

CALIFORNIA COASTAL COMMISSION

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W19c

LCP-6-DMR-20-0044-2 (ADU and JrADU Update)

October 13 - 15, 2021

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ORDINANCE NO. 966

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING CHAPTERS 30.19, 30.21, AND 30.91 OF THE CITY OF DEL MAR MUNICIPAL CODE RELATING TO THE REGULATION OF ACCESSORY DWELLING UNITS

WHEREAS, the State of California adopted multiple new laws relating to Accessory Dwelling units (ADUs) and Junior Accessory Dwelling Units (JrADUs) that amended California Government Code section 65852.2 and 65852.22 and took effect on January 1, 2020; and

WHEREAS, State law requires that all local agencies provide a streamlined, ministerial review process for ADUs and JrADUs; and

WHEREAS, the proposed Ordinance is necessary to bring the City's Accessory Dwelling Unit Regulations into compliance with State law generally to address new provisions that further limit the ability for local jurisdictions to impose development standards on new ADUs, expand the circumstances where ADUs and JrADUs may be approved, and further streamlines the process to require approval of a complete application within 60 days of submittal (instead of 120 days); and

WHEREAS, this ordinance is crafted as not to conflict with California Government Code sections 65852.2 and 65852.22; and

WHEREAS, regulation of ADUs also relates to the City's 6th Cycle Housing Element Update (currently in process) because the City will be able to account for ADUs and JrADUs as a housing program strategy to satisfy a portion of the City's assigned Regional Housing Needs Assessment (RHNA) housing needs [Government Code sections 65583.1(a) and 65852.2(m)]; and

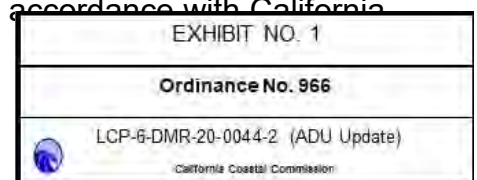
WHEREAS, ADUs and JrADUs will likely be a critical piece of the City's overall housing strategy by offering smaller living options on the same premises as a primary dwelling unit, in proximity to services and employers, that can result in multiple benefits to the community as a whole; and

WHEREAS, on March 10, 2020, the Planning Commission recommended approval of the amendments to the City Council; and

WHEREAS, staff from the California Department of Housing and Community Development (HCD) reviewed the draft amendments and provided feedback that necessitated revisions that have since been incorporated; and

WHEREAS, the proposed amendments constitute a Zone Code Amendment and Local Coastal Program Amendment and following City Council action will be subject to review and certification by the Coastal Commission; and

WHEREAS, the City posted, published, and mailed a Notice of Availability of the draft amendments for public review on February 20, 2020, in accordance with California



Code of Regulations Section 13515 requirements for public participation and agency coordination for Local Coastal Program Amendments.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar, California, does hereby ordain as follows:

SECTION ONE: That DMMC Section 30.19.040 (RM-South Zone) be amended as follows:

30.19.040 Accessory Uses

Accessory uses that are lawful in the RM-East, RM-West or RM-Central Zones may be established in the RM-South Zone, including Accessory Dwelling Units in accordance with Chapter 30.91.

SECTION TWO: That DMMC Section 30.21.030 (RC Zone) be amended as follows:

30.21.030 Allowable Uses

The following uses are allowable in the RC Zone:

- A. Any use allowable in the R2 Zone; provided, however, that at least 60 percent of the floor area, exclusive of parking, shall be for such R2 zoned use.
- B. Any primary use (not requiring a conditional use permit) allowed in the CC Zone; provided, however, that not more than 40 percent of the floor area, exclusive of parking, shall be for such CC zoned use.

SECTION THREE: That DMMC Section 30.21.040 (RC Zone) be amended as follows:

30.21.040 Accessory Uses

- A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports.
- B. Off-street parking for a permitted use.
- C. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code Section 1596.70.
- D. Accessory Dwelling Units in accordance with Chapter 30.91.

SECTION FOUR: That DMMC Section 30.91.020 be amended as follows:

30.91.020 Zones Where Accessory Dwelling Units and Junior Accessory Dwelling Units are Permitted

- A. An Accessory Dwelling Unit (ADU) is permitted subject to the development regulations in Sections 30.91.040 and 30.91.060 on any lot that is zoned to allow single dwelling unit or multiple dwelling unit use, including the Carmel Valley Precise Plan and other Specific Plan zones.
- B. A Junior Accessory Dwelling Unit (JrADU) is permitted within the walls of an existing or proposed single dwelling unit, subject to the development regulations in Section 30.91.050, where located on a lot within one of the following single dwelling unit zones:
 - 1. Very Low Density Residential Zone (R1-40)
 - 2. Modified Low Density Residential Zone (R1-14)
 - 3. Low Density Residential Zone (R1-10)
 - 4. Low Density-Beach Residential Zone (R1-10B)
 - 5. Medium Density Single-Family Residential Zone (R1-5)
 - 6. Medium Density Single-Family Residential Zone-Beach (R1-5B)
 - 7. Carmel Valley Precise Plan Specific Plan (CVPP)
- C. Development of an ADU or JrADU pursuant to Chapter 30.91 is not considered to exceed the allowable density of the parcel on which it is located.

SECTION FIVE: That DMMC Section 30.91.030 be amended as follows:

30.91.030 Process for Approval (Accessory Dwelling Units and Junior Accessory Dwelling Units)

- A. Within 60 days of submittal of a complete permit application for an Accessory Dwelling Unit Permit (ADU) or Junior Accessory Dwelling Unit (JrADU), administrative approval shall be granted by the Director of Planning and Community Development for an ADU submitted in accordance with the procedure in Section 30.91.030(A)(1) or JrADU submitted in accordance with Section 30.91.030(A)(2). The application shall be reviewed in a ministerial and administrative manner, limited to only considering the project's compliance with the applicable objective standards stated in Sections 30.91.040, 30.91.050, and 30.91.060 as applicable.
 - 1. ADU Submittal Requirements.

In addition to the general application and permit fees for planning and engineering review as applicable, the applicant shall submit the following as necessary to demonstrate compliance with Section 30.91.040 to the satisfaction of the Planning and Community Development Director:

 - a. A site plan with proposed setbacks fully dimensioned for all existing and proposed structures on the project site, and

calculations indicating the square footage of all structures on the lot (existing and proposed).

- (i) Calculation of the ADU size shall include all interior floor space within the surrounding exterior walls of the ADU as calculated from the inside face of the wall studs.
 - (ii) Additional site plan detail, per the City's ADU checklist on file with the City, shall be included for engineering review of any application to construct an ADU that would be either attached to the primary dwelling unit or constructed as a new detached structure.
 - (iii) Engineering review is not required if the ADU would be located within an existing primary dwelling unit or existing accessory structure.
- b. At least one plan section and elevations with proposed height fully dimensioned showing all facade openings and exterior finishes.
- c. A floor plan to identify the number of bedrooms for the ADU and demonstrate compliance with the requirement for a separate exterior entry.
- d. Information regarding available water and sewer utility easements, services, and connections, and whether the existing primary residence has an automatic residential sprinkler system.
- e. Standard notes printed on the construction plans prior to building permit approval, including the following statement:
 - (i) The ADU shall not be sold or otherwise conveyed separate from the primary dwelling unit, except that a qualified non-profit affordable housing organization per Government Code Section 65852.26 may sell a deed restricted ADU to an eligible low-income owner.
 - (ii) The property owner shall reside on the property in either the primary dwelling unit or in the ADU. *[Editor's Note: This provision shall not be enforceable until January 1, 2025.]*
 - (iii) If rented, the term for rental shall be 30 consecutive days or greater (except in zones that allow commercial uses).

- f. A certification of height, setback, and square footage compliance prior to framing inspection.
- g. A construction-phase parking and equipment/materials storage plan
- h. Any additional information as necessary to demonstrate the proposed ADU meets the criteria for approval in Section 30.91.040.

2. JrADU Submittal Requirements.

In addition to the general application and permit fee, the applicant for a JrADU shall submit the following as necessary to demonstrate compliance with Section 30.91.050 to the satisfaction of the Planning and Community Development Director:

- a. A site plan with setbacks fully dimensioned for all existing and proposed structures on the project site to demonstrate the site is, or will be, developed with a single dwelling unit; and that identifies any existing or proposed ADUs on the lot.
- b. A floor plan to demonstrate compliance with Section 30.91.050 requirements for an efficiency kitchen, separate exterior entry, and the bathroom the JrADU will have access to.

3. If the permit application is submitted concurrently with a permit application to create a new primary dwelling unit, the City may delay acting on the ADU or JrADU permit application until the City acts on the permit application to create the new primary dwelling unit. The decision maker on the primary dwelling unit is precluded from considering the pending ADU or JrADU as part of the discretionary review or hearing for the primary dwelling unit. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

B. Prior to development or occupancy of an ADU or JrADU, the applicant shall obtain all construction-related permits as applicable pursuant to Del Mar Municipal Code Chapter 23.04 (Building Construction General Provisions).

C. Notwithstanding the provisions of the Del Mar Municipal Code, development of a JrADU designed in accordance with Section 30.91.050 shall be exempt from the requirement to obtain a discretionary permit in all cases. A request for an ADU designed in compliance with Section 30.91.040 shall be exempt from discretionary review as follows:

1. Exempt from a Design Review Permit (Chapter 23.28) in all zones including the Carmel Valley Precise Plan and Specific Plan zones.
2. Exempt from a Land Conservation Permit (Chapter 23.33) for all grading proposed within the development footprint for the ADU structure; however, the requirement for an excavation or grading permit in accordance with Chapter 23.32 still applies. A Land Conservation Permit may be required via a separate approval process for any excavation and grading that is proposed outside of the development footprint for the ADU structure and that is not otherwise necessary for the ADU to be occupied as a dwelling unit.
3. Exempt from a Floodplain Development Permit (Chapter 30.56) where located in the Floodplain Overlay Zone and the following apply:
 - a. ADU will be located entirely within the walls of an existing habitable structure or within existing non-habitable space located at or above the base flood elevation that is converted to habitable space for the ADU; or
 - b. ADU will be located in a structure that is designed as follows:
 - i. The lowest floor (including basement) will be elevated at or above the base flood elevation;
 - ii. The structure will be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - iii. Construction materials will be resistant to flood damage; and
 - iv. All plumbing, electrical, heating, ventilation, and air conditioning equipment will be designed to prevent water from entering or accumulating within the components during conditions of flooding.
4. Exempt from a Conditional Use Permit (Chapter 30.74) where:
 - a. Located in the Bluff, Slope and Canyon Overlay Zone, and the ADU will be set back at least 20 feet from the top of a steep slope and at least 10 feet from the bottom of a steep slope per Section 30.52.070; or

- b. Located in the Coastal Bluff Overlay Zone, and the ADU will be constructed primarily above grade, and set back at least 40 feet from the top edge of a coastal bluff per Section 30.55.080.

5. Coastal Development Permit Requirement (Chapter 30.75)

- a. California Government Code section 65852.2 provides that the Accessory Dwelling Unit statutes do not supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for Coastal Development Permit applications for ADUs.
- b. The following are exempt from a Coastal Development Permit, except where a permit is otherwise required pursuant to Section 30.91.030(C)(5)(c):
 - i. The ADU will be contained entirely within or directly attached to an existing single dwelling unit.
 - ii. Minor changes to an existing residential structure are proposed to construct an ADU consistent with Section 30.91.040 that will not involve the removal or replacement of major structural components (e.g. roofs, exterior walls, or foundations) and will have no potential to adversely impact coastal resources pursuant to the certified LCP.
- c. An administrative Coastal Development Permit in accordance with Section 30.75.080(E) shall be obtained for an ADU where:
 - i. A previously issued Coastal Development Permit requires a new Coastal Development Permit or an amendment be processed for any changes to the approved development or for future development or uses of the site as a condition of approval.
 - ii. The ADU will be located between the first public road and the sea or within 300 feet of a beach or the mean high tide line and will increase the interior floor area by 10 percent or more or increase the height by more than 10 percent.
- d. A Coastal Development Permit required by Section 30.91.030(C)(5)(c) shall be processed in accordance with the following procedures:
 - i. In order to approve the ADU, the Planning Director shall make a finding that the proposed development is consistent

with the requirements of the certified Local Coastal Program, and where applicable, the public access and recreation policies of the Coastal Act, except that no public hearing shall be required.

- ii. Public notice shall be provided for Coastal Development Permit applications in accordance with Section 30.75.120.
- iii. Once a final decision of approval or denial is issued by the Planning Director, the notice of final action shall be provided within seven days to the Executive Director of the Coastal Commission and to any interested parties who requested notice in writing in accordance with Section 30.75.100.
- iv. If the ADU qualifies as appealable development pursuant to Chapter 30.75, the Planning Director's decision to approve a Coastal Development Permit may be appealed to the Coastal Commission within 10 calendar days in accordance with Section 30.75.110.

- D. The City shall maintain a record of all ADUs and JrADUs issued permits for reporting to the State of California.

SECTION SIX: That DMMC Section 30.91.040 be amended as follows:

30.91.040 Accessory Dwelling Unit Development Regulations (General)

- A. An Accessory Dwelling Unit (ADU) that is designed to meet all of the requirements in Section 30.91.040, and Section 30.91.060 for lots with multiple dwelling units, shall be issued a permit in accordance with Section 30.91.030.
- B. A lot with an existing or proposed single dwelling unit is permitted to develop a combination of attached and detached ADUs on the lot in compliance with the following:
 - 1. A maximum of one ADU, or one JrADU in compliance with Section 30.91.050, is permitted within a proposed or existing single dwelling unit; and
 - 2. A maximum of one detached, new construction ADU, or one ADU within the space of an existing detached accessory structure. Conversion of the existing accessory structure can include an addition of up to 150 square feet as necessary to accommodate ingress or egress for the ADU.

3. The ADU or JrADU described under Section 30.91.040(B)(1) shall be located within the primary dwelling unit structure and not within a detached accessory structure.
- C. If the proposed ADU would be located in a designated historic district or on a property that is listed in a Register of Historic Resources (local, state, or national) or where substantial evidence is available indicating that the property contains a potential historic resource that is eligible to be listed, then the applicant must demonstrate that the design of the proposed ADU, including exterior finishes, windows, access doors, and rooflines, is consistent with the Secretary of the Interior Standards for preservation of historic resources.
- D. The ADU shall be designed and operated in compliance with the regulations of the zone as a residential use that is subordinate to the primary dwelling unit on the property.
- E. The ADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit on the property, except that the City or qualified non-profit corporation per Government Code section 65852.26 may sell a deed restricted ADU to an eligible low-income owner.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the ADU. Owner-occupancy shall not be required if the owner is a governmental agency, land trust, or non-profit housing organization.

[Editor's note: The owner-occupancy provision in DMMC Section 30.91.040(F) shall not be enforceable until January 1, 2025 per Government Code section 65852.2(a)(6).]
- G. If rented, the term for rental of an ADU in a residential zone shall be for a term longer than 30 consecutive days per Government Code sections 65852.2(a)(6) and (e)(4).
- H. The interior floor space within the surrounding exterior walls of the ADU (calculated from the inside face of wall studs) shall not exceed 850 square feet in size, or 1,000 square feet maximum if the ADU has more than one bedroom. The applicant may request City Council approval of a deviation from the stated maximum size limit subject to a finding that the deviation is necessary to create an ADU that will meet the City's Housing Element goals; and the applicant agrees to record a covenant memorializing that the ADU shall be limited to use as an ADU rental unit and agrees to provide the City with ADU rental information annually upon request for reporting to the State. For the purpose of this section:
 1. All interior floor space of the ADU shall count towards the maximum ADU size regardless of whether or not it meets the City's definition of gross floor area.

2. Bedroom shall be defined as an enclosed space within a dwelling unit that is designed or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from all kitchen, living room, and hallway areas.
- I. An ADU is not permitted within a building restricted easement location.
 - J. The ADU shall be composed of the same or similar architectural style, details, colors, roof pitch, building materials, and exterior lighting as the primary dwelling unit on the property.
 - K. The ADU shall have a separate exterior entry from the primary dwelling unit.
 1. The ADU shall be limited to the first story or basement level unless the ADU would be located within an existing structure with existing access above the first story level.
 2. The ADU entry shall not be required to have a pathway connection to the street.
 3. Section 30.86.200(l) "required yards between buildings" shall not apply to proposed ADUs.
 - L. The maximum building height of any new building construction or expansion of an existing structure for the ADU shall not exceed 16 feet, except that a new ADU structure proposed within the Bluff, Slope, and Canyon Overlay Zone shall comply with the 14 foot maximum height limit of the Overlay Zone. For the purpose of Chapter 30.91, height shall be measured in accordance with Section 30.04.080(A), except in the Floodplain Overlay Zone where the height of a new ADU structure shall be measured from the required base flood elevation.
 - M. All outdoor lighting of an ADU shall be shielded and directed downward and away from neighboring properties and/or public rights-of-way.
 - N. A setback of 4 feet shall be required for a new ADU structure, except as follows:
 1. An existing legal non-conforming structure located within the setback, such as a garage or accessory building, may be converted to an ADU and maintain the non-conforming setback, unless a greater setback is needed for compliance with the building and safety standards of the California Building Code and California Fire Code.
 2. The new structure shall comply with the required front yard setback of the applicable zone.

3. In all cases, the ADU shall comply with the required coastal bluff setback in the Coastal Bluff Overlay Zone and the required Beach Preservation Initiative setback in the Beach Overlay Zone.
 4. On properties located between the ocean and the first public roadway, the ADU shall comply with the street yard setback of the applicable zone where necessary to protect public scenic views to the ocean.
- O. Where an existing garage, carport, or covered parking is demolished or converted to an ADU, no replacement off-street parking shall be required.
- P. The ADU shall provide one off-street parking space (covered or uncovered), unless one of the following parking exemptions applies in which case no parking is required:
1. The ADU would be located within the existing primary dwelling unit.
 2. The ADU would be located within an existing accessory building on the property.
 3. The ADU would be located on a property within a half mile of public transit, including a bus route, train station, or paratransit service, if applicable.
 4. The ADU would be located in a designated historic district or on a property listed in a Register of Historic Resources (local, state, or national).
 5. The ADU would be located on a property within one block of a designated car share parking location.
- Q. ADUs are required to comply with the same building and safety requirements as the primary dwelling unit in accordance with the California Building Code and California Fire Code. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required.
- R. An automatic residential fire sprinkler system shall not be required for an ADU if the existing primary dwelling unit does not contain such a system.
- S. ADUs shall not be considered new residential uses for the purposes of calculating utility connection fees.
1. State law provides for a new or separate utility connection fee to be required for an ADU that is not contained within the existing primary dwelling unit or within an existing accessory building. The connection fee shall be proportionate to the burden of the ADU based on the ADU size and number of plumbing fixtures.

2. Conversion of floor space to an ADU within an existing structure with the appropriate meter size shall not be subject to new water and sewer connection fees.
- T. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the primary dwelling unit that meets such definitions and in no case shall apply to an ADU.
- U. An exterior wall heater or air conditioning unit is permitted for an ADU. Any additional accessory mechanical equipment or exterior building features that are not otherwise required by Section 30.91.040 or for a dwelling unit per the California Building Code shall be subject to Administrative Design Review in accordance with Section 23.08.035, which shall include, but shall not be limited to, the following:
1. Roof eaves or architectural projections that overhang the face of the ADU building wall more than 24 inches.
 2. An attached deck, carport, or other outdoor covered area with a finished floor.
- V. ADUs shall not be located on a beach, in a wetland, seaward of the mean high tideline, in an environmentally sensitive habitat area, within a required coastal bluff setback, or in an area designated as highly scenic in the certified Local Coastal Program; and shall not involve significant alteration of landforms per Coastal Act section 13250 or the expansion or construction of water wells or septic systems.
- W. Within the Carmel Valley Precise Plan Specific Plan area, ADUs are permitted only on the following residential lots: Lots 3-9, 11-17, or 20-29.
- X. The owner of an ADU is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the ADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.
- Y. If the ADU would be located in a proposed structure, the development pad for the new ADU structure shall be located at a grade elevation with a slope that is no greater than 4 to 1.

SECTION SEVEN: That DMMC Section 30.91.050 be amended as follows:

30.91.050 Junior Accessory Dwelling Unit Development Regulations

- A. A Junior Accessory Dwelling Unit (JrADU) is a small dwelling unit that is no more than 500 square feet in size and contained entirely within, and accessory to, an existing habitable Single Dwelling Unit pursuant to the regulations in Section 30.91.050 and California Government Code section 65852.22.
- B. A JrADU that is designed to meet all of the requirements in Section 30.91.050 shall be issued a permit in accordance with Section 30.91.030. The City is preempted by State Law from requiring any type of discretionary review or public hearing prior to approval.
- C. A maximum of one JrADU is permitted per lot developed with a single dwelling unit and located in a residential zone that allows JrADUs as identified in Section 30.91.020.
 - 1. A JrADU shall not be permitted on a lot with multiple dwelling unit development.
 - 2. A JrADU shall be permitted only within the primary dwelling unit and shall not be permitted within an accessory structure.
 - 3. A lot with a JrADU may also contain a detached ADU in accordance with Section 30.91.040(B).
- D. A JrADU shall be constructed entirely within the existing walls of a single dwelling unit and shall include the following:
 - 1. A separate exterior entry to the primary dwelling unit that is separate from the main entrance;
 - 2. A cooking facility with appliances and a food preparation counter and storage cabinets that are reasonable to the size of the unit; and
 - 3. Access to a bathroom within the JrADU or the primary dwelling unit.
- E. The following shall apply to the required separate exterior entry from the primary dwelling unit for a JrADU:
 - 1. The JrADU shall be limited to the first story or basement level unless the required exterior entry access above the first story level is existing.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU, unless the property is owned by a governmental agency, land trust or non-profit housing organization.
- G. The JrADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit, nor shall authorization be granted for a condominium

conversion of a JrADU. If rented, the term for rental shall be for a term longer than 30 consecutive days; except that in the RC zone, a JrADU may be rented without such a limit.

- H. Prior to issuance of a permit for a JrADU on private property, the owner shall record a deed restriction with the County Recorder and file the recorded deed restriction with the City, acknowledging the applicable use limitations that shall run with the land. The deed restriction shall include the following text:
1. The subject property is developed with a Junior Accessory Dwelling Unit (JrADU) contained entirely within the walls of a primary dwelling unit pursuant to Government Code Section 65852.2 and Del Mar Municipal Code Chapter 30.91.
 2. This deed restriction identifies use limitations that shall be enforceable against the property owner and all successors in interest.
 3. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU.
 4. The JrADU may be rented for periods of 30 consecutive days or greater, but shall not be sold or conveyed separately from the primary dwelling unit.
 5. The JrADU shall be 500 square feet maximum in size.
 6. The JrADU shall provide independent living facilities which shall include a separate exterior entry, a cooking facility with appliances, and a food preparation and storage cabinets; and access to a bathroom within the JrADU or the primary dwelling unit.
- I. Parking shall not be required for the JrADU.
- J. A JrADU shall not be considered a separate or new dwelling unit for the purpose of any fire or life safety regulation. Fire or life safety requirements that apply to a single dwelling unit may be applied to the structure as a whole inclusive of the JrADU. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required for the JrADU.
- K. A new automatic residential fire sprinkler system shall not be required for development of a JrADU. An automatic residential fire sprinkler system shall not be required for a JrADU if the existing primary dwelling unit does not contain such a system.
- L. A primary dwelling unit with the appropriate meter size shall not be subject to new water and sewer connection fees for conversion of existing floor space to a JrADU.

- M. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the Primary Dwelling Unit that meets such definitions and in no case shall apply to a JrADU.
- N. The owner of a JrADU is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the JrADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.

SECTION EIGHT: That a new DMMC Section 30.91.060 be added as follows:

30.91.060 Regulations for ADUs on Lots with Multiple Dwelling Units

- A. On a lot with two existing dwelling units in a zone that allows a maximum of two primary dwelling units, each primary dwelling unit on the lot shall be permitted one ADU in accordance with the regulations in Section 30.91.040 and the following:
 - 1. One ADU within the walls of the existing primary dwelling unit; or
 - 2. One ADU attached to the existing primary dwelling unit; or
 - 3. One detached ADU per primary dwelling unit.
- B. On a lot where multiple dwelling units are located within an existing structure that contains three or more dwelling units or within multiple structures that contain two or more dwelling units, the property owner shall be permitted to convert existing spaces within each multiple dwelling unit structure to ADUs as follows:
 - 1. The maximum number of ADUs permitted in accordance with Section 30.91.060(B) shall not exceed 25 percent of the total number of existing dwelling units on the lot.
 - 2. The existing space to be converted to an ADU shall not be located within, or solely owned or controlled by, an individual dwelling unit on the multiple dwelling unit lot.
 - 3. Conversion of the space shall comply with the California Building Code Standards for a dwelling unit.
 - 4. Conversion of the space would not be in conflict with the existing permits applicable to the property by removing required access, open space, or recreation amenities.

- C. Up to two detached ADUs are permitted on a lot with existing multiple dwelling units in addition to the ADUs allowed within the existing multiple dwelling unit structure per Section 30.91.060(B) subject to the following:
1. The maximum size of the ADU shall be 1200 square feet.
 2. The maximum height of the ADU shall be 16 feet.
 3. The detached ADU shall comply with the setback provisions set forth in Section 30.91.040(N).
- D. All ADUs developed in accordance with Section 30.91.060 shall also comply with the standards in Section 30.91.040, unless explicitly stated otherwise. Where designed accordingly, proposed ADUs on lots with multiple dwelling units shall be issued a permit in accordance with Section 30.91.030.

SECTION NINE:

The City Council finds that approval of this ordinance is exempt from the preparation of an environmental document pursuant to the California Environmental Quality Act per Statutory Exemption (Public Resources Code section 21080.17) and CEQA Guidelines Article 19, Sections 15301 (Existing Facilities), 15302 (Replacement and Reconstruction), and 15303 (New Construction or Conversion of Small Structures). The City Council bases this finding upon the record prepared by the City and the City's analysis of the potential environmental effects of this ordinance.

SECTION TEN:

This Ordinance was introduced by the City Council on May 18, 2020.

SECTION ELEVEN:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION TWELVE:

Upon adoption, the Ordinance will be submitted to the California Coastal Commission for certification as a Local Coastal Program Amendment. The Ordinance will take effect and be in force on the date that the Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

SECTION THIRTEEN:

Within 60 days of the date of final certification by the California Coastal Commission, the City shall file a copy of the Ordinance with the State Department of Housing and Community Development.

PASSED, APPROVED AND ADOPTED by the City council of the City of Del Mar, California, at the Regular held this 1st day of June, 2020.



Ellie Haviland, Mayor
City of Del Mar

APPROVED AS TO FORM:



Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 966, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of June, 2020, by the following vote:

AYES: Mayor Haviland, Deputy Mayor Gaasterland, Council Members
Druker, Parks and Worden
NOES: None
ABSENT: None
ABSTAIN: None



Ashley Jones, Administrative Services
Director/City Clerk
City of Del Mar

Strikeout-Underline Copy of Code Language Adopted by the Del Mar City Council on June 1, 2020 to Amend the Existing ADU Regulations per State Law

SECTION ONE: That DMMC Section 30.19.040 (RM-South Zone) be amended as follows:

30.19.040 Accessory Uses

Accessory uses that are lawful in the RM-East, RM-West or RM-Central Zones may be established in the RM-South Zone, ~~except that Accessory Dwelling Units are not permitted including Accessory Dwelling Units in accordance with Chapter 30.91.~~

SECTION TWO: That DMMC Section 30.21.030 (RC Zone) be amended as follows:

30.21.030 Allowable Uses

The following uses are allowable in the RC Zone:

- A. Any use allowable in the R2 Zone; provided, however, that at least 60 percent of the floor area, exclusive of parking, shall be for such R2 zoned use. ~~Accessory Dwelling Units are permitted on a lot with an existing single dwelling unit.~~
- B. Any primary use (not requiring a conditional use permit) allowed in the CC Zone; provided, however, that not more than 40 percent of the floor area, exclusive of parking, shall be for such CC zoned use.

SECTION THREE: That DMMC Section 30.21.040 (RC Zone) be amended as follows:

- A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports.
- B. Off-street parking for a permitted use.
- C. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code Section 1596.70.
- D. Accessory Dwelling Units in accordance with Chapter 30.91.

SECTION FOUR: That DMMC Section 30.91.020 be amended as follows:

30.91.020 Zones Where Accessory Dwelling Units and Junior Accessory Dwelling Units are Permitted

- A. An Accessory Dwelling Unit (ADU) is permitted subject to the development regulations in ~~Section~~ Sections 30.91.040 and 30.91.060, ~~only on any lot residential property that is developed with an existing~~ zoned to allow single

dwelling unit or multiple dwelling unit use, including the Carmel Valley Precise Plan and other Specific Plan zones, within one of the following zones:

1. ~~Very Low Density Residential Zone (R1-40)~~
2. ~~Modified Low Density Residential Zone (R1-14)~~
3. ~~Low Density Residential Zone (R1-10)~~
4. ~~Low Density Beach Residential Zone (R1-10B)~~
5. ~~Medium Density Single-Family Residential Zone (R1-5)~~
6. ~~Medium Density Single-Family Residential Zone-Beach (R1-5B)~~
7. ~~Medium Density Single-Mixed Residential-East (RM-East)~~
8. ~~Medium Density Mixed Residential-West (RM-West)~~
9. ~~Medium Density Mixed Residential-Central (RM-Central)~~
10. ~~High Density Mixed Residential (R-2)~~
11. ~~Residential-Commercial Zone (RC)~~
12. ~~Carmel Valley Precise Plan Specific Plan (CVPP)~~

- B. A Junior Accessory Dwelling Unit (JrADU) is permitted within the walls of an existing or proposed single dwelling unit, subject to the development regulations in Section 30.91.050, ~~is permitted on property~~ where located on a lot within one of the following single dwelling unit zones:

1. Very Low Density Residential Zone (R1-40)
2. Modified Low Density Residential Zone (R1-14)
3. Low Density Residential Zone (R1-10)
4. Low Density-Beach Residential Zone (R1-10B)
5. Medium Density Single-Family Residential Zone (R1-5)
6. Medium Density Single-Family Residential Zone-Beach (R1-5B)
7. Carmel Valley Precise Plan Specific Plan (CVPP)

- C. Development of an ADU or JrADU pursuant to Chapter 30.91 is not considered to exceed the allowable density of the parcel on which it is located.

SECTION FIVE: That DMMC Section 30.91.030 be amended as follows:

30.91.030 Process for Approval of an (Accessory Dwelling Units and Junior Accessory Dwelling Units)

- A. Within ~~420~~ 60 days of submittal of a complete permit application for an Accessory Dwelling Unit Permit (ADU) or Junior Accessory Dwelling Unit (JrADU), administrative approval shall be granted by the Director of Planning and Community Development for an ADU ~~Permit~~ submitted in accordance with the procedure in Section 30.91.030(A)(1) ~~or a Junior Accessory Dwelling Unit (JrADU) request~~ submitted in accordance with Section 30.91.030(A)(2). The application shall be reviewed in a ministerial and administrative manner, limited to only considering the project's compliance with the applicable objective standards stated in Sections 30.91.040, 30.91.050, and 30.91.060 as applicable.

1. ADU Submittal Requirements.

In addition to the general application and permit fees for planning and engineering review as applicable, the applicant shall submit the following as necessary to demonstrate compliance with Section 30.91.040 to the satisfaction of the Planning and Community Development Director:

- a. A site plan with proposed setbacks fully dimensioned for all existing and proposed structures on the project site, and calculations indicating the square footage of all structures on the lot, structure (existing and proposed), ~~and the percentage of lot coverage.~~
 - (i) Calculation of the ADU size shall include all interior floor space within the surrounding exterior walls of the ADU as calculated from the inside face of the wall studs.
 - (ii) Additional site plan detail, per the City's ADU checklist on file with the City, shall be included for engineering review of any application to construct an ADU that would be either attached to the primary dwelling unit or constructed as a new detached structure.
 - (iii) Engineering review is not required if the ADU would be located within an existing primary dwelling unit or existing accessory structure.
- b. At least one plan section and four elevations with proposed height fully dimensioned showing all facade openings and exterior finishes.
- c. A floor plan ~~containing an attest or proof of~~ to identify the number of bedrooms for the ADU and demonstrate compliance with the floor area ratio requirement for a separate exterior entry the underlying zone.
- d. Information regarding available water and sewer utility easements, services, and connections, and whether the existing primary residence has an automatic residential sprinkler system.
- e. Standard notes printed on the construction plans prior to building permit approval, including the following statement:
 - (i) The ADU shall not be sold or otherwise conveyed separate from the primary dwelling unit, except that a qualified non-

profit affordable housing organization per Government Code Section 65852.26 may sell a deed restricted ADU to an eligible low-income owner.

(ii) The property owner shall reside on the property in either the primary dwelling unit or in the ADU. *[Editor's Note: This provision shall not be enforceable until January 1, 2025.]*

(iii) If rented, the term for rental shall be 30 consecutive days or greater (except in zones that allow commercial uses ~~the RC zone~~).

f. A certification of height, setback, and ~~floor area~~ square footage compliance prior to framing inspection.

g. A construction-phase parking and equipment/materials storage plan

h. Any additional information as necessary to demonstrate the proposed ADU ~~is exempt from discretionary review 30.91.030(D)~~ meets the criteria for approval in Section 30.91.040.

2. JrADU Submittal Requirements.

In addition to the general application and permit fee, the applicant for a JrADU shall submit the following as necessary to demonstrate compliance with Section 30.91.050 to the satisfaction of the Planning and Community Development Director:

a. A site plan with setbacks fully dimensioned for all existing and proposed structures on the project site to demonstrate the site is or will be, developed with a single dwelling unit; and that identifies any existing or proposed ADUs on the lot ~~there is no existing ADU on-site~~.

b. A floor plan to demonstrate compliance with Section 30.91.050 requirements for ~~a bedroom~~, an efficiency kitchen, separate exterior entry, ~~interior connection to the primary dwelling unit~~, and the bathroom the JrADU will have access to.

3. If the permit application is submitted concurrently with a permit application to create a new primary dwelling unit, the City may delay acting on the ADU or JrADU permit application until the City acts on the permit application to create the new primary dwelling unit. The decision maker on the primary dwelling unit is precluded from considering the pending ADU or JrADU as part of the discretionary review or hearing for the

primary dwelling unit. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

~~B. Upon submittal of a permit application, the applicant and City shall post a courtesy notice of application at the project site and at City Hall for the public to view in accordance with the City's standard development procedure.~~

~~C.~~ B. Prior to development or occupancy of an ADU or JrADU, the applicant shall obtain all construction-related permits as applicable pursuant to Del Mar Municipal Code Chapter 23.04 (Building Construction General Provisions).

~~D.~~ C. Notwithstanding the provisions of the Del Mar Municipal Code, development of a JrADU designed in accordance with Section 30.91.050 shall be exempt from the requirement to obtain a discretionary permit in all cases. A request for an ADU designed in compliance with Section 30.91.040 shall be exempt from discretionary review as follows:

1. Exempt from a Design Review Permit (Chapter 23.28) in all zones including the Carmel Valley Precise Plan and Specific Plan zones.
2. Exempt from a Land Conservation Permit (Chapter 23.33) for all grading proposed within the development footprint for the ADU structure; however, the requirement for an excavation or grading permit in accordance with Chapter 23.32 still applies. A Land Conservation Permit may be required via a separate approval process for any excavation and grading that is proposed outside of the development footprint for the ADU structure and that is not otherwise necessary for the ADU to be occupied as a dwelling unit. where proposed grading complies with the following:
 - ~~a. The proposed alteration of the existing grade elevation is 18 inches or less;~~
 - ~~b. The proposed alteration of the existing grade elevation is temporary and would be replaced with the ADU structure and the grade restored within 18 inches of the original grade elevation;~~
 - ~~c. Any proposed excavation to fill less than 25 cubic yards; or~~
 - ~~d. Development of the ADU involves a maximum of 50 cubic yards of combined grading cut and/or fill and a maximum alteration of the existing or natural grade elevation of the property by no more than 36 inches, and no grading occurs during the time period November 15 to March 31.~~
3. Exempt from a Floodplain Development Permit (Chapter 30.56) where located in the Floodplain Overlay Zone and the following apply:

- a. ADU will be located entirely within the walls of an existing habitable structure or within existing non-habitable space located at or above the base flood elevation that is converted to habitable space for the ADU; or
 - b. ADU will be located in a structure that is designed as follows:
 - i. The lowest floor (including basement) will be elevated at or above the base flood elevation;
 - ii. The structure will be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - iii. Construction materials will be resistant to flood damage; and
 - iv. All plumbing, electrical, heating, ventilation, and air conditioning equipment will be designed to prevent water from entering or accumulating within the components during conditions of flooding.
4. Exempt from a Conditional Use Permit (Chapter 30.74) where:
- a. Located in the Bluff Slope and Canyon Overlay Zone, and the ADU will be set back at least 20 feet from the top of a steep slope and at least 10 feet from the bottom of a steep slope per Section 30.52.070; or
 - b. Located in the Coastal Bluff Overlay Zone, and the ADU will be constructed primarily above grade, and set back at least 40 feet from the top edge of a coastal bluff per Section 30.55.080.
5. Coastal Development Permit Requirement (Chapter 30.75)
- a. California Government Code section 65852.2 provides that the Accessory Dwelling Unit statutes do not supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for Coastal Development Permit applications for ADUs.
 - b. The following are exempt from a Coastal Development Permit, except where a permit is otherwise required pursuant to Section 30.91.030(D)(5)(c):
 - i. The ADU will be contained entirely within or directly attached to an existing single dwelling unit.

- ii. Minor changes to an existing residential structure are proposed to construct an ADU consistent with Section 30.91.040 that will not involve the removal or replacement of major structural components (e.g. roofs, exterior walls, or foundations) and will have no potential to adversely impact coastal resources pursuant to the ~~Chapter 3 policies of the Coastal Act~~ certified LCP.
- c. An administrative Coastal Development Permit in accordance with Section 30.75.080(E) shall be obtained for an ADU where:
 - i. A previously issued Coastal Development Permit requires a new Coastal Development Permit or an amendment be processed for any changes to the approved development or for future development or uses of the site as a condition of approval.
 - ii. The ADU will be located between the first public road and the sea or within 300 feet of a beach or the mean high tide line and will increase the interior floor area by 10 percent or more or increase the height by more than 10 percent.
- d. A Coastal Development Permit required by Section 30.91.030(D)(5)(c) shall be processed in accordance with the following procedures:
 - i. In order to approve the ADU, the Planning Director shall make a finding that the proposed development is consistent with the requirements of the certified Local Coastal Program, and where applicable, the public access and recreation policies of the Coastal Act, except that no public hearing shall be required.
 - ii. Public notice shall be provided for Coastal Development Permit applications in accordance with Section 30.75.120.
 - iii. Once a final decision of approval or denial is issued by the Planning Director, the notice of final action shall be provided within seven days to the Executive Director of the Coastal Commission and to any interested parties who requested notice in writing in accordance with Section 30.75.100.
 - iv. If the ADU qualifies as appealable development pursuant to Chapter 30.75, the Planning Director's decision to approve a Coastal Development Permit may be appealed

to the Coastal Commission within 10 calendar days in accordance with Section 30.75.110.

~~E. No Variances shall be granted for an ADU or JrADU.~~

F.D. The City shall maintain a record of all ADUs and JrADUs issued permits for reporting to the State of California.

SECTION SIX: That DMMC Section 30.91.040 be amended as follows:

30.91.040 Accessory Dwelling Unit Development Regulations (General)

- A. An Accessory Dwelling Unit (ADU) that is designed to meet all of the requirements in Section 30.91.040, and Section 30.91.060 for lots with multiple dwelling units, shall be issued a permit in accordance with Section 30.91.030.
- B. ~~A maximum of one ADU is permitted per lot that is developed~~ A lot with an existing or proposed single dwelling unit, in a zone identified in Section 30.91.020. An ADU shall not be permitted on a lot with a JrADU, duplex, three or more dwelling units, or nonresidential development. is permitted to develop a combination of attached and detached ADUs on the lot in compliance with the following:
1. A maximum of one ADU, or one JrADU in compliance with Section 30.91.050, is permitted within a proposed or existing single dwelling unit; and
 2. A maximum of one detached, new construction ADU, or one ADU within the space of an existing detached accessory structure. Conversion of the existing accessory structure can include an addition of up to 150 square feet as necessary to accommodate ingress or egress for the ADU.
 3. The ADU or JrADU described under Section 30.91.040(B)(1) shall be located within the primary dwelling unit structure and not within a detached accessory structure.
- C. ~~If the ADU would not be contained within an existing structure, the lot size shall meet the minimum lot size of the zone. If the proposed ADU would be located in a designated historic district or on a property listed in a Register of Historic Resources (local, state, or national), or where substantial evidence is available indicating that the property contains a potential historic resource that is eligible to be listed, then the applicant must demonstrate that the design of the proposed ADU, including exterior finishes, windows, access doors, and rooflines, is consistent with the Secretary of the Interior Standards for preservation of historic resources.~~

- D. The ADU shall be designed and operated in compliance with the regulations of the zone as a residential use that is subordinate to the primary dwelling unit on the property.
- E. The ADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit on the property, ~~nor shall authorization be granted for a condominium conversion of an ADU~~ except that the City or qualified non-profit corporation per Government Code section 65852.26 per may sell a deed restricted ADU to an eligible low-income owner.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the ADU. Owner-occupancy shall not be required if the owner is a governmental agency, land trust, or non-profit housing organization.

[Editor's note: This owner-occupancy provision shall not be enforceable until January 1, 2025 per Government Code section 65852.2(a)(6).]

- G. If rented, the term for rental of an ADU in a residential zone shall be for a term longer than 30 consecutive days per Government Code sections 65852.2 (a)(6) and (e)(4) or greater; except that in the RC zone, an ADU may be rented without such a limit.
- H. The interior floor space within the surrounding exterior walls of the ADU (calculated from the inside face of wall studs) shall not exceed ~~550~~ 850 square feet in size, or 1,000 square feet maximum if the ADU has more than one bedroom. The applicant may request City Council approval of a deviation from the stated maximum size limit subject to a finding that the deviation is necessary to create an ADU that will meet the City's Housing Element goals; and the applicant agrees to record a covenant memorializing that the ADU shall be limited to use as an ADU rental unit and agrees to provide the City with ADU rental information annually upon request for reporting to the State. For the purpose of this section;
 - 1. ~~all~~ All interior floor space of the ADU shall count towards the maximum ADU size ~~550 square feet~~ regardless of whether or not it meets the City's definition of gross floor area.
 - 2. Bedroom shall be defined as an enclosed space within a dwelling unit that is designed or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from all kitchen, living room, and hallway areas.
- I. ~~The applicant shall demonstrate that the area of interior floor space of the ADU (as calculated per Section 30.91.040(H)) when combined with the gross floor area of the existing development does not exceed the maximum floor area ratio for the applicable zone. Any existing floor area that is repurposed for the ADU shall be~~

~~counted only one time towards the total floor area.~~ An ADU is not permitted within a building restricted easement location.

- J. The ADU shall be composed of the same or similar architectural style, details, colors, roof pitch, building materials, and exterior lighting as the primary single dwelling unit on the property.
- K. The ADU shall have a separate exterior entry from the primary dwelling unit.
1. The ADU shall be limited to the first story or basement level unless the ADU would be located within an existing structure with existing access above the first story level.
 2. The ADU entry shall not be required to have a pathway connection to the street.
 3. Section 30.86.200(I) "required yards between buildings" shall not apply to proposed ADUs.
- L. The maximum building height of any new building construction or expansion of an existing structure for the ADU shall not exceed 44 16 feet, except that a new ADU structure proposed within the Bluff, Slope, and Canyon Overlay Zone shall comply with the 14 foot maximum height limit of the Overlay Zone. For the purpose of Chapter 30.91, height shall be measured in accordance with Section 30.04.080(A), except in the Floodplain Overlay Zone where the height of a new ADU structure shall be measured from the required base flood elevation.
- M. All outdoor lighting of an ADU shall be shielded and directed downward and away from neighboring properties and/or public rights-of-way.
- N. ~~The ADU shall comply with the required setbacks of the applicable zone~~ A setback of 4 feet shall be required for a new ADU structure, except as follows:
1. ~~that an~~ An existing legal non-conforming structure located within the setback, such as a garage or accessory building, may be converted to an ADU and maintain the non-conforming setback, unless a greater setback is needed for compliance with the building and safety standards of the California Building Code and California Fire Code.
 2. The new structure shall comply with the required front yard setback of the applicable zone.
 3. In all cases, the ADU shall comply with the required coastal bluff setback in the Coastal Bluff Overlay Zone and the required Beach Preservation Initiative setback in the Beach Overlay Zone.

4. On properties located between the ocean and the first public roadway, the ADU shall comply with the street yard setback of the applicable zone where necessary to protect public scenic views to the ocean.
- O. Where an existing garage is demolished or converted to an ADU, the no replacement off-street parking shall be required ~~for the primary dwelling unit shall be provided on the premises and may be located in the setback, may be covered or uncovered, and may be tandem or accessible by mechanical lift (if the mechanical lift is designed within a garage).~~
- P. The ADU shall provide one off-street parking space (covered or uncovered), unless one of the following parking exemptions applies in which case no parking is required:
1. The ADU would be located within the existing primary dwelling unit.
 2. The ADU would be located within an existing accessory building on the property.
 3. The ADU would be located on a property within a half mile of public transit, including a bus route, train station, or paratransit service, if applicable.
 4. The ADU would be located in ~~an architecturally and historically significant historic district or on a property listed in the California Register of Historic Places~~ a designated historic district or on a property listed in a Register of Historic Resources (local, state, or national).
 5. The ADU would be located on a property within one block of a designated car share parking location.
- Q. ADUs are required to comply with the same building and safety requirements as the primary dwelling unit in accordance with the California Building Code and California Fire Code. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required.
- R. An automatic residential fire sprinkler system shall not be required for an ADU if the existing primary dwelling unit does not contain such a system.
- S. ADUs shall not be considered new residential uses for the purposes of calculating utility connection fees.
1. State law provides for a new or separate utility connection fee to be required for an ADU that is not contained within the existing primary dwelling unit or within an existing accessory building. The connection fee shall be proportionate to the burden of the ADU based on the ADU size and number of plumbing fixtures.

2. Conversion of floor space to an ADU within an existing structure with the appropriate meter size shall not be subject to new water and sewer connection fees.
- T. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the primary dwelling unit that meets such definitions and in no case shall apply to an ADU.
- U. An exterior wall heater or air conditioning unit is permitted for an ADU. Any additional accessory mechanical equipment or exterior building features that are not otherwise required by Section 30.91.040 or for a dwelling unit per the California Building Code shall be subject to Administrative Design Review in accordance with Section 23.08.035, which shall include, but shall not be limited to, the following:
 1. Roof eaves or architectural projections that overhang the face of the ADU building wall more than 24 inches.
 2. An attached deck, carport, or other outdoor covered area with a finished floor.
- V. ADUs shall not be located on a beach, in a wetland, seaward of the mean high tideline, in an environmentally sensitive habitat area, within a required coastal bluff setback, or in an area designated as highly scenic in the certified Local Coastal Program; and shall not involve significant alteration of landforms per Coastal Act section 13250 or the expansion or construction of water wells or septic systems.
- W. Within the Carmel Valley Precise Plan Specific Plan area, ADUs ~~shall be limited to location within an existing residence on one of~~ are permitted only on the following residential lots: Lots 3-9, 11-17, or 20-29.
- X. The owner of an ADU ~~shall~~ is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the ADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.
- Y. If the ADU would be located in a proposed structure, the development pad for the new ADU structure shall be located at a grade elevation with a slope that is no greater than 4 to 1.

SECTION SEVEN: That DMMC Section 30.91.050 be amended as follows:

30.91.050 Junior Accessory Dwelling Unit Development Regulations

- A. A Junior Accessory Dwelling Unit (JrADU) is a small dwelling unit that is no more than 500 square feet in size and contained entirely within, and accessory to, an

existing habitable Single Dwelling Unit pursuant to the regulations in Section 30.91.050 and California Government Code section 65852.22.

- B. A JrADU that is designed to meet all of the requirements in Section 30.91.050 shall be issued a permit in accordance with Section 30.91.030. The City is preempted by State Law from requiring any type of discretionary review or public hearing prior to approval.
- C. A maximum of one JrADU is permitted per lot developed with a single dwelling unit and located in a residential zone that allows JrADUs as identified in Section 30.91.020. ~~A JrADU shall not be permitted on a lot with an Accessory Dwelling Unit or multiple dwelling units.~~
 - 1. A JrADU shall not be permitted on a lot with multiple dwelling unit development.
 - 2. A JrADU shall be permitted only within the primary dwelling unit and shall not be permitted within an accessory structure.
 - 3. A lot with a JrADU may also contain a detached ADU in accordance with Section 30.91.040(B).
- D. A JrADU shall be constructed entirely within the existing walls of a single dwelling unit and shall include the following:
 - ~~1. An existing bedroom;~~
 - 2. 1. A separate exterior entry and an interior connection to the primary dwelling unit that is separate from the main entrance;
 - 3. 2. An efficiency kitchen with a sink (maximum waste line diameter 1.5 inches), a cooking facility with appliances that do not require electrical service of more than 120 volts, or use natural or propane gas, and a food preparation counter and storage cabinets that are reasonable to the size of the unit; and
 - 4. 3. Access to a bathroom within the JrADU or the primary dwelling unit.
- E. The following shall apply to the required separate exterior entry from the primary dwelling unit for a JrADU:
 - 1. The JrADU shall be limited to the first story or basement level unless the required exterior entry access above the first story level is existing.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU, unless the property is owned by a governmental agency, land trust or non-profit housing organization.

- G. The JrADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit, nor shall authorization be granted for a condominium conversion of a JrADU. If rented, the term for rental shall be for a term longer than 30 consecutive days or greater; except that in the RC zone, a JrADU may be rented without such a limit.
- H. Prior to issuance of a permit for a JrADU on private property, the owner shall record a deed restriction with the County Recorder and file the recorded deed restriction with the City, acknowledging the applicable use limitations that shall run with the land. The deed restriction shall include the following text:
1. The subject property is developed with a Junior Accessory Dwelling Unit (JrADU) contained entirely within the walls of a primary dwelling unit pursuant to Government Code Section 65852.2 and Del Mar Municipal Code Chapter 30.91.
 2. This deed restriction identifies use limitations that shall be enforceable against the property owner and all successors in interest.
 3. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU.
 4. The JrADU may be rented for periods of 30 consecutive days or greater, but shall not be sold or conveyed separately from the primary dwelling unit.
 5. The JrADU shall be 500 square feet maximum in size.
 6. The JrADU shall provide independent living facilities which shall include a separate exterior entry, ~~an interior connection to the primary dwelling unit, and an efficiency kitchen with a sink (maximum waste line diameter 1.5 inches), a cooking facility with appliances, that do not require electrical service of more than 120 volts or use natural or propane gas,~~ and a food preparation and storage cabinets; and access to a bathroom within the JrADU or the primary dwelling unit.
- I. Parking shall not be required for the JrADU.
- J. A JrADU shall not be considered a separate or new dwelling unit for the purpose of any fire or life safety regulation. Fire or life safety requirements that apply to a single dwelling unit may be applied to the structure as a whole inclusive of the JrADU. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required for the JrADU.
- K. ~~A new automatic residential fire sprinkler system shall not be required for development of a JrADU.~~ An automatic residential fire sprinkler system shall not be required for a JrADU if the existing primary dwelling unit does not contain such a system.

- L. A primary dwelling unit with the appropriate meter size shall not be subject to new water and sewer connection fees for conversion of existing floor space to a JrADU.
- M. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the Primary Dwelling Unit that meets such definitions and in no case shall apply to a JrADU.
- N. The owner of a JrADU shall is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the JrADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.

SECTION EIGHT: That a new DMMC Section 30.91.060 be added as follows:

30.91.060 Regulations for ADUs on Lots with Multiple Dwelling Units

- A. On a lot with two existing dwelling units in a zone that allows a maximum of two priary dwelling units, each primary dwelling unit on the lot shall be permitted one ADU in accordance with the regulations in Section 30.91.040 and the following:
 - 1. One ADU within the walls of the existing primary dwelling unit; or
 - 2. One ADU attached to the existing primary dwelling unit; or
 - 3. One detached ADU per primary dwelling unit.
- B. On a lot where multiple dwelling units are located within an existing structure that contains three or more dwelling units or within multiple structures that contain two or more dwelling units, the property owner shall be permitted to convert existing spaces within each multiple dwelling unit structure to ADUs as follows:
 - 1. The maximum number of ADUs permitted in accordance with Section 30.91.060(B) shall not exceed 25 percent of the total number of existing dwelling units on the lot.
 - 2. The existing space to be converted to an ADU shall not be located within, or solely owned or controlled by, an individual dwelling unit on the multiple dwelling unit lot.
 - 3. Conversion of the space shall comply with the California Building Code Standards for a dwelling unit.

4. Conversion of the space would not be in conflict with the existing permits applicable to the property by removing required access, open space, or recreation amenities.
- C. Up to two detached ADUs are permitted on a lot with existing multiple dwelling units in addition to the ADUs allowed within the existing multiple dwelling unit structure per Section 30.91.060(B) subject to the following:
1. The maximum size of the ADU shall be 1,200 square feet.
 2. The maximum height of the ADU shall be 16 feet.
 3. The detached ADU shall comply with the setback provisions set forth in Section 30.91.040(N).
- D. All ADUs developed in accordance with Section 30.91.060 shall also comply with the standards in Section 30.91.040, unless explicitly stated otherwise. Where designed accordingly, proposed ADUs on lots with multiple dwelling units shall be issued a permit in accordance with Section 30.91.03

Strikeout-Underline Copy of Code Language Adopted by the Del Mar City Council on June 1, 2020 to Amend the Existing ADU Regulations per State Law

Gray Highlighted text is City requested suggested mods

Yellow Highlighted red text are Commission staff suggested mods

SECTION ONE: That DMMC Section 30.19.040 (RM-South Zone) be amended as follows:

30.19.040 Accessory Uses

Accessory uses that are lawful in the RM-East, RM-West or RM-Central Zones may be established in the RM-South Zone, ~~except that Accessory Dwelling Units are not permitted including Accessory Dwelling Units in accordance with Chapter 30.91.~~

SECTION TWO: That DMMC Section 30.21.030 (RC Zone) be amended as follows:

30.21.030 Allowable Uses

The following uses are allowable in the RC Zone:

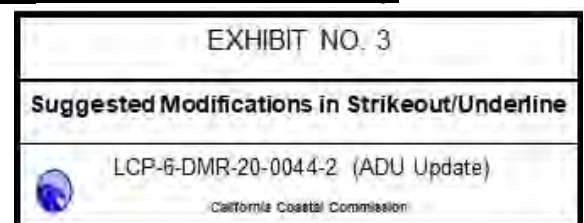
- A. Any use allowable in the R2 Zone; provided, however, that at least 60 percent of the floor area, exclusive of parking, shall be for such R2 zoned use. ~~Accessory Dwelling Units are permitted on a lot with an existing single dwelling unit.~~
- B. Any primary use (not requiring a conditional use permit) allowed in the CC Zone; provided, however, that not more than 40 percent of the floor area, exclusive of parking, shall be for such CC zoned use.

SECTION THREE: That DMMC Section 30.21.040 (RC Zone) be amended as follows:

- A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports.
- B. Off-street parking for a permitted use.
- C. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code Section 1596.70.
- D. Accessory Dwelling Units in accordance with Chapter 30.91.

SECTION FOUR: That DMMC Section 30.91.020 be amended as follows:

30.91.020 Zones Where Accessory Dwelling Units and Junior Accessory Dwelling Units are Permitted



- A. An Accessory Dwelling Unit (ADU) is permitted subject to the development regulations in ~~Section~~ Sections 30.91.040 and 30.91.060, ~~only on any lot residential property that is developed with an existing zoned to allow single dwelling unit or multiple dwelling unit use, including the Carmel Valley Precise Plan and other Specific Plan zones.~~ within one of the following zones:
1. ~~Very Low Density Residential Zone (R1-40)~~
 2. ~~Modified Low Density Residential Zone (R1-14)~~
 3. ~~Low Density Residential Zone (R1-10)~~
 4. ~~Low Density-Beach Residential Zone (R1-10B)~~
 5. ~~Medium Density Single-Family Residential Zone (R1-5)~~
 6. ~~Medium Density Single-Family Residential Zone-Beach (R1-5B)~~
 7. ~~Medium Density Single-Mixed Residential East (RM-East)~~
 8. ~~Medium Density Mixed Residential West (RM-West)~~
 9. ~~Medium Density Mixed Residential Central (RM-Central)~~
 10. ~~High Density Mixed Residential (R-2)~~
 11. ~~Residential-Commercial Zone (RC)~~
 12. ~~Carmel Valley Precise Plan Specific Plan (CVPP)~~
- B. A Junior Accessory Dwelling Unit (JrADU) is permitted within the walls of an existing or proposed single dwelling unit, subject to the development regulations in Section 30.91.050, ~~is permitted on property~~ where located on a lot within one of the following single dwelling unit zones:
1. Very Low Density Residential Zone (R1-40)
 2. Modified Low Density Residential Zone (R1-14)
 3. Low Density Residential Zone (R1-10)
 4. Low Density-Beach Residential Zone (R1-10B)
 5. Medium Density Single-Family Residential Zone (R1-5)
 6. Medium Density Single-Family Residential Zone-Beach (R1-5B)
 7. Carmel Valley Precise Plan Specific Plan (CVPP)
- C. Development of an ADU or JrADU pursuant to Chapter 30.91 is not considered to exceed the allowable density of the parcel on which it is located.

SECTION FIVE: That DMMC Section 30.91.030 be amended as follows:

30.91.030 Process for Approval of an (Accessory Dwelling Units and Junior Accessory Dwelling Units)

- A. Within ~~420~~ 60 days of submittal of a complete permit application for an Accessory Dwelling Unit Permit (ADU) or Junior Accessory Dwelling Unit (JrADU), administrative approval shall be granted by the Director of Planning and Community Development for an ADU ~~Permit~~ submitted in accordance with the procedure in Section 30.91.030(A)(1) ~~or a Junior Accessory Dwelling Unit (JrADU) request~~ submitted in accordance with Section 30.91.030(A)(2). The application shall be reviewed in a ministerial and administrative manner, limited

to only considering the project's compliance with the applicable objective standards stated in Sections 30.91.040, 30.91.050, and 30.91.060 as applicable.

1. ADU Submittal Requirements.

In addition to the general application and permit fees for planning and engineering review as applicable, the applicant shall submit the following as necessary to demonstrate compliance with Section 30.91.040 to the satisfaction of the Planning and Community Development Director:

- a. A site plan with proposed setbacks fully dimensioned for all existing and proposed structures on the project site, and calculations indicating the square footage of all structures on the lot, structure (existing and proposed), ~~and the percentage of lot coverage.~~
 - (i) Calculation of the ADU size shall include all interior floor space within the surrounding exterior walls of the ADU as calculated from the inside face of the wall studs.
 - (ii) Additional site plan detail, per the City's ADU checklist on file with the City, shall be included for engineering review of any application to construct an ADU that would be either attached to the primary dwelling unit or constructed as a new detached structure.
 - (iii) Engineering review is not required if the ADU would be located within an existing primary dwelling unit or existing accessory structure, unless the site is located in the Coastal Bluff Overlay Zone, in which case, a new ADU or ADU created through the conversion of any non-habitable space to habitable space shall comply with the geotechnical reporting requirements of 30.55.90(B).
- b. At least one plan section and four elevations with proposed height fully dimensioned showing all facade openings and exterior finishes.
- c. A floor plan ~~containing an attest or proof of~~ to identify the number of bedrooms for the ADU and demonstrate compliance with the ~~floor area ratio requirement for~~ a separate exterior entry ~~the underlying zone.~~

- d. Information regarding available water and sewer utility easements, services, and connections, and whether the existing primary residence has an automatic residential sprinkler system.
- e. Standard notes printed on the construction plans prior to building permit approval, including the following statement:
 - (i) The ADU shall not be sold or otherwise conveyed separate from the primary dwelling unit, except that a qualified non-profit affordable housing organization per Government Code Section 65852.26 may sell a deed restricted ADU to an eligible low-income owner.
 - (ii) The property owner shall reside on the property in either the primary dwelling unit or in the ADU. *[Editor's Note: This provision shall not be enforceable until January 1, 2025.]*
 - (iii) If rented, the term for rental shall be 30 consecutive days or greater (except in zones that allow commercial uses the RC zone).
- f. A certification of height, setback, and ~~floor area~~ square footage compliance prior to framing inspection.
- g. A construction-phase parking and equipment/materials storage plan
- h. Any additional information as necessary to demonstrate the proposed ADU ~~is exempt from discretionary review 30.91.030(D)~~ meets the criteria for approval in Section 30.91.040.

2. JrADU Submittal Requirements.

In addition to the general application and permit fee, the applicant for a JrADU shall submit the following as necessary to demonstrate compliance with Section 30.91.050 to the satisfaction of the Planning and Community Development Director:

- a. A site plan with setbacks fully dimensioned for all existing and proposed structures on the project site to demonstrate the site is, or will be, developed with a single dwelling unit; and that identifies any existing or proposed ADUs on the lot ~~there is no existing ADU on-site.~~
- b. A floor plan to demonstrate compliance with Section 30.91.050 requirements for ~~a bedroom,~~ an efficiency kitchen, separate

exterior entry, ~~interior connection to the primary dwelling unit,~~ and the bathroom the JrADU will have access to.

- c. A JrADU created through the conversion of non-habitable space to habitable space on a site located in the Coastal Bluff Overlay Zone shall comply with the geotechnical reporting requirements of 30.55.90(B).

- 3. If the permit application is submitted concurrently with a permit application to create a new primary dwelling unit, the City may delay acting on the ADU or JrADU permit application until the City acts on the permit application to create the new primary dwelling unit. The decision maker on the primary dwelling unit is precluded from considering the pending ADU or JrADU as part of the discretionary review or hearing for the primary dwelling unit. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

~~B. Upon submittal of a permit application, the applicant and City shall post a courtesy notice of application at the project site and at City Hall for the public to view in accordance with the City's standard development procedure.~~

~~G.~~ B. Prior to development or occupancy of an ADU or JrADU, the applicant shall obtain all construction-related permits as applicable pursuant to Del Mar Municipal Code Chapter 23.04 (Building Construction General Provisions).

~~D.~~ C. Notwithstanding the provisions of the Del Mar Municipal Code, development of a JrADU designed in accordance with Section 30.91.050 shall be exempt from the requirement to obtain a discretionary permit in all cases except for the requirement for a coastal development permit. A request for an ADU designed in compliance with Section 30.91.040 shall be exempt from discretionary review as follows:

- 1. Exempt from a Design Review Permit (Chapter 23.28) in all zones including the Carmel Valley Precise Plan and Specific Plan zones.
- 2. Exempt from a Land Conservation Permit (Chapter 23.33) for all grading proposed within the development footprint for the ADU structure; however, the requirement for an excavation or grading permit in accordance with Chapter 23.32 still applies. A Land Conservation Permit may be required via a separate approval process for any excavation and grading that is proposed outside of the development footprint for the ADU structure and that is not otherwise necessary for the ADU to be occupied as a dwelling unit. where proposed grading complies with the following:

- a. ~~The proposed alteration of the existing grade elevation is 18 inches or less;~~

- ~~b. The proposed alteration of the existing grade elevation is temporary and would be replaced with the ADU structure and the grade restored within 18 inches of the original grade elevation;~~
 - ~~c. Any proposed excavation to fill less than 25 cubic yards; or~~
 - ~~d. Development of the ADU involves a maximum of 50 cubic yards of combined grading cut and/or fill and a maximum alteration of the existing or natural grade elevation of the property by no more than 36 inches, and no grading occurs during the time period November 15 to March 31.~~
- 3. Exempt from a Floodplain Development Permit (Chapter 30.56) where located in the Floodplain Overlay Zone and the following apply:
 - a. ADU will be located entirely within the walls of an existing habitable structure or within existing non-habitable space located at or above the base flood elevation that is converted to habitable space for the ADU; or
 - b. ADU will be located in a structure that is designed as follows:
 - i. The lowest floor (including basement) will be elevated at or above the base flood elevation;
 - ii. The structure will be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - iii. Construction materials will be resistant to flood damage; and
 - iv. All plumbing, electrical, heating, ventilation, and air conditioning equipment will be designed to prevent water from entering or accumulating within the components during conditions of flooding.
- 4. Exempt from a Conditional Use Permit (Chapter 30.74) where:
 - a. Located in the Bluff Slope and Canyon Overlay Zone, and the ADU will be set back at least 20 feet from the top of a steep slope and at least 10 feet from the bottom of a steep slope per Section 30.52.070; or
 - b. Located in the Coastal Bluff Overlay Zone, and the ADU will be constructed primarily above grade, and set back at least 40 feet from the top edge of a coastal bluff per Section 30.55.080.
- 5. Coastal Development Permit Requirement (Chapter 30.75)

- a. California Government Code section 65852.2 provides that the Accessory Dwelling Unit statutes do not supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for Coastal Development Permit applications for ADUs.
- b. ~~The following are exempt from a Coastal Development Permit, except where a permit is otherwise required pursuant to Section 30.91.030(C)(5)(c):~~
 - i. ~~The ADU will be contained entirely within or directly attached to an existing single dwelling unit.~~
 - ii. ~~Minor changes to an existing residential structure are proposed to construct an ADU consistent with Section 30.91.040 that will not involve the removal or replacement of major structural components (e.g. roofs, exterior walls, or foundations) and will have no potential to adversely impact coastal resources pursuant to the Chapter 3 policies of the Coastal Act. certified LCP.~~
- e.b. An administrative Coastal Development Permit in accordance with Section 30.75.080(E) shall be obtained for an ADU. ~~where:~~
 - i. ~~A previously issued Coastal Development Permit requires a new Coastal Development Permit or an amendment be processed for any changes to the approved development or for future development or uses of the site as a condition of approval.~~
 - ii. ~~The ADU will be located between the first public road and the sea or within 300 feet of a beach or the mean high tide line and will increase the interior floor area by 10 percent or more or increase the height by more than 10 percent.~~
- d.c. A Coastal Development Permit required by Section 30.91.030(C)(5)(e-b) shall be processed in accordance with the following procedures:
 - i. In order to approve the ADU, the Planning Director shall make a finding that the proposed development is consistent with the requirements of the certified Local Coastal Program, and where applicable, the public access and recreation policies of the Coastal Act, except that no public hearing shall be required.

- ii. Public notice shall be provided for Coastal Development Permit applications in accordance with Section 30.75.120.
- iii. Once a final decision of approval or denial is issued by the Planning Director, the notice of final action shall be provided within seven days to the Executive Director of the Coastal Commission and to any interested parties who requested notice in writing in accordance with Section 30.75.100.
- iv. If the ADU qualifies as appealable development pursuant to Chapter 30.75, the Planning Director's decision to approve a Coastal Development Permit may be appealed to the Coastal Commission within 10 calendar days in accordance with Section 30.75.110.

~~E. No Variances shall be granted for an ADU or JrADU.~~

~~F.D.~~ The City shall maintain a record of all ADUs and JrADUs issued permits for reporting to the State of California.

SECTION SIX: That DMMC Section 30.91.040 be amended as follows:

30.91.040 Accessory Dwelling Unit Development Regulations (General)

- A. An Accessory Dwelling Unit (ADU) that is designed to meet all of the requirements in Section 30.91.040, and Section 30.91.060 for lots with multiple dwelling units, shall be issued a permit in accordance with Section 30.91.030.
- B. ~~A maximum of one ADU is permitted per lot that is developed~~ A lot with an existing or proposed single dwelling unit, in a zone identified in Section 30.91.020. An ADU shall not be permitted on a lot with a JrADU, duplex, three or more dwelling units, or nonresidential development. is permitted to develop a combination of attached and detached ADUs maximum of one JrADU (in compliance with Section 30.91.050) and one ADU (in compliance with Section 30.91.040) on the lot. The ADU may be created through either conversion of, or addition to, a primary single dwelling unit, or within a structure that is detached from a primary single dwelling unit in compliance with one of the following:
 - 1. A maximum of one ADU, or one JrADU in compliance with Section 30.91.050, is permitted within the walls of a proposed or existing primary single dwelling unit; and. If one ADU is developed under this scenario, then no additional ADUs shall be permitted on the lot. A maximum of one JrADU is also permitted to be developed within the walls of a proposed or existing primary single dwelling unit. If solely a JrADU is developed within the walls of the primary single dwelling unit, then a maximum of one detached ADU

(one converted accessory structure or new ADU structure) shall also be permitted on the lot in addition to the JrADU.

2. A maximum of one detached, new construction ADU, or one ADU within the space of an existing detached accessory structure shall be permitted per lot. Conversion of the existing accessory structure can include an addition of up to 150 square feet as necessary to accommodate ingress or egress for the ADU. No additional ADUs shall be permitted on the lot, except that one JrADU shall be permitted within the walls of the primary single dwelling unit. A JrADU is not permitted within a detached structure.
 3. The ADU or JrADU described under Section 30.91.040(B)(1) shall be located within the primary dwelling unit structure and not within a detached accessory structure. A maximum of one ADU shall be permitted as an attached unit that is created within an addition to an existing structure. An attached ADU involves the addition of square footage to a primary single dwelling unit. The attached ADU shall be constructed as part of the overall primary single dwelling unit and must share a common wall with the primary single dwelling unit. If one ADU is developed under this scenario, then no additional ADUs shall be permitted on the lot, except that one JrADU shall be permitted within the walls of the primary single dwelling unit.
- C. If the ADU would not be contained within an existing structure, the lot size shall meet the minimum lot size of the zone. If the proposed ADU would be located in a designated historic district or on a property listed in a Register of Historic Resources (local, state, or national), or where substantial evidence is available indicating that the property contains a potential historic resource that is eligible to be listed, then the applicant must demonstrate that the design of the proposed ADU, including exterior finishes, windows, access doors, and rooflines, is consistent with the Secretary of the Interior Standards for preservation of historic resources.
- D. The ADU shall be designed and operated in compliance with the regulations of the zone as a residential use that is subordinate to the primary dwelling unit on the property.
- E. The ADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit on the property, nor shall authorization be granted for a condominium conversion of an ADU except that the City or qualified non-profit corporation per Government Code section 65852.26 may sell a deed restricted ADU to an eligible low-income owner.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the ADU. Owner-occupancy shall not be required if the owner is a governmental agency, land trust, or non-profit housing organization.

[Editor's note: This owner-occupancy provision shall not be enforceable until January 1, 2025 per Government Code section 65852.2(a)(6).]

- G. If rented, the term for rental of an ADU in a residential zone shall be for a term longer than 30 consecutive days per Government Code sections 65852.2 (a)(6) and (e)(4) or greater; except that in the RC zone, an ADU may be rented without such a limit.
- H. The interior floor space within the surrounding exterior walls of the ADU (calculated from the inside face of wall studs) shall not exceed ~~550~~ 850 square feet in size, or 1,000 square feet maximum if the ADU has more than one bedroom. The applicant may request City Council approval of a deviation from the stated maximum size limit subject to a finding that the deviation is necessary to create an ADU that will meet the City's Housing Element goals; and the applicant agrees to record a covenant memorializing that the ADU shall be limited to use as an ADU rental unit and agrees to provide the City with ADU rental information annually upon request for reporting to the State. For the purpose of this section;
1. ~~all~~ All interior floor space of the ADU shall count towards the maximum ADU size 550 square feet regardless of whether or not it meets the City's definition of gross floor area.
 2. Bedroom shall be defined as an enclosed space within a dwelling unit that is designed or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from all kitchen, living room, and hallway areas.
- I. ~~The applicant shall demonstrate that the area of interior floor space of the ADU (as calculated per Section 30.91.040(H)) when combined with the gross floor area of the existing development does not exceed the maximum floor area ratio for the applicable zone. Any existing floor area that is repurposed for the ADU shall be counted only one time towards the total floor area. An ADU is not permitted within a building restricted easement location.~~
- J. The ADU shall be composed of the same or similar architectural style, details, colors, roof pitch, building materials, and exterior lighting as the primary single dwelling unit on the property.
- K. The ADU shall have a separate exterior entry from the primary dwelling unit.
1. The ADU shall be limited to the first story or basement level unless the ADU would be located within an existing structure with existing access above the first story level; or construction of a second story is required to maintain existing required parking for the primary structure and the ADU will not block public scenic views.

2. The ADU entry shall not be required to have a pathway connection to the street.
 3. Section 30.86.200(I) "required yards between buildings" shall not apply to proposed ADUs.
- L. The maximum building height of any new building construction or expansion of an existing structure for the ADU shall not exceed 44 16 feet, except that a new ADU structure proposed within the Bluff, Slope, and Canyon Overlay Zone shall comply with the 14 foot maximum height limit of the Overlay Zone. For the purpose of Chapter 30.91, height shall be measured in accordance with Section 30.04.080(A), except in the Floodplain Overlay Zone where the height of a new ADU structure shall be measured from the required base flood elevation.
- M. All outdoor lighting of an ADU shall be shielded and directed downward and away from neighboring properties and/or public rights-of-way.
- N. The ADU shall comply with the required setbacks of the applicable zone. A setback of 4 feet shall be required for a new ADU structure, except as follows:
1. that an An existing legal non-conforming structure located within the setback, such as a garage or accessory building, may be converted to an ADU and maintain the non-conforming setback, unless a greater setback is needed for compliance with the building and safety standards of the California Building Code and California Fire Code.
 2. The new structure shall comply with the required front yard setback of the applicable zone.
 3. In all cases, the ADU shall comply with the required coastal bluff setback in the Coastal Bluff Overlay Zone and the required Beach Preservation Initiative setback in the Beach Overlay Zone, as well as the Bluff, Slope, and Canyon Overlay Zone setback, and wetland and habitat setbacks.
 4. On properties located between the ocean and the first public roadway, t
The ADU shall comply with the street yard setback(s) of the applicable zone where necessary to protect public scenic views to the ocean.
- O. Where an existing required parking garage is demolished or converted to an ADU, the no replacement off-street parking shall be required unless the ADU is located in the ADU/JrADU Replacement Parking Overlay as depicted in Figure 1. The overlay is generally described as the shoreline area west of Camino Del Mar. Between the San Dieguito River mouth south to 15th Street, the overlay encompasses only those streets west of the railroad tracks, as all of these streets are used for public beach parking. Within the Overlay, the required off-street parking for the primary dwelling unit shall be maintained or replaced. The required off-street parking shall be provided on the premises and may be located in setbacks (excluding wetland buffers or structures located in the Bluff,

Slope, and Canyon Overlay Zone), or driveways, and may be covered or uncovered, may be tandem or accessible by mechanical lift for the primary dwelling unit shall be provided on the premises and may be located in the setback, may be covered or uncovered, and may be tandem or accessible by mechanical lift (if the mechanical lift is designed within a garage).

- P. The ADU shall provide one off-street parking space (covered or uncovered), unless one of the following parking exemptions applies in which case no parking is required:
1. The ADU would be located within the existing primary dwelling unit.
 2. The ADU would be located within an existing accessory building on the property.
 3. The ADU would be located on a property within a half mile of public transit, including a bus route, train station, or paratransit service, if applicable.
 4. The ADU would be located in an architecturally and historically significant historic district or on a property listed in the California Register of Historic Places a designated historic district or on a property listed in a Register of Historic Resources (local, state, or national).
 5. The ADU would be located on a property within one block of a designated car share parking location.
- Q. ADUs are required to comply with the same building and safety requirements as the primary dwelling unit in accordance with the California Building Code and California Fire Code. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required.
- R. An automatic residential fire sprinkler system shall not be required for an ADU if the existing primary dwelling unit does not contain such a system.
- S. ADUs shall not be considered new residential uses for the purposes of calculating utility connection fees.
1. State law provides for a new or separate utility connection fee to be required for an ADU that is not contained within the existing primary dwelling unit or within an existing accessory building. The connection fee shall be proportionate to the burden of the ADU based on the ADU size and number of plumbing fixtures.
 2. Conversion of floor space to an ADU within an existing structure with the appropriate meter size shall not be subject to new water and sewer connection fees.

- T. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the primary dwelling unit that meets such definitions and in no case shall apply to an ADU.
- U. An exterior wall heater or air conditioning unit is permitted for an ADU. Any additional accessory mechanical equipment or exterior building features that are not otherwise required by Section 30.91.040 or for a dwelling unit per the California Building Code shall be subject to Administrative Design Review in accordance with Section 23.08.035, which shall include, but shall not be limited to, the following:
1. Roof eaves or architectural projections that overhang the face of the ADU building wall more than 24 inches.
 2. An attached deck, carport, or other outdoor covered area with a finished floor.
- V. ADUs shall not be located on a beach, in a wetland, seaward of the mean high tideline, in an environmentally sensitive habitat area, within a required coastal bluff setback, in a wetland buffer or habitat buffer, or in an area designated as highly scenic in the certified Local Coastal Program; and shall not involve significant alteration of landforms per Coastal Act section 13250 or the expansion or construction of water wells or septic systems.
- W. Within the Carmel Valley Precise Plan Specific Plan area, ADUs ~~shall be limited to location within an existing residence on one of~~ are permitted only on the following residential lots: Lots 3-9, 11-17, or 20-29.
- X. The owner of an ADU ~~shall~~ is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the ADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.
- Y. If the ADU would be located in a proposed structure, the development pad for the new ADU structure shall be located at a grade elevation with a slope that is no greater than 4 to 1.
- Z. A new ADU, or an ADU that includes the conversion of non-habitable space into habitable space, located on a parcel that falls entirely or partially within the flood hazard areas identified on the 2019 FEMA Flood Insurance Rate Map (FIRM) shall comply with the following:
1. The ADU shall be sited and designed, including elevation and floodproofing, to ensure safety from the impacts of sea level rise over the anticipated lifetime of the proposed structure using the best available science on sea level projections (currently found in the California State Sea Level Rise Guidance

(OPC 2018) and the table for La Jolla in Appendix G of the Coastal Commission's 2018 Sea Level Rise Policy Guidance); and

2. The owner of the ADU shall record a notice on the property and notice all occupants that: 1) the ADU is located in the 2019 FEMA FIRM and as such is a hazardous area or an area that may become hazardous in the future; 2) that sea level rise could render it difficult or impossible to provide services to the site; 3) that the boundary between public land (tidelands) and private land may shift with rising seas and the development approval does not permit encroachment onto public trust land; 4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified LCP; 5) that the owner waives any rights under Coastal Act Section 30235 and related LCP policies to hard shoreline armoring to protect the ADU; and
3. The owner shall acknowledge that the structure may be required to be removed or relocated and the site restored if it becomes unsafe.

SECTION SEVEN: That DMMC Section 30.91.050 be amended as follows:

30.91.050 Junior Accessory Dwelling Unit Development Regulations

- A. A Junior Accessory Dwelling Unit (JrADU) is a small dwelling unit that is no more than 500 square feet in size and contained entirely within, and accessory to, an existing habitable, primary Single Dwelling Unit pursuant to the regulations in Section 30.91.050 and California Government Code section 65852.22.
- B. A JrADU that is designed to meet all of the requirements in Section 30.91.050 shall be issued a permit in accordance with Section 30.91.030. The City is preempted by State Law from requiring any type of discretionary review, except for a coastal development permit, or public hearing prior to approval.
- C. A maximum of one JrADU is permitted per lot developed with a single dwelling unit and located in a residential zone that allows JrADUs as identified in Section 30.91.020. ~~A JrADU shall not be permitted on a lot with an Accessory Dwelling Unit or multiple dwelling units.~~
 1. A JrADU shall not be permitted on a lot with multiple dwelling unit development.
 2. A JrADU shall be permitted only within the primary dwelling unit and shall not be permitted within an accessory structure.
 3. A lot with a JrADU may also contain a detached ADU in accordance with Section 30.91.040(B).

- D. A JrADU shall be constructed entirely within the existing walls of a primary single dwelling unit and shall include the following:
- ~~1. An existing bedroom;~~
 - ~~2. 1. A separate exterior entry and an interior connection to the primary dwelling unit that is separate from the main entrance;~~
 - ~~3. 2. An efficiency kitchen with a sink (maximum waste line diameter 1.5 inches); a A cooking facility with appliances that do not require electrical service of more than 120 volts, or use natural or propane gas, and a food preparation counter and storage cabinets that are reasonable to the size of the unit; and~~
 - ~~4. 3. Access to a bathroom within the JrADU or the primary dwelling unit.~~
- E. The following shall apply to the required separate exterior entry from the primary dwelling unit for a JrADU:
1. The JrADU shall be limited to the first story or basement level unless the required exterior entry access above the first story level is existing.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU, unless the property is owned by a governmental agency, land trust or non-profit housing organization.
- G. The JrADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit, nor shall authorization be granted for a condominium conversion of a JrADU. If rented, the term for rental shall be for a term longer than 30 consecutive days or greater; except that in the RC zone, a JrADU may be rented without such a limit.
- H. Prior to issuance of a permit for a JrADU on private property, the owner shall record a deed restriction with the County Recorder and file the recorded deed restriction with the City, acknowledging the applicable use limitations that shall run with the land. The deed restriction shall include the following text:
1. The subject property is developed with a Junior Accessory Dwelling Unit (JrADU) contained entirely within the walls of a primary dwelling unit pursuant to Government Code Section 65852.2 and Del Mar Municipal Code Chapter 30.91.
 2. This deed restriction identifies use limitations that shall be enforceable against the property owner and all successors in interest.
 3. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU.

4. The JrADU may be rented for periods of 30 consecutive days or greater, but shall not be sold or conveyed separately from the primary dwelling unit.
5. The JrADU shall be 500 square feet maximum in size.
6. The JrADU shall provide independent living facilities which shall include a separate exterior entry, ~~an interior connection to the primary dwelling unit, and an efficiency kitchen with a sink (maximum waste line diameter 1.5 inches), a cooking facility with appliances, that do not require electrical service of more than 120 volts or use natural or propane gas,~~ and a food preparation and storage cabinets; and access to a bathroom within the JrADU or the primary dwelling unit.
- I. Parking shall not be required for the JrADU.
- J. A JrADU shall not be considered a separate or new dwelling unit for the purpose of any fire or life safety regulation. Fire or life safety requirements that apply to a single dwelling unit may be applied to the structure as a whole inclusive of the JrADU. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required for the JrADU.
- K. ~~A new automatic residential fire sprinkler system shall not be required for development of a JrADU.~~ An automatic residential fire sprinkler system shall not be required for a JrADU if the existing primary dwelling unit does not contain such a system.
- L. A primary dwelling unit with the appropriate meter size shall not be subject to new water and sewer connection fees for conversion of existing floor space to a JrADU.
- M. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the Primary Dwelling Unit that meets such definitions and in no case shall apply to a JrADU.
- N. The owner of a JrADU shall is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the JrADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.
- O. A JrADU created through the conversion of non-habitable space into habitable space shall comply with the required coastal bluff setback in the Coastal Bluff Overlay Zone the required Beach Preservation Initiative setback in the Beach Overlay Zone, the Bluff, Slope, and Canyon Overlay Zone setback, wetland and habitat setbacks, and setbacks of the applicable zone where necessary to protect public scenic views to the ocean.

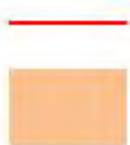
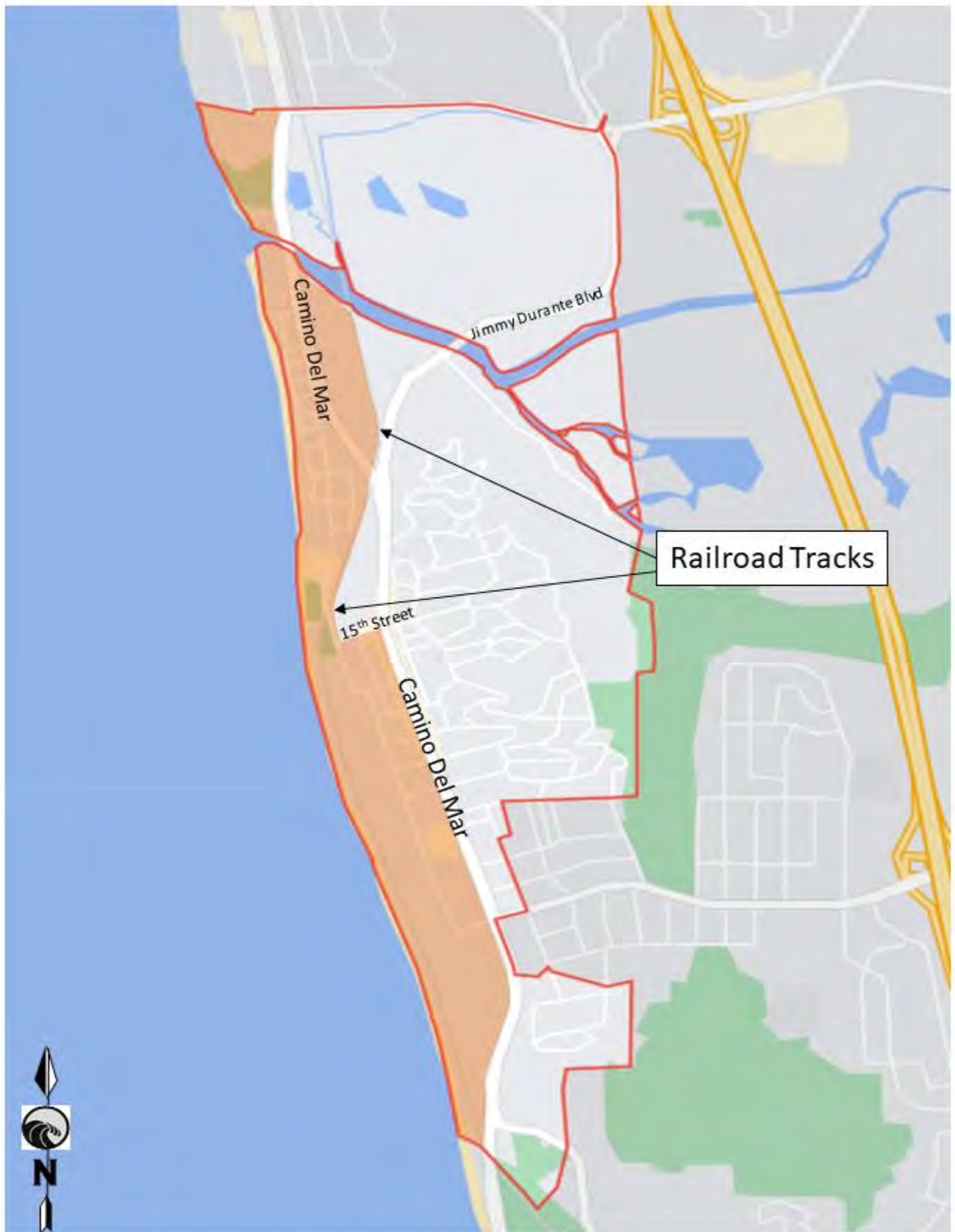
- P. Where existing required parking is demolished or converted to a JrADU, replacement off-street parking shall be required if the JrADU is located in the ADU/JrADU Replacement Parking Overlay in accordance with Section 30.91.040(O).
- Q. A JrADU located on a parcel entirely or partially within the flood hazard areas identified on the 2019 FEMA FIRMs shall comply with the requirements of Section 30.91.040(Z) unless the JrADU:
1. Is created through conversion of existing habitable space; and
 2. Such space is located above the base flood elevation.

SECTION EIGHT: That a new DMMC Section 30.91.060 be added as follows:

30.91.060 Regulations for ADUs on Lots with Multiple Dwelling Units

- A. On a lot with two existing dwelling units in a zone that allows a maximum of two primary dwelling units, each primary dwelling unit on the lot shall be permitted one ADU in accordance with the regulations in Section 30.91.040 and the following:
1. One ADU within the walls of the existing primary dwelling unit; or
 2. One ADU attached to the existing primary dwelling unit; or
 3. One detached ADU per primary dwelling unit.
- B. On a lot where multiple dwelling units are located within an existing structure that contains three or more dwelling units or within multiple structures that contain two or more dwelling units, the property owner shall be permitted to convert existing spaces within each multiple dwelling unit structure to ADUs as follows:
1. The maximum number of ADUs permitted in accordance with Section 30.91.060(B) shall not exceed 25 percent of the total number of existing dwelling units on the lot.
 2. The existing space to be converted to an ADU shall not be located within, or solely owned or controlled by, an individual dwelling unit on the multiple dwelling unit lot.
 3. Conversion of the space shall comply with the California Building Code Standards for a dwelling unit.

4. Conversion of the space would not be in conflict with the existing permits applicable to the property by removing required access, open space, or recreation amenities.
- C. Up to two detached ADUs are permitted on a lot with existing multiple dwelling units in addition to the ADUs allowed within the existing multiple dwelling unit structure per Section 30.91.060(B) subject to the following:
1. The maximum size of the ADU shall be 1,200 square feet.
 2. The maximum height of the ADU shall be 16 feet.
 3. The detached ADU shall comply with the setback provisions set forth in Section 30.91.040(N).
- D. All ADUs developed in accordance with Section 30.91.060 shall also comply with the standards in Section 30.91.040, unless explicitly stated otherwise. Where designed accordingly, proposed ADUs on lots with multiple dwelling units shall be issued a permit in accordance with Section 30.91.03



City boundary

Overlay Zone

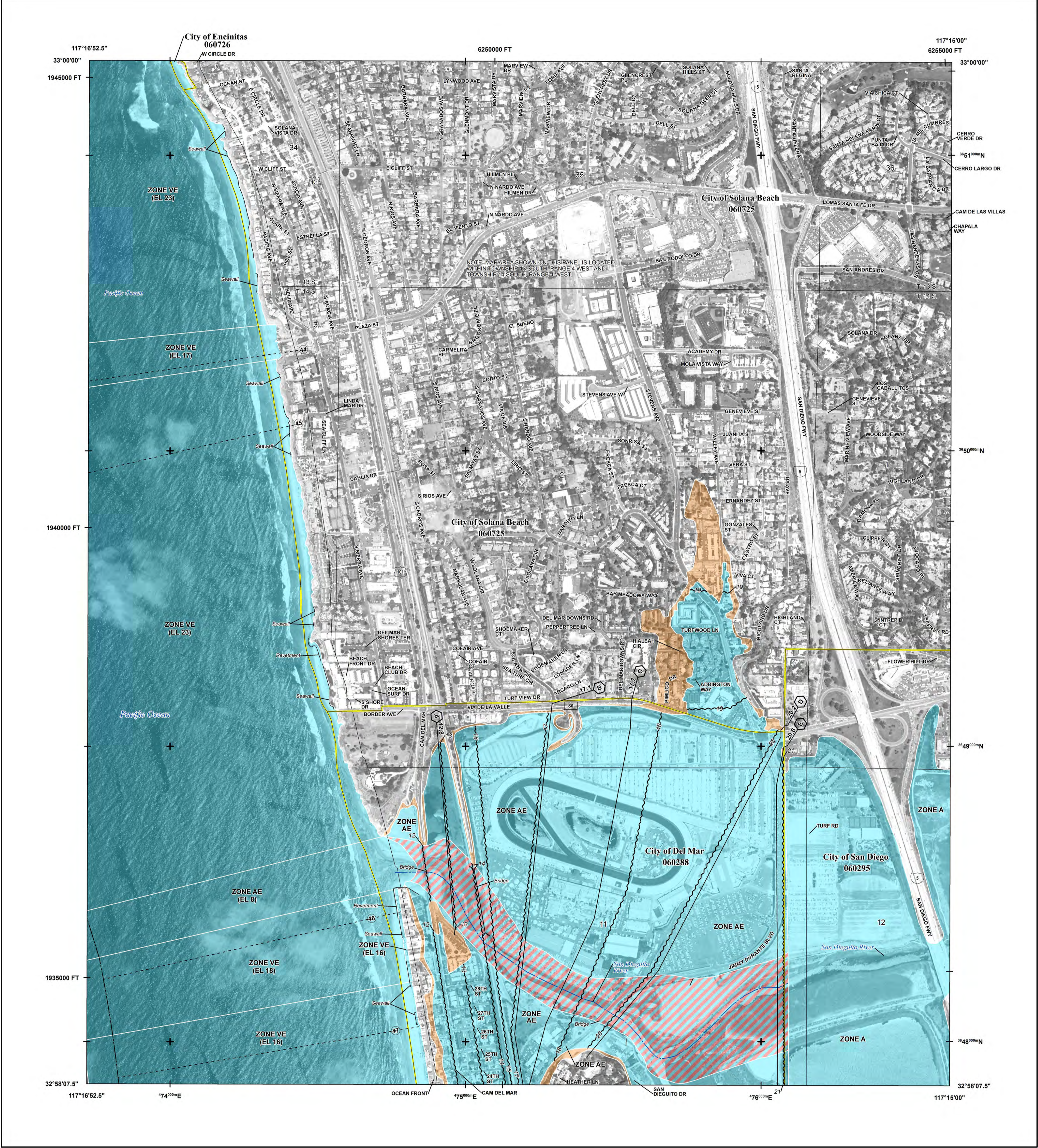
EXHIBIT NO. 4

ADU/JrADU Replacement Parking Overlay Zone



LCP-6-DMR-20-0044-2 (ADU Update)

California Coastal Commission



FLOOD HAZARD INFORMATION

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT
THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING
DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT
[HTTPS://MSC.FEMA.GOV](https://MSC.FEMA.GOV)

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A.V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
OTHER AREAS OF FLOOD HAZARD		Regulatory Floodway
		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee See Notes. Zone X
OTHER AREAS		Area with Flood Risk due to Levee Zone D
		Area of Minimal Flood Hazard Zone X
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
OTHER FEATURES		Levee, Dike, or Floodwall
		Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary

NOTES TO USERS

For information and questions about this Flood Insurance Rate Map (FIRM), available products associated with this FIRM, including historic versions, the current map date for each FIRM panel, how to order products, or the National Flood Insurance Program (NFIP) in general, please call the FEMA Map Information eXchange at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA Flood Map Service Center website at <https://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website.

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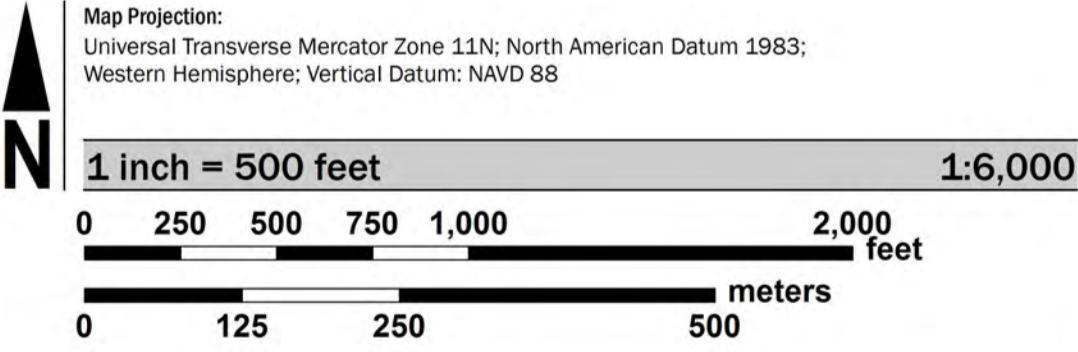
For community and countywide map dates refer to the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

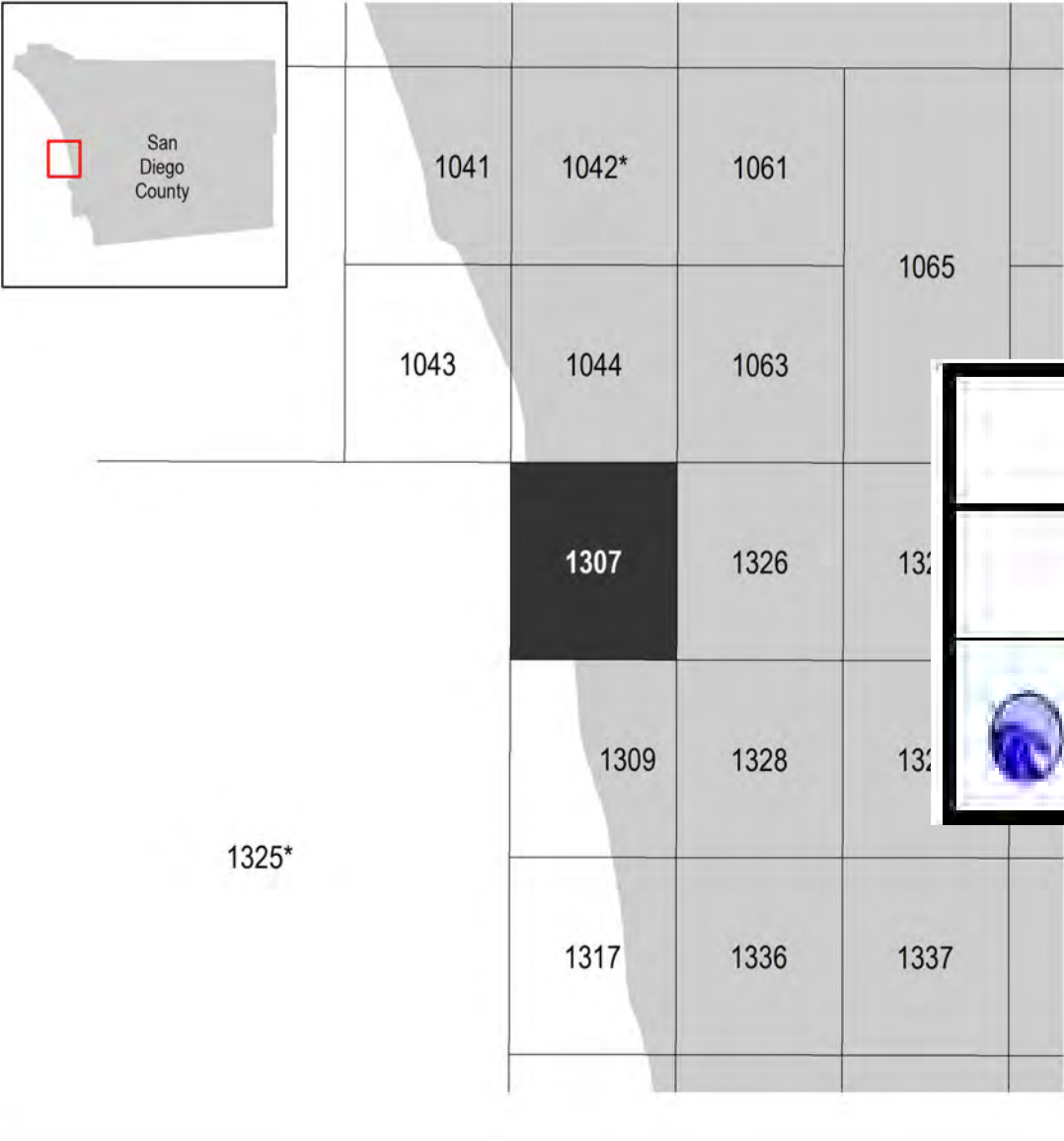
Base map information shown on this FIRM was derived from digital orthophotography collected by the U.S. Department of Agriculture Farm Service Agency. Department of Agriculture imagery was flown in 2016 and was produced with a 1-meter ground sample distance.

Coastal Base Flood Elevations shown on the map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Coastal flood elevations are also provided in the Coastal Tract Parameters table in the FIS Report for this jurisdiction. Elevations shown in the Coastal Tract Parameters table should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on the FIRM.

SCALE



PANEL LOCATOR



National Flood Insurance Program

EXHIBIT NO. 5

2019 FEMA FIRMs

LCP-6-DMR-20-0044-2 (ADU Update)

California Coastal Commission

NATIONAL FLOOD INSURANCE PROGRAM

FLOOD INSURANCE RATE MAP

SAN DIEGO COUNTY, CALIFORNIA

and Incorporated Areas

PANEL 1307 OF 2375

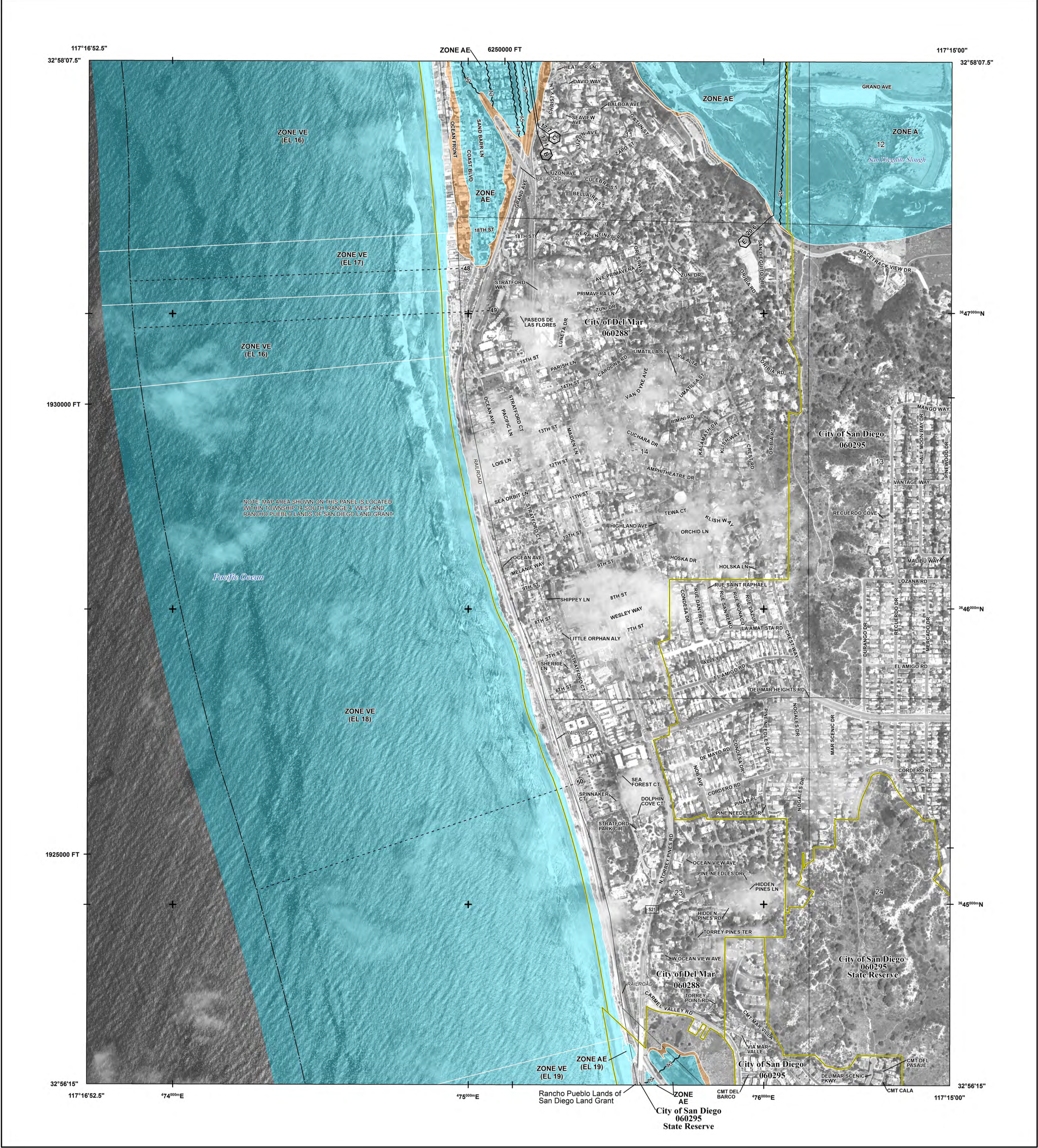
Panel Contains:

COMMUNITY	NUMBER	PAVEL	SUFFIX
DEL MAR, CITY OF	060288	1307	H
ENCINITAS, CITY OF	060726	1307	H
SAN DIEGO, CITY OF	060295	1307	H
SOLANA BEACH, CITY OF	060725	1307	H

VERSION NUMBER
2.3.3.3

MAP NUMBER
06073C1307H

MAP REVISED
DECEMBER 20, 2019



FLOOD HAZARD INFORMATION

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT
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SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
OTHER AREAS OF FLOOD HAZARD		Regulatory Floodway
		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee See Notes. Zone X
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GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
OTHER FEATURES		Levee, Dike, or Floodwall
		Cross Sections with 1% Annual Chance Water Surface Elevation
OTHER FEATURES		Coastal Transect
		Coastal Transect Baseline
OTHER FEATURES		Profile Baseline
		Hydrographic Feature
OTHER FEATURES		Base Flood Elevation Line (BFE)
		Limit of Study
OTHER FEATURES		Jurisdiction Boundary

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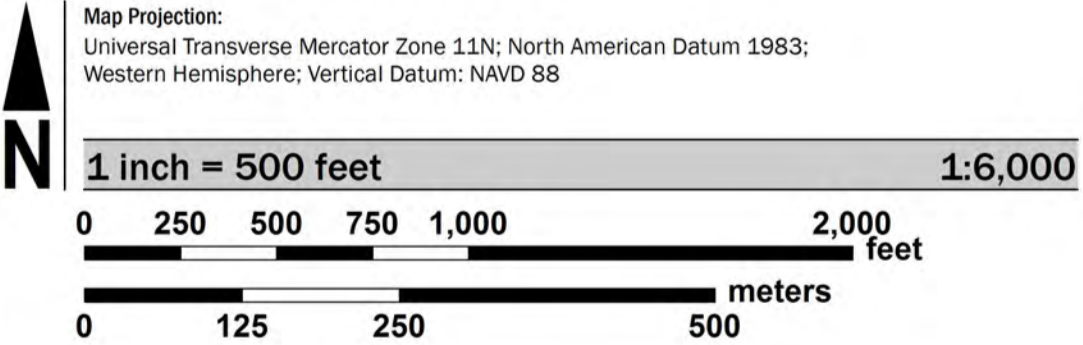
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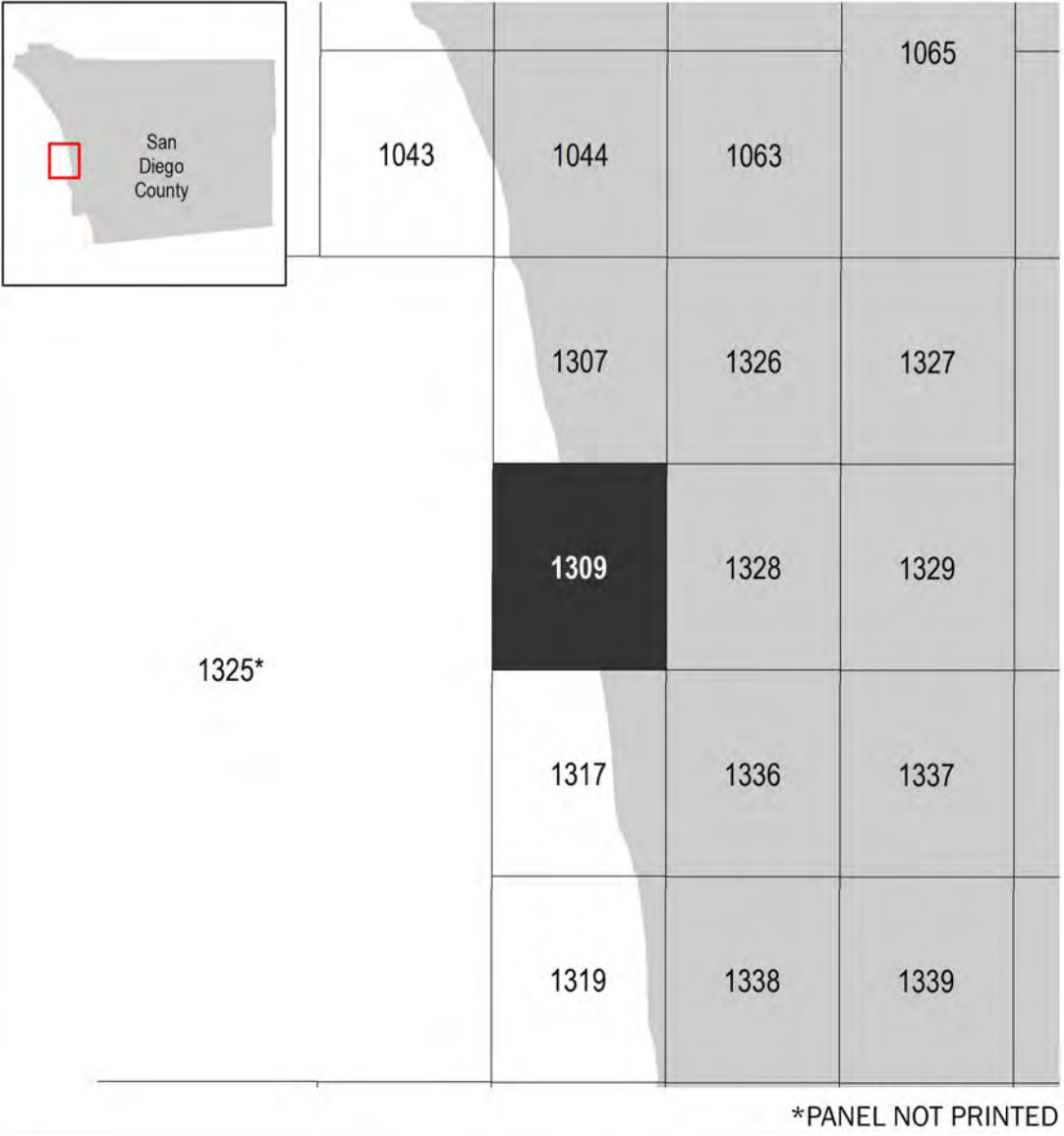
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SCALE



PANEL LOCATOR



National Flood Insurance Program

NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE RATE MAP

SAN DIEGO COUNTY, CALIFORNIA
and Incorporated Areas

PANEL 1309 OF 2375

Panel Contains:

COMMUNITY	NUMBER	PANEL	SUFFIX
DEL MAR, CITY OF	060288	1309	H
SAN DIEGO, CITY OF	060295	1309	H

VERSION NUMBER
2.3.3.3

MAP NUMBER
06073C1309H

MAP REVISED
DECEMBER 20, 2019