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LCP-6-CAR-20-0077-2 (ADU UPDATE)

MARCH 9, 2022

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ORDINANCE NO. CS-384

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING AMENDMENTS TO TITLE 21 OF THE CARLSBAD MUNICIPAL CODE (ZONE CODE), VILLAGE AND BARRIO MASTER PLAN AND LOCAL COASTAL PROGRAM TO ENSURE CONSISTENCY WITH STATE LAW RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.
CASE NAME: ACCESSORY DWELLING UNIT AMENDMENTS 2020
CASE NO: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006

WHEREAS, Sections 65852.2 and 65852.22 of the California Government Code requires cities and counties to permit construction of accessory dwelling units and junior accessory dwelling units, and allows cities and counties to adopt ordinances that govern the permitting of accessory dwelling units and junior accessory dwelling units consistent with state law; and

WHEREAS, California Governor Gavin Newsom signed Senate Bill 13 and Assembly Bills 68, 587, 670, 671 and 881 into law, which amended state law to further encourage and incentivize the construction of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the above legislative bills took effect January 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, the City Planner has prepared amendments to the Zone Code (ZCA 2020-0002)/ Village and Barrio Master Plan (AMEND 2020-0005) and the Local Coastal Program (LCPA 2020-0006) pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS, the Carlsbad Zone Code and Village and Barrio Master Plan are the implementing ordinances of the Carlsbad Local Coastal Program, and therefore, amendments to the Zone Code and Village and Barrio Master Plan also constitute amendments to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began May 15, 2020 and ending on June 26, 2020; and

WHEREAS, on May 20, 2020 the Airport Land Use Commission reviewed and found that the proposed Zone Code Amendment and Village and Barrio Master Plan Amendment are consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 17, 2020, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7374 recommending to the City Council that ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004 be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain that:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7374 shall also constitute the findings of the City Council
3. In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, the use listing for Accessory Dwelling Unit is amended to read as follows:

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Accessory Dwelling Unit (accessory to one-family, two-family, multifamily, and mixed-use dwellings; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.121)	A	A	A	A	A	A	A

4. In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, a new use listing Junior Accessory Dwelling Unit is added as follows:

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Junior Accessory Dwelling Unit (accessory to a one-family dwelling; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.122)		A			A	A	A

5. In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, the parking requirements for Accessory Dwelling Unit are amended to read as follows:

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Accessory Dwelling Unit (no additional parking is required for a Junior Accessory Dwelling Unit)	• One space, in addition to the parking requirement for the primary dwelling. • Tandem parking is permitted. Parking may be located in the side and rear yard setbacks. • Parking exceptions exist for accessory dwelling units. Refer to CMC Section 21.10.030 E

6. In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, a new parking requirement for Junior Accessory Dwelling Unit is added as follows:

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Junior Accessory Dwelling Unit	No parking requirement

7. Carlsbad Municipal Code Section 21.04.020 is amended to read as follows:

21.04.020 Accessory.

"Accessory" means a building, part of a building or structure, or use that is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot. If an accessory building is attached to the main building by a common wall, with a width dimension of at least three feet and a height dimension of at least one story, such building area is considered a part of the main building and not an accessory building or structure, except for "accessory dwelling units" or "junior accessory dwelling units" as defined in Sections 21.04.121 and 21.04.122. Accessory dwelling units and junior accessory dwelling units that comply with the requirements of Section 21.10.030 and California Government Code Sections 65852.2 and 65852.22, respectively, are considered accessory.

8. Carlsbad Municipal Code Section 21.04.121 is amended to read as follows:

21.04.121 Dwelling unit, accessory (ADU).

Refer to California Government Code Section 65852.2.

9. Section 21.04.122 is added to the Carlsbad Municipal Code as follows:

21.04.122 Dwelling unit, junior accessory (JADU).

Refer to California Government Code Section 65852.22.

10. A new use listing for "Junior accessory dwelling unit" is added to the permitted uses tables in the following eight sections of the Carlsbad Municipal Code as shown below:

21.08.020 Permitted uses, Table A.
21.09.020 Permitted uses, Table A.
21.10.020 Permitted uses, Table A.
21.12.020 Permitted uses, Table A.
21.16.020 Permitted uses, Table A.
21.18.020 Permitted uses, Table B.
21.22.020 Permitted uses, Table A.
21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X

11. The following four sections are amended as shown below:

21.08.060 Placement of buildings
21.10.080 Placement of buildings
21.12.060 Placement of buildings
21.16.060 Placement of buildings

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

1. Interior Lots.

a. No building shall occupy any portion of a required yard;

b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required

side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;

c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;

d. All accessory structures shall comply with the following development standards:

i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,

ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,

iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,

iv. Buildings shall not exceed one story,

v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;

e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;

f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,

ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,

iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

2. Corner Lots and Reversed Corner Lots.

a. No building shall occupy any portion of a required yard;

b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;

c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;

d. All accessory structures shall comply with the following development standards:

   i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,

   ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,

   iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,

   iv. Buildings shall not exceed one story,

   v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;

e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;

f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

   i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,

   ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,

   iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

   iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

12. In Section 21.09.020 Table A, the use listing for "Accessory dwelling units" is amended to read as follows:

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

13. Section 21.09.100 of the Carlsbad Municipal Code is amended to read as follows:

21.09.100 Placement of buildings

Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

(1) Except as permitted by Sections 21.09.080 and 21.09.090, no building shall occupy any portion of a required yard.

(2) Any building, any portion of which is used for human habitation, shall observe a distance from any rear property line the equivalent of twice the required interior side yard.

(3) The distance between buildings used for human habitation and detached accessory buildings shall not be less than ten feet.

(4) The keeping of all domestic animals provided for in this chapter shall conform to all other provisions of law governing the same, and no pen, coop, stable or barn shall be erected within forty feet of any building used for human habitation or within twenty-five feet of any property line.

(5) A building permit for a dwelling unit to be located further than five hundred feet from a fire hydrant shall not be issued without the approval of the fire chief. The fire chief may require the installation of additional safety equipment, including fire hydrants or stand pipes, as a condition of such approval.

14. Section 21.10.030 of the Carlsbad Municipal Code is repealed and replaced to read as follows:

21.10.030 Accessory dwelling units and junior accessory dwelling units.

A. Purpose. This section provides standards for the establishment of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Pursuant to California Government Code Sections 65852.2 and 65852.22, local governments have the authority to adopt regulations designed to promote ADUs and JADUs.

B. Standards of Review. Review of ADUs and JADUs shall be consistent with the following:

1. ADU or JADU applications shall be considered a ministerial action without discretionary review or a public hearing if all requirements of this section (21.10.030) are met, notwithstanding any other requirements of state law or this development code.

2. ADUs or JADUs developed within the coastal zone are subject to the permit requirements of Chapter 21.201 and require a building permit. Development of ADUs or JADUs outside of the coastal zone requires a building permit.

3. The city shall act on an application to create an ADU or a JADU within the time period specified under California Government Code Sections 65852.2 and 65852.22.

4. If the permit application to create an ADU or a JADU is submitted with a permit application to create a new one-family dwelling on the lot, the city may delay acting on the permit application for the ADU or the JADU until the city acts on the permit application to create the new one-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or public hearing. If the applicant requests a delay, the time period specified under California Government Code Sections 65852.2 and 65852.22 shall be tolled for the period of the delay.

C. Residential Use and Density. ADUs and JADUs, which comply with the requirements of this section (21.10.030) and California Government Code Sections 65852.2 and 65852.22:

1. Shall be considered accessory residential uses or accessory residential buildings that are consistent with the general plan or zoning designations for the lot; and
2. Shall not be considered to exceed the allowable density for the lot upon which it is located; and
3. Shall not be considered a dwelling unit when implementing the dwelling unit limitations established by Proposition E enacted by Carlsbad voters on November 4, 1986 and shall not be considered a dwelling unit under the definition of "short-term vacation rental" in Chapter 5.60, Short-Term Vacation Rentals.

D. Number and Location.

1. ADUs shall be permitted in zones that allow one-family dwellings, two-family dwellings, multiple-family dwellings, and mixed-use (residential uses in combination with non-residential uses), provided there is an existing or proposed dwelling on the lot where the ADU is proposed, as specified in California Government Code Sections 65852.2 and 65852.22 . Refer to a specific zone's Permitted Uses table within this Title.

2. For zones that allow one-family dwellings, one JADU shall be permitted with an associated existing or proposed one-family dwelling. Refer to a specific zone's Permitted Uses table within this Title.

3. The number and location of ADUs or JADUs on a lot shall be subject to California Government Code Sections 65852.2 and 65852.22.

E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:

1. ADUs and JADUs shall comply with the development requirements and standards of California Government Code Sections 65852.2 and 65852.22.

2. When not in conflict with California Government Code Sections 65852.2 and 65852.22, ADUs and JADUs shall also comply with applicable development requirements and standards of this code.

3. The maximum size of an ADU or JADU shall be limited as follows, consistent with California Government Code Sections 65852.2 and 65852.22:

   a. Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet;

   b. Detached ADUs – 1,200 square feet

   c. JADUs – 500 square feet

4. A detached ADU shall be limited to one story and 16 feet maximum height, except that an ADU constructed above or below a detached garage shall be permitted and shall conform to the height limits applicable to the zone. Structures that contain an ADU located above or below a detached garage shall be limited to a maximum of two stories including the garage.

5. Roof decks shall not be permitted on detached ADUs.

6. The construction of an ADU or JADU that is all new construction, or is a conversion of a portion or all of an existing structure, or expands the square footage of an existing structure shall be consistent with all habitat preserve buffers and geologic stability setbacks in the certified local coastal program, habitat management plan, general plan or geotechnical report as applicable.

7. On lots with one-family dwelling(s), the exterior roofing, trim, walls, windows and the color palette of the ADU or JADU shall incorporate the same features as the primary dwelling unit.

8. On lots with two-family or multiple-family dwellings, the exterior roofing, trim, walls, windows and the color palette of the ADU addition shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.

9. An ADU shall provide off-street parking in compliance with Chapter 21.44 (Parking), unless it qualifies for an exemption as specified in California Government Code Section 65852.2. No off-street parking is required for a JADU if it meets the requirements specified in California Government Code Section 65852.22.

10. ADUs intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including, but not limited to, the applicable rental rates and income limit standards.

11. A Notice of Restriction shall be recorded on the property declaring that:

    a. The ADU(s) and/or JADU shall not be used for short-term rentals less than 30 days. This requirement does not apply to any unit that was issued a building permit prior to January 1, 2020.

    b. The obligations and restrictions imposed on the approval of the ADU(s) per California Government Code Section 65852.2 and/or JADU per California Government Code Section 65852.22 are binding on all present and future property owners.

    c. For a JADU, the property owner must reside in either the primary residence or the JADU. Sale of the JADU separate from the single-family residence is prohibited; said prohibition is binding on all present owners and future purchasers.

12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner-occupancy of the ADU or primary residence.

13. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26.

G. Conflicting Standards. If there is a conflict between the requirements of this section and the requirements of the California Government Code provisions relating to ADUs and JADUs, including but not limited to Sections 65852.2 or 65852.22, the California Government Code provisions shall apply.

15. The use listing for "Accessory dwelling unit" in the permitted use tables of the following five sections of the Carlsbad Municipal Code is amended as shown below:

21.12.020 Permitted uses, Table A.
21.16.020 Permitted uses, Table A.
21.18.020 Permitted uses, Table B.
21.22.020 Permitted uses, Table A.
21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

16. Subsections A.7 through A.15 of Section 21.18.030 of the Carlsbad Municipal Code are amended to read as follows:

7. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
   a. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
   b. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
   c. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
   d. Buildings shall not exceed one story; and
   e. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
8. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit of a lot including setbacks.
9. Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
   a. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

b. The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

c. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and

d. The additional development standards listed above (subsections A.10.a. through c. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

10. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

11. Other than as provided in subsection 9 above, no building shall be located in any of the required yards.

12. Height Limits. In the R-P zone the maximum building height shall be thirty-five feet.

13. Lot Coverage. In the R-P zone all buildings shall not cover more than sixty percent of the total lot area.

14. Parking Off-Street. Parking shall not be provided in the required front or side yards.

17. The use listing for "Accessory dwelling unit" in Section 21.20.010 Table A of the Carlsbad Municipal Code is amended to read as follows:

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

18. Section 21.20.080 of the Carlsbad Municipal Code is amended to read as follows:

21.20.080 Accessory structures.

(1) All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

(A) The lot coverage shall include accessory structures in the lot coverage calculations for the lot.

(B) The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet.

(C) When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department.

(D) Buildings shall not exceed one story.

(E) Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

(2) Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.

(3) Detached accessory structures, which are not dwelling units and contain no habitable space, including but not limited to garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

(A) The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet.

(B) The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet.

(C) The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures.

(D) The additional development standards listed above (subsections (3)(A) through (C) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

(4) The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

19. Section 21.22.070 of the Carlsbad Municipal Code is amended to read as follows:

21.22.070 Accessory structures.

A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;

2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

4. Buildings shall not exceed one story;

5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided; and

B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.

C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and

4. The additional development standards listed above (subsections C.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

20. Section 21.24.090 of the Carlsbad Municipal Code is amended to read as follows:

21.24.090 Accessory structures.

A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;

2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

4. Buildings shall not exceed one story; and

5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks

C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and

4. The additional development standards listed above (subsections D.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

21. A new use listing for "Accessory dwelling unit" is added to Table A in the following three sections of the Carlsbad Municipal Code as shown below:

21.26.010 Permitted uses.

21.28.010 Permitted uses.

21.31.030 Permitted uses.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Sections 21.04.121)			X

22. Section 21.38.025 of the Carlsbad Municipal Code is amended to read follows:

21.38.025 Accessory dwelling units.

Accessory dwelling units or junior accessory dwelling units are permitted according to the provisions of Section 21.10.030.

23. In Table A of Section 21.44.020 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:

Accessory dwelling units	1 space (covered or uncovered), in addition to the parking required for the primary use; unless otherwise specified in Section 21.10.030 of this code.
	The additional parking space may be provided through tandem parking on a driveway and may be within the front or side yard setback.

24. In Table C of Section 21.44.060 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:

Accessory dwelling units	Same as parking required for primary residential use, with the following exceptions: • May be located in the front or side yard setback; and • May be located as a tandem space on a driveway. • Other parking requirements and exemptions may be applicable pursuant to Section 21.10.030.

25. Section 21.45.090 of the Carlsbad Municipal Code is amended to read follows:

21.45.090 Residential additions and accessory uses.

A. General.

1. Additions and accessory uses shall be subject to all applicable development standards of this chapter, unless otherwise specified in this section and except as otherwise permitted for accessory dwelling units or junior accessory dwelling units pursuant to Section 21.10.030.
2. Additions to buildings that are legally nonconforming shall comply with the requirements of Chapter 21.48 of this code.

B. One-Family Dwellings and Twin-Homes on Small Lots.

1. Table F lists the provisions for residential additions and accessory uses to one-family dwellings and twin-homes on small lots.
2. The additions and accessory uses listed in Table F shall be subject to the approval/issuance of a building permit.

Table F

Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers[2]	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Pool, spa	20 feet	5 feet - pool 2 feet - spa
Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height)[1],[2],[3]	20 feet	5 feet
Accessory dwelling units or junior accessory dwelling units[2], [3]	20 feet	See 21.10.030
Habitable detached accessory buildings (i.e. guest houses; not including accessory dwelling units) [1], [2], [3],	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:

(1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.

(2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.

(3) Must be architecturally compatible with the existing structure.

C. Condominium projects. Additions and accessory uses to condominium projects shall be subject to Section 21.45.100 (Amendments to permits). (Ord. CS 324 §§ 2, 23, 2017; Ord. CS-050 § IV, 2009; Ord. NS-834 § II, 2007)

26. Section 21.48.020 of the Carlsbad Municipal Code is amended to read as follows:

21.48.020 Applicability.

A. The provisions of this chapter apply to:

1. Legally created lots which do not conform to the current requirements and development standards of the zone in which they are located.

2. Legally constructed structures and site development features that do not comply with the current requirements and development standards of the zone in which they are located.
3. Legally established uses which do not conform to the current permitted use regulations of the zone in which they are located.

B. The provisions of this chapter do not apply:
1. To nonconforming signs, which are addressed in Section 21.41.130.
2. When an accessory dwelling unit or junior accessory dwelling unit is proposed with an existing nonconforming residential structure. Pursuant to California Government Code Section 65852.2, the city shall not require, as a condition for approval of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

27. Subsections A and B.1 of Section 21.201.060 of the Carlsbad Municipal Code are amended to read follows:

A. For the purposes of subsection B.1 of this section, an existing single-family residential building shall include:
1. All appurtenances and other accessory structures, including decks, directly attached to the residence;
2. Accessory structures or improvements on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds, and junior accessory dwelling units and accessory dwelling units that are attached to or converted from the existing space of a primary residence or attached accessory structure, but not including guest houses or self-contained residential units that are detached from an existing single-family residential building;
3. Landscaping on the lot.

B. Exemptions. The following projects are exempt from the requirements of a minor coastal development permit and coastal development permit:
1. Improvements to an existing single-family residential building, except:
a. On a beach, wetland or seaward of the mean high tide line;
b. Where the residence or proposed improvement would encroach in an environmentally sensitive habitat area or within fifty feet of the edge of a coastal bluff;
c. Improvements that would result in an increase of ten percent or more of internal floor area of an existing structure or an additional improvement of ten percent or less where an improvement to the structure had previously been undertaken pursuant to California Public Resources Code Section 30610(a), or an increase in height by more than ten percent of an existing structure and/or any significant nonattached

structure such as garages, fences, shoreline protective works or docks, and such improvements are on property located:

i. Between the sea and the first public road paralleling the sea,

ii. Within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or

iii. In significant scenic resources areas as designated by the Commission;

d. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff except as provided in subsections B.8, B.9, B.10 and B.11 of this section;

e. Expansion or construction of water wells or septic systems;

f. Improvements to establish an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure or a junior accessory dwelling unit within a one-family dwelling where such primary residence or attached accessory structure is nonconforming with respect to habitat preserve buffers or geologic stability setbacks in the certified local coastal program.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUSTIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0006, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

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INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 1st day of September, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 15th day of September, 2020, by the following vote, to wit:

AYES: Hall, Blackburn, Bhat-Patel, Schumacher.

NAYS: None.

ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

for

BARBARA ENGLESON, City Clerk

(SEAL)

CITY OF CARLSBAD CALIFORNIA

MCA 2020-0002/ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006 – Accessory Dwelling Unit Amendments 2020

Draft revisions to the VBMP and Carlsbad Municipal Code Titles 5 and 21 (Zone Code)

A. Proposed amendments to the Carlsbad Village and Barrio Master Plan

1. In Section 2.3.3, Table 2-1 Permitted Uses, the use listing for Accessory Dwelling Unit is proposed to be amended to read as follows:

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Accessory Dwelling Unit ~~(~~accessory to one-family, two-family, multifamily, and mixed-use dwellings; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.121) ~~(accessory to a single one-family dwelling only and provided no other dwellings are on the same lot)~~	A	A	A	A	A	A	A

2. Section 2.3.3, Table 2-1 Permitted Uses is proposed to be amended by the addition of a new use listing for Junior Accessory Dwelling Unit as follows:

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Junior Accessory Dwelling Unit (accessory to a one-family dwelling; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.122)		A			A	A	A

3. In Section 2.6, Table 2-3, the parking requirements for Accessory Dwelling Unit are proposed to be amended as follows:

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Accessory Dwelling Unit	• One space, in addition to the parking requirement for the primary ~~use (single, one-family dwelling)~~dwelling. • Tandem parking is permitted. Parking may be located in the side and rear yard setbacks. • Parking exceptions exist for accessory dwelling units. Refer to CMC Section 21.10.030 E~~D.10.s~~

EXHIBIT NO. 2
Proposed Text Changes
LCP-6-CAR-20-0077-2 (ADU Update)
California Coastal Commission

4. **In Section 2.6, Table 2-3, a new parking requirement for Junior Accessory Dwelling Unit is proposed to be added as follows:**

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Junior Accessory Dwelling Unit	No parking requirement

B. Proposed amendments to Title 5 of the Carlsbad Municipal Code

1. The definition of "short-term vacation rental" in Carlsbad Municipal Code Section 5.60.20 is amended to read as follows

"Short-term vacation rental" is defined as the rental of any legally permitted dwelling unit as that term is defined in Chapter 21.04, Section 21.04.120 of this code, or any portion of any legally permitted dwelling unit for occupancy for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive calendar days. Time-shares as defined in Chapter 21.04, Section 21.04.357 are not considered a short-term vacation rental. Accessory dwelling units and junior accessory dwelling units as defined in Chapter 21.04, Sections 21.04.121 and 21.04.122, for which a building permit was issued on or after January 1, 2020, are not considered short-term vacation rentals. A trailer coach as defined in Chapter 5.24, Section 5.24.005 of this code, which is parked on the property of a legally permitted dwelling unit, is not considered a short-term vacation rental, and it may not be rented out for occupancy pursuant to Chapter 5.24, Section 5.24.145 of this code. Short-term vacation rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive days and which was subsequently amended, either orally or in writing to permit the occupant(s) of the owner's short-term vacation rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive days.

C. Proposed amendments to Title 21 of the Carlsbad Municipal Code

1. **Section 21.04.020 is proposed to be amended as follows:**

21.04.020 Accessory.

"Accessory" means a building, part of a building or structure, or use ~~which~~ that is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot. If an accessory building is attached to the main building by a common wall, with a width dimension of at least three feet and a height dimension of at least one story, such building area is considered a part of the main building and not an accessory building or structure, except for

"accessory dwelling units" or "junior accessory dwelling units" as defined in Sections 21.04.121 and 21.04.122. Accessory dwelling units and junior accessory dwelling units that comply with the requirements of Section 21.10.030 and California Government Code Sections 65852.2 and 65852.22, respectively are considered accessory. (Ord. NS-355 § 1, 1996; Ord. 9060 § 203)

2. Section 21.04.121 is proposed to be amended to read as follows:

21.04.121 Dwelling unit, accessory (ADU).

~~A. Accessory dwelling unit means a residential dwelling unit that is all of the following:~~

~~1. Located on a lot zoned for residential use, and the lot contains a single one-family dwelling and no other dwelling; and~~

~~2. Either detached from or attached to a one-family dwelling, or converted from the existing space of a one-family dwelling or accessory structure; and~~

~~3. A dwelling that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

~~B. If consistent with subsection A of this definition, the following may be considered an accessory dwelling unit:~~

~~1. An efficiency unit, as defined in Section 17958.1 of California Health and Safety Code.~~

~~2. A manufactured home, as defined in Section 18007 of California Health and Safety Code.~~

Refer to California Government Code Section 65852.2.

3. Section 21.04.122 is proposed to be added as follows:

21.04.122 Dwelling unit, junior accessory (JADU).

Refer to California Government Code Section 65852.22.

4. A new use listing for "Junior accessory dwelling unit" is proposed to be added to the permitted uses tables in the following sections as shown below:

21.08.020 Permitted uses, Table A.
21.09.020 Permitted uses, Table A.
21.10.020 Permitted uses, Table A.
21.12.020 Permitted uses, Table A.
21.16.020 Permitted uses, Table A.
21.18.020 Permitted uses, Table B.

21.22.020 Permitted uses, Table A.
21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X

5. The following sections are proposed to be amended as shown below:

21.08.060 Placement of buildings
21.10.080 Placement of buildings
21.12.060 Placement of buildings
21.16.060 Placement of buildings

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

1. Interior Lots.

a. No building shall occupy any portion of a required yard;

b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~;

c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;

d. All accessory structures shall comply with the following development standards:

i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,

ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,

iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,

~~iv. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030,~~

iv. Buildings shall not exceed one story,

v~~i~~. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;

~~e. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures;~~

~~f~~e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~;

~~g~~f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,

ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,

iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

~~h~~g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

2. Corner Lots and Reversed Corner Lots.

a. No building shall occupy any portion of a required yard;

b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;

c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~;

d. All accessory structures shall comply with the following development standards:

i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,

ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,

iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,

~~iv. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030,~~

iv. Buildings shall not exceed one story,

v~~i~~. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;

~~e. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures;~~

~~f~~e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~;

~~g~~f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,

ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,

iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

~~h~~g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 5, 2017; Ord. NS-718 § 5, 2004)

6. In Section 21.09.020 Table A, the use listing for "Accessory dwelling units" is proposed to be amended to read as follows:

Use	P	CUP	Acc
Accessory dwelling unit~~s~~ (subject to Section 21.10.030; defined: Section 21.04.121)			X

7. Section 21.09.100 is proposed to be amended as follows:

21.09.100 Placement of buildings.

Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

(1) Except as permitted by Sections 21.09.080 and 21.09.090, no building shall occupy any portion of a required yard.

(2) Any building, any portion of which is used for human habitation, shall observe a distance from any rear property line the equivalent of twice the required interior side yard~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~.

(3) The distance between buildings used for human habitation and detached accessory buildings shall not be less than ten feet.

(4) The keeping of all domestic animals provided for in this chapter shall conform to all other provisions of law governing the same, and no pen, coop, stable or barn shall be erected within forty feet of any building used for human habitation or within twenty-five feet of any property line.

(5) A building permit for a dwelling unit to be located further than five hundred feet from a fire hydrant shall not be issued without the approval of the fire chief. The fire chief may require the installation of additional safety equipment, including fire hydrants or stand pipes, as a condition of such approval. (Ord. CS 324 § 7, 2017; Ord. 9498 § 4, 1978)

8. Section 21.10.030 is proposed to be repealed and replaced to read as follows *(deleted text not shown, only new replacement text is included below)*:

21.10.030 Accessory Dwelling Units and Junior Accessory Dwelling Units

A. Purpose. This section provides standards for the establishment of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Pursuant to California Government Code Sections 65852.2 and 65852.22, local governments have the authority to adopt regulations designed to promote ADUs and JADUs.

B. Standards of Review. Review of ADUs and JADUs shall be consistent with the following:

1. ADU or JADU applications shall be considered a ministerial action without discretionary review or a public hearing if all requirements of this section (21.10.030) are met, notwithstanding any other requirements of state law or this development code.

2. ADUs or JADUs developed within the coastal zone are subject to the permit requirements of Chapter 21.201 and require a building permit. Development of ADUs or JADUs outside of the coastal zone requires a building permit.

3. The city shall act on an application to create an ADU or a JADU within the time period specified under California Government Code Sections 65852.2 and 65852.22.

4. If the permit application to create an ADU or a JADU is submitted with a permit application to create a new one-family dwelling on the lot, the city may delay acting on

the permit application for the ADU or the JADU until the city acts on the permit application to create the new one-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or public hearing. If the applicant requests a delay, the time period specified under California Government Code Sections 65852.2 and 65852.22 shall be tolled for the period of the delay.

C. Residential Use and Density. ADUs and JADUs, which comply with the requirements of this section (21.10.030) and California Government Code Sections 65852.2 and 65852.22:

1. Shall be considered accessory residential uses or accessory residential buildings that are consistent with the general plan or zoning designations for the lot; and
2. Shall not be considered to exceed the allowable density for the lot upon which it is located; and
3. Shall not be considered a dwelling unit when implementing the dwelling unit limitations established by Proposition E enacted by Carlsbad voters on November 4, 1986, and shall not be considered a dwelling unit under the definition of "short-term vacation rental" in Chapter 5.60, Short-Term Vacation Rentals.

D. Number and Location.

1. ADUs shall be permitted in zones that allow one-family dwellings, two-family dwellings, multiple-family dwellings, and mixed-use (residential uses in combination with non-residential uses), provided there is an existing or proposed dwelling on the lot where the ADU is proposed, as specified in California Government Code Sections 65852.2 and 65852.22. Refer to a specific zone's Permitted Uses table within this Title.
2. For zones that allow one-family dwellings, one JADU shall be permitted with an associated existing or proposed one-family dwelling. Refer to a specific zone's Permitted Uses table within this Title.
3. The number and location of ADUs or JADUs on a lot shall be subject to California Government Code Sections 65852.2 and 65852.22.

E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:

1. ADUs and JADUs shall comply with the development requirements and standards of California Government Code Sections 65852.2 and 65852.22.

2. When not in conflict with California Government Code Sections 65852.2 and 65852.22, ADUs and JADUs shall also comply with applicable development requirements and standards of this code.

3. The maximum size of an ADU or JADU shall be limited as follows, consistent with California Government Code Sections 65852.2 and 65852.22:

a. Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet;

b. Detached ADUs – 1,200 square feet

c. JADUs – 500 square feet

4. A detached ADU shall be limited to one story and 16 feet maximum height, except that an ADU constructed above or below a detached garage shall be permitted and shall conform to the height limits applicable to the zone. Structures that contain an ADU located above or below a detached garage shall be limited to a maximum of two stories including the garage.

5. Roof decks shall not be permitted on detached ADUs.

6. The construction of an ADU or JADU that is all new construction, or is a conversion of a portion or all of an existing structure, or expands the square footage of an existing structure shall be consistent with all habitat preserve buffers and geologic stability setbacks in the certified local coastal program, habitat management plan, general plan or geotechnical report as applicable.

7. On lots with one-family dwelling(s), the exterior roofing, trim, walls, windows and the color palette of the ADU or JADU shall incorporate the same features as the primary dwelling unit.

8. On lots with two-family or multiple-family dwellings, the exterior roofing, trim, walls, windows and the color palette of the ADU addition shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.

9. An ADU shall provide off-street parking in compliance with Chapter 21.44 (Parking), unless it qualifies for an exemption as specified in California Government Code Section 65852.2. No off-street parking is required for a JADU if it meets the requirements specified in California Government Code Section 65852.22.

10. ADUs intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including, but not limited to, the applicable rental rates and income limit standards.

11. A Notice of Restriction shall be recorded on the property declaring that:

    a. The ADU(s) and/or JADU shall not be used for short-term rentals less than 30 days. This requirement does not apply to any unit that was issued a building permit prior to January 1, 2020.

    b. The obligations and restrictions imposed on the approval of the ADU(s) per California Government Code Section 65852.2 and/or JADU per California Government Code Section 65852.22 are binding on all present and future property owners.

    c. For a JADU, the property owner must reside in either the primary residence or the JADU. Sale of the JADU separate from the single-family residence is

prohibited; said prohibition is binding on all present owners and future purchasers.

12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner-occupancy of the ADU or primary residence.

13. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26.

G. Conflicting Standards. If there is a conflict between the requirements of this section and requirements of the California Government Code provisions relating to ADUs and JADUs, including but not limited to Sections 65852.2 or 65852.22, the California Government Code provisions shall apply.

9. In the following sections, the use listing for "Accessory dwelling unit" is proposed to be amended as follows:

21.12.020 Permitted uses, Table A.
21.16.020 Permitted uses, Table A.
21.18.020 Permitted uses, Table B.
21.22.020 Permitted uses, Table A.
21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Accessory dwelling unit ~~(accessory to a one-family dwelling only)~~ (subject to Section 21.10.030; defined: Section 21.04.121)			X

10. Subsections A.7 through A.15 of Section 21.18.030 are proposed be amended as follows:

21.18.030 Development standards.

…

7. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

a. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;

b. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

c. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

~~d. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~

d~~e~~. Buildings shall not exceed one story; and

e~~f~~. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

~~8. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

8~~9~~. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit of a lot including setbacks~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~.

9~~10~~. Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

a. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

b. The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

c. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and

d. The additional development standards listed above (subsections A.10.a. through c. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

10~~11~~. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

11~~12~~. ~~Except for an accessory structure which is not a dwelling unit and contains no habitable space and complies with the development standards specified in this chapter~~Other than as provided in subsection 9 above, no building shall be located in any of the required yards~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~.

12~~13~~. Height Limits. In the R-P zone the maximum building height shall be thirty-five feet.

13~~14~~. Lot Coverage. In the R-P zone all buildings shall not cover more than sixty percent of the total lot area.

14~~15~~. Parking Off-Street. Parking shall not be provided in the required front or side yards. (Ord. CS 324 § 13, 2017; Ord. NS-718 § 10, 2004)

11. Section 21.20.010 Table A is proposed to be amended as follows:

Use	P	CUP	Acc
Accessory dwelling units~~ are permitted according to the provisions of Section 21.10.030 of this title on lots which are developed with a detached single-family residence~~ (subject to Section 21.10.030; defined: Section 21.04.121)			X

12. Section 21.20.080 is proposed to be amended as follows:

21.20.080 Accessory structures.

(1) All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

(A) The lot coverage shall include accessory structures in the lot coverage calculations for the lot.

(B) The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet.

(C) When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department.

~~(D) Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~

(D~~E~~) Buildings shall not exceed one story.

(E~~F~~) Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

~~(G) Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

(2) Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~.

(3) Detached accessory structures, which are not dwelling units and contain no habitable space, including but not limited to garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

(A) The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet.

(B) The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet.

(C) The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures.

(D) The additional development standards listed above (subsections (3)(A) through (C) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

(4) The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 15, 2017; Ord. NS-718 § 12, 2004; Ord. NS-355 § 12, 1996; Ord. NS-243 § 17, 1993; Ord.

13. Section 21.22.070 is proposed to be amended as follows:

21.22.070 Accessory structures.

A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;

2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

~~4. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~

~~4~~5. Buildings shall not exceed one story;

~~5~~6. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided; and

~~7. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030~~.

C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and

4. The additional development standards listed above (subsections C.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 16, 2017; Ord. NS-718 § 13, 2004)

14. Section 21.24.090 is proposed to be amended as follows:

21.24.090 Accessory structures.

A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;

2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

~~4. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~

4~~5~~. Buildings shall not exceed one story; and

5~~6~~. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

~~B. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

B~~C~~. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks~~, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~

C~~D~~. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and

4. The additional development standards listed above (subsections D.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

DE. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 17, 2017; Ord. NS-718 § 14, 2004)

15. In Table A of the following sections, a new use listing for "Accessory dwelling unit" is proposed to be added as shown below:

21.26.010 Permitted uses.
21.28.010 Permitted uses.
21.31.030 Permitted uses.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Sections 21.04.121)			X

16. Section 21.38.025 is proposed to be amended as follows:

21.38.025 Accessory dwelling units and junior accessory dwelling units.

Accessory dwelling units or junior accessory dwelling units are permitted according to the provisions of Section 21.10.030. ~~in areas designated by a master plan for single-family detached dwellings. For accessory dwelling units proposed on standard lots (minimum seven thousand five hundred square feet in area) which are developed with detached single-family residences, the development standards of Chapter 21.10 shall apply. For accessory dwelling units proposed on substandard lots (less than seven thousand five hundred square feet in area) which are developed with detached single-family residences, the development standards of Chapter 21.45 shall apply. (Ord. CS-324 § 2, 2017; Ord. NS-718 § 16, 2004; Ord. NS-663 § 11, 2003; Ord. NS-283 § 6, 1994)~~

17. In Section 21.44.020 Table A, the requirements accessory dwelling units are proposed to be amended as follows:

Accessory dwelling units	1 space (covered or uncovered), in addition to the parking required for the primary use ~~(single, one-family dwelling)~~; unless otherwise specified in Section 21.10.030 of this code.

	The additional parking space may be provided through tandem parking on a driveway and may be within the front or side yard setback.

18. In Section 21.44.060 Table C, the requirements for accessory dwelling units are proposed to be amended as follows:

Accessory dwelling units	Same as parking required for primary residential use, with the following exceptions: • May be located in the front or side yard setback; and • May be located as a tandem space on a driveway. • Other parking requirements and exemptions may be applicable pursuant to Section 21.10.030.

19. Section 21.45.090 is proposed to be amended to read as follows:

21.45.090 Residential additions and accessory uses.

A. General.

1. Additions and accessory uses shall be subject to all applicable development standards of this chapter, unless otherwise specified in this section and except as otherwise permitted for accessory dwelling units or junior accessory dwelling units pursuant to Section 21.10.030.

2. Additions to buildings that are legally nonconforming shall comply with the requirements of Chapter 21.48 of this code.

B. One-Family Dwellings and Twin-Homes on Small Lots.

1. Table F lists the provisions for residential additions and accessory uses to one-family dwellings and twin-homes on small lots.

2. The additions and accessory uses listed in Table F shall be subject to the approval/issuance of a building permit.

Table F

Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers[(2)]	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Pool, spa	20 feet	5 feet - pool 2 feet - spa

Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height)(1),(2),(3)	20 feet	5 feet
Accessory dwelling units or junior accessory dwelling units(2), (3)	20 feet	See 21.10.030
Habitable detached accessory buildings (i.e. guest houses; not including accessory dwelling units ~~and accessory dwelling units~~)(1), (2), (3), ~~(4)~~	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:
(1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
(2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
(3) Must be architecturally compatible with the existing structure.
~~(4) Except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~

C. Condominium projects. Additions and accessory uses to condominium projects shall be subject to Section 21.45.100 (Amendments to permits). (Ord. CS 324 §§ 2, 23, 2017; Ord. CS-050 § IV, 2009; Ord. NS-834 § II, 2007)

20. Section 21.48.020 is proposed to be amended to read as follows:

21.48.020 Applicability

A. The provisions of this chapter apply to:

1. Legally created lots which do not conform to the current requirements and development standards of the zone in which they are located.

2. Legally constructed structures and site development features ~~(except for nonconforming signs which are addressed in Section 21.41.130)~~ which do not comply with the current requirements and development standards of the zone in which they are located.

3. Legally established uses which do not conform to the current permitted use regulations of the zone in which they are located.

B. The provisions of this chapter do not apply:

1. To nonconforming signs, which are addressed in Section 21.41.130

2. When an accessory dwelling unit or junior accessory dwelling unit is proposed with an existing nonconforming residential structure. Pursuant to California Government Code Section 65852.2, the

city shall not require, as a condition for approval of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

21. Subsections A and B.1 of Section 21.201.060 are proposed to be amended to read as follows:

21.201.060 Exemptions and categorical exclusions from minor coastal development permit and coastal development permit procedures.

A. For the purposes of subsection B.1 of this section, an existing single-family residential building shall include:

1. All appurtenances and other accessory structures, including decks, directly attached to the residence;

2. Accessory structures or improvements on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds, and junior accessory dwelling units and accessory dwelling units that are attached to or converted from the existing space of a primary residence or attached accessory structure, but not including guest houses or self-contained residential units that are detached from an existing single-family residential building;

3. Landscaping on the lot.

B. Exemptions. The following projects are exempt from the requirements of a minor coastal development permit and coastal development permit:

1. Improvements to an existing single-family residential building, ~~including an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure,~~ except:

a. On a beach, wetland or seaward of the mean high tide line;

b. Where the residence or proposed improvement would encroach in an environmentally sensitive habitat area or within fifty feet of the edge of a coastal bluff;

c. Improvements that would result in an increase of ten percent or more of internal floor area of an existing structure or an additional improvement of ten percent or less where an improvement to the structure had previously been undertaken pursuant California to Public Resources Code Section 30610(a), or an increase in height by more than ten percent of an existing structure and/or any significant nonattached structure such as garages, fences, shoreline protective works or docks, and such improvements are on property located:

i. Between the sea and the first public road paralleling the sea,

ii. Within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or

iii. In significant scenic resources areas as designated by the Commission;

d. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff except as provided in subsections B.8, B.9, B.10 and B.11 of this section;

e. Expansion or construction of water wells or septic systems;

f. Improvements to establish an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure or a junior accessory dwelling unit within a one-family dwelling where such primary residence or attached accessory structure is nonconforming with respect to habitat preserve buffers or geologic stability setbacks in the certified local coastal program.

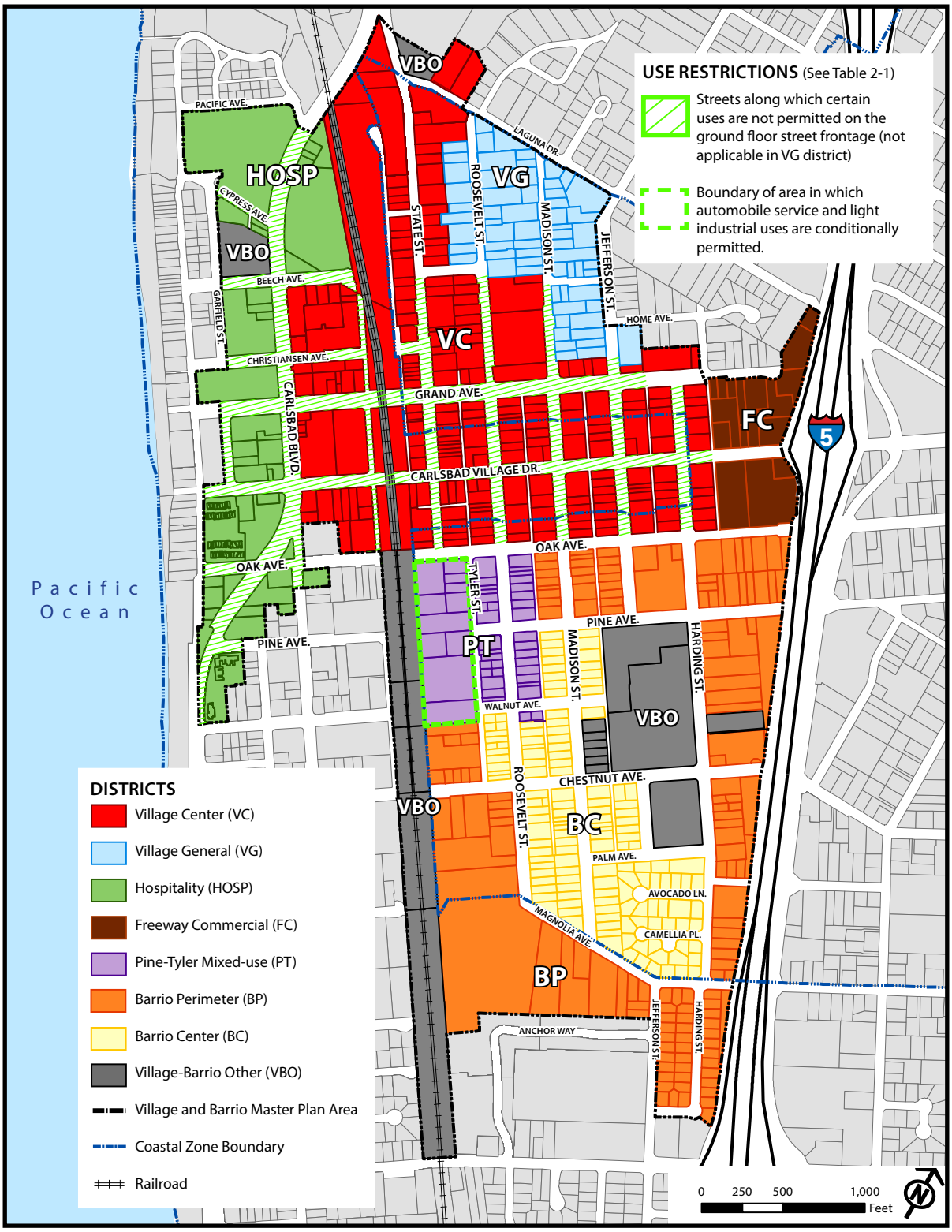

Figure 2-2, Use Restrictions Map

EXHIBIT NO. 3
VBMP Use Restrictions Map
LCP-6-CAR-20-0077-2 (ADU Update)
California Coastal Commission

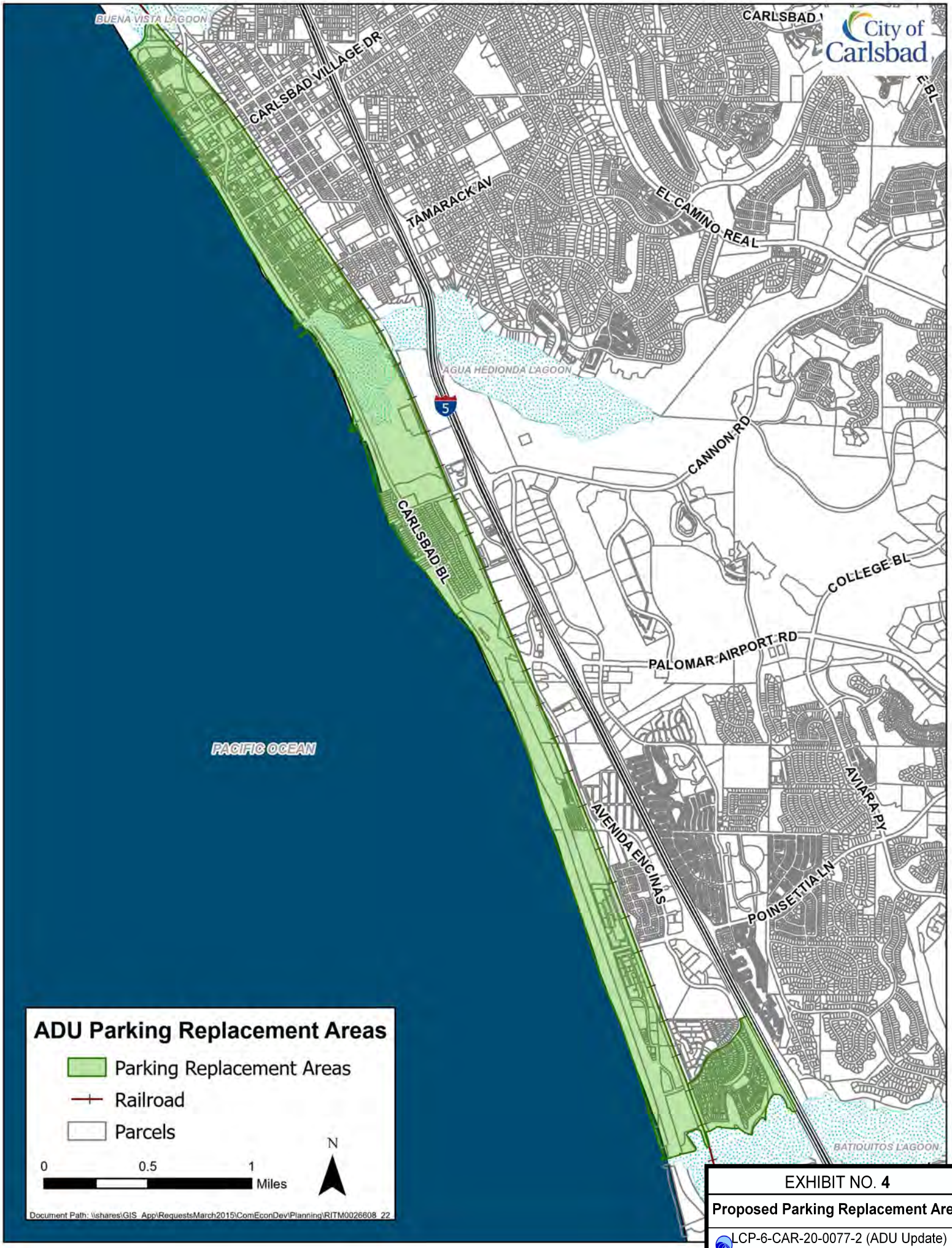

EXHIBIT NO. **4**

Proposed Parking Replacement Area

LCP-6-CAR-20-0077-2 (ADU Update)

California Coastal Commission

State of California

GOVERNMENT CODE

Section 65852.2

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

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

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

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

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

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

(i) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests

a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

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

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

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

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

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

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing

single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

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

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

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

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

(i) 850 square feet.

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

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

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

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

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

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

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

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

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

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

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

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

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

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

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

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

(ii) A height limitation of 16 feet.

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

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

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

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

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

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

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

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

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

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

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) An efficiency unit.

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

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

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

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

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

(6) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

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

(8) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

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

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

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

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

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

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

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

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

(Amended (as amended by Stats. 2020, Ch. 198, Sec. 4.5) by Stats. 2021, Ch. 343, Sec. 2. (AB 345) Effective January 1, 2022. Section operative January 1, 2025, by its own provisions.)

State of California

GOVERNMENT CODE

Section 65852.22

65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

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

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

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

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

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

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

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

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

(A) A cooking facility with appliances.

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

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

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

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a

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

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

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

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

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

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

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

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

(Amended by Stats. 2019, Ch. 655, Sec. 2. (AB 68) Effective January 1, 2020.)

State of California

GOVERNMENT CODE

Section 65852.26

65852.26. (a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency shall allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The accessory dwelling unit or the primary dwelling was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling that each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the accessory dwelling unit or primary dwelling if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the accessory dwelling unit or primary dwelling as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the accessory dwelling unit or primary dwelling that ensure the accessory dwelling unit and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(E) If the tenancy in common agreement is recorded after December 31, 2021, it shall also include all of the following:

(i) Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

(ii) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

(iii) Procedures for dispute resolution among the parties before resorting to legal action.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(Amended by Stats. 2021, Ch. 343, Sec. 3. (AB 345) Effective January 1, 2022.)

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To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director, California Coastal Commission
Date: January 21, 2022

RE: Updates Regarding the Implementation of New ADU Laws

I. Introduction

California's ongoing housing crisis continues to exacerbate housing inequity and affordability, especially in the coastal zone. To address this critical issue, the state Legislature has enacted a number of laws in the last several years that are designed to reduce barriers to providing housing and to encourage construction of additional housing units in appropriate locations. To this end, the 2019 legislative session resulted in a series of changes to state housing laws that facilitate the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), which can help provide additional housing units that can be more affordable than other forms of market rate housing. Importantly, the changes did not modify existing provisions of state housing law that explicitly recognize that local governments must still abide by the requirements of the Coastal Act, and by extension, Local Coastal Programs (LCPs). Thus, provisions on coastal resource protection must be incorporated into the planning and development process, and into updated LCP J/ADU requirements, when considering J/ADUs in the coastal zone.

The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing.

The Coastal Commission has previously circulated three memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of J/ADUs. These memos have raised some questions for local governments, including the manner in which they are to be understood together. In order to address this issue, and to reflect lessons learned regarding J/ADU regulation in the coastal zone in the past few years, this updated memo supersedes and replaces these prior memos. This updated memo also elaborates on the changes to state housing laws that went into effect on January 1, 2020 and provides further information to help local governments harmonize these laws with the Coastal Act. This memo will briefly discuss the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding J/ADUs, how local governments can streamline J/ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for J/ADU

provisions are undertaken. This memo is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is responsible for Coastal Act review of J/ADUs in most areas that are not subject to a fully certified LCP. Local governments that have questions about specific circumstances not addressed in this memo should contact the appropriate district office of the Commission.

II. Coastal Act Authority Regarding Housing in the Coastal Zone

The Coastal Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law "with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted." (Pub. Res. Code § 30007.) The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)) but states that "[n]o local coastal program shall be required to include housing policies and programs. (Pub. Res. Code § 30500.1.) Finally, new residential development must be "located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it" or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.)

While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of J/ADUs. The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.

III. Overview of New Legislation

As of January 1, 2020, AB 68, AB 587, AB 881, AB 670, AB 671, and SB 13 collectively updated existing Government Code Sections 65852.2 and 65852.22 concerning local government review and approval of J/ADUs, and as of January 1, 2021, AB 3182 further updated the same laws, with the goal of increasing statewide availability of smaller, and potentially more affordable, housing units. Importantly, some of the changes affect local governments in the coastal zone and are summarized below.

- Local governments continue to have the discretion to adopt J/ADU provisions that are consistent with state law, and they may include specific requirements for protecting coastal resources and addressing issues such as design guidelines and protection of historic structures.

- Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the

provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) However, existing J/ADU provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified. Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP, including, for example, by ensuring that new J/ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas and wetlands, or in areas where the J/ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over the structure's lifetime.

- A major change to Section 65852.2 is that the California Department of Housing and Community Development (HCD) now has an oversight role to ensure that local J/ADU provisions are consistent with state law. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h)(3).) To ensure a smooth process, local governments should submit their draft J/ADU provisions to HCD and Coastal Commission staff to review for housing law and Coastal Act consistency before they are adopted locally and should continue to foster a three-way dialogue regarding any potential issues identified. Additionally, Coastal Commission and HCD staff meet regularly to discuss and resolve any issues that arise in the development of J/ADU provisions in the coastal zone. The Commission continues to prioritize J/ADU LCP amendments, and some may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); 14 Cal. Code Regs. § 13554.)

- In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create J/ADUs, regardless of whether the local government has adopted updated J/ADU provisions. (Gov. Code § 65852.2(a)(3).) In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline J/ADU processes as much as feasible.

Other recent legislative changes clarify that local J/ADU provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a J/ADU

ordinance, all of which set the "maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling." (Gov. Code § 65852.2(a)(6).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions (see below).

IV. General Guidance for Reviewing J/ADU Applications

The following section lays out the general permitting pathway in which local governments can process J/ADU applications in a manner that is consistent with Coastal Act requirements and LCP provisions.

1) Check prior CDP history for the site.

Determine whether a CDP or other form of Coastal Act/LCP authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP and/or authorization affects the applicant's ability to apply for a J/ADU.

2) Determine whether the proposed J/ADU constitutes "development."

As defined by the Coastal Act, development refers to both "the placement or erection of any solid material or structure" on land as well as any "change[s] in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.) Most J/ADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached J/ADU, or conversion of an existing, uninhabitable, attached or detached space to a J/ADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the "placement or erection of solid material," and the conversion of existing, uninhabitable space would generally constitute a "change in the density or intensity of use." Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code § 30600.)

Unlike new construction, the conversion of an existing, legally established habitable space to a J/ADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development (and thus does not require Coastal Act or LCP authorization) is the conversion of an existing bedroom within a primary structure.

Previously circulated Commission J/ADU memos (being superseded and replaced by this memo) indicated that construction or conversion of a J/ADU contained within or directly attached to an existing single-family residence (SFR) may qualify as development that was exempt from the requirement to obtain a CDP. Specifically, the Coastal Act and the Commission's implementing regulations identify certain improvements to existing SFRs that are allowed to be exempted from CDP requirements (Pub. Res. Code § 30610(a); 14 Cal. Code Regs § 13250.) Although the Commission has previously certified some LCP amendments that permitted certain exemptions for such ADU development, in a recent action, the Commission reevaluated its position and found that "the creation of a self-contained living unit, in the form of an ADU, is not an 'improvement' to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property." [1] On this basis, and based on the finding that a variety of types of J/ADUs—including both attached and detached J/ADUs—could have coastal resource impacts that make exemptions inappropriate, it rejected the local government's proposed exemptions for certain J/ADUs. Local governments considering updating LCP J/ADU provisions should consider the Commission's recent stance regarding exemptions for ADUs and may work with Commission staff to determine the best way to proceed on this issue.

3) If the proposed J/ADU constitutes development, determine whether a CDP waiver or other type of expedited processing is appropriate.

If a local government's LCP includes a waiver provision, and the proposed J/ADU meets the criteria for a CDP waiver, the local government may issue a CDP waiver for the proposed J/ADU. The Commission has generally allowed a CDP waiver for proposed J/ADUs if the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed J/ADU project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is not impacted, etc.). (*See* Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a reduced evaluation framework and streamlined approval.

Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission's regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under the state's J/ADU provisions, public hearings are not required for qualifying development.

[1] See Coastal Commission staff report, pp. 16-17 (Commission acted on this item on December 17, 2021).

Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP. Any LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are appropriate procedures for notifying the public and the Commission regarding approvals of individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.

The Coastal Act also provides for other streamlined processing for certain types of development, including for minor development. (Pub. Res. Code § 30624.9.) In certain cases, categories of development can also be excluded from CDP requirements if certain criteria are met (see box). In any case, local governments without such CDP waiver and other processing and streamlining tools are encouraged to work with Commission staff to amend their LCP to include such measures.

Coastal Act section 30610(e) allows certain categories of development that are specified in Commission-approved Categorical Exclusion (Cat Ex) Orders to be excluded from CDP requirements, provided that the category of development has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. (See also 14 Cal. Code Regs §§ 13240 et seq.)

Cat Ex Orders apply to specific types of development within identified geographical locations. For example, the Commission may approve a Categorical Exclusion for J/ADUs that would normally require a CDP (i.e., it is defined as development) because that specific development type in that specific geographic area can be demonstrated to not result in individual and/or cumulative coastal resource impacts. Cat Ex Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately adjacent to the inland extent of any beach; lots immediately adjacent of the mean high tide line of the sea where there is no beach; and public trust lands.

Cat Ex Orders provide another potential means of streamlining J/ADU consideration, and interested local governments should consult with Commission staff if they intend to propose such an Order. Cat Ex Orders are processed separately from LCP amendments, require a 2/3 vote of the Commission to be approved, and are typically subject to conditions. Once approved, the local government is responsible for reviewing development that might be subject to the Cat Ex Order and is typically required to report any exclusions applied pursuant to the Order to the Commission for review by the Executive Director and for an appeal period before they can become effective. It is important to note that while Cat Ex Orders can be a powerful tool if approved, the Commission must be able to conclude that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resources impacts in order to approve one. Thus, the local government pursuing a Cat Ex Order must provide supporting documentation and evidence that can conclusively show that to be the case.

4) If a full CDP is required, review CDP application for consistency with certified LCP requirements.

If a proposed J/ADU constitutes development and cannot be processed as a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government must then provide the required public notice for any CDP applications for J/ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law, if feasible. However, local governments are not required to hold a public hearing on CDPs for ADUs. (Gov. Code § 65852.2(l).) Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the CDP is appealable, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

V. Key Considerations

Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act. This section addresses some of the key issues that the Commission has dealt with recently, including public coastal access parking requirements and protection of sensitive habitats and visual qualities. Local governments are encouraged to contact their local Coastal Commission district office for further assistance.

Protection of public recreational access in relation to parking requirements

Government Code Section 65852.2 requirements regarding parking for J/ADUs are as follows:

a. One parking space is required per unit or per bedroom, whichever is less. The parking space can be a tandem space in an existing driveway.

b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, no replacement parking space(s) are required.

However, Section 65852.2 further stipulates that the parking requirements listed above do not apply to ADUs constructed:

a. Within ½ mile walking distance of public transportation stops/routes;

b. Within a historic district;

c. Within a primary residence or accessory structure;

d. When on-street parking permits are required but not offered to the occupant of the ADU;

e. And where a car-share vehicle is located within one block of the ADU.

Thus, the Government Code limits the circumstances when a local government can require a J/ADU project to address its parking needs onsite. This is a departure from most local government parking requirements which often explicitly specify the number of off-street parking spaces that must be provided onsite in any particular development, including residential development. The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

Protection of sensitive habitats and visual qualities; avoidance of hazards

While most J/ADU projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed J/ADU provisions are not structured to undo any such LCP protections that already apply. J/ADUs may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, J/ADUs must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for J/ADUs constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the J/ADU, and any other risk-related issues dealt with in the LCP).

VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new J/ADU provisions. Coastal Commission staff reports are linked below, which summarize specific issues that arose between Coastal Act requirements and the new J/ADU provisions as well as the necessary changes that were made in order to harmonize each jurisdiction's LCP with the State's housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission.

City of Santa Cruz (approved May 2021). This LCP amendment included clarifying language to address which provisions of the new state housing laws applied to ADUs in the coastal zone of the City of Santa Cruz as well as ensuring that the coastal resource protection provisions of the City's current LCP are maintained. The amendment also addressed specific off-street parking requirements for ADUs sited near significant coastal visitor destinations. The City of Santa Cruz adopted the Commission's modifications in August 2021.

City of Pacifica (approved June 2021). This LCP amendment revised the City's Implementation Plan to incorporate J/ADU provisions that are in line with the updated state housing laws, including streamlined procedures for J/ADU review and permitting processing, providing J/ADU development standards, and crafting tailored modifications to address specific public access parking needs in key visitor destination areas. The City of Pacifica adopted the Commission's modifications in August 2021.

County of San Mateo (approved July 2021). This LCP amendment incorporated more specific ADU regulations relating to size limits, maximum number of J/ADUs permitted per lot, streamlined review and process of J/ADU permits, and parking availability in areas that are

significant coastal visitor destinations. The County of San Mateo adopted the Commission's modifications in September 2021.

City of Encinitas (approved August 2021). The Coastal Commission approved revisions to the City of Encinitas' Implementation Plan that updated existing definitions for ADUs and JADUs and clarified development standards for accessory units, including standards for size, height, and setbacks.

City of Santa Barbara (approved December 2021). The Coastal Commission approved Commission staff's revision of the City of Santa Barbara's LCP amendment submittal addressing updated ADU provisions to be consistent with state housing laws. The amendment revised J/ADU terms and definitions, building standards, parking requirements, and permitting review and processing procedures. The staff report included modifications that address the CDP exemption issue (discussed above).

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