



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

DATE: October 28, 2020

TO: Planning Commission

FROM: Carrie Tai, AICP, Director of Community Development

BY: Angelica Ochoa, Associate Planner
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SUBJECT: Consideration of Proposed Municipal Code and Local Coastal Program Amendments for Citywide Regulations for Accessory Dwelling Units (ADUs)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** a Public Hearing and **ADOPT** the proposed Resolutions recommending to the City Council adoption of the proposed Citywide (including the Coastal Zone) Zoning Code amendments for Accessory Dwelling Unit (ADU) regulations, along with associated Local Coastal Program Amendments.

BACKGROUND

At its regular meetings of June 10, July 22, and September 9, 2020, the Planning Commission conducted study sessions to discuss the development of permanent regulations for Accessory Dwelling Units (ADUs), as well as the State law that prevents the net loss of dwelling units due to housing redevelopment on sites with existing units. The public was primarily concerned with redevelopment of multifamily properties with ADUs, specifically in Area Districts III and IV. Specific issues discussed included the number of allowed ADUs, permitting attached ADUs and minimum size of ADUs. On September 9, 2020, the Planning Commission discussed existing and proposed regulations affecting ADUs, expressed overall support for staff's recommendations, and directed staff to schedule the public hearing to review draft code amendments. The following sections summarize the proposed code amendments. . The goal of these new regulations is to provide more flexibility for accommodating the production of housing.

State Legislation

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 State restrictions and includes specific standards. The City Council adopted an Urgency Ordinance Nos. 20-0004-U (non-Coastal zone) and 20-0005-U (Coastal zone) to amend regulations for ADUs and junior accessory dwelling units (JADUs)¹ to incorporate the new State regulations. The interim Urgency Ordinances are set to expire on December 15, 2020 and permanent ordinances must be adopted by the City Council, after Planning Commission recommendation, to continue the City's local adaptations of the State laws. The lack of local ordinances would take away the City's ability to customize regulations specific to the City's character and development patterns. Coastal Commission approval would also be required for the Local Coastal Program ordinance.

The attached draft Ordinance provides proposed permanent development standards for ADUs related to location, number allowed, minimum and maximum sizes, building separation, remaining driveways, kitchen requirements and remodeling of non-conforming multi-family development. The proposed amendments will replace the existing interim Ordinances.

DISCUSSION

The proposed amendments to ADU standards and requirements involve the following topics:

1. Number of ADU and/or JADUs that can be placed on a property
2. Areas of the City where ADU/JADUs can be located
3. Minimum and maximum sizes for ADUs
4. Building separation requirements applicable to detached ADUs
5. Height for Detached ADU buildings
6. Use of remaining driveways when garages have been converted to ADUs
7. Kitchen standards for ADU/JADUs
8. City non-conforming use regulations affecting the ability to remodel existing development that exceeds permitted density

Code Amendments

The proposed code amendments are included in the attached draft Resolutions for the Municipal Code and Local Coastal Program. Each topic describes the following: 1) the current regulations; 2) the

¹A 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.

Planning Commission recommendation on proposed changes; and 3) proposed code amendments for the Planning Commission's consideration.

1. Number of ADU and/or JADUs that can be placed on a property

Single-Family Properties. Current regulations allow one attached ADU or JADU, and one detached ADU, per lot with a proposed or existing single-family dwelling. 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 for JADUs and ADUs, 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 on the lot. While a single-family dwelling can have one attached JADU or ADU and one detached ADU, it cannot currently have two attached ADUs. In order to create more flexible regulations, the proposed amendment would allow two attached JADU or ADUs at single-family properties. No more than a total of two (2) JADU or ADUs would be allowed on a lot.

Multi-Family Properties (Existing). Current regulations allow ADUs to be added at existing multi-family properties by converting spaces not used as livable space. The total number of attached ADUs can be up to 25% of the existing units. For example, a 4-unit property can add one ADU. Regulations also allow up to two detached ADUs to be added to existing multi-family properties.

Multi-Family Properties (New/Proposed). There are currently no allowances for ADUs for new multi-family development. This means that new multi-family development (any development with more than 1 unit) cannot currently include ADUs within their projects. In the spirit of providing more flexible options, and in consideration that current regulations would allow any new multi-family development could apply to construct ADUs once the development is completed, it makes sense to add an accommodate for this scenario.

Recommendation

- Add a provision to allow an attached ADU, in addition to an already permitted ADU or JADU, at an existing or proposed single-family residence in all Area Districts if there are no more than two total ADU/JADUs; and
- Add a provision to allow at least one attached ADU when a new multi-family project is proposed as a property redevelopment. Larger multi-family projects would be allowed ADUs at the same 25% ratio permitted for existing multi-family development. For properties that are currently nonconforming because there are more units than what current regulations allow, the proposed resulting total number of dwelling units would not be allowed to exceed the existing number of legal dwelling units prior to demolition. This would enable new multi-family projects to include at least one attached ADU as part of their projects.

Proposed Code Amendments

- Revise Section 10.74.030(F) and A.74.030(F) to specify that the JADU and ADU allowances of Government Code Section 65852.2(e)(1) (State-mandated regulations) and Section 10.74.040 (local regulations) may not be combined to total more than two (2) ADUs on single-family properties.
- Revise Sections 10.74.040(A) and A.74.040(A) (Location Restrictions/Number Permitted) to allow a maximum of two (2) total ADUs on a lot with a proposed or existing single family dwelling in all area districts of the City. Further, only one detached ADU may be allowed on a property.
- Revise Sections 10.74.040(A) and A.74.040(A): (Location Restrictions/Number Permitted) to allow an exception to allow at least one attached ADU on lots with multiple dwelling units as long as the number of ADUs does not exceed 25% of the number of existing dwelling units. For nonconforming uses, the resulting total number of dwellings units does not exceed the number pre-existing dwelling units.

2. Areas of the City where ADU/JADUs can be located

Current City regulations incorporate State law provisions that allow ADUs and JADUs on existing or proposed single-family properties and existing multi-family properties in all residential zones throughout the City, regardless of Area District. However, there are no current regulations allowing ADUs in new multi-family developments in any area of the City.

Recommendation

- Given that JADUs and ADUs are already allowed in all Area Districts in the City in specified circumstances, staff recommends extending ADU regulations consistently across all Area Districts to ease implementation. The proposed Code amendments in the Item #1 above achieve this objective by allowing ADUs to be part of new multi-family developments in all Area Districts.

3. Minimum and maximum sizes for ADUs

Current City regulations do not include any minimum sizes for ADUs and JADUs, but identify the following allowable maximum sizes for attached and detached ADUs:

- All ADUs (maximum 2 bedrooms)
 - Studio or one-bedroom ADU - 850 square feet
 - Two-bedroom ADU - 1,000 square feet
 - Additionally, attached ADUs shall not exceed fifty percent of the total floor area of the existing primary dwelling.
 - State law allows local jurisdictions to permit detached ADUs up to 1,200 square feet.

State law indicates that a minimum size for an ADU must allow for an efficiency unit per the Health and Safety Code Section 17958.1 and Building Code Section 1207.4. These sections define an efficiency unit as having not less than 220 square feet and require an additional 100 square feet of floor area for more than two persons.

At the Planning Commission meeting of September 9, 2020, there was discussion regarding allowing a minimum size of 150 square feet, rather than the current specification of 220 square feet. State law allows a minimum size for an ADU to be 150 square feet, if the City currently has an adopted ordinance allowing that. The City does not have any adopted ordinance that allows efficiency units less than 220 square feet. Therefore, at this time, the 150-square foot minimum size threshold is not an available option. Also, the Planning Commission expressed a concern for ADUs not being fully independent units, namely having independent cooking and bathroom facilities. Goal II of the City's Housing Element encourages housing opportunities for special needs groups, with an emphasis on senior residents, which are promoted by the availability of ADUs, as well as providing safe and healthy living environments. Ensuring that an ADU has the ability to maintain independence from a separate household would contribute toward those Housing Element Goals. The proposed amendment specifies that a minimum size of 220 square foot area shall be required for ADUs.

Recommendation

- Establish minimum size for JADUs, and attached and detached ADUs to be 220 square feet to allow for at least an efficiency unit per the definition in the California Building Code Section 1207.4.

Code Amendments

Revise Sections 10.74.050(A), A.74.040(A), 10.74.040(B)(I), and A.74.040(B)(I) to add a provision to allow a minimum size for an ADU to be no less than 220 square feet.

4. Building separation requirements applicable to detached ADUs

Current regulations define a detached ADU as a separate structure that does not share any walls with the primary dwelling. Furthermore, existing Municipal Code Section 10.12.030(R) requires a minimum distance between buildings containing one (1) or more dwelling units on a site to be 10 feet apart. However, detached ADUs under certain criteria (65852.2(e)(I)(B)) only have to comply with 4-foot side and rear setbacks, 16-foot height limit, and 800 square-foot maximum. Detached units not meeting that criteria currently require a 10-foot separation. Therefore, staff has identified an internal inconsistency that affects where property owners can place detached ADUs.

Staff determined that the California Building Code or California Residential Code does not require a building separation distance. Also, many South Bay cities require only a 5 or 6 foot separation between a detached ADU and the primary residence.

Recommendation

- Amend local ADU permit regulations to state a minimum separation of 5 feet for detached ADUs to the primary dwelling. This would not apply to detached ADUs permitted by Government Code Section 65852.2(e)(1)(B). This would allow space for walkways and other outdoor uses, but provide additional flexibility for placement of detached ADUs.

Code Amendments

- Revise Sections 10.74.040(B)(4) and A.74.040(B)(4) to add a 5-foot separation requirement.
- Revise Sections 10.74.040(B)(5) and A.74.040 (B)(5) (Development Standards) to refer to the “building separation” standard in Section 10.74.040(B)(4) and A.74.040(B)(4).
- Add a cross reference provision to Sections 10.12.030(R) and A.12.030(R) (Residential Development Standards) regarding building separation that states minimum building separation for accessory dwelling units is regulated by Sections 10.74.040(B) and A.74.040(B).

5. Height of Detached Garages

Subsequent to the Planning Commission recommendations on September 9, 2020, staff identified issues regarding detached ADU height standards in the existing ADU Ordinances. The proposed Ordinance would benefit from a specification of the method of measuring height for detached ADUs as is the case with current regulations for non-ADU construction. Also, during review of project proposals, staff identified that given ADUs are allowed above a detached garage, it may also be appropriate to allow an ADU underneath a detached garage on a substantial sloped lot. The existing regulations only allow a two-story building height for an ADU above a detached garage. Staff is proposing to clarify and modify the following:

1. Method of measuring height for detached ADU buildings from the average local grade around the perimeter of the building as stated in current regulations and,
2. Provide for two story garage ADU buildings on substantially sloped lots by permitting a non-basement ADU to be below the garage. Opportunities for this type of design occur on steeply sloping lots where a detached garage would be based at a higher elevation than the main building, and a semi-subterranean ADU could be placed below the garage at a level consistent with the main building.

Code Amendments

Revise Sections 10.74.040(B)(2) and A.74.040(B)(2) to add a provision to clarify that height will be measured from a weighted average of the local grades around the perimeter of the detached structure.

- Revise Sections 10.74.040(B)(2) and A.74.040(B)(2) to add a provision to allow a detached ADU to be below a detached garage while conforming to the 25 foot total height limit.

6. **Use of remaining driveways when garages have been converted to ADUs**

Current regulations allow existing garages, carports or covered parking structures to be converted to ADUs with no additional setbacks or no replacement parking to be constructed. However, Municipal Code Section 10.64.020(F)(2) requires curb cuts of driveways to be abandoned and restored if there is no existing garage or legal parking space. This means that all converted ADUs with driveways would have to restore the existing curb cut since parking is not allowed in required setbacks. This would prevent the ability of the property owner or tenant to have on-site parking if they so desired, in that the lack of a curb cut would result in lack of vehicular access from the street.

Recommendation

Amend regulations to add language that the curb cut to the existing driveway for converted garages (attached and detached) to ADUs. Accommodating the option for on-site parking is helpful for areas in the City that experience parking challenges on-street. Also, per staff research of other South Bay Cities, driveways and curb cuts have remained to allow on-site parking.

Code Amendments

- Revise Sections 10.74.040(F)(4) and A.74.040(F)(4) (Parking Requirements) to add a provision to allow existing driveways to remain that formerly served parking spaces that have been converted to and are currently serving as an ADU.

7. **Kitchen standards for ADU/JADUs**

Current regulations indicate that a JADU must include an efficiency kitchen, but does not otherwise specify kitchen requirements for ADUs. Efficiency kitchens must have cooking appliances and a preparation and storage area. Since JADUs are typically smaller units, minimal kitchen fixtures include a small preparation area, a single sink and portable appliances. For ADUs, a full kitchen includes permanent cooking appliances, a double sink and a larger preparation area. In researching other neighboring cities, full kitchens were required for ADUs and efficiency kitchens for JADUs. Per the Building Codes, kitchens must include permanent provisions for food preparation and cooking and the use of portable appliances does not satisfy code requirements for kitchen facilities.

Recommendation

- Add a provision that ADUs must identify kitchens on their plans, to be reviewed by the City.

Code Amendments

- Revise Sections 10.74.040(D) and A.74.040(D) pertaining to features in ADUs (Design and Features) to clarify that kitchens for ADUs must have at least one permanent installed cooking appliance.

8. Nonconforming Use Restrictions

The Planning Commission conducted discussion on the ramifications of the State’s “no-net-loss” requirements that prevent decrease in the number of units, and therefore limits remodeling options for many existing multi-family developments. Residential development that exceeds permitted density is a “nonconforming use”, which cannot be moved, altered, or enlarged. For example, a multi-family development property owner may wish to modify their existing floor plan to convert a primary dwelling to an ADU, but this may not be permitted due to these restrictions. Previously, nonconforming residential developments would reduce the number of dwelling units to a conforming quantity, in order to complete any significant remodeling. The Planning Commission acknowledged that existing multi-family development that exceeds permitted density, but cannot be brought into conformance by decreasing the number of units due to the “no-net loss” State requirement, should be allowed to remodel to an extent beyond minimal repair and maintenance. Since that is no longer possible, property owners have little ability to make improvements beyond those that are somewhat temporary or superficial. This allowance would provide more flexibility for the conversion of existing space to ADUs for multi-family development, and incentive reinvestment into existing multi-family developments that are nonconforming as to use.

Code Amendments

- Revise Sections 10.68.020(A) and (B), and Sections A.68.020(A) and (B) pertaining to nonconforming use regulations to add an exception allowing alterations (structural remodeling) to residential developments that exceed the number of dwelling units permitted on a lot while the State’s “no net loss” requirement is in effect.

In addition to the above mentioned code amendment topics, staff has included a general cross reference amendment to Sections 10.12.030 and A.12.030, “Property Development Standards for all Area Districts” table referring to the Accessory Dwelling Unit, Chapter 10.74 for the applicable regulations.

GENERAL PLAN CONSISTENCY

The proposed text amendments are consistent with the General Plan Goals and Policies as follows:

- Land Use Element Goal LU-3: Achieve a strong, positive community aesthetic.
 - Policy LU-3.1: Continue to encourage quality design in all new construction.

The City’s continued provision of local ADU standards to the extent feasible allows application of regulations specific to the City’s character and development pattern.

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

- Housing Element Policy I. Preserve the scale of development in existing residential neighborhoods.
- Housing Element Goal II. Provide a variety of housing opportunities for all segments of the community commensurate with the City's needs, including various economic segments and special needs groups.

The Housing Element emphasizes senior residents as a special needs group and encourages the provision of moderate size dwellings. Senior residents, as well as other special needs groups, with needs for affordability and less dwelling space, are anticipated to benefit significantly from the availability of ADUs.

- Housing Element Policy 5. Encourage the development of additional low- and moderate-income housing.
 - Program 5e. Allow second units in residential areas.

PUBLIC COMMENTS

One comment was received suggesting that there should be no minimum size for ADUs, that more than 25 percent ratio for ADUs in new multifamily dwelling units should be allowed, and to provide flexibility for multifamily redevelopment.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, receive public comments and adopt the proposed Resolutions recommending permanent Municipal Code and Local Coastal Program Amendments for accessory dwelling units to the City Council.

Attachments:

- A. Draft Municipal Code ADU Amendment Resolution
- B. Draft Local Coastal Program ADU Amendment Resolution
- C. Urgency Ordinance No. 20-0004-U (Municipal Code ADU)
- D. Urgency Ordinance No. 20-0005-U (Coastal Program ADU)
- E. Government Code Section 65852.2
- F. Government Code Section 65852.22
- G. Area District Map
- H. Public Comments

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[DRAFT] RESOLUTION NO. PC 20-XX

A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO MUNICIPAL CODE CHAPTER 10.74 AND SECTIONS 10.12.030 AND 10.68.030 RELATED TO ACCESSORY DWELLING UNITS

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

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

- A. Ordinance No. 19-0021-U, was adopted on December 17, 2019 as an Urgency Ordinance to modify regulations for new accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”), and Ordinance No. 20-0004-U was adopted on January 21, 2020 to extend the regulations until December 15, 2020. In adopting Ordinance No’s. 19-0021-U, and 20-0004-U, the City Council made a number of legislative findings to support the adoption and extension on an urgency basis.
- B. The City studied the potential land use, public services, parking, traffic, and infrastructure effects of allowing ADUs to be built on lots in various areas of the City. Effective January 1, 2020, Assembly Bills (AB) 881, AB 68, AB 587, AB 670 and Senate Bill (SB) 13 amended Government Code Section 65852.2 to further limit the standards cities may impose on ADUs and require city ordinances to incorporate State-mandated standards for certain types of ADUs. In 2020, the State again amended Government Code Section 65852.2 through the enactment of SB 1030 and AB 3182. As amended, Government Code Section 65852.2 allows the City to designate areas where ADUs may be permitted and to establish objective standards related to parking, height, setback, lot coverage, landscaping, and architectural review, which must be applied ministerially except where a property owner is seeking an exception to the adopted standards. Areas of the City vary significantly in lot size, lot coverage, density, traffic, parking, and seasonal population fluctuations and these regulations reflect those variations, given that some areas of the City have high density, small lot sizes, restricted circulation, and are almost entirely built out.
- C. On October 28, 2020 the Planning Commission conducted a duly noticed public hearing on ADU and related standards, and reviewed proposed text amendments to the Zoning Ordinance of the City’s Municipal Code.
- D. The Planning Commission public hearing notice for October 28, 2020 included a ¼ page display ad public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

- E. The proposed text amendments have been prepared in accordance with Government Code Sections 65853, *et seq.*
- F. The proposed text amendments are exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, *et seq.*, (“CEQA”)) and the CEQA Guidelines (14 California Code of Regulations §§ 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.
- G. The proposed text amendments are consistent with the General Plan Goals and Policies because the amendments:

Achieve a strong, positive community aesthetic (Land Use Element Goal LU-3).

Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood’s unique characteristics (Land Use Element Goal LU-4).

Preserve the scale of development in existing residential neighborhoods (Housing Element Policy 1).

Provide a variety of housing opportunities for all segments of the community commensurate with the City’s needs, including various economic segments and special needs groups (Housing Element GOAL II).

Encourage the development of additional low and moderate-income housing (Housing Element Policy 5).

Allow second units in residential areas (Housing Element Program 5e).

Section 2. The Planning Commission hereby recommends to the City Council that Manhattan Beach Municipal Code Chapter 10.74 be 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 – Local ADU Standards

Section 10.74.050 – JADU Standards

Section 10.74.060 – Fees and Utility Connections

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 a Primary Dwelling, or the remodeling of a Primary Dwelling, and shares a common wall with a Primary Dwelling.

“Detached ADU” means an ADU that is constructed as a separate structure from any Primary Dwelling, and does not share any walls with a 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 an existing or proposed single-family dwelling, or multi-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, or both, where the proposal satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, 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 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 Primary 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.
- 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.
- F. An applicant may apply for ADUs and JADUs meeting the requirements of Government Code Section 65852.2(e)(1), or ADUs meeting the requirements of Section 10.74.040, but in no case shall the combined number of ADUs and JADUs be greater than two on a property with a single-family residence.

Section 10.74.040 – Local ADU Standards.

Excepting those ADUs that satisfy the requirements of Government Code Section 65852.2(e)(1), ADUs shall comply with the following standards:

- A. Location Restrictions/Number Permitted:
 1. ADUs on Lots with a Single-Family Residence. A maximum of two total ADUs shall be allowed on a lot with a proposed or existing single-family dwelling within all Area Districts; however, only one ADU shall be allowed on a property that also has a JADU. Only one detached ADU is allowed on a property.
 2. ADUs on Lots with New Multi-Family Developments. In all Area Districts, one ADU shall be allowed on a lot with a newly constructed multi-family development.
 - a. Multi-Family Redevelopments. Notwithstanding the limitation in paragraph 2 above, more than one ADU, up to 25 percent of the number of pre-existing multi-family dwelling units on the property, shall be allowed where the applicant proposes to demolish an existing multi-family development to build a new multi-family development. For any property that is considered a nonconforming use pursuant to 10.68.020.A because it does not meet the current site area per dwelling unit requirement, the total resulting number of units on the property, including ADUs, shall not be greater than the number of pre-existing units on the property.

B. Development Standards:

1. Size, General: Studio and one bedroom ADUs shall not exceed 850 square feet of gross floor area. ADUs with two or more bedrooms shall not exceed 1,000 square feet of gross floor area. The minimum size of an ADU shall be 220 square feet.
 - a. Additional Size Limitations for Attached ADUs: If there is an existing single-family residence, a newly constructed Attached ADU shall not exceed fifty percent of the gross floor area of the existing single-family residence.
2. Height for Detached ADUs shall be measured from the weighted average of the local grades around the perimeter of the detached structure, and:
 - a) A Detached ADU shall not exceed 16 feet in height; or
 - b) A Detached ADU located above a detached garage or below a detached garage that does not qualify as a basement shall not exceed 25 feet in height.
3. 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.
4. Separation: A Detached ADU shall have a minimum five-foot building separation from other buildings on the lot.
5. Standards: An ADU shall conform to all open space, buildable floor area, minimum lot size, and front setback regulations applicable to the zoning district in which the property is located, as well as the building separation requirement stated in Section 4 above, 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, in which case 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 are within 15 feet of 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 kitchen, in conformance with applicable health and safety requirements, including at least one permanently installed cooking appliance, shall be required for all ADUs.
 7. A permanent foundation shall be required for all ADUs.
 8. 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 prior to final building inspection.

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. Existing driveways that formerly served parking spaces that have been converted to an ADU may remain for parking.

Section 10.74.050 - JADU Standards.

JADUs shall comply with the following requirements:

1. A JADU shall be a maximum of 500 square feet of buildable floor area and a minimum 220 square feet. The buildable floor area of a shared sanitation facility shall not be included in the maximum buildable floor area of a JADU.
2. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.
3. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
4. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing or proposed single-family dwelling.
5. A JADU shall include an efficiency kitchen meeting the requirements of Government Code Section 65852.22.
6. 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 prior to final building inspection.
7. 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 the subject property must submit letters of service availability for water and sewer disposal to the Building Official.”

Section 3. The Planning Commission hereby recommends to the City Council that the Manhattan Beach Municipal Code Section 10.12.030 “Property Development Standards for All Area Districts” table be amended to add a row referring to “Accessory Development Units” as follows:

Accessory Structures	See <u>Section 10.52.050</u>
<u>Accessory Dwelling Units</u>	<u>See Chapter 10.74</u>
Exterior Materials	See <u>Section 10.52.020</u>

Section 4. The Planning Commission hereby recommends to the City Council that Manhattan Beach Municipal Code Section 10.12.030(R) be amended to read as follows:

“R. **Building Separation.** The minimum distance between buildings (building separation yard) containing one (1) or more dwelling units on a site shall be ten feet (10’). For permitted projections within said building separation yards, see Section 10.60.040, Building projections into yards.

Exception: A detached Accessory Dwelling Unit shall have a minimum separation from other buildings on the lot as specified by Section 10.74.040(B).”

Section 5. The Planning Commission hereby recommends to the City Council that the Manhattan Beach Municipal Code Sections 10.68.030(A)-(C), regarding nonconforming uses, be amended to read as follows:

“A. No structure, the use of which is nonconforming, shall be moved, altered, or enlarged unless required by law, or unless the moving, alteration, or enlargement will result in the elimination of the nonconformity.

Exceptions.

1. Minor enlargement of a structure, the use of which is nonconforming with respect to a use permit approval, is permitted, provided said enlargement, accomplished cumulatively in one (1) or more projects, does not exceed ten

percent (10%) of the total pre-existing buildable square feet occupied by said use that is legally established as of the effective date of the ordinance codified in this title.

2. During the period that the dwelling unit replacement requirement of State Government Code Section 66300(d) is in effect, existing dwelling units occupying a site that do not conform with the current site area per dwelling unit regulations for the district in which the use is located may be altered by remodeling if the proposed work does not enlarge the structure.
- B. No structure partially occupied by a nonconforming use shall be moved, altered, or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use.

Exceptions.

1. Minor enlargement of a structure, the use of which is nonconforming with respect to a use permit approval, is permitted, provided said enlargement, accomplished cumulatively in one (1) or more projects, does not exceed ten percent (10%) of the total pre-existing buildable square feet occupied by said use that is legally established as of the effective date of the ordinance codified in this title.
 2. During the period that the dwelling unit replacement requirement of State Government Code Section 66300(d) is in effect, existing dwelling units occupying a site that do not conform with site area per dwelling unit regulations for the district in which the use is located may be altered by remodeling if the proposed work does not enlarge the structure.
- C. No nonconforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site, or another structure or site which it did not occupy on the effective date of the ordinance codified in this title, or of the amendments thereto that caused it to become a nonconforming use, or in such a way as to displace any conforming use occupying a structure or site, except as permitted in this section.”

Section 6. The Secretary of the Planning Commission shall certify to the adoption of this Resolution and shall make this resolution readily available for public inspection.

October 28, 2020

Planning Commission Chair

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 **October 28, 2020** and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Carrie Tai, AICP
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

[DRAFT] RESOLUTION NO. PC 20-XX

A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO LOCAL COASTAL PROGRAM CHAPTER A.74 AND SECTIONS A.12.030 AND A.68.030 RELATED TO ACCESSORY DWELLING UNITS

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

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

- A. Ordinance No. 19-0022-U, was adopted on December 17, 2019 as an Urgency Ordinance to modify regulations for new accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”), and Ordinance No. 20-0005-U was adopted on January 21, 2020 to extend the regulations until December 15, 2020. In adopting Ordinance No’s. 19-0022-U, and 20-0005-U, the City Council made a number of legislative findings to support the adoption and extension on an urgency basis.
- B. The City studied the potential land use, public services, parking, traffic, and infrastructure effects of allowing ADUs to be built on lots in various areas of the City. Effective January 1, 2020, Assembly Bills (AB) 881, AB 68, AB 587, AB 670 and Senate Bill (SB) 13 amended Government Code Section 65852.2 to further limit the standards cities may impose on ADUs and require city ordinances to incorporate State-mandated standards for certain types of ADUs. As amended, Government Code Section 65852.2 allows the City to designate areas where ADUs may be permitted and to establish objective standards related to parking, height, setback, lot coverage, landscaping, and architectural review, which must be applied ministerially except where a property owner is seeking an exception to the adopted standards. Areas of the City vary significantly in lot size, lot coverage, density, traffic, parking, and seasonal population fluctuations and these regulations reflect those variations, given that some areas of the City have high density, small lot sizes, restricted circulation, and are almost entirely built out.
- C. On October 28, 2020 the Planning Commission conducted a duly noticed public hearing on ADU and related standards, and reviewed proposed text amendments to the City’s Local Coastal Program Implementation Plan.
- D. The Planning Commission public hearing notice for October 28, 2020 included a ¼ page display ad public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

- E. The proposed text amendments have been prepared in accordance with Government Code Sections 65853, *et seq.*
- F. The proposed text amendments are exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, *et seq.*, (“CEQA”)) and the CEQA Guidelines (14 California Code of Regulations §§ 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.
- G. The proposed text amendments are consistent with the General Plan Goals and Policies because the amendments:
 - Achieve a strong, positive community aesthetic (Land Use Element Goal LU-3).
 - Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood’s unique characteristics (Land Use Element Goal LU-4).
 - Preserve the scale of development in existing residential neighborhoods (Housing Element Policy 1).
 - Provide a variety of housing opportunities for all segments of the community commensurate with the City’s needs, including various economic segments and special needs groups (Housing Element GOAL II).
 - Encourage the development of additional low and moderate-income housing (Housing Element Policy 5).
 - Allow second units in residential areas (Housing Element Program 5e).
- H. The proposed amendments are consistent with the goals and policies of the City’s General Plan and Local Coastal Program.
- I. The proposed amendments are consistent with the policies of Chapter 3 of the Coastal Act, will not have an impact either individually or cumulatively on coastal resources, and do not involve any change in existing or proposed use of land or water.

Section 2. The Planning Commission hereby recommends to the City Council that Manhattan Beach Local Coastal Program Implementation Plan Chapter A.74 be 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 – Local ADU Standards
- Section A.74.050 – JADU Standards
- Section A.74.060 – 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 Implementation Plan Section A.04.030.

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

“Detached ADU” means an ADU that is constructed as a separate structure from any Primary Dwelling, and does not share any walls with a 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 an existing or proposed single-family dwelling, or multi-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 - 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, or both, where the proposal satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, 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 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 Primary 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.
- E. Minor Exception: An applicant may apply for a Minor Exception, pursuant to Local Coastal Program Implementation Plan 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.
- F. An applicant may apply for ADUs and JADUs meeting the requirements of Government Code Section 65852.2(e)(1), or ADUs meeting the requirements of Section A.74.040, but in no case shall the combined number of ADUs and JADUs be greater than two on a property with a single-family residence.

Section A.74.040 – Local ADU Standards.

Excepting those ADUs that satisfy the requirements of Government Code Section 65852.2(e)(1), ADUs shall comply with the following standards:

- A. Location Restrictions/Number Permitted:
 1. ADUs on Lots with a Single-Family Residence. A maximum of two total ADUs shall be allowed on a lot with a proposed or existing single-family dwelling within all Area Districts; however, only one ADU shall be allowed on a property that also has a JADU. Only one detached ADU is allowed on a property.
 2. ADUs on Lots with New Multi-Family Developments. In all Area Districts, one ADU shall be allowed on a lot with a newly constructed multi-family development.
 - a. Multi-Family Redevelopments. Notwithstanding the limitation in paragraph 2 above, more than one ADU, up to 25 percent of the number of pre-existing multi-family dwelling units on the property, shall be allowed where the applicant proposes to demolish an existing multi-family development to build a new multi-family development. For any property that is considered a nonconforming use pursuant to Local Coastal Program Implementation Plan Section A.68.020.A because it does not meet the current site area per dwelling unit requirement, the total resulting number of units on the property, including ADUs, shall not be greater than the number of pre-existing units on the property.

B. Development Standards:

1. Size, General: Studio and one bedroom ADUs shall not exceed 850 square feet of gross floor area. ADUs with two or more bedrooms shall not exceed 1,000 square feet of gross floor area. The minimum size of an ADU shall be 220 square feet.
 - a. Additional Size Limitations for Attached ADUs: If there is an existing single-family residence, a newly constructed Attached ADU shall not exceed fifty percent of the gross floor area of the existing single-family residence.
2. Height for Detached ADUs shall be measured from the weighted average of the local grades around the perimeter of the detached structure, and:
 - a) A Detached ADU shall not exceed 16 feet in height; or
 - b) A Detached ADU located above a detached garage or below a detached garage that does not qualify as a basement shall not exceed 25 feet in height.
3. 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.
4. Separation: A Detached ADU shall have a minimum five-foot building separation from other buildings on the lot.
5. Standards: An ADU shall conform to all open space, buildable floor area, minimum lot size, and front setback regulations applicable to the zoning district in which the property is located, as well as the building separation requirement stated in Section 4 above, except in the following cases:
 - a. ADUs that are not required to obtain an ADU permit as provided in Local Coastal Program Implementation Plan Section A.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, in which case 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 are within 15 feet of 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 kitchen, in conformance with applicable health and safety requirements, including at least one permanently installed cooking appliance, shall be required for all ADUs.
 7. A permanent foundation shall be required for all ADUs.
 8. 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 prior to final building inspection.

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 Local Coastal Program Implementation Plan Section A.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 Local Coastal Program Implementation Plan Chapter A.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. Existing driveways that formerly served parking spaces that have been converted to an ADU may remain for parking.

Section A.74.050 - JADU Standards.

JADUs shall comply with the following requirements:

1. A JADU shall be a maximum of 500 square feet of buildable floor area, and a minimum of 220 square feet. The buildable floor area of a shared sanitation facility shall not be included in the maximum buildable floor area of a JADU.
2. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.
3. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
4. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing or proposed single-family dwelling.
5. A JADU shall include an efficiency kitchen meeting the requirements of Government Code Section 65852.22.
6. 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 prior to final building inspection.
7. No additional parking is required for a JADU.

Section A.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 the subject property must submit letters of service availability for water and sewer disposal to the Building Official.”

Section 3. The Planning Commission hereby recommends to the City Council that the Manhattan Beach Local Coastal Program Implementation Plan Section A.12.030 “Property Development Standards for All Area Districts” table be amended to add a row referring to “Accessory Development Units” as follows:

Accessory Structures	See Section A.52.050
<u>Accessory Dwelling Units</u>	<u>See Chapter A.74</u>
Exterior Materials	See Section A.52.020

Section 4. The Planning Commission hereby recommends to the City Council that Manhattan Beach Local Coastal Program Implementation Plan Section A.12.030(R) be amended to read as follows:

“R. **Building Separation.** The minimum distance between buildings (building separation yard) containing one (1) or more dwelling units on a site shall be ten feet (10’). For permitted projections within said building separation yards, see Section A.60.040, Building projections into yards.

Exception: A detached Accessory Dwelling Unit shall have a minimum separation from other buildings on the lot as specified by Section A.74.040(B).”

Section 5. The Planning Commission hereby recommends to the City Council that the Manhattan Beach Local Coastal Program Implementation Plan Sections A.68.030(A)-(C), regarding nonconforming uses, be amended to read as follows:

“A. No structure, the use of which is nonconforming, shall be moved, altered, or enlarged unless required by law, or unless the moving, alteration, or enlargement will result in the elimination of the nonconformity.

Exceptions.

- 1. Minor enlargement of a structure, the use of which is nonconforming with respect to a use permit approval, is permitted, provided said enlargement, accomplished

cumulatively in one (1) or more projects, does not exceed ten percent (10%) of the total pre-existing buildable square feet occupied by said use that is legally established as of the effective date of the ordinance codified in this title.

2. During the period that the dwelling unit replacement requirement of State Government Code Section 66300(d) is in effect, existing dwelling units occupying a site that do not conform with the current site area per dwelling unit regulations for the district in which the use is located may be altered by remodeling if the proposed work does not enlarge the structure.

B. No structure partially occupied by a nonconforming use shall be moved, altered, or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use.

Exceptions.

1. Minor enlargement of a structure, the use of which is nonconforming with respect to a use permit approval, is permitted, provided said enlargement, accomplished cumulatively in one (1) or more projects, does not exceed ten percent (10%) of the total pre-existing buildable square feet occupied by said use that is legally established as of the effective date of the ordinance codified in this title.
2. During the period that the dwelling unit replacement requirement of State Government Code Section 66300(d) is in effect, existing dwelling units occupying a site that do not conform with site area per dwelling unit regulations for the district in which the use is located may be altered by remodeling if the proposed work does not enlarge the structure.

C. No nonconforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site, or another structure or site which it did not occupy on the effective date of the ordinance codified in this title, or of the amendments thereto that caused it to become a nonconforming use, or in such a way as to displace any conforming use occupying a structure or site, except as permitted in this section.”

Section 6. The Secretary of the Planning Commission shall certify to the adoption of this Resolution and shall make this resolution readily available for public inspection.

October 28, 2020

Planning Commission Chair

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 **October 28, 2020** and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Carrie Tai, AICP
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

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.



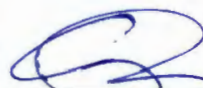
City Clerk of the City of
Manhattan Beach, California

(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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State Government Code Section 65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an

accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is

located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with

four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, 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.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including

water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had

a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2019, Ch. 659, Sec. 1.5. (AB 881) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions. See later operative version added by Sec. 2.5 of Stats. 2019, Ch. 659.)

State Government Code Section 65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

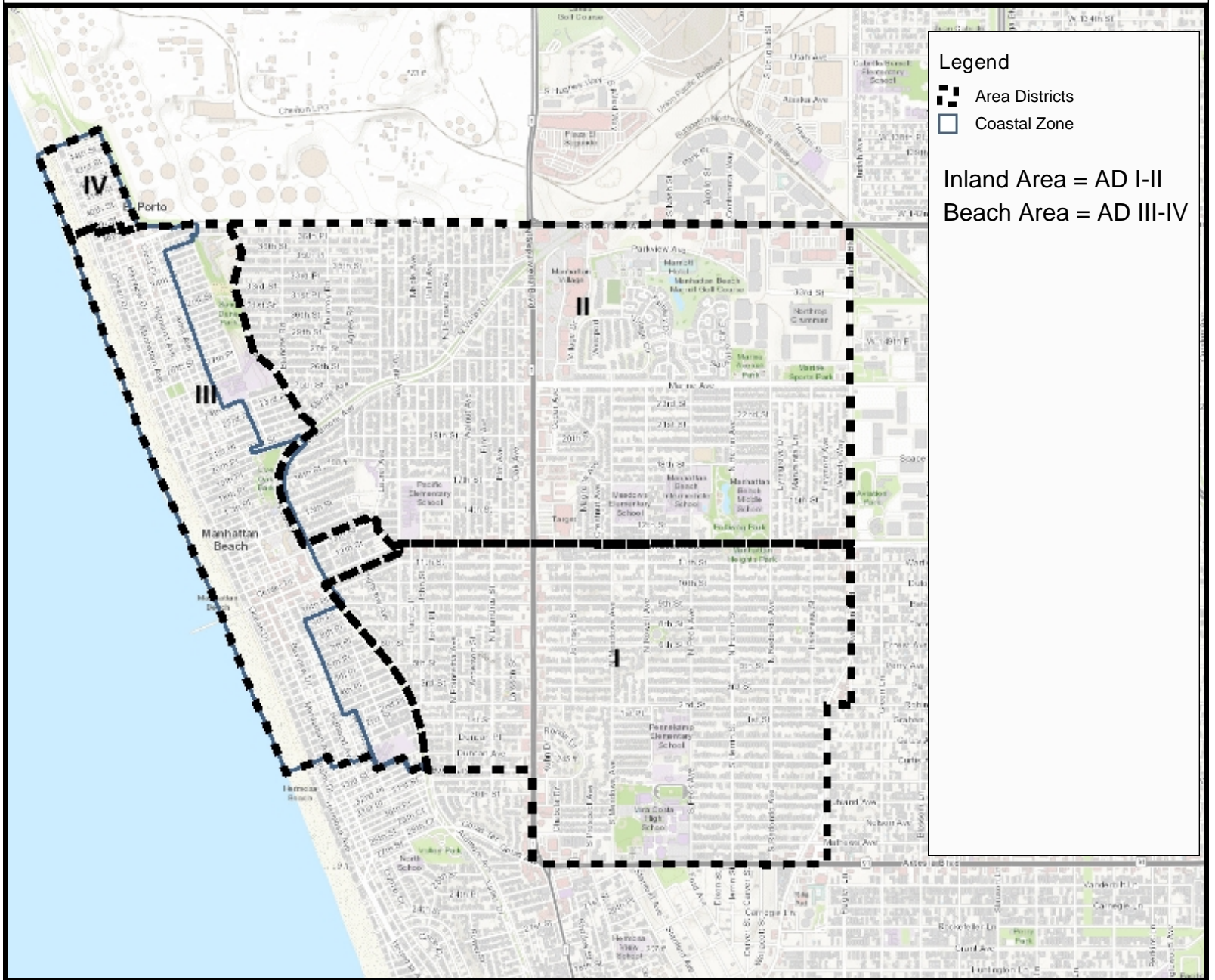
(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

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Manhattan Beach Area Districts (I-IV)

ATTACHMENT G



Legend

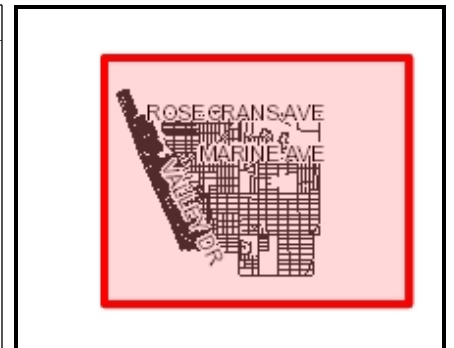
- Area Districts
- Coastal Zone

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



Scale: 1: 34,438

Notes



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Eric Haaland

From: Karynne Thim <kt@ktbeachproperties.com>
Sent: Tuesday, October 6, 2020 3:31 PM
To: Carrie Tai, AICP; Eric Haaland; Angelica Ochoa
Cc: Richard Thompson
Subject: Re: [EXTERNAL] Re: Outcome of Planning Commission meeting

Carrie, Eric and Angelica,

Do you have a draft of the proposed ADU ordinance available for review yet? Will it be discussed at next week's planning commission meeting?

From my own perspective as a real estate professional, the most important things to address are issues that render properties undevelopable, including:

1. Minimum ADU size of 150 sf, not 220 sf (or better yet, no stated minimum at all). What's the benefit of stating a minimum? Would the Coastal Commission approve the ordinance with either of these stated minimums? There are differing opinions on this, but in my opinion it's best to not have a stated minimum given the different lot sizes in town. A one size fits all minimum could create more problems than it solves. We know that a 220 sf minimum would render interior half lots undevelopable because it's too tight to fit everything in, so a minimum of 150 sf is imperative for those properties. But that's just half lots. For full lots with an existing duplex, the design would likely include an ADU of 500+ sf. We know from recent Coastal Commission hearings in neighboring towns without an LCP that Coastal doesn't like to approve ADU's under 500 sf. Why include a provision that could render half lots undevelopable and risk that Coastal won't approve the new permanent ordinance?
2. Add a provision to allow more than one ADU per lot for new multi-family projects to provide relief for owners of fourplexes (ie 2 townhomes + 2 ADU's).
3. Build flexibility into the ordinance to address "unique" properties that would otherwise be undevelopable

Thanks for your consideration,

Karynne Thim

On Thu, Sep 17, 2020 at 7:57 PM Carrie Tai, AICP <ctai@citymb.info> wrote:

Hi Karynne,

Staff's work on the Accessory Dwelling Unit (ADU) ordinance will pertain to regulations on ADUs, as outlined in the presentation to Planning Commission 9/9. Staff is in the process of identifying ADU Code sections that will be updated. As indicated during the PC meeting, staff would review the minimum ADU sizes and bring back to the Planning Commission an explanation of each option, as well as review options for multi-family development. If you have input on ADUs, please to me as well as Eric and Angelica, who are working on the ordinance.

Items like turning radius ensure vehicle maneuverability – if you have inadequate turning radii, vehicles cannot get in or out of garages or back out, potentially rendering required parking spaces unusable. There are certainly many development standards in the City’s regulations that can be regarded as challenging or inconvenient, but they are there to protect development from creating impacts to the neighborhood.

As the Planning Commission discussed, there are a much more extensive planning process that needs to occur if the City is being asked to change development standards (setbacks, height, parking, turning radius, open space, etc) in a broader manner. This will include not only members of the development community, but also members of the existing community. I am happy to have a conversation with you about issues you’re encountering on a specific property, but at this time, my limited staff only has the ability to work on updating the City’s ADU ordinance before expiration of the interim ordinance.

Carrie

From: Karynne Thim <kt@ktbeachproperties.com>

Sent: Thursday, September 17, 2020 9:58 AM

To: Richard Thompson <rthompson@citymb.info>; Carrie Tai, AICP <ctai@citymb.info>

Subject: [EXTERNAL] Re: Outcome of Planning Commission meeting

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

By the way, a resident spoke with Angelica and was told that the ordinance would include staff's Sept. 9th recommendations only, not input from the meetings. Hopefully this isn't correct and she wasn't fully informed.

On Thu, Sep 17, 2020 at 8:24 AM Karynne Thim <kt@ktbeachproperties.com> wrote:

Richard and Carrie,

Can you please provide clarity on whether or not staff's draft of the revised ADU ordinance will include input discussed at last week's meeting (allow more than one ADU per lot for new multi-family projects to provide relief for owners of fourplexes; minimum ADU size 150 sf rather than 220 etc) or if it will mirror staff's recommendations as outlined in the Sept. 9th memorandum? Please clarify intent and how staff is proceeding based on the motion. The Action Minutes are not posted on

the City's website and the public is not clear on how staff is interpreting the scope of their task in drafting the ordinance.

A combination of architects, developers and stakeholders offered to put together suggestions on items that should be included, which would provide collaboration and ease the burden on staff. Would that input be considered and implemented if provided? Better to get it right the first time since time is of the essence.

Commissioner Thompson, I recall that you were inclined to make a second motion about instituting a waiver or minor exception process to address issues like open space, turning radius, etc. that would still render many properties undevelopable even after the ADU ordinance is updated, but stopped short of making the motion. How can a solution be devised for these property owners? You were clearly an advocate to provide relief. Is this an issue that needs to be taken up with the City Council since the other commissioners didn't have an appetite to tackle it? Stakeholders are willing to provide constructive input if a path forward is understood.

Thank you,

Karynne

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KARYNNE THIM



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KARYNNE THIM



CARRIE TAI, AICP

DIRECTOR OF COMMUNITY DEVELOPMENT

310-802-5502
ctai@citymb.info

The City of Manhattan Beach cares about your health and safety. During state and local COVID-19 restrictions, most Community Development services are available online and various divisions can be reached at (310) 802-5500 or Email during normal City business hours. The Citizen Self Service (CSS) Online Portal is now available for City permit and planning applications and inspections.

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266
Office Hours: M-Th 7:30 AM-5:30 PM | Fridays 7:30 AM-4:30 PM | Not Applicable to Public Safety
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KARYNNE THIM

