parking, requiring covenants, and clarifying standards for kitchens. Accordingly, staff offers the following points for potential consideration by the Planning Commission:

Topics for Discussion

1. Designations for Allowed Location

The City permits by right ADUs and JADUs in the coastal areas only if they fit the criteria of Government Code Section 65852.2(e)(1). Otherwise, cities can prohibit ADUs in some areas based upon the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety. Staff is continuing to research the City's ability to regulate ADUs in certain areas.

2. Unit Sizes

State law generally allows cities to adopt minimum and maximum unit size requirements for attached and detached ADUs. Under State law, the default maximum ADU size is 1,200 square feet for detached ADUs. If there is an existing primary dwelling on the site, the total floor area of a newly proposed attached ADU shall not exceed 50 percent of the existing primary dwelling. In addition, any minimum and maximum unit sizes must be consistent with the following:

- A **minimum** square footage requirement is permissible, so long as it allows construction of an efficiency unit. Staff recommends a minimum size of 220 square feet.
- A **maximum** square footage requirement is permissible but the limit cannot be less than 850 square feet for a studio or 1 bedroom ADU, or 1,000 square feet for an ADU with more than 1 bedroom.

Other development standards, including limits on lot coverage, floor area ratio, or open space requirements, cannot be applied to the extent they would prohibit an ADU that is at least 800 square feet and 16 feet tall, with 4-foot rear yard and side setbacks.

In light of these parameters, the Planning Commission may make a recommendation about whether to maintain the default maximum unit size of 1,200 square feet or reduce the maximum allowable unit size to 850 square feet for a studio or 1 bedroom ADU, and 1,000 square feet for an ADU with more than 1 bedroom. In addition, the Planning Commission may make a recommendation about lot coverage, floor area ratio, open space, and other requirements, with the caveat that any such standards may not prevent an 800 square foot ADU that is 16 feet in height and complies with 4-foot side and rear yard setbacks.

3. Separation Requirements for Detached ADUs

Municipal Code Section 10.12.030 requires a building separation distance of 10 feet, which would require detached ADUs to be 10 feet away from another structure, unless they are able to comply with the criteria of Government Code Section 65852.2(e)(1). Some of the reasons for building separation are to establish open space, to ensure development patterns conform to certain density of development, or for fire separation. Given new Building Code regulations for separation, as well as advancements in building materials, it is now possible to allow for smaller distances of separation, generally down to 6 feet between structures. For example, other cities in the area have established 5- or 6-foot building separation in their Zoning Codes. To facilitate development on smaller and more density-populated areas, the Planning Commission could consider a code amendment to allow less than 10 feet of building separation between structures.

4. Parking/Driveway Requirements for Garage Conversions

Municipal Code Section 10.64.020(F)(2) does not allow unenclosed parking in required yards and open space (for example, the front yard setback). Parking is allowed only on driveways, and driveways are defined as areas that lead to a garage or parking space. However, since State law allows for conversions of existing garages into Accessory Dwelling Units, the ability to have unenclosed parking would be eliminated once the garage was converted. Staff recommends a code amendment to allow unenclosed parking in driveways, which remain after garage conversions. By comparison, other cities in the area have allowed similar provisions to ensure that properties can provide on-site parking.

5. Clarification of Kitchen Standards

There are ambiguities regarding the types of kitchen amenities and appliances that are required for ADUs. Staff proposes to include language within the Municipal Code clarifying that kitchens in ADUs must have preparation, cooking, washing, storage, and refrigeration facilities of a permanent nature. In contrast, State law provides that JADUs are only required to include an efficiency kitchen with cooking appliances and a small food preparation and storage area.

Replacement Unit Requirements under SB 330 and Urgency Ordinance Nos. 20-0002-U and 20-0003-U

Effective January 1, 2020, Government Code Section 66300(d) requires that “[a]n affected city . . . shall not approve a housing development project that will require the demolition of residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished.” This new provision in State law, enacted by Senate Bill 330, effectively prohibits

property owners from demolishing existing housing units unless the proposed replacement housing project includes at least as many units as were there previously.

In addition, Section 66300(d) also imposes *affordability* requirements on new housing development projects *if* the project requires the demolition of units considered to be “protected units.” Protected units generally refer to units that in the past five years were subject to an affordable deed restriction, were removed from the rental market under the Ellis Act, and were known to be occupied by lower income or very low income households. The term also includes units subject to rent control, but the City of Manhattan Beach does not have a rent control ordinance. In short, if any “protected units” exist on the site and need to be demolished for the proposed housing development project to be completed, the applicant must comply with the requirement to replace those units with affordable units, as required by Government Code Section 65915 [which is cross-referenced in Section 66300(d)].

Both of the above-mentioned requirements are mandated by State law. Section 66300(d)(3) also expressly grants local agencies the authority to further restrict the demolition of residential dwelling units in a manner that is more protective of lower income households. In an effort to ensure the preservation of existing affordable housing in the City, the City Council adopted interim Urgency Ordinance Nos. 20-0002-U and 20-0003-U on January 21, 2020, (replacing initial matching ordinances adopted December 17, 2019). These ordinances sought to clarify that the replacement unit requirements required by State law also apply in the context of a proposed application for either an alteration/remodel of a single-family home or a new single-family home because it is not entirely clear that the State law requirements apply in those contexts.

In addition, these interim Urgency Ordinances provide an opportunity for property owners to satisfy the requirements of State law by constructing a JADU to serve as a replacement unit, provided the owner signs an affordability covenant.

Practically, the replacement unit requirement imposed by the City’s Urgency Ordinances applies in limited instances. For example, if an applicant seeks to demolish a duplex (or triplex) to build a single-family home, the City’s Urgency Ordinance would require that the applicant build a single-family home with either an ADU/JADU (or both) to make sure that the property still has the same number of units as before. If any of the existing units were considered “protected units,” the property owner would be required to place an affordability covenant on one or more of the units, as required by Sections 66300 and 65915.

While the City’s Urgency Ordinance proposed a temporary solution, the Planning Commission could consider the type of replacement unit that would be acceptable for a demolished unit, for example, in terms of number of bedrooms or size. If replacement units were in the form of either an ADU or JADU, it is conceivable that there would be a reduction in the number of bedrooms or size when compared to the demolished unit.

Section 66300(d)(3) of the State law also supports Cities' efforts to include affordability considerations in replacement housing development. The affordable JADU provision in the urgency ordinances is an example of this, and the Planning Commission can recommend other provisions intended for assisting lower income households.

CONCLUSION

Staff recommends that the Planning Commission discuss the study session information presented, accept public comments, and direct Staff to schedule a public hearing for permanent Municipal Code and Local Coastal Program Amendments. Staff recommends that the Planning Commission set separate hearings for the ADU ordinances, on the one hand, and the replacement unit requirements, on the other hand.

Attachments:

- A. Urgency Ordinance No. 20-0002-U (Municipal Code Dwelling Replacement)
- B. Urgency Ordinance No. 20-0003-U (Coastal Program Dwelling Replacement)
- C. Urgency Ordinance No. 20-0004-U (Municipal Code ADU)
- D. Urgency Ordinance No. 20-0005-U (Coastal Program ADU)
- E. Excerpt of Government Code Section 65852.2(e)(1)
- F. Excerpt of Government Code Section 66300(d)
- G. Area District Map

ATTACHMENT A

URGENCY ORDINANCE NO. 20-0002-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH EXTENDING INTERIM ORDINANCE NO. 19-0019-U AMENDING THE MANHATTAN BEACH MUNICIPAL CODE TO REGULATE RESIDENTIAL DEVELOPMENT PROJECTS THAT REQUIRE THE DEMOLITION OF DWELLING UNITS, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Ordinance No. 19-0019-U, adopted on December 17, 2019, amends Manhattan Beach Municipal Code Section 10.12.020 to regulate residential development projects that require the demolition, remodel or alteration of legal residential dwelling units. Ordinance No. 19-0019-U is hereby extended in full force and effect, as modified herein, for 10 months and 15 days to and including December 15, 2020.

SECTION 2. Manhattan Beach Municipal Code Section 10.12.020(Q) is amended to read as follows:

“(Q). The City shall not approve a residential development project that will require the demolition of legal residential dwelling units unless the project is consistent with Government Code Section 66300(d), as the same may be amended from time to time. For purposes of this subsection, a residential development project shall include remodels/alterations, as well as the construction of a single-family dwelling.

A junior accessory dwelling unit, as defined in Section 10.74.020 of this Code, may be constructed to comply with this subsection, and the property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the property owner shall be an owner-occupant, unless the owner is a government agency, land trust, or housing organization; (ii) the junior accessory dwelling unit is to be rented only for terms of 30 days or longer; (iii) the junior accessory dwelling unit is to be rented only for an “affordable rent” as defined in Health and Safety Code Section 50053; (iv) the junior accessory dwelling unit is not to be sold or conveyed separately from the single-family dwelling; (v) the property owner and all successors in interest shall maintain the junior accessory dwelling unit and the property in accordance with all applicable junior accessory dwelling unit requirements and standards, including the restrictions on the size and attributes of the junior accessory dwelling unit provided in Government Code Section 65852.22; and (vi) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.”

SECTION 3. Alleviation Measures Report. In accordance with California Government Code Section 65858(d), the City Council has issued a written report describing the measures taken to alleviate the condition that led to the adoption of Ordinance No. 19-0019-U.

SECTION 4. Term. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be effective immediately upon its adoption. This Ordinance shall expire on December 15, 2020, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

SECTION 5. Legislative Findings. In adopting Urgency Ordinance No. 19-0019-U, the City Council made a number of legislative findings to support to adoption on an urgency basis. The Council hereby extends Ordinance No. 19-0019-U based upon those findings, and the following findings.

The City continues to study the potential land use, public services, parking, traffic, and infrastructure effects of residential development projects that reduce the total number of residential dwelling units in the City. The City is also assessing the ways in which recently adopted State Housing Laws will affect the review and approval of proposed residential development projects. As the Legislature noted in its findings for Senate Bill No. 330, "California is experiencing a housing supply crisis, with housing demand far outstripping supply." The Legislature also found that this housing crisis has resulted in – among other things – increased poverty and homelessness, longer commute times, higher exposure to fire hazard, and increasing greenhouse gas emissions. Residential development projects that reduce the number of dwelling units in the City will exacerbate the housing crisis and its various consequences. Unless the City adopts this interim urgency ordinance, the City may be compelled to approve a residential development project that may have severe negative impacts on the surrounding community or adopt permanent standards without the benefit of an inquiry and study on the appropriate restrictions on the approval of residential development projects in the City and in particular areas. Based upon the foregoing, the City Council hereby finds that there is a current and immediate threat to the public health, safety, or welfare if new residential development projects reduce the number of dwelling units in the City, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for such projects which is required in order to comply with the City's Zoning Ordinance would result in that threat to public health, safety, or welfare. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety, and welfare for this Ordinance to take effect immediately.

The City intends to consider the adoption of permanent regulations within a reasonable time. The Planning Commission, the City Council and the people of Manhattan Beach require a reasonably limited, yet sufficient period of time to

establish permanent regulations for residential development projects that require the demolition of dwelling units. Given the time required to schedule and conduct duly noticed public hearings before the Planning Commission and the City Council, the City Council finds that extension of this Ordinance is necessary to prevent the approval of residential development projects with a reasonable potential to conflict with the City's permanent regulations. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Sections 65858 and 36937(b) in order to protect the public health, safety, or welfare.

SECTION 6. California Environmental Quality Act Exemption. The City Council determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code section 21000, et seq., ("CEQA") and the CEQA Guidelines (14 California Code of Regulations section 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this Ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 7. Internal Consistency. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 8. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall constitute a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.

ADOPTED on January 21, 2020.

AYES: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
NOES: None.
ABSENT: None.
ABSTAIN: None.



NANCY HERSMAN
Mayor

ATTEST:



LIZA TAMURA
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 20-0002-U was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 21st day of January, 2020, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
Noes: None.
Absent: None.
Abstain: None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 22nd day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 20-0002-U has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit January 30th, 2020 and in witness whereof, I have hereunto subscribed my name this 31st day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

ATTACHMENT B

URGENCY ORDINANCE NO. 20-0003-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH EXTENDING INTERIM ORDINANCE NO. 19-0020-U AMENDING THE CITY'S LOCAL COASTAL PROGRAM TO REGULATE RESIDENTIAL DEVELOPMENT PROJECTS THAT REQUIRE THE DEMOLITION OF DWELLING UNITS, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Ordinance No. 19-0020-U, adopted on December 17, 2019, amends Manhattan Beach Local Coastal Program Section A.12.020 to regulate residential development projects that require the demolition, remodel or alteration of legal residential dwelling units. Ordinance No. 19-0020-U is hereby extended in full force and effect, as modified herein, for 10 months and 15 days to and including December 15, 2020.

SECTION 2. Manhattan Beach Local Coastal Program Section A.12.020(P) is amended to read as follows:

“(P). The City shall not approve a residential development project that will require the demolition of legal residential dwelling units unless the project is consistent with Government Code Section 66300(d), as the same may be amended from time to time. For purposes of this subsection, a residential development project shall include remodels/alterations, as well as the construction of a single-family dwelling.

A junior accessory dwelling unit, as defined in Section A.74.020 of this Local Coastal Program, may be constructed to comply with this subsection, and the property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the property owner shall be an owner-occupant, unless the owner is a government agency, land trust, or housing organization; (ii) the junior accessory dwelling unit is to be rented only for terms of 30 days or longer; (iii) the junior accessory dwelling unit is to be rented only for an “affordable rent” as defined in Health and Safety Code Section 50053; (iv) the junior accessory dwelling unit is not to be sold or conveyed separately from the single-family dwelling; (v) the property owner and all successors in interest shall maintain the junior accessory dwelling unit and the property in accordance with all applicable junior accessory dwelling unit requirements and standards, including the restrictions on the size and attributes of the junior accessory dwelling unit provided in Government Code Section 65852.22; and (vi) that any violation will be subject to penalties as provided in Local Coastal Program Chapter 1.04. Proof of recordation of the covenant shall be

provided to the City at a time deemed appropriate by the Director of Community Development.”

SECTION 3. Alleviation Measures Report. In accordance with California Government Code Section 65858(d), the City Council has issued a written report describing the measures taken to alleviate the condition that led to the adoption of Ordinance No. 19-0020-U.

SECTION 4. Term. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be effective immediately upon its adoption. This Ordinance shall expire on December 15, 2020, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

SECTION 5. Legislative Findings. In adopting Urgency Ordinance No. 19-0020-U, the City Council made a number of legislative findings to support to adoption on an urgency basis. The Council hereby extends Ordinance No. 19-0020-U based upon those findings, and the following findings.

The City continues to study the potential land use, public services, parking, traffic, and infrastructure effects of residential development projects that reduce the total number of residential dwelling units in the City. The City is also assessing the ways in which recently adopted State Housing Laws will affect the review and approval of proposed residential development projects. As the Legislature noted in its findings for Senate Bill No. 330, “California is experiencing a housing supply crisis, with housing demand far outstripping supply.” The Legislature also found that this housing crisis has resulted in – among other things – increased poverty and homelessness, longer commute times, higher exposure to fire hazard, and increasing greenhouse gas emissions. Residential development projects that reduce the number of dwelling units in the City will exacerbate the housing crisis and its various consequences. Unless the City adopts this interim urgency ordinance, the City may be compelled to approve a residential development project that may have severe negative impacts on the surrounding community or adopt permanent standards without the benefit of an inquiry and study on the appropriate restrictions on the approval of residential development projects in the City and in particular areas. Based upon the foregoing, the City Council hereby finds that there is a current and immediate threat to the public health, safety, or welfare if new residential development projects reduce the number of dwelling units in the City, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for such projects which is required in order to comply with the City’s Local Coastal Program would result in that threat to public health, safety, or welfare. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety, and welfare for this Ordinance to take effect immediately.

The City intends to consider the adoption of permanent regulations within a reasonable time. The Planning Commission, the City Council and the people of Manhattan Beach require a reasonably limited, yet sufficient period of time to establish permanent regulations for residential development projects that require the demolition of dwelling units. Given the time required to schedule and conduct duly noticed public hearings before the Planning Commission and the City Council, the City Council finds that extension of this Ordinance is necessary to prevent the approval of residential development projects with a reasonable potential to conflict with the City's permanent regulations. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Sections 65858 and 36937(b) in order to protect the public health, safety, or welfare.

SECTION 6. California Environmental Quality Act Exemption. The City Council determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code section 21000, et seq., ("CEQA") and the CEQA Guidelines (14 California Code of Regulations section 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this Ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.


SECTION 7. Internal Consistency. Any provisions of the Local Coastal Program, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Local Coastal Program for internal consistency.

SECTION 8. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall constitute a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.


ADOPTED on January 21, 2020.

AYES: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
NOES: None.
ABSENT: None.
ABSTAIN: None



NANCY HERSMAN
Mayor

ATTEST:



LIZA TAMURA
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 20-0003-U was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 21st day of January, 2020, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
Noes: None.
Absent: None.
Abstain: None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 22nd day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 20-0003-U has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit January 30th, 2020 and in witness whereof, I have hereunto subscribed my name this 31st day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

ATTACHMENT C

URGENCY ORDINANCE NO. 20-0004-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH EXTENDING AND AMENDING INTERIM ORDINANCE NO. 19-0021-U AMENDING THE MANHATTAN BEACH MUNICIPAL CODE TO REGULATE ACCESSORY DWELLING UNITS AND OTHER ACCESSORY STRUCTURES, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Ordinance No. 19-0021-U, adopted on December 17, 2019, amends Manhattan Beach Municipal Code Chapter 10.74 to allow accessory dwelling units and junior accessory dwelling units consistent with state law. Ordinance No. 19-0021-U is hereby extended in full force and effect, as amended herein, for 10 months and 15 days to and including December 15, 2020.

SECTION 2. Manhattan Beach Municipal Code Chapter 10.74 is hereby amended to read as follows:

“Chapter 10.74 - Accessory Dwelling Units

- Section 10.74.010 – Purpose and Applicability
- Section 10.74.020 – Definitions
- Section 10.74.030 – General Requirements and Application Procedure
- Section 10.74.040 – ADU Standards
- Section 10.74.050 – JADU Standards
- Section 10.74.060 – Fees and Utility Connections
- Section 10.74.070 – Appeals

Section 10.74.010 - Purpose and Applicability.

The purpose of this Chapter is to implement the requirements of Government Code Sections 65852.2 and 65852.22 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units consistent with state law.

Section 10.74.020 - Definitions.

“Accessory Dwelling Unit” or “ADU” has the meaning ascribed in Government Code Section 65852.2, as the same may be amended from time to time. Notwithstanding the foregoing, the term “ADU” does not include a Guest House (or Accessory Living Quarters), as defined in Municipal Code Section 10.04.030.

“Attached ADU” means an ADU that is constructed as a physical expansion (i.e. addition) of the Primary Dwelling, or the remodeling of the Primary Dwelling, and shares a common wall with the Primary Dwelling.

“Detached ADU” means an ADU that is constructed as a separate structure from the Primary Dwelling, which does not share any walls with the Primary Dwelling.

“Existing Structure” means an existing single-family dwelling, multi-family dwelling, or other accessory structure that can be safely converted into habitable space under the California Building Standards Code, as amended by the City, and any other applicable laws.

“Junior Accessory Dwelling Unit” or “JADU” has the meaning ascribed in Government Code Section 65852.22, as the same may be amended from time to time.

“Primary Dwelling”, for purposes of this chapter, means the existing or proposed single-family dwelling on the lot where an ADU would be located.

“Public Transit”, for purposes of this chapter, has the meaning ascribed in Government Code Section 65852.2(j), as the same may be amended from time to time.

Section 10.74.030 - General Requirements and Application Procedure.

- A. Before constructing an ADU or a JADU or converting an Existing Structure or portion of a structure to an ADU or JADU, the applicant shall obtain permits in accordance with the requirements of this section.
- B. All ADUs and JADUs shall satisfy the requirements of the California Building Standards Code, as amended by the City, and any other applicable laws.
- C. Projects Exempt from Obtaining an ADU Permit. An applicant shall not be required to submit an application for an ADU permit under subsection D of this section, and may instead seek building permit approval for an ADU or JADU that satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, and the California Building Standards Code, as amended by the City, and any other applicable laws. An ADU or JADU approved pursuant to this subsection shall be rented only for terms of 30 days or longer.
- D. Projects Subject to ADU Permit Review and Timelines.

1. The Director of Community Development or his/her designee shall ministerially review and approve an ADU permit application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the ADU or JADU complies with the requirements contained in this chapter and any other applicable law.
 2. ADU permit applications subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2.
 3. Where an ADU permit application is submitted with an application for a single-family dwelling or multi-family dwelling that is subject to discretionary review under this Code, the ADU permit application will be considered separately without discretionary review or a public hearing, following action on the portion of the project subject to discretionary review.
 4. In addition to obtaining an ADU permit, the applicant shall be required to obtain a building permit and any other applicable construction or related permits prior to the construction of the ADU or JADU.
- E. Minor Exception: An applicant may apply for a Minor Exception, pursuant to Section 10.84.120, for the establishment of an ADU or JADU in an existing legal structure that does not comply with the ADU or JADU standards provided in this chapter. A Minor Exception may not be requested for site or lot conditions.

Section 10.74.040 - ADU Standards.

Excepting those ADUs approved pursuant to Subsection 10.74.030(C), ADUs shall comply with the following standards:

- A. Location Restrictions: One ADU shall be allowed on a lot with a proposed or existing single-family dwelling that is zoned RS, RM, RH, or RPD within Area District I and Area District II. For fire safety purposes, no ADUs shall be permitted in Area District III or Area District IV.
- B. Development Standards:
 1. Size, General: An ADU is limited to a maximum of two bedrooms. Studio and one bedroom ADUs shall not exceed 850 square feet of gross floor area. Two bedroom ADUs shall not exceed 1,000 square feet of gross floor area.

2. Additional Size Limitations for Attached ADUs: If there is an existing or proposed Primary Dwelling, an Attached ADU shall not exceed fifty percent of the gross floor area for the Primary Dwelling.
 3. Height for Detached ADUs: A Detached ADU shall not exceed 16 feet in height; or, when located above a garage, shall not exceed 25 feet in height subject to applicable standards provided in this Title.
 4. Setbacks: No setback shall be required for an ADU that is within an Existing Structure or within a structure constructed in the same location and dimensions as an Existing Structure. For all other ADUs, the required setback from side and rear lot lines shall be four feet.
 5. Standards: An ADU shall conform to all open space, buildable floor area, minimum lot size, and front and corner side yard setback regulations applicable to the zoning district in which the property is located, except in the following cases:
 - a. ADUs that are not required to obtain an ADU permit as provided in Section 10.74.030(C).
 - b. Where the application of such standards would not permit construction of an 800 square foot ADU that is 16 feet in height with four-foot side and rear yard setbacks, the regulation(s) at issue shall be waived to permit such an ADU.
 6. Except as provided in subsection 5.b, an ADU shall count toward the maximum total buildable floor area applicable to the lot.
- C. Guest Houses: If an ADU is located on a lot with a Guest House, either, but not both, the Guest House or the ADU shall be attached to the Primary Dwelling.
- D. Design and Features:
1. An ADU shall not have any outdoor deck at a height greater than 30 inches above local grade if the deck is located in the Primary Dwelling's required yards.
 2. If the property abuts an alley, any new driveway access for an ADU must be provided through the alley.

3. If an automatic fire sprinkler system is required for the Primary Dwelling, the ADU must also have an automatic fire sprinkler system.
 4. An ADU shall have a separate exterior access.
 5. For any second-story Detached ADU, all exterior openings, including windows and doors, that face less than 15 feet away from a rear non-alley or side interior property line shall be fitted with translucent glazing and satisfy one of the following: (i) be fixed (i.e., inoperable) or (ii) be located at least five feet above the finished floor level at the window's lowest point.
 6. A permanent foundation shall be required for all ADUs.
 7. Refuse containers shall comply with Municipal Code Section 5.24.030.
- E. Covenant Required: The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the ADU is to be rented only for terms of 30 days or longer; (ii) the ADU is not to be sold or conveyed separately from the Primary Dwelling; (iii) the property owner and all successors in interest shall maintain the ADU and the property in accordance with all applicable ADU requirements and standards; and (iv) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.
- F. Parking Requirements (ADU):
1. In addition to the off-street parking space(s) required for the Primary Dwelling, one off-street parking space shall be provided for each ADU, except when:
 - a. The ADU is located within one-half mile walking distance of Public Transit;
 - b. The ADU is located within an architecturally and historically significant historic district;
 - c. The ADU is part of the existing Primary Dwelling or all or part of an existing accessory structure or building;

- d. The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant; or
 - e. The ADU is located within one block of a city-approved and dedicated parking space for a car share vehicle.
2. Required setbacks, yards and open space shall not be used for parking except that:
 - a. Parking may be located within an enclosed accessory building as permitted by Municipal Code Section 10.52.050; and
 - b. Parking may be located outside of the front yard setback on existing driveways existing prior to January 1, 2019, that are conforming in width and clearance.
 3. The dimensions of all parking spaces, driveways, vehicular access, turning radius and similar parking standards shall comply with the requirements set forth in Municipal Code Chapter 10.64.
 4. When the ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU.

Section 10.74.050 - JADU Standards.

JADUs shall comply with the following requirements:

- A. A JADU shall be a maximum of 500 square feet of buildable floor area. The buildable floor area of a shared sanitation facility shall not be included in the maximum buildable floor area of a JADU.
- B. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.
- C. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
- D. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing or proposed single-family dwelling.

- E. A JADU shall include an efficiency kitchen meeting the requirements of Government Code Section 65852.22.
- F. **Covenant Required:** The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the property owner shall be an owner-occupant of either the Primary Dwelling or the JADU, unless the owner is a government agency, land trust, or housing organization; (ii) the JADU is to be rented only for terms of 30 days or longer; (iii) the JADU is not to be sold or conveyed separately from the single-family dwelling; (iv) the property owner and all successors in interest shall maintain the JADU and the property in accordance with all applicable JADU requirements and standards, including the restrictions on the size and attributes of the JADU provided in Government Code Section 65852.22; and (v) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.
- G. No additional parking is required for a JADU.

Section 10.74.060 - Fees and Utility Connections.

- A. The owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees except as specifically provided in California Government Code Sections 65852.2 and 65852.22.
- B. With the submittal of the ADU Permit or prior to receiving a building permit if no ADU Permit is required, the owner of an ADU or JADU must submit letters of service availability for water and sewer disposal to the Building Official.

Section 10.74.070 - Appeals.

The applicant may appeal City decisions pursuant to Municipal Code Chapter 10.100.”

SECTION 3. Alleviation Measures Report. In accordance with California Government Code Section 65858(d), the City Council has issued a written report describing the measures taken to alleviate the condition that led to the adoption of Ordinance No. 19-0021-U.

SECTION 4. Term. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be effective

immediately upon its adoption. This Ordinance shall expire on December 15, 2020, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

SECTION 5. Legislative Findings. In adopting Urgency Ordinance No. 19-0021-U, the City Council made a number of legislative findings to support to adoption on an urgency basis. The Council hereby extends Ordinance No. 19-0021-U based upon those findings, and the following findings.

The City continues to study the potential land use, public services, parking, traffic, and infrastructure effects of allowing ADUs and JADUs to be built on lots in various areas of Manhattan Beach. Effective January 1, 2020, Senate Bill 13 ("SB 13"), Assembly Bill 68 ("AB 68"), and Assembly Bill 881 ("AB 881") amend Government Code Sections 65852.2 and 65852.22 to further limit the standards cities may impose on ADUs and JADUs. In the absence of a State-compliant ordinance on January 1, 2020, the City's existing ADU regulations may be considered null and void pursuant to Government Code Section 65852.2(a)(4), and the City would then be required to approve any ADU that meets minimal State criteria. Areas of Manhattan Beach vary significantly in lot size, lot coverage, density, traffic, parking, and seasonal population fluctuations. Unless the City adopts this interim urgency ordinance, the City would be required to either approve ADUs in locations and under standards that may have severe negative impacts on the surrounding community or adopt permanent standards without the benefit of an inquiry and study on the appropriate locations and standards for ADUs and JADUs in the City and in particular areas. The City is also studying the safety risks, including the risk of fire, posed by an increase in the construction of ADUs and JADUs on lots in various areas of Manhattan Beach.

Staff continues to study, revise, and draft proposed permanent regulations, which both the Planning Commission and City Council must then consider after receiving input from residents at public hearings. The new ADU and JADU regulations will also require an amendment to the City's Local Coastal Plan. The City Council finds that property owners are likely to submit applications for ADUs and JADUs before new regulations become effective. These applications would cause confusion and ambiguity regarding the applicability of provisions in the City's current ADU regulations, at least some of which are compliant with the new legislation, and the State standards, with potentially inconsistent and unfair results for City residents. The establishment of these ADUs has the potential to conflict with the City's permanent ADU and JADU regulations, which will be adopted in compliance with Government Code Sections 65852.2 and 65852.22 after further study of the appropriate standards and locations for ADUs and JADUs in Manhattan Beach. Based upon the foregoing, the City Council hereby finds that there is a current and immediate threat to the public health, safety, or welfare if the City is required to either approve ADUs in locations and under standards that may have severe negative impacts on the surrounding community or adopt permanent standards without the benefit of an inquiry and study on the appropriate locations

and standards for ADUs and JADUs in the City and in particular areas, and that the approval of ADUs and JADUs under existing standards would result in that threat to public health, safety, or welfare. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety, and welfare for this Ordinance to take effect immediately.

The City intends to consider the adoption of permanent regulations within a reasonable time. The Planning Commission, the City Council and the people of Manhattan Beach require a reasonably limited, yet sufficient period of time to establish permanent regulations for ADUs and JADUs. Given the time required to schedule and conduct duly noticed public hearings before the Planning Commission and the City Council, the City Council finds that this Ordinance is necessary to prevent the establishment of ADUs and JADUs with a reasonable potential to conflict with the City's permanent regulations. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Sections 65858 and 36937(b) in order to protect the public health, safety, or welfare.

SECTION 6. California Environmental Quality Act Exemption. The City Council determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code section 21000, et seq., ("CEQA") and the CEQA Guidelines (14 California Code of Regulations section 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this Ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 7. Internal Consistency. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 8. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of

any ordinance previously in effect in the City, or within the territory comprising the City, shall constitute a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.


ADOPTED on January 21, 2020.

AYES: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
NOES: None.
ABSENT: None.
ABSTAIN: None.



NANCY HERSMAN
Mayor

ATTEST:



LIZA TAMURA
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 20-0004-U was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 21st day of January, 2020, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
Noes: None.
Absent: None.
Abstain: None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 22nd day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 20-0004-U has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit January 30th, 2020 and in witness whereof, I have hereunto subscribed my name this 31st day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

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ATTACHMENT D

URGENCY ORDINANCE NO. 20-0005-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH EXTENDING AND AMENDING INTERIM ORDINANCE NO. 19-0022-U AMENDING THE CITY'S LOCAL COASTAL PROGRAM TO REGULATE ACCESSORY DWELLING UNITS AND OTHER ACCESSORY STRUCTURES, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Ordinance No. 19-0022-U, adopted on December 17, 2019, amends Manhattan Beach Local Coastal Program Chapter A.74 to allow accessory dwelling units and junior accessory dwelling units consistent with state law. Ordinance No. 19-0022-U is hereby extended in full force and effect, as amended herein, for 10 months and 15 days to and including December 15, 2020.

SECTION 2. Manhattan Beach Local Coastal Program Chapter A.74 is hereby amended to read as follows:

"Chapter A.74 - Accessory Dwelling Units

- Section A.74.010 – Purpose and Applicability
- Section A.74.020 – Definitions
- Section A.74.030 – General Requirements and Application Procedure
- Section A.74.040 – JADU Standards
- Section A.74.050 – Fees and Utility Connections

Section A.74.010 - Purpose and Applicability.

The purpose of this Chapter is to implement the requirements of Government Code Sections 65852.2 and 65852.22 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units consistent with state law.

Section A.74.020 - Definitions.

"Accessory Dwelling Unit" or "ADU" has the meaning ascribed in Government Code Section 65852.2, as the same may be amended from time to time. Notwithstanding the foregoing, the term "ADU" does not include a Guest House (or Accessory Living Quarters), as defined in Local Coastal Program Section A.04.030.

"Attached ADU" means an ADU that is constructed as a physical expansion (i.e. addition) of the Primary Dwelling, or the remodeling of the Primary Dwelling, and shares a common wall with the Primary Dwelling.

“Detached ADU” means an ADU that is constructed as a separate structure from the Primary Dwelling, which does not share any walls with the Primary Dwelling.

“Existing Structure” means an existing single-family dwelling, multi-family dwelling, or other accessory structure that can be safely converted into habitable space under the California Building Standards Code, as amended by the City, and any other applicable laws.

“Junior Accessory Dwelling Unit” or “JADU” has the meaning ascribed in Government Code Section 65852.22, as the same may be amended from time to time.

“Primary Dwelling”, for purposes of this chapter, means the existing or proposed single-family dwelling on the lot where an ADU would be located.

“Public Transit”, for purposes of this chapter, has the meaning ascribed in Government Code Section 65852.2(j), as the same may be amended from time to time.

Section A.74.030 - ADUs and JADUs Permitted.

- A. An ADU or JADU is permitted in the Coastal Zone, provided it satisfies the requirements of:
 - 1. Government Code Section 65852.2(e)(1), as the same may be amended from time to time;
 - 2. California Building Standards Code, as amended by the City;
 - 3. City building permit requirements; and
 - 4. Any other applicable laws.
- B. An applicant may apply for a Minor Exception, pursuant to Section A.84.120, for the establishment of an ADU or JADU in an existing legal structure that does not comply with the ADU or JADU standards provided in this chapter. A Minor Exception may not be requested for site or lot conditions.

Section A.74.040 - JADU Standards.

JADUs shall comply with the following requirements:

- A. A JADU shall be a maximum of 500 square feet of buildable floor area. The buildable floor area of a shared sanitation facility shall not be included in the maximum buildable floor area of a JADU.

- B. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.
- C. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
- D. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing or proposed single-family dwelling.
- E. A JADU shall include an efficiency kitchen meeting the requirements of Government Code Section 65852.22.
- F. **Covenant Required:** The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the property owner shall be an owner-occupant of either the Primary Dwelling or the JADU, unless the owner is a government agency, land trust, or housing organization; (ii) the JADU is to be rented only for terms of 30 days or longer; (iii) the JADU is not to be sold or conveyed separately from the single-family dwelling; (iv) the property owner and all successors in interest shall maintain the JADU and the property in accordance with all applicable JADU requirements and standards, including the restrictions on the size and attributes of the JADU provided in Government Code Section 65852.22; and (v) that any violation will be subject to penalties as provided in Local Coastal Program Chapter 1.04. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.
- G. No additional parking is required for a JADU.

Section A.74.050 - Fees and Utility Connections.

- A. The owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees except as specifically provided in California Government Code Sections 65852.2 and 65852.22.
- B. Prior to receiving a building permit, the owner of an ADU or JADU must submit letters of service availability for water and sewer disposal to the Building Official.”

SECTION 3. Alleviation Measures Report. In accordance with California Government Code Section 65858(d), the City Council has issued a written report

describing the measures taken to alleviate the condition that led to the adoption of Ordinance No. 19-0022-U.

SECTION 4. Term. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be effective immediately upon its adoption. This Ordinance shall expire on December 15, 2020, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

SECTION 5. Legislative Findings. In adopting Urgency Ordinance No. 19-0022-U, the City Council made a number of legislative findings to support to adoption on an urgency basis. The Council hereby extends Ordinance No. 19-0022-U based upon those findings, and the following findings.

The City continues to study the potential land use, public services, parking, traffic, and infrastructure effects of allowing ADUs and JADUs to be built on lots in various areas of Manhattan Beach. Effective January 1, 2020, Senate Bill 13 ("SB 13"), Assembly Bill 68 ("AB 68"), and Assembly Bill 881 ("AB 881") amend Government Code Sections 65852.2 and 65852.22 to further limit the standards cities may impose on ADUs and JADUs. In the absence of a State-compliant ordinance on January 1, 2020, the City's existing ADU regulations may be considered null and void pursuant to Government Code Section 65852.2(a)(4), and the City would then be required to approve any ADU that meets minimal State criteria. Areas of Manhattan Beach vary significantly in lot size, lot coverage, density, traffic, parking, and seasonal population fluctuations. Unless the City adopts this interim urgency ordinance, the City would be required to either approve ADUs in locations and under standards that may have severe negative impacts on the surrounding community or adopt permanent standards without the benefit of an inquiry and study on the appropriate locations and standards for ADUs and JADUs in the City and in particular areas. The City is also studying the safety risks, including the risk of fire, posed by an increase in the construction of ADUs and JADUs on lots in various areas of Manhattan Beach.

Staff continues to study, revise, and draft proposed permanent regulations, which both the Planning Commission and City Council must then consider after receiving input from residents at public hearings. The new ADU and JADU regulations will also require an amendment to the City's Local Coastal Plan. The City Council finds that property owners are likely to submit applications for ADUs and JADUs before new regulations become effective. These applications would cause confusion and ambiguity regarding the applicability of provisions in the City's current ADU regulations, at least some of which are compliant with the new legislation, and the State standards, with potentially inconsistent and unfair results for City residents. The establishment of these ADUs has the potential to conflict with the City's permanent ADU and JADU regulations, which will be adopted in compliance with Government Code Sections 65852.2 and 65852.22 after further study of the appropriate standards and locations for ADUs and JADUs in

Manhattan Beach. Based upon the foregoing, the City Council hereby finds that there is a current and immediate threat to the public health, safety, or welfare if the City is required to either approve ADUs in locations and under standards that may have severe negative impacts on the surrounding community or adopt permanent standards without the benefit of an inquiry and study on the appropriate locations and standards for ADUs and JADUs in the Coastal Zone and other areas of the City, and that the approval of ADUs and JADUs under existing standards would result in that threat to public health, safety, or welfare. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety, and welfare for this Ordinance to take effect immediately. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health, and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

The City intends to consider the adoption of permanent regulations within a reasonable time. The Planning Commission, the City Council and the people of Manhattan Beach require a reasonably limited, yet sufficient period of time to establish permanent regulations for ADUs and JADUs. Given the time required to schedule and conduct duly noticed public hearings before the Planning Commission and the City Council, the City Council finds that this Ordinance is necessary to prevent the establishment of ADUs and JADUs with a reasonable potential to conflict with the City's permanent regulations. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Sections 65858 and 36937(b) in order to protect the public health, safety, or welfare.

SECTION 6. California Environmental Quality Act Exemption. The City Council determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code section 21000, et seq., ("CEQA") and the CEQA Guidelines (14 California Code of Regulations section 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this Ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 7. Internal Consistency. Any provisions of the Local Coastal Program, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Local Coastal Program for internal consistency.

SECTION 8. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by

a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall constitute a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.


ADOPTED on January 21, 2020.

AYES: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
NOES: None.
ABSENT: None.
ABSTAIN: None.



NANCY HERSMAN
Mayor

ATTEST:



LIZA TAMURA
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 20-0005-U was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 21st day of January, 2020, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Napolitano, Stern, Hadley, Montgomery and Mayor Hersman.
Noes: None.
Absent: None.
Abstain: None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 22nd day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 20-0005-U has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit January 30th, 2020 and in witness whereof, I have hereunto subscribed my name this 31st day of January, 2020.



City Clerk of the City of
Manhattan Beach, California

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Excerpt of Government Code section 65852.2(e)(1),

. . . a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C)(i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

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Excerpt of State Government Code Section 66300(d),

(d) Notwithstanding any other provision of this section, both of the following shall apply:

(1) An affected city or an affected county shall not approve a housing development project that will require the demolition of residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished.

(2) An affected city or an affected county shall not approve a housing development project that will require the demolition of occupied or vacant protected units, unless all of the following apply:

(A) (i) The project will replace all existing or demolished protected units.

(ii) Any protected units replaced pursuant to this subparagraph shall be considered in determining whether the housing development project satisfies the requirements of Section 65915 or a locally adopted requirement that requires, as a condition of the development of residential rental units, that the project provide a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households, as specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code.

(iii) Notwithstanding clause (i), in the case of a protected unit that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power, and that is or was occupied by persons or families above lower income, the affected city or affected county may do either of the following:

(I) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years.

(II) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit is replaced. Unless otherwise required by the affected city or affected county's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(B) The housing development project will include at least as many residential dwelling units as the greatest number of residential dwelling units that existed on the project site within the last five years.

(C) Any existing residents will be allowed to occupy their units until six months before the start of construction activities with proper notice, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(D) The developer agrees to provide both of the following to the occupants of any protected units:

(i) Relocation benefits to the occupants of those affordable residential rental units, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(ii) A right of first refusal for a comparable unit available in the new housing development affordable to the household at an affordable rent, as defined in Section 50053 of the Health and Safety Code, or an affordable housing cost, as defined in 50052.5.

(E) For purposes of this paragraph:

(i) "Equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(ii) "Protected units" means any of the following:

(I) Residential dwelling units that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years.

(II) Residential dwelling units that are or were subject to any form of rent or price control through a public entity's valid exercise of its police power within the past five years.

(III) Residential dwelling units that are or were occupied by lower or very low income households within the past five years.

(IV) Residential dwelling units that were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 within the past 10 years.

(iii) "Replace" shall have the same meaning as provided in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915.

(3) This subdivision shall not supersede any objective provision of a locally adopted ordinance that places restrictions on the demolition of residential dwelling units or the subdivision of residential rental units that are more protective of lower income households, requires the provision of a greater number of units affordable to lower income households, or that requires greater relocation assistance to displaced households.

(4) This subdivision shall only apply to a housing development project that submits a complete application pursuant to Section 65943 on or after January 1, 2020.

(e) The Department of Housing and Community Development shall determine those cities and counties in this state that are affected cities and affected counties, in accordance with subdivision (a) by June 30, 2020. The department may update the list of affected cities and affected counties once on or after January 1, 2021, to account for changes in urbanized areas or urban clusters due to new data obtained from the 2020 census. The department's determination shall remain valid until January 1, 2025.

(f) (1) Except as provided in paragraphs (3) and (4) and subdivisions (h) and (i), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state to the extent that this section more fully advances the intent specified in paragraph (2).

(2) It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting the adoption or amendment of a development policy, standard, or condition in a manner that:

(A) Allows greater density.

(B) Facilitates the development of housing.

(C) Reduces the costs to a housing development project.

(D) Imposes or implements mitigation measures as necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) This section shall not apply to a housing development project located within a very high fire hazard severity zone. For purposes of this paragraph, "very high fire hazard severity zone" has the same meaning as provided in Section 51177.

(g) This section shall not be construed to void a height limit, urban growth boundary, or urban limit established by the electorate of an affected county or an affected city, provided that the height limit, urban growth boundary, or urban limit complies with subparagraph (A) of paragraph (1) of subdivision (b).

(h) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). For a housing development project proposed within the coastal zone, nothing in this section shall be construed to prohibit an affected county or an affected city from enacting a development policy, standard, or condition necessary to implement or amend a certified local coastal program consistent with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(i) (1) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.

(2) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use on a site that is a mobilehome park, as defined in Section 18214 of the Health and Safety Code, as of the effective date of this section, and the no net loss requirement in paragraph (1) shall not apply.

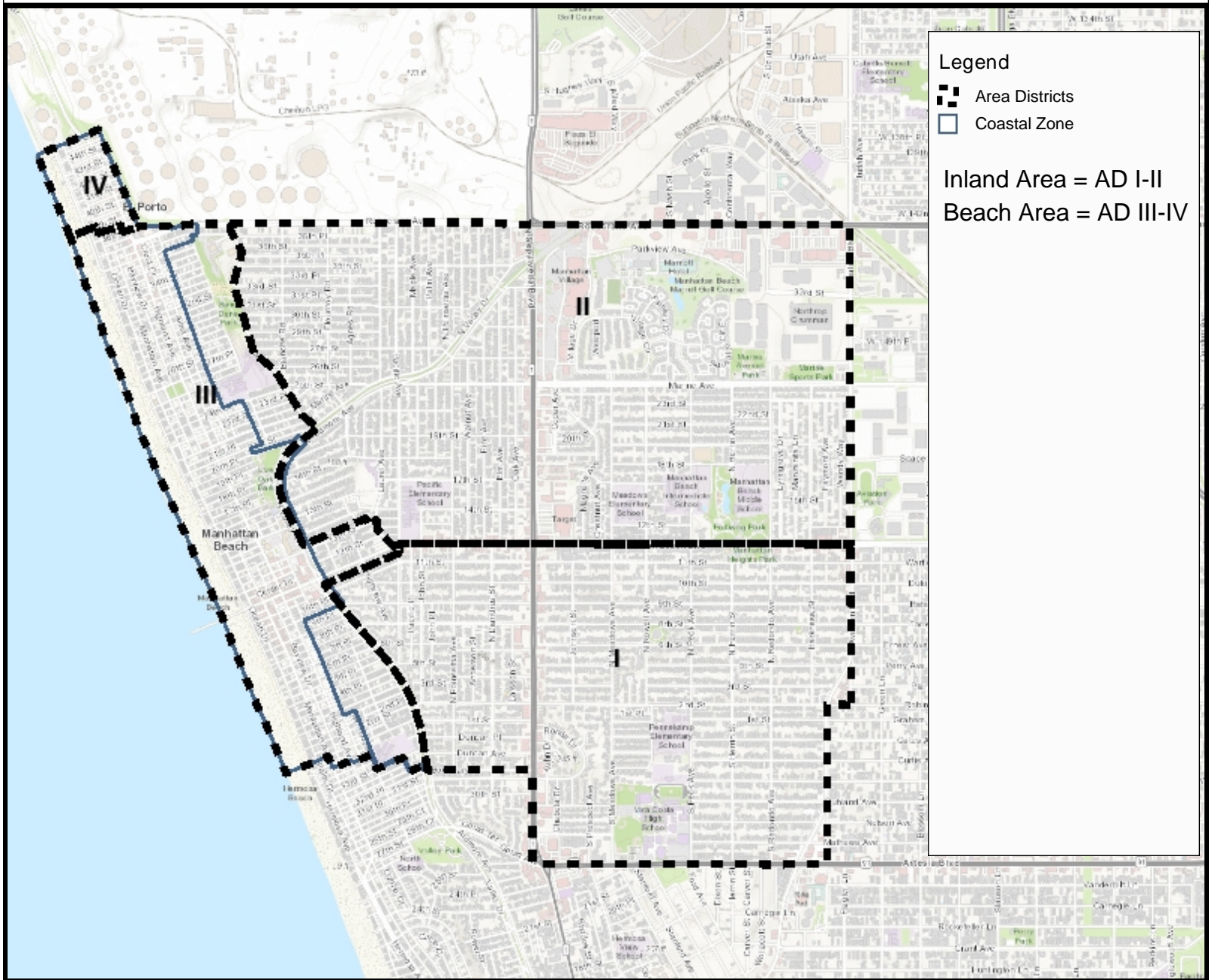
(j) Notwithstanding subdivisions (b) and (f), this section does not prohibit an affected city or an affected county from enacting a development policy, standard, or condition that is intended to preserve or facilitate the production of housing for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or housing types that traditionally serve lower income households, including mobilehome parks, single-room occupancy units, or units subject to any form of rent or price control through a public entity's valid exercise of its police power.

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Manhattan Beach Area Districts (I-IV)

ATTACHMENT G



Legend

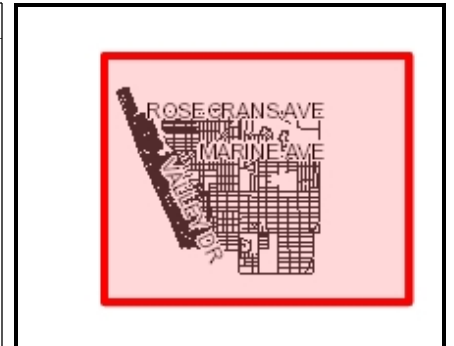
- Area Districts
- Coastal Zone

Inland Area = AD I-II
 Beach Area = AD III-IV



Scale: 1: 34,438

Notes



This map is a user generated static output from the "MB GIS Info" Intranet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.