

RESOLUTION NO. 2019-037

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA INITIATING A TEXT AMENDMENT AND RECOMMENDING CITY COUNCIL APPROVAL OF TEXT AMENDMENT TA-117-19 TO AMEND ARTICLE 4.5 OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE AND AMEND OTHER RELATED PACIFICA MUNICIPAL CODE PROVISIONS TO INCORPORATE CALIFORNIA LAW UPDATES RELATED TO ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT CONSTRUCTION (FILE NO. 2019-031) AND FINDING THE TEXT AMENDMENT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Initiated by: Planning Commission

WHEREAS, the California Legislature enacted Senate Bill 13 (Wieckowski) ("SB 13"), Assembly Bill 68 (Ting) ("AB 68") and Assembly Bill 881 (Bloom) ("AB 881") in that order, effective January 1, 2020, amending Sections 65852.2 and 65852.22 of the Government Code and adding Section 17980.12 to the Health and Safety Code pertaining to local regulation of accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU) construction; and

WHEREAS, Section 65852.2 and 65852.22 of the Government Code govern certain areas of the law relating to ADU and JADU construction, respectively; and

WHEREAS, Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code ("Article 4.5") regulates ADU construction in the City of Pacifica; and

WHEREAS, no current ordinance permits or regulates JADU construction in the City of Pacifica; and

WHEREAS, Article 4.5 is not consistent with Sections 65852.2 and 65852.22 of the Government Code, and the Planning Commission recommends that the City Council of the City of Pacifica should amend Article 4.5 with an ordinance that complies with Sections 65852.2 and 65852.22 of the Government Code in order to retain local control over ADU and JADU construction; and

WHEREAS, the Planning Commission further recommends that the City Council of the City of Pacifica should make various amendments to other zoning provisions to ensure consistency with Sections 65852.2 and 65852.22 of the Government Code and Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed changes to Article 4.5 and other zoning amendments on December 16, 2019.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

3. The proposed amendments recommended by the Planning Commission are consistent with the City's General Plan and Local Coastal Land Use Plan.

4. The Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to the statute (Public Resources Code Section 21000, et seq.) and the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.), including without limitation under section 15282(h) of the CEQA Guidelines pertaining to "[t]he adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code," and under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment. Furthermore, development of certain accessory dwelling units and junior accessory dwelling units that would result from this Ordinance would be further exempt from CEQA under Class 1,2, and/or 3 categorical exemptions as detailed in CEQA Guideline Sections 15301 through 15303 because the development of an accessory dwelling unit or junior accessory dwelling unit would occur within existing facilities, would include the replacement or reconstruction of an existing facility, or would be associated with new construction of a single-family dwelling.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby intend to initiate an amendment of Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code and an amendment of other related Pacifica Municipal Code provisions to incorporate amendments to California law related to ADU and JADU construction as provided in Exhibit A to this Resolution.

* * * * *

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 16th day of December, 2019.

AYES, Commissioners: Clifford, Campbell, Berman, Kraske, Nibbelin, Bigstycck

NOES, Commissioners: Rubinstein

ABSENT, Commissioners: None

ABSTAIN, Commissioners: None



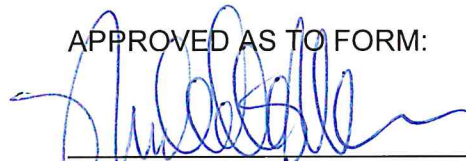
Thomas Clifford, Chair

ATTEST:



Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING ARTICLE 4 OF CHAPTER 4 (R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT); AMENDING ARTICLE 4.5 OF CHAPTER 4 (ACCESSORY DWELLING UNITS); AMENDING ARTICLE 5 OF CHAPTER 4 (R-2 TWO-FAMILY RESIDENTIAL DISTRICT); AMENDING ARTICLE 6 OF CHAPTER 4 (R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT); AMENDING ARTICLE 10 OF CHAPTER 4 (C-1 NEIGHBORHOOD COMMERCIAL DISTRICT); AMENDING ARTICLE 11 OF CHAPTER 4 (C-2 COMMUNITY COMMERCIAL DISTRICT); AMENDING ARTICLE 22 OF CHAPTER 4 (PLANNED DEVELOPMENT DISTRICT (P-D)); AMENDING ARTICLE 23 OF CHAPTER 4 (GENERAL PROVISIONS AND EXCEPTIONS); AMENDING ARTICLE 30 OF CHAPTER 4 (NONCONFORMING LOTS, STRUCTURES, AND USES); AMENDING ARTICLE 32 OF CHAPTER 4 (SITE DEVELOPMENT PERMITS); AMENDING ARTICLE 34 OF CHAPTER 4 (VARIANCES); AMENDING ARTICLE 43 OF CHAPTER 4 (COASTAL ZONE COMBINING DISTRICT), AMENDING CHAPTER 5 (GROWTH CONTROL), AND AMENDING CHAPTER 7 (HISTORIC PRESERVATION) OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE (TEXT AMENDMENT TA-117-19), AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) (FILE NO. 2019-031)

WHEREAS, the California Legislature enacted Senate Bill 13 (Wieckowski) (“SB 13”), Assembly Bill 68 (Ting) (“AB 68”) and Assembly Bill 881 (Bloom) (“AB 881”) in that order, effective January 1, 2020, amending Sections 65852.2 and 65852.22 of the Government Code and adding Section 17980.12 to the Health and Safety Code pertaining to local regulation of accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU) construction; and

WHEREAS, Section 65852.2 and 65852.22 of the Government Code govern certain areas of the law relating to ADU and JADU construction, respectively; and

WHEREAS, Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (“Article 4.5”) regulates ADU construction in the City of Pacifica; and

WHEREAS, no current ordinance permits or regulates JADU construction in the City of Pacifica; and

WHEREAS, certain provisions of Article 4.5 are not consistent with Sections 65852.2 and 65852.22 of the Government Code, and the City Council of the City of Pacifica desires to amend Article 4.5 with an ordinance that complies with Section 65852.2 and 65852.22 of the Government Code in order to retain local control over ADU and JADU construction; and

WHEREAS, the City Council of the City of Pacifica further desires to make various amendments to other zoning provisions to ensure consistency with Section 65852.2 and 65852.22 of the Government Code and Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed changes to Article 4.5 and other zoning amendments on December 16, 2019, and adopted Resolution No. 2019-037 initiating and recommending City Council approval of Text Amendment TA-117-19 on December 16, 2019; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on the proposed changes to Article 4.5 and other zoning amendments on _____, 2020, and introduced Ordinance No ### on the same date.

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Amendment. Sections 9-4.401(a) and (9-4.402(o) of Article 4 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-1 Single-Family Residential District) are hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec. 9-4.401. - Permitted and conditional uses.

(a) *Permitted uses.* The following uses shall be permitted in the R-1 District:

- (1) One single-family dwelling per lot;
- (2) Accessory buildings and uses;
- (3) Child day care homes for twelve (12) children or less;
- (4) Special care facilities for six (6) or fewer persons;
- (5) Manufactured homes consistent with Chapter 14 of Title 8 of this Code;
- (6) Indoor or outdoor cultivation of cannabis for personal use as an accessory use to a primary dwelling unit, subject to the standards contained in Article 48 of this chapter; and
- (7) Accessory dwelling units and junior accessory dwelling units ~~on sites that include a proposed or existing attached or detached single family dwelling~~, subject to the standards of Article 4.5.

* * * * *

Sec. 9-4.402. - Development regulations.

Development regulations in the R-1 District shall be as follows:

* * * * *

(o) Notwithstanding the provisions of this section, the development regulations for accessory dwelling units and junior accessory dwelling units shall be those set forth in Article 4.5.”

* * * * *

Unless otherwise identified herein all remaining sections of Article 4 of Chapter 4, Title 9 shall be unchanged.

Section 3. Amendment. Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Accessory Dwelling Units) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec. 9-4.451. - Purpose.

The City Council finds and declares its intent as follows:

- (a) To enact regulations governing accessory dwelling unit and junior accessory dwelling unit construction in compliance with Section 65852.2 and Section 65852.22 of the Government

Code. The provisions of this article shall be liberally construed in order to accomplish development of accessory dwelling units- and junior accessory dwelling units. In the event of a conflict between the provisions of this article and any other ordinance of the City of Pacifica regulating accessory dwelling units or junior accessory dwelling units, the provisions of this article shall prevail.

- (b) To establish a process for ministerial review and approval of accessory dwelling units and junior accessory dwelling units. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an accessory dwelling unit or junior accessory dwelling unit.
- (c) To mitigate a widespread and ongoing shortage of affordable housing within the City. The United States Census Bureau's ~~2011~~2013-2015-2017 American Community Survey estimates that ~~forty-six~~four (4644%) percent of renter households in Pacifica pay thirty (30%) percent or more of their household income for housing-related expenses. The Census Bureau considers households that pay thirty (30%) percent or more of their household income for housing-related expenses as "cost burdened";
- (d) To provide for additional housing supply without converting Pacifica's open space areas into developed sites. More than thirty (30%) percent of the City of Pacifica's twelve and six-tenths (12.6) square mile land area is preserved as permanent open space, resulting in a limited supply of developable vacant sites for the construction of new housing units in the City. Accessory dwelling unit and junior accessory dwelling unit construction, by creating new housing units within existing neighborhoods, can expand access to affordable housing while avoiding significant environmental impacts associated with traditional residential development on vacant sites;
- (e) To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects;
- (f) To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, accessory dwelling units allow family members or other child care providers to reside in close proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs;
- (g) To provide for convenient elder care opportunities within residential neighborhoods. Accessory dwelling units and junior accessory dwelling units enable multi-generational living on a common site. The United States Census Bureau's ~~2011~~2013-2015-2017 American Community Survey estimates that ~~fourteen~~thirteen (1413%) percent of Pacifica's population is sixty-five (65) years or older, an increase from eleven (11%) percent in 2010. As Pacifica's population ages, accessory dwelling units and junior accessory dwelling units allow family members or other caregivers to reside in close proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, accessory dwelling units and junior accessory dwelling units will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility;
- (h) To provide supplemental income opportunities to those living on fixed incomes in retirement. Accessory dwelling units and junior accessory dwelling units may provide an important source of rental income to many property owners, especially those who are retired. The United States Government Accountability Office, in its report "Retirement Security: Most Households Approaching Retirement Have Low Savings" (Report No. GAO-15-419), estimated that in 2013, fifty-two (52%) percent of households age fifty-five (55) years and older had no retirement savings in a defined contribution plan or individual retirement account, and that Social Security

provides most of the retirement income for about half of households age sixty-five (65) years and older. The report also found that among the forty-eight (48%) percent of households age fifty-five (55) years and older with some retirement savings, the median amount is approximately One Hundred and no/100ths (\$109,000.00) Dollars, or equivalent to an inflation-protected annuity of Four Hundred Five and no/100ths (\$405.00) Dollars per month at current rates for a sixty-five-year old. The report further found that nearly thirty (30%) percent of households age fifty-five (55) years and older have neither retirement savings nor a defined benefit plan, and that Social Security is the largest component of household income in retirement, making up an average of fifty-two (52%) percent of household income for those age sixty-five (65) years and older. Based on United States Census Bureau ~~2011-2013-2015~~ 2017 American Community Survey estimates, the median rent in Pacifica in ~~2015-2017~~ 2015-2017 was ~~One Thousand Eight Hundred Seventy Five~~ Two Thousand One Hundred Ten and no/100ths (~~\$1,8752,110.00~~) Dollars per month. The addition of income from the long-term rental of an accessory dwelling unit or a junior accessory dwelling unit could meaningfully strengthen the finances of retired persons or those nearing retirement;

- (i) To preserve affordable housing opportunities within accessory dwelling units and junior accessory dwelling units. An analysis of listings on the short-term rental site Airbnb in ~~October~~ November 2019 found ~~seventy-two~~ two hundred sixty-nine (7269) accommodations listed within the City of Pacifica, ~~fifty-seven~~ sixty-two (5762%) percent of which offered for rent an entire house ~~or apartment~~. The average price per night for the listed accommodations was One Hundred ~~Seventy-Five~~ Forty-Three and no/100ths (~~\$173157.00~~) Dollars per night, equivalent to a monthly rent of ~~Five-Four~~ Four Thousand ~~One-Seven~~ One Hundred ~~Ninety-Ten~~ and no/100ths (~~\$5,1904,710.00~~) Dollars. According to the United States Census Bureau's ~~2011-2013-2015-2017~~ 2017 American Community Survey estimates, median monthly rent during ~~2015-2017~~ 2015-2017 was ~~Two Thousand One Hundred Ten~~ One Thousand Eight Hundred Seventy Five and no/100ths (~~\$1,8752,110.00~~) Dollars, equivalent to ~~Sixty-two and 50~~ Seventy and 33/100ths (\$6270.5339) Dollars per night. Even if rented fewer than thirty (30) days per month, the potential to yield significantly greater rents from short-term rentals of residential property than from long-term rental provides a strong financial incentive to remove housing from the long-term rental market in favor of offering it for rent in the short-term rental market. In order to conform to state law and preserve public health, safety, and welfare by increasing access to affordable housing, the City Council desires to impose a prohibition on the short-term rental of accessory dwelling units and junior accessory dwelling units for periods less than thirty (30) days in order to preserve their use for long-term residential occupancy.
- (j) To preserve public health and safety by prohibiting attached and detached accessory dwelling units at sites fronted by unpaved streets or streets with widths of twenty-six (26') feet or less. Appendix D of the 2016 California Fire Code, adopted by ordinance by the City Council, establishes minimum street width and construction-type standards to ensure safe access by fire apparatus. Among other standards, Appendix D requires streets to be paved with asphalt, concrete, or another approved surface capable of supporting the load of fire apparatus weighing at least seventy-five thousand (75,000) pounds. It further requires streets to be at least twenty (20') feet in width and prohibits on-street parking on streets twenty-six (26') feet or less in width. Appendix D allows on-street parking on one side of streets greater than twenty-six (26') feet but less than thirty-two (32') feet in width. In order to preserve public safety, it is necessary to prohibit attached and detached accessory dwelling unit construction on unpaved streets and on streets where Appendix D of the 2016 California Fire Code prohibits on-street parking. Such a prohibition is necessary because accessory dwelling unit construction will generate intensified demand for on-street parking. Increased demand for on-street

parking may result because off-street parking facilities may be unavailable to offset the demand, and because no mechanism exists to limit the number of automobiles owned by households occupying accessory dwelling units. In particular, accessory dwelling units located within one-half (½) mile of transit generally will not have sufficient off-street parking facilities because the City is prohibited under state law from requiring off-street parking for such accessory dwelling units (see Gov. Code §§ 65852.2(d), (e)). Additionally, households occupying accessory dwelling units located elsewhere may own more vehicles than can be accommodated in the off-street parking facilities the City is permitted to require for accessory dwelling units under state law (not more than one space per bedroom or per unit, whichever is less; see Gov. Code § 65852.2(a)(1)(D)(x)(I)). Therefore, it is possible and likely that accessory dwelling unit construction on streets twenty-six (26') feet or less in width could result in increased on-street parking demand. On-street parking on streets of inadequate width has the potential to narrow or obstruct the path of travel of fire apparatus and other emergency vehicles, delaying response time and endangering public safety.

Sec. 9-4.452. - Definitions.

For the purposes of this article, certain words and terms are hereby defined as follows:

- (a) "Accessory dwelling unit" or "ADU" shall mean an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and is located on the same site as an existing primary dwelling unit 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 multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:
- (1) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
 - (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- An accessory dwelling unit shall not include a junior accessory dwelling unit.
- (b) "Accessory structure" shall mean a structure that is accessory and incidental to a dwelling located on the same site.
- (~~b~~c) "Car share vehicle" shall mean a fixed location identified in a map available to the general public where at least one automobile is available daily for immediate use by the general public or members of a car share service, which vehicle may be reserved for use and accessed at any time through an automated application, kiosk, or other method not requiring a live attendant. This term shall not include vehicles returned to locations other than fixed locations where automobiles are not routinely available for immediate use.
- (~~e~~d) "Cooking facilities" shall mean an area containing all of the following: a refrigeration appliance; ~~and~~, a kitchen sink; a food preparation counter and storage cabinets; and a cooking appliance, each having a clear working space of not less than thirty (30") inches in front. For purposes of this article, "cooking appliance" shall include any appliance capable of cooking food, including, without limitation, a range, stove, oven, toaster oven, microwave, or hot plate.
- (~~e~~e) "Efficiency unit" shall have the meaning as defined in Section 17958.1 of Health and Safety Code.
- (f) "Existing space" shall mean all enclosed areas contained within the exterior walls and roof of a dwelling unit or accessory structure.
- (g) "Independent living facilities" shall mean all of the following facilities within a single accessory dwelling unit or junior accessory dwelling unit: permanent provisions for sleeping, eating, cooking, and sanitation.
- (h) "Junior accessory dwelling unit" or "JADU" shall mean a unit that is contained entirely within a single-family dwelling, or which is combined with a newly-constructed detached accessory dwelling unit, and which provides complete independent living facilities for one or more

- persons. However, sanitation facilities may be shared with the associated single-family dwelling unit.
- (fi) —“Multi-family dwelling” shall have the same meaning set forth for “Multiple Dwelling” in Article 2 of this Chapter, and shall also include a Two-Family Dwelling and any mixed use structure containing commercial floor area and one or more dwelling units. “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.
- (gj) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (hk) “Primary dwelling unit” means the first lawfully constructed single-family dwelling unit or multi-family dwelling unit that exists on a site.
- (li) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (im) “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. shall mean a defined transit station or stop identified in a map available to the general public, at which station or stop daily transit services are available and offered, and where passengers, without a reservation, may board and disembark from a vehicle used in the public transit system, including without limitation a motor vehicle, streetcar, trackless trolley, bus, light rail system, rapid transit system, subway, train, or jitney, that transports members of the public for hire.
- (1) If Section 65852.2 of the Government Code is amended subsequent to the effective date of this article to expressly permit the City to define "public transit" inclusive of a minimum level of transit service, then the following definition shall replace the preceding definition in subsection (im): "Public transit" shall mean a defined transit station or stop, with a regular service interval no longer than thirty (30) minutes during peak commute hours from 6:00—9:00 a.m. and 3:00—6:00 p.m. Monday through Friday, identified in a publicly available map where passengers, without a reservation, may board and disembark from a vehicle used in the public transit system, including, without limitation, a motor vehicle, streetcar, trackless trolley, bus, light rail system, rapid transit system, subway, train, or jitney, that transports members of the public for hire.
- (jn) "Sanitation facilities" shall mean a separate room containing a water closet (i.e., toilet), lavatory (i.e., sink), and bathtub or shower.
- (ko) "Site" shall mean a lawfully-created lot or parcel.
- (lp) "Sleeping facilities" shall mean an area dedicated to sleeping.
- (mq) "Tandem parking" shall mean that two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (r) “Two-Family Dwelling” shall mean a building, or portion thereof, used and designed as a residence for two (2) families living independently of each other and doing their own cooking in such building, including duplexes.

Sec. 9-4.453. - Development standards for Accessory Dwelling Units.

- (a) *General provisions.* The following provisions shall apply to all accessory dwelling units:
- (1) An accessory dwelling unit shall not be constructed unless a primary dwelling unit exists on a site and such primary dwelling unit has been constructed lawfully, or the accessory dwelling unit is proposed as part of the construction of the primary dwelling unit.

- (i) ~~A site shall contain no more than one~~ certificate of occupancy for an accessory dwelling unit shall not be issued before the certificate of occupancy for the primary dwelling unit is issued.
- (2) The maximum number of accessory dwelling units permitted on a site shall be as follows:
 - (i) One (1) accessory dwelling unit is permitted on a site with a proposed or existing single-family dwelling. A site with a proposed or existing single-family dwelling may also contain one (1) junior accessory dwelling unit pursuant to section 9-4.454 in addition to the one (1) accessory dwelling unit.
 - (ii) On a site with an existing multi-family dwelling, the maximum number of accessory dwelling units shall be as follows:
 - (aa) One (1) accessory dwelling unit or the equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units, whichever is greater, for accessory dwelling units described in subsection (f); and
 - (ab) Two (2) accessory dwelling units as described in subsection (g).
 - (iii) For purposes of this article, a "second unit," "granny flat," "in-law apartment," or similar structure or improvement permitted and constructed in accordance with applicable laws in effect at the time of its construction shall be considered an "accessory dwelling unit" for all purposes. If an accessory dwelling unit permitted and constructed prior to the effective date of this article does not conform to all standards prescribed in this article, the accessory dwelling unit shall be considered nonconforming but lawful, and shall be subject to the provisions of Section 9-4.453(ki) governing nonconforming accessory dwelling units.
- (3) An accessory dwelling unit may be constructed between a primary dwelling unit and a site's front property line, or in any other location on a site, subject to the standards in this article.
- (4) An accessory dwelling unit shall become the primary dwelling unit on a site if the original primary dwelling unit is demolished or determined to be uninhabitable, and is not replaced or made habitable within one year of its demolition or the determination that it is uninhabitable, or if the primary dwelling unit proposed for construction concurrently with an accessory dwelling unit is not constructed.
 - (i) In such case where an accessory dwelling unit becomes the primary dwelling unit, it shall remain so, and be considered a nonconforming but lawful structure if it fails to comply with any zoning standards applicable to a primary dwelling unit in the underlying zoning district, until such time as a new structure compliant with all zoning standards applicable to a primary dwelling unit in the underlying zoning district, is lawfully constructed or otherwise created on the site. Except, however, that in the case where a primary dwelling unit proposed for construction concurrently with an accessory dwelling unit is not constructed, a certificate of occupancy shall not be issued for the accessory dwelling unit until such time as it complies with all requirements for a primary dwelling unit.
- (5) ~~The site's owner may at any time offer for rent either the primary dwelling unit or the accessory dwelling unit or both. The site's owner shall be required to reside in the primary dwelling unit as its primary residence at any time while the accessory dwelling unit is occupied by a tenant.~~
 - (i) ~~A site's owner shall not allow occupancy of an accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy of the primary dwelling unit as its primary residence.~~

- (6) ~~An accessory dwelling unit may be rented~~ If any accessory dwelling unit is rented, terms of rental shall not be less than ~~but shall not be used for rentals of terms less than thirty (30) consecutive days.~~
- (7) An accessory dwelling unit shall not be sold or otherwise conveyed separate from the primary dwelling unit.
- (i) No subdivision of a site containing an accessory dwelling unit may be approved unless all of the following conditions are met: the lots proposed by the subdivision comply with all applicable development standards of the underlying zoning district for a lot containing a primary dwelling unit, including, without limitation, minimum lot area per dwelling unit and setbacks, or a deviation from the standards is granted; if a condominium subdivision, the zoning designation of the site allows two (2) or more primary dwelling units as a permitted use, or if a conditional use, a use permit is granted prior to or in conjunction with the subdivision; and the accessory dwelling unit on the site complies, or provisions are made to bring the accessory dwelling unit into compliance, with all development standards applicable to a primary dwelling unit in the underlying zoning district, including, without limitation, dwelling unit size, setbacks and off-street parking.
- (8) Nothing in this article shall be construed to supersede or in any way alter or lessen the effect of any other provision of this chapter requiring issuance of a discretionary permit for construction of the primary dwelling unit prior to issuance of a building permit. The discretionary review of the primary dwelling unit shall not include consideration of the propriety of an accessory dwelling unit use at the site in the future, ~~but may consider the physical characteristics of how the site may accommodate a future accessory dwelling unit use as they pertain to objective development standards, other than parking, including, without limitation, lot coverage, floor area ratio, landscaping, and distance between structures.~~
- (9) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (10) ~~All accessory dwelling units shall have an exterior point of access that is separate and independent from the primary dwelling unit, including, without limitation, an accessory dwelling unit established within the space of an existing primary dwelling unit or an existing accessory structure.~~ Any accessory dwelling unit may have an interior point of access connecting the primary dwelling unit and accessory dwelling unit provided it is possible for the occupants of both the primary dwelling unit and the accessory dwelling unit to independently secure the point of access to prevent unauthorized entry by occupants of the other dwelling unit.
- ~~(11) An accessory dwelling unit constructed or established within the minimum side or rear setback of the underlying zoning district shall not contain doors, windows, or other openings facing the property line for which the minimum setback has not been satisfied. Skylights or other similar openings designed to provide natural light within the accessory dwelling unit shall be permitted if constructed entirely within the roof of the accessory dwelling unit.~~
- ~~(1211)~~ A building permit shall be required to construct an accessory dwelling unit or to establish an accessory dwelling unit within the existing space of a single-family residence ~~primary dwelling unit~~ or accessory structure. Occupancy of an accessory dwelling unit shall be prohibited until the accessory dwelling unit receives a successful final inspection pursuant to a valid building permit and receives a certificate of occupancy issued on or after the date of the successful final inspection.
- ~~(12)~~ Occupancy of an accessory dwelling unit shall be prohibited until the accessory dwelling unit receives a separate and independent address assignment. Address assignment shall not delay issuance of a building permit.

- (b) *Zoning districts where permitted.* An accessory dwelling unit shall be a permitted use, subject to the standards contained in this article, on any site zoned for residential use as a permitted use, or any site zoned for commercial use which authorizes residential use as a permitted use or for which a permit has been issued to authorize a residential use, and which site includes a proposed or existing attached or detached single-family dwelling or an existing multi-family dwelling. An accessory dwelling unit shall be prohibited on any other site.
- (1) *Sites zoned P-D (Planned Development).* The provisions of subsection (b) shall apply to sites zoned P-D (Planned Development) where the approved development plan indicates ~~attached or detached single-family residential development of the site~~ use as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Planning Administrator may determine that a site was intended for ~~single-family residential development~~ use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.
- (c) *Detached accessory dwelling units ~~from single-family dwelling units.~~* The provisions of this subsection shall apply to a newly constructed accessory dwelling unit from new construction that is detached from a primary single-family dwelling unit and all accessory structures including, without limitation, garages and storage areas. The provisions of this subsection shall not apply to new construction of a detached accessory dwelling unit replacing an existing accessory structure within the same location and same dimensions, including an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing accessory structure.
- (1) *Floor area.* The minimum and maximum floor area of a detached accessory dwelling unit shall be as follows:
- (i) *Minimum.* At least an efficiency unit to be constructed in compliance with local development standards.
 - (ii) *Maximum.* Total floor area shall not exceed one thousand two hundred (1,200) square feet.
- (2) *Setbacks.*
- (i) *Front.* Minimum front setback shall be fifteen (15') feet.
 - (ii) *Side.* Minimum side setback shall be ~~five (5')~~ four (4') feet. ~~However, the minimum street-side setback of corner lots shall be ten (10') feet.~~
 - (iii) *Rear.* Minimum rear setback shall be ~~twenty (20') feet.~~ four (4') feet.
- (3) *Distance between structures .* ~~All portions of a detached accessory dwelling unit~~ that is greater than eight hundred (800) square feet in floor area shall be located at least ten (10') feet from any other building existing or under construction on the same site or an adjacent site. A detached accessory dwelling unit eight hundred (800) square feet in floor area or less shall require no minimum distance between structures. An accessory dwelling unit shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade such as a deck. Retaining walls and/or decking between an accessory dwelling unit and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.
- (4) *Height.* Maximum height shall be twenty-five (25') feet or the height of the primary dwelling unit, whichever is less. ~~However, the maximum height shall be sixteen (16') feet in the following instances: the height of the primary dwelling unit is less than sixteen (16') feet;~~ if any portion of a detached accessory dwelling unit is located between a primary dwelling unit and a site's front property line; ~~the maximum height shall be fifteen (15') feet or any portion of a~~

- detached accessory dwelling unit is located less than five (5') from the side lot line or less than ten (10') feet from the street-side lot line or less than twenty (20') feet from the rear lot line.
- (5) *Lot coverage.* A detached accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum lot coverage. Maximum lot coverage for a detached accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
- (6) *Landscaping.* A detached accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for a detached accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district. Minimum landscaped area on the site shall be that of the underlying zoning district. In addition, the front setback shall be landscaped and adequately maintained. Paving shall only be allowed on a driveway and pathways.
- (7) *Prohibited .* A detached accessory dwelling unit that is greater than eight hundred (800) square feet in floor area shall be prohibited on any site where, at any point along its frontage, including any secondary frontage on a corner lot, the street is unpaved or the street is twenty-six (26') feet or less in width. This standard shall not apply to a detached accessory dwelling unit eight hundred (800) square feet in floor area or less.
- (d) *Attached accessory dwelling units ~~to single-family dwelling units~~ .* The provisions of this subsection shall only apply to an accessory dwelling unit attached horizontally or vertically to a primary single-family dwelling unit structure or accessory structure, including, without limitation, a garage or storage areas. The provisions of this subsection shall not apply to new construction of an attached accessory dwelling unit replacing existing space of a single-family dwelling or accessory structure within the same location and same dimensions, including an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling or accessory structure.
- (1) *Floor area .* The minimum and maximum floor area of an attached accessory dwelling unit shall be as follows:
- (i) *Minimum .* At least an efficiency unit to be constructed in compliance with local development standards.
- (ii) *Maximum .* Total floor area for a studio or one bedroom accessory dwelling unit shall be eight hundred and fifty (850) square feet or not exceed more than fifty (50%) percent of the living floor area of the primary dwelling unit, and whichever is greater. Total floor area for an accessory dwelling unit that provides two or more bedrooms shall not in any instance exceed be one thousand two hundred (1,200) square feet. (1,000) square feet or not more than fifty (50%) percent of the floor area of the primary dwelling unit, whichever is greater.
- (2) *Setbacks.*
- (i) *Front.* Minimum front setback shall be fifteen (15') feet; except, where an accessory dwelling unit is constructed above a garage, the minimum front setback shall be twenty (20') feet.
- (ii) *Side .* Minimum side setback shall be five (5') feet. However, the minimum street side setback of corner lots shall be twenty (20') feet for an accessory dwelling unit constructed above a new garage, and ten (10') feet for any other accessory dwelling unit four (4') feet.
- (iii) *Rear .* Minimum rear setback shall be twenty (20') four (4') feet.
- (iv) ~~Notwithstanding subsections (i) through (iii), the minimum setbacks for an accessory dwelling unit that is constructed above a garage shall be twenty (20') feet from the front property line and five (5') feet from the side and rear property lines,~~

including the street side of corner lots. The provisions of this subsection shall apply only to an accessory dwelling unit constructed entirely above the footprint of a garage.

- (3) *Distance between structures* . ~~All portions of an attached accessory dwelling unit that is greater than eight hundred (800) square feet in floor area shall be located at least ten (10') feet from any other building existing or under construction on the same site or an adjacent site. A attached accessory dwelling unit eight hundred (800) square feet in floor area or less shall require no minimum distance between structures.~~ An accessory dwelling unit shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade such as a deck. Retaining walls and/or decking between an accessory dwelling unit and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.
- (4) *Height*. Maximum height shall be thirty-five (35') feet if attached to a primary dwelling unit; or the lesser of twenty-five (25') feet or the height of the primary dwelling unit if attached to an accessory structure. However, ~~if the maximum height shall be sixteen (16') feet in the following instances: the height of the primary dwelling unit is less than sixteen (16') feet; if any portion of an attached accessory dwelling unit that is attached to an accessory structure would be located between a primary dwelling unit and a site's front property line; or any portion of an attached accessory dwelling unit is located less than five (5') from the side lot line or less than ten (10') feet from the street-side lot line or less than twenty (20') feet from the rear lot line. the maximum height shall be fifteen (15') feet.~~
- (5) *Lot coverage* . ~~An attached accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no maximum lot coverage. Maximum lot coverage for an attached accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district. Maximum lot coverage shall be that of the underlying zoning district.~~
- (6) *Landscaping* . ~~An attached accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an attached accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district. Minimum landscaped area on the site shall be that of the underlying zoning district.~~ In addition, the front setback shall be landscaped and adequately maintained. Paving shall only be allowed on a driveway and pathways.
- (7) *Prohibited* . An attached accessory dwelling unit ~~that is greater than eight hundred (800) square feet in floor area shall be prohibited on any site where, at any point along its frontage, including any secondary frontage on a corner lot, the street is unpaved or the street is twenty-six (26') feet or less in width. This standard shall not apply to an attached accessory dwelling unit eight hundred (800) square feet in floor area or less.~~
- (e) *Accessory dwelling units contained within the existing space of a single-family residence dwelling structure or accessory structure*. The provisions of this subsection shall apply to accessory dwelling units established within the ~~existing~~ space of an existing ~~primary~~ single-family dwelling unit or an existing accessory structure, including without limitation an existing attached or detached garage, studio, pool house, or other similar structure, ~~or accessory dwelling units established within a structure constructed in the same location and to the same dimensions as an existing structure. The provisions of this subsection shall apply to new construction of a detached or attached accessory dwelling unit replacing existing space of a single-family dwelling or accessory structure within the same location and same dimensions, including an expansion of not more than one hundred and fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling or accessory structure. An expansion beyond the physical dimensions of an existing~~

accessory structure shall be limited to accommodating ingress and egress. A primary dwelling unit or accessory building shall not be considered to be "existing" if it was constructed unlawfully; or if it has yet to receive a successful final inspection pursuant to a valid building permit.

- (1) Floor area . The minimum and maximum floor area of an accessory dwelling unit contained within the existing ~~living area space~~ of a single-family residence or accessory structure shall be as follows:
 - (i) Minimum . At least an efficiency unit to be constructed in compliance with local development standards.
 - (ii) Maximum . For an accessory dwelling unit established within the existing space of an existing primary dwelling unit: The establishment of the accessory dwelling unit shall not result in a reduction of the primary dwelling unit's floor area below the minimum dwelling unit size for a single-family dwelling provided in Section 9-4.2313. For an accessory dwelling unit established within the existing space of an existing accessory structure: None.
- (2) Setbacks . No setback shall be required for an accessory dwelling unit contained within the existing space of a single-family dwelling unit or accessory structure. However, as permitted in this subsection, an expansion to the existing space of a single-family dwelling or accessory structure. ~~In order to ensure setbacks are sufficient for fire safety, an accessory dwelling unit contained within the existing space of a primary dwelling unit or accessory structure may only be established in those portions of the existing structure where the following setbacks have been satisfied:~~
 - (i) Front . Minimum front setback shall be fifteen (15') feet. ~~None.~~
 - (ii) Side . Minimum side setback shall be ~~five-four (54')~~ (54') feet, except on the street-side of a corner lot where no side setback shall be required.
 - (iii) Rear . Minimum rear setback shall be ~~five-four (54')~~ (54') feet.
 - ~~(iv) Notwithstanding subsections (i) through (iii), no setback shall be required for an existing garage that is converted in whole or in part to an accessory dwelling unit.~~
- ~~(3) Distance between structures . An accessory dwelling unit shall not be established within a primary dwelling unit or accessory structure located within ten (10') feet of any other building existing or under construction on the same site or an adjacent site.~~
- ~~(4) Lot coverage . None.~~
- ~~(5) Landscaping . None.~~
- ~~(6) Height . None.~~
- (6) Exterior access. An exterior point of access that is separate and independent from the primary dwelling unit shall be provided.
- (f) Accessory dwelling units contained within the portion of existing multi-family dwelling structures that are not used as livable space. The following provisions of this subsection shall apply to accessory dwelling units contained within the portion of existing multi-family 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.
 - (1) Floor area. The minimum and maximum floor area of an accessory dwelling unit contained within the portion of existing multi-family dwelling structures that are not used as livable space shall be as follows:
 - (i) Minimum. At least an efficiency unit to be constructed in compliance with local development standards.
 - (ii) Maximum . None.
 - (2) Setbacks . None.
 - (3) Lot coverage . None.

(4) Landscaping . None.

(5) Height . None.

(g) Detached accessory dwelling units detached from existing multi-family dwelling structures. The provisions of this subsection shall apply to a newly-constructed accessory dwelling unit that is detached from an existing multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site.

(1) Floor area . The minimum and maximum floor area of an accessory dwelling unit detached from an existing multi-family dwelling structures on the same site shall be as follows:

(i) Minimum . At least an efficiency unit to be constructed in compliance with local development standards.

(ii) Maximum. Total floor area shall not exceed one thousand two hundred (1,200) square feet.

(2) Setbacks .

(i) Front . Minimum front setback shall be fifteen (15') feet.

(ii) Side . Minimum side setback shall be four (4') feet.

(iii) Rear . Minimum side setback shall be four (4') feet.

(3) Lot coverage . None.

(4) Landscaping . None

(5) Height . Maximum height shall be twenty-five (25') feet or the height of the primary dwelling unit, whichever is less. However, the maximum height of the accessory dwelling unit shall be sixteen (16') feet in the following instances: the height of the primary dwelling unit is less than sixteen (16') feet; any portion of a detached accessory dwelling unit is located between the primary dwelling unit and a site's front property line; or any portion of a detached accessory dwelling unit is located less than twenty (20') feet from the rear lot line.

(fh) Parking.

(1) An accessory dwelling unit shall require one off-street parking space per accessory dwelling unit or per bedroom, whichever is less. No parking shall be required for an accessory dwelling unit which is a studio unit without a bedroom, or for an accessory dwelling unit described in subsection (7g) of this subsection or an accessory dwelling unit described in subsection (e) of this section.

(2) Off-street parking shall be permitted in setback areas within a driveway that conforms to the standards in Section 9-4.2813 (Access to parking facilities), except that parking for an accessory dwelling unit shall not be located within a common driveway serving more than one dwelling unit.

(3) Tandem parking, either within a garage or within a driveway conforming to the standards in Section 9-4.2813 (Access to parking facilities), shall be permitted.

(4) Off-street parking provided for an accessory dwelling unit may be covered or uncovered, and shall comply with the minimum dimensional requirements for ninety (90°) degree compact parking spaces set forth in Section 9-4.2817 (Design standards for parking areas), including any space or spaces located within a garage. The minimum vertical clearance for any parking space shall be seven (7') feet.

(5) If a garage which provides the required covered off-street parking space or spaces for a primary dwelling unit is converted in whole or in part into an accessory dwelling unit or is demolished to enable construction of an accessory dwelling unit, the required off-street parking space or spaces for the primary dwelling unit shall are not required to be replaced on site.

- ~~(i) The number of replacement spaces shall be equivalent to the number of spaces converted or demolished, although a greater number of replacement spaces may be provided.~~
- ~~(ii) The replacement off-street parking space or spaces shall conform to the same standards for required off-street parking for an accessory dwelling unit described in subsections (2) through (4), and may be provided in any configuration on the same site as the accessory dwelling unit, including, without limitation, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. A mechanical automobile parking lift shall be located within a garage, or else shall be located behind the minimum front, side, and rear setbacks for accessory structures in the underlying zoning district.~~
- ~~(6) If a garage which provides the required covered off-street parking space or spaces for a primary dwelling unit is converted in whole or in part into an accessory dwelling unit described in subsection (7) or is demolished to enable construction of an accessory dwelling unit described in subsection (7), the required off-street covered parking space or spaces for the primary dwelling unit shall be replaced on site and shall comply with all requirements applicable to required covered off-street parking for a single-family residence contained in Article 28 of this chapter. The number of replacement spaces shall be equivalent to the number of spaces converted or demolished, although a greater number of replacement spaces may be provided. An applicant may not seek relief from the requirements of subsection (6) by application for a variance, minor modification, or parking exception.~~
- ~~(67) No off-street parking shall be required for an accessory dwelling unit in any of the following circumstances:

 - ~~(i) The accessory dwelling unit is located within one-half (½) mile of public transit as measured by a direct line from the location of the public transit to any portion of the lot on which the accessory dwelling unit is located.~~
 - ~~(ii) The accessory dwelling unit is located within an architecturally and historically significant historic district identified in a local, state, or federal register of historical places.~~
 - ~~(iii) The accessory dwelling unit is a type described in subsection (d) or (e), (f) or (g), or is described in subsection (c) and is eight hundred (800) square feet of floor area or less.~~
 - ~~(iv) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.~~
 - ~~(v) When there is a car share vehicle located within one block of the accessory dwelling unit.~~~~
- ~~(gj) Utilities.~~
- ~~(1) For an accessory dwelling unit described in subdivision (e), the accessory dwelling unit shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, and the accessory dwelling unit shall not be subject to a related connection fee or capacity charge, unless the accessory dwelling unit is constructed concurrently with a new single-family dwelling.~~
- ~~(2) For an accessory dwelling unit that is not described in subdivision (e), the accessory dwelling unit may be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013 of the Government Code, 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 upon the water or sewer system, based upon either its size or the number of its plumbing fixtures, square feet or the number of its drainage fixture unit values, as defined in the Uniform Plumbing Code adopted and published~~

by the International Association of Plumbing and Mechanical Officials. This fee or charge shall not exceed the reasonable cost of providing this service.

- (h) *Fire sprinklers* . Notwithstanding any other provision of the Pacifica Municipal Code, including, without limitation, Chapter 3 of Title 4, installation of fire sprinklers in an accessory dwelling unit of any type shall be required only if they are required for the primary dwelling unit.
- (1) Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:
- (i) When fire sprinklers are currently installed in the primary dwelling unit;
 - (ii) When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an accessory dwelling unit; or
 - (iii) When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an accessory dwelling unit, which addition triggered a requirement for retroactive installation of fire sprinklers in the primary dwelling unit in accordance with the Pacifica Municipal Code.
- (2) For purposes of this subsection (h), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an accessory dwelling unit.
- (3) The floor area of an accessory dwelling unit contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Pacifica Municipal Code related to retroactive installation of fire sprinklers in a structure, including, without limitation, Section 4-3.110 of the Pacifica Municipal Code.
- (i) *Nonconforming sites and structures* . The following standards shall apply to construction of accessory dwelling units on sites that do not comply with all zoning standards or that for any other reason are considered nonconforming.
- (1) *Zoning* . Construction of an accessory dwelling unit shall be prohibited on any site that is not zoned in accordance with subsection (b) of Section 9-4.453.
- (2) *Lot or parcel size and dimensions*. An accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district, including without limitation sites which contain three thousand nine hundred ninety-nine (3,999) square feet or less of area, provided the accessory dwelling unit is constructed in compliance with all other standards of this article. Approval of a site development permit, specific plan, or any other discretionary permit for the accessory dwelling unit, except a coastal development permit for sites located within the Coastal Zone, shall not be required.
- (i) ~~*Relief from accessory dwelling unit standards*. An accessory dwelling unit not meeting the height, setback, distance between structures, lot coverage, or landscaping requirements of this article may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district upon approval of a variance. The procedure for considering a variance for an accessory dwelling unit shall be as set forth in Article 34. The minimum side and rear setbacks, and minimum distance between structures, approved in a variance shall be not less than five (5') feet in order to remain sufficient for fire safety. An accessory dwelling unit that does not comply with any standard in this article other than height, setback, distance between structures, lot coverage, or landscaping requirements shall be prohibited.~~

- (3) *Nonconforming primary dwelling unit or accessory structure* . An accessory dwelling unit may be constructed on a site containing a primary dwelling unit or accessory structure which site does not comply with all zoning standards, including, without limitation, use of the site, off-street parking standards, provided the accessory dwelling unit complies with all standards contained in this article. The existing nonconformities of the primary dwelling unit or accessory structure shall not be considered when evaluating the application. ~~An accessory dwelling unit shall not be established within the space of an existing primary dwelling unit or accessory structure, or an addition to a primary dwelling unit or accessory structure, located less than five (5') feet from a side or rear property line in order to provide a sufficient setback for fire safety, except that the minimum side setback requirement shall not apply to the street side of corner lots.~~
- (4) *Nonconforming accessory dwelling unit* . An accessory dwelling unit that does not comply with all standards of this article shall be considered lawful but nonconforming if the accessory dwelling unit was lawfully constructed in accordance with standards in effect at the time of its construction. Such lawful but nonconforming accessory dwelling unit may be altered or expanded only to comply with local building regulations or to eliminate one or more nonconformities with the standards of this article.
- (i) An accessory dwelling unit not lawfully constructed shall be governed by the provisions of Section 9-4.4556.
- (5) *Creation of nonconformities*. Any nonconformity created on an existing site, or within a primary dwelling unit or accessory structure as allowed by the provisions of this section (e.g., reduction or elimination of required off-street parking for a primary dwelling unit, exceedance of the maximum lot coverage allowed in the underlying zoning district) shall render the primary dwelling unit or accessory structure or site nonconforming but lawful. ~~Elimination of required off-street parking for a primary dwelling unit~~. The elimination of any required off-street parking space or spaces for a primary dwelling unit as provided in subsection (f)(5) of Section 9-4.453 shall render the primary dwelling unit nonconforming but lawful. Any future expansion or alteration of such nonconforming but lawful primary dwelling unit shall be subject to the provisions of Article 30 of this chapter, including, without limitation, any requirement to construct off-street parking spaces in conjunction with the addition of one or more bedrooms to the primary dwelling unit. However, the correction of nonconforming zoning conditions shall not be a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit.
- (6) *Change in circumstances* . The determination of the applicability of the criteria described in Section 9-4.453(~~h~~)(6) to the site where an accessory dwelling unit is proposed shall be made as of the date of building permit issuance. Any subsequent change in applicability of these criteria to the site after issuance of a building permit shall not render an accessory dwelling unit nonconforming, and the accessory dwelling unit shall not be required to construct or otherwise provide parking.
- (7) *Enforcement* . Enforcement of notices to correct a violation of any provision of any building standard for any accessory dwelling unit shall comply with Section 17980.12 of the Health and Safety Code.

Sec. 9-4.454. -- Development standards for Junior Accessory Dwelling Units

- (a) *General provisions*. The following provisions shall apply to junior accessory dwelling units:
- (1) A junior accessory dwelling shall not be constructed unless a single-family dwelling unit exists on a site and such single-family dwelling unit has been constructed lawfully, or the junior accessory dwelling unit is proposed as part of the construction of the single-family dwelling unit.
- (2) A site shall contain no more than one (1) junior accessory dwelling unit.

- (3) A junior accessory dwelling unit shall be constructed within the existing space of the proposed or existing single-family dwelling or accessory structure. The provisions of this section shall apply to new construction of a junior accessory dwelling unit replacing existing space of a single-family dwelling or accessory structure within the same location and same dimensions, including an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling. An expansion beyond the physical dimensions of an existing accessory structure shall be limited to accommodating ingress and egress.
- (4) A site's owner shall record a deed restriction with the County of San Mateo's Recorder Office and file a copy of the recorded deed restriction with the City of Pacifica. The deed restriction shall: prohibit the sale or other conveyance of the junior accessory dwelling unit separate from the single-family dwelling; specify that the deed restriction runs with the land and is therefore enforceable against future property owners; and restrict the size and features of the junior accessory dwelling unit in accordance with this section.
- (5) The site's owner may at any time offer for rent either the single-family dwelling unit or the junior accessory dwelling unit. The site's owner shall be required to reside in the single-family dwelling unit as its primary residence at any time while the junior accessory dwelling unit is occupied by a tenant.
- (i) A site's owner shall not allow occupancy of a junior accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy of the primary dwelling unit as its primary residence. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.
- (6) A junior accessory dwelling unit may be rented but shall not be used for rentals of terms less than thirty (30) consecutive days.
- (7) A junior accessory dwelling unit shall not be sold or otherwise conveyed separate from the single-family dwelling unit.
- (8) Nothing in this article shall be construed to supersede or in any way alter or lessen the effect of any other provisions of this chapter requiring issuance of a discretionary permit for construction of the single-family dwelling unit prior to issuance of a building permit. The discretionary review of the single-family dwelling unit shall not include consideration of the propriety of a junior accessory dwelling unit use at the site in the future, but may consider the physical characteristics of how the site may accommodate a future junior accessory dwelling unit use as they pertain to objective development standards, other than parking, including, without limitation, lot coverage, floor area ratio, and landscaping.
- (9) A junior accessory dwelling unit shall have an exterior point of access directly into the junior accessory dwelling unit that is separate and independent from the single-family dwelling unit.
- (10) A building permit shall be required to construct a junior accessory dwelling unit or to establish a junior accessory dwelling unit within the existing space of a single-family dwelling. Occupancy of a junior accessory dwelling unit shall be prohibited until the junior accessory dwelling unit receives a successful final inspection pursuant to a valid building permit and receives a certificate of occupancy issued on or after the date of the successful final inspection.
- (11) A junior accessory dwelling unit shall not be considered a separate or a new dwelling unit for purposes of applying building or fire codes.
- (12) Occupancy of a junior accessory dwelling unit shall be prohibited until the junior accessory dwelling unit receives a separate and independent address assignment. Address assignment shall not delay issuance of a building permit.

(b) Zoning districts where permitted. A junior accessory dwelling unit shall be a permitted use, subject to the standards contained in this article, on any site zoned for residential use as a permitted use or any site zoned for commercial use which authorizes residential use as a permitted use or for which a permit has been issued to authorize a residential use, and which site includes a proposed or existing single-family dwelling. An accessory dwelling unit shall be prohibited on any other site. A junior accessory dwelling unit shall be prohibited on any other site.

(1) Sites zoned P-D (Planned Development). The provisions of subsection (b) shall apply to sites zoned P-D (Planned Development) where the approved development plan residential use as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Planning Administrator may determine that a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

(c) Junior accessory dwelling units. The following development provisions shall apply to junior accessory dwelling units.

(1) Floor area . The minimum and maximum floor area of a junior accessory dwelling unit shall be as follows:

(i) Minimum . At least an efficiency unit to be constructed in compliance with local development standards.

(ii) Maximum. Total floor area is five-hundred (500) square feet. However, the establishment of a junior accessory dwelling unit over one hundred fifty (150) square feet shall not result in a reduction of the primary dwelling unit's floor area below the minimum dwelling unit size for a single-family dwelling provided in Section 9-4.2313. If the sanitation facility is shared with the remainder of the single-family dwelling, it shall not be included in the square footage calculation for the junior accessory dwelling unit.

(2) Setbacks. Setbacks for a junior accessory dwelling unit constructed with a new single-family dwelling shall be that of the underlying zoning district. No setback shall be required for a junior accessory dwelling unit contained within the existing space of a single-family dwelling or accessory structure. However, as permitted in this section, an expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress may only be constructed if the following setbacks can be maintained:

(i) Front . Minimum front setback shall be fifteen (15') feet.

(ii) Side . Minimum side setback shall be four (4') feet, except on the street-side of a corner lot where no side setback shall be required.

(iii) Rear . Minimum rear setback shall be four (4') feet.

(3) Lot coverage. None.

(4) Landscaping . None.

(5) Height .None

(d) Parking. No parking shall be required for a junior accessory dwelling unit.

(1) If a garage which provides the required covered off-street parking space or spaces for a single-family dwelling is converted in whole or in part into a junior accessory dwelling unit or is demolished to enable construction of a junior accessory dwelling unit, the required off-street parking space or spaces for the primary dwelling are not required to be replaced.

(e) Utilities. A junior accessory dwelling unit shall not be required to install a new or separate utility connection directly between the junior accessory dwelling unit and the utility.

(f) Fire and Building Requirements. Notwithstanding any other provision of the Pacifica Municipal Code, including, without limitation, Chapter 3 of Title 4, installation of fire sprinklers in a junior

accessory dwelling unit of any type shall be required only if they are required for the primary dwelling unit. Fire sprinklers shall be considered "required for the primary dwelling unit" as detailed in section 9-4.452(i).

- (g) Nonconforming sites and structures . The following standards shall apply to construction of junior accessory dwelling units on sites that do not comply with all zoning standards or that for any other reason are considered nonconforming.
- (1) Zoning . Construction of a junior accessory dwelling unit shall be prohibited on any site that is not zoned in accordance with subsection (b) of Section 9-4.454.
- (2) Lot or parcel size and dimensions. A junior accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district, including without limitation sites which contain three thousand nine hundred ninety-nine (3,999) square feet or less of area, provided the accessory dwelling unit is constructed in compliance with all other standards of this article. Approval of a site development permit, specific plan, or any other discretionary permit, except a coastal development permit for sites located within the Coastal Zone, shall not be required.
- (3) Nonconforming single-family dwelling unit. A junior accessory dwelling unit may be constructed on a site containing an existing single-family dwelling which site does not comply with all zoning standards, including, without limitation, use of the site, off-street parking standards, provided the junior accessory dwelling unit complies with all standards contained in this article. The existing nonconformities of the primary dwelling unit shall not be considered when evaluating the application.
- (4) Nonconforming junior accessory dwelling unit . A junior accessory dwelling unit that does not comply with all standards of this section shall be considered lawful but nonconforming if the junior accessory dwelling unit was lawfully constructed in accordance with standards in effect at the time of its construction. Such lawful but nonconforming junior accessory dwelling unit may be altered or expanded only to comply with local building regulations or to eliminate one or more nonconformities with the standards of this article.
- (i) A junior accessory dwelling unit not lawfully constructed shall be governed by the provisions of Section 9-4.456.
- (5) Creation of nonconformities. Any nonconformity created to an existing site and/or single-family dwelling unit or accessory structure as allowed by the provisions of this section (e.g., exceedance of the maximum lot coverage allow in the underlying zoning district) shall render the primary dwelling unit or accessory structure or site nonconforming but lawful. Any future expansion or alteration of such nonconforming but lawful primary dwelling unit shall be subject to the provisions of Article 30 of this chapter, including, without limitation, any requirement to construct off-street parking spaces in conjunction with the addition of one or more bedrooms to the primary dwelling unit. However, the correction of nonconforming zoning conditions shall not be a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit.

Section 9-4.455 Compliance with other regulations.

- (a) An ADU-accessory dwelling unit or junior accessory dwelling unit which conforms to the respective requirements of this article shall not be considered to exceed the allowable density for the site upon which it is located and shall be deemed to be a residential use which is consistent with the existing general plan, local coastal land use plan and zoning designations for the site.
- (b) An ADU-accessory dwelling unit or junior accessory dwelling unit shall not be considered in the application of any local growth control ordinance, policy, or program, including without limitation

the City of Pacifica Growth Management Ordinance codified in Chapter 5 of Title 9 of the Pacifica Municipal Code.

- (c) Nothing in this article shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Section 30000 et seq. of the Public Resources Code) or the City's certified local coastal plan, except that the Planning Director shall consider a coastal development permit application for an ADU-accessory dwelling unit or a junior accessory dwelling unit administratively without a public hearing in accordance with the procedures for processing an administrative coastal development permit contained in Section 9-4.4306.
- (1) The provisions of Article 43, Coastal Zone Combining District, shall not apply to the construction of accessory dwelling units or junior accessory dwelling units that do not meet the definition of "development" as defined in Section 9-4.4302(z).
- (d) Accessory dwelling units and junior accessory dwelling units shall comply with all local building code requirements based on construction type and number of dwelling units except that utilities and fire sprinkler requirements shall be as provided in subsections (g~~i~~) and (h~~i~~) of Section 9-4.453, respectively.
- (e) An applicant may not apply for a variance or other relief from the standards of this article ~~as provided elsewhere in this chapter, except as expressly limited in this article. The procedure for considering a variance for an accessory dwelling unit or junior accessory dwelling unit shall be as set forth in Article 34.~~
- (f) Accessory dwelling units and junior accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for the 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.
- (1) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than seven hundred fifty (750) square feet in floor area. Any impact fee charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- (2) This subsection shall not be construed to prohibit a local agency, special district, or water corporation from adopting an ordinance or regulation, related to 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) A historic preservation permit shall not be required for the construction or establishment of an ~~an~~ accessory dwelling unit or junior accessory dwelling unit shall not be constructed on a site containing or constituting a "landmark" as that term is defined in Chapter 7 (Historic Preservation) of Title 9 ~~without first obtaining approval of a historic preservation permit as provided in that chapter.~~

Sec. 9-4.455456. - Legalization of existing units.

- (a) *Unlawful and nonconforming.* Every accessory dwelling unit or junior accessory dwelling unit constructed prior to the effective date of this article which has not successfully completed a final building permit inspection shall be considered unlawful and nonconforming.
- (b) An unlawful and nonconforming accessory dwelling unit or junior accessory dwelling unit may be legalized and considered conforming by complying with all provisions of this article and by successfully completing a final inspection of the work authorized in a building permit. An unlawful

and nonconforming accessory dwelling unit or junior accessory dwelling unit shall not be altered or expanded except to achieve full compliance with the standards of this article.

- (c) An accessory dwelling unit, the construction of which commenced or commences pursuant to a building permit issued prior to the effective date of this article, shall not be considered unlawful and nonconforming provided the accessory dwelling unit is constructed and successful completion of a final inspection is achieved within two (2) years of the effective date of this article, or during the period in which the building permit is valid, whichever period is shorter.

Section 4. Amendment. Sections 9-4.501(a) and 9-4.502(l) of Article 5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-2 Two-Family Residential District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec. 9-4.501. - Permitted and conditional uses.

- (a) *Permitted uses.* The following uses shall be permitted in the R-2 District:
 - (1) Single-family dwellings on parcels less than 5,800 square feet in area;
 - (2) Two-family dwellings;
 - (3) Accessory buildings and uses;
 - (4) Child day care homes for twelve (12) children or less;
 - (5) Special care facilities for six (6) or fewer persons;
 - (6) Indoor or outdoor cultivation of cannabis for personal use as an accessory use to a primary dwelling unit, subject to the standards contained in Article 48 of this chapter; and
 - (7) Accessory dwelling units and junior accessory dwelling units~~on sites that include a proposed or existing attached or detached single family dwelling~~, subject to the standards of Article 4.5.

* * * * *

Sec. 9-4.502. - Development regulations.

Development regulations in the R-2 District shall be as follows:

* * * * *

(l) Notwithstanding the provisions of this section, the development regulations for accessory dwelling units and junior accessory dwelling units shall be those set forth in Article 4.5.”

Unless otherwise identified herein all remaining sections of Article 5 of Chapter 4, Title 9 shall be unchanged.

Section 5. Amendment. Sections 9-4.601(a) and 9-4.602(m) of Article 6 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-3 Multiple-Family Residential District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec. 9-4.601. - Permitted and conditional uses.

- (a) *Permitted uses.* The following uses shall be permitted in the R-3 District:
 - (1) Duplexes and multiple-family dwellings;
 - (2) Accessory buildings and uses;
 - (3) Child day care homes for twelve (12) children or less;
 - (4) Special care facilities for six (6) or fewer persons;

- (5) Indoor or outdoor cultivation of cannabis for personal use as an accessory use to a primary dwelling unit, subject to the standards contained in Article 48 of this chapter; and
- (6) Accessory dwelling units and junior accessory dwelling units ~~on sites that include a proposed or existing attached or detached single-family dwelling,~~ subject to the standards of Article 4.5.

* * * * *

Sec. 9-4.602. - Permitted and conditional uses.
 Development regulations in the R-3 District shall be as follows:

* * * * *

(m) Notwithstanding the provisions of this section, the development regulations for accessory dwelling units and junior accessory dwelling units shall be those set forth in Article 4.5.”

Unless otherwise identified herein all remaining sections of Article 6 of Chapter 4, Title 9 shall be unchanged.

Section 6. Amendment. Sections 9-4.1001 and 9-4.1002 of Article 10 of Chapter 4 of Title 9 of the Pacifica Municipal Code (C-1 Neighborhood Commercial District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec. 9-4.1001. - Permitted and conditional uses.

(a) *Permitted uses.* The following uses shall be permitted in the C-1 District:

- (1) Retail uses, including, but not limited to, food markets, drug stores, liquor stores and retail restaurants, but excluding firearms sales and any marijuana operation as defined in Article 48 of this chapter;
- (2) Personal services, such as professional offices, shoe repair, barber and beauty shops, laundries and dry cleaning establishments, banks and financial institutions, and massage establishments under six hundred forty (640) square feet of treatment floor space (see licensing requirements Title 5, Chapter 19);
- (3) Business and administrative offices when located entirely above the ground floor of any commercial structure;
- (4) Art galleries and instructional studios for dance and arts or crafts and craft production shops; ~~and~~
- (5) In the Coastal Zone, visitor-serving commercial uses, as defined in Section 9-4.4302(av) of Article 43 of this chapter; ~~and~~ and
- (6) Accessory dwelling units and junior accessory dwelling units, subject to the standards of Article 4.5.

* * * * *

Sec. 9-4.1002. - Development regulations.
 Development regulations in the C-1 District shall be as follows:

* * * * *

- (i) A use permit shall be required for all new construction projects abutting an R District. A use permit may be required for any change of use when the site abuts an R District. The use permit determination process described below may be utilized for any change of use when a site abuts an R District if the use is a permitted use in the district and when hours are limited to 8:00 a.m. to 9:00 p.m. Within five (5) working days after the submittal of a written request for any new use set forth in this subsection, the Planning Administrator shall determine in writing whether a use permit shall be required. Such determination shall be based on an analysis of the compatibility of the proposed use with adjacent residential development, including, but not limited to, noise, traffic, circulation, odors, hours of operations, site design and improvements. In the event the Planning Administrator determines that no use permit is required, the decision shall be placed on the next Commission agenda as an administrative calendar item, and any two (2) Commissioners may request that a use permit be obtained. Existing individual shopping centers may apply for a use permit for a master list of uses permitted without further use permits; ~~and~~
- (j) In the Coastal Zone, when a new use or a change of use is proposed, a use permit determination shall be required for all permitted uses other than visitor-serving commercial uses. The process for a use permit determination shall be as set forth in Section 9-4.1002(i). The determination of the Planning Administrator shall be based on an analysis of the balance of visitor-serving commercial uses with other commercial uses, and consistency with the individual neighborhood narratives and the plan conclusions and other relevant policies of the LCP Land Use Plan. The provisions of Section 9-4.4410 shall also apply; ~~and-~~
- (k) A use permit for one or more residential dwelling units shall be required prior to establishment of accessory dwelling units and junior accessory dwelling units, as provided in Article 4.5 of this chapter."

Unless otherwise identified herein all remaining sections of Article 10 of Chapter 4 of Title 9 shall be unchanged.

Section 7. Amendment. Sections 9-4.1101 and 9-4.1102 of Article 11 of Chapter 4 of Title 9 of the Pacifica Municipal Code (C-2 Community Commercial District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

"Sec. 9-4.1101. - Permitted and conditional uses.

- (a) *Permitted uses.* The following uses shall be permitted in the C-2 District:
 - (1) Retail stores and shops;
 - (2) Personal and business service establishments, including financial institutions;
 - (3) Offices;
 - (4) Newspaper, printing, and lithography plants not exceeding five thousand (5,000) square feet in net usable area;
 - (5) Retail restaurants, fast food restaurants, restaurants and bars;
 - (6) Household appliance and furniture sales and service in conjunction with sales;
 - (7) Veterinary hospitals and clinics;
 - (8) In the Coastal Zone, visitor-serving commercial uses, as defined in Section 9-4.4302(av) of Article 43 of this chapter; and
 - (9) Accessory dwelling units and junior accessory dwelling units, subject to the standards of Article 4.5.

* * * * *

Sec. 9-4.1102. - Development regulations.

Development regulations in the C-2 District shall be as follows:

* * * * *

- (j) In the Coastal Zone, when a new use or a change of use is proposed, a use permit determination shall be required for all permitted uses other than visitor-serving commercial uses. The process for a use permit determination shall be as set forth in Sections 9-4.1002(i) and (j); ~~and~~
- (k) A cannabis activity permit shall be required prior to establishment of a cannabis testing operation, as provided in Article 48 of this chapter; ~~and-~~
- (l) A use permit for one or more residential dwelling units shall be required prior to establishment of accessory dwelling units and junior accessory dwelling units, as provided in Article 4.5 of this chapter."

Unless otherwise identified herein all remaining sections of Article 11 of Chapter 4 of Title 9 shall be unchanged.

Section 8. Amendment. Section 9-4.2208 (l) of Article 22 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Planned Development District (P-D)) is hereby amended as follows (deletions in strikethrough, additions in underline):

"Sec.9-4.2208. – Specific plans: Submission (P-D).

* * * * *

(l) Exceptions. The provisions of this article shall not apply to the following types of development:

- (i) ~~An~~ accessory dwelling units and junior accessory dwelling units constructed in accordance with the provisions of Article 4.5 (Accessory Dwelling Units)."

Unless otherwise identified herein all remaining sections of Article 22 of Chapter 4, Title 9 shall be unchanged.

Section 9. Amendment. Section 9-4.2313(c) of Article 23 of Chapter 4 of Title 9 of the Pacifica Municipal Code (General Provisions and Exceptions) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

"Sec.9-4.2313. – Minimum dwelling unit sizes.

* * * * *

(c) Exceptions. Accessory dwelling units and junior accessory dwelling units, as defined in Section 9-4.452 of Article 4.5 of this chapter, and multiple-family housing developed for senior citizens shall not be regulated by the minimum dwelling unit standards of this article."

Unless otherwise identified herein all remaining sections of Article 23 of Chapter 4, Title 9 shall be unchanged.

Section 10. Amendment. Section 9-4.3002 of Article 30 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Nonconforming Lots, Structures, and Uses) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec.9-4.3002. – Continuance of nonconformities.

The lawful use of a building or of land which existed at the time of the adoption of this chapter or any amendment thereto, although such use does not conform to the regulations specified for the district in which the use is located, may be continued subject to the following provisions:

- (a) Nonconforming lots. All lots which do not meet the minimum lot area or dimensional standards of the district in which they are located are hereby deemed nonconforming lots. Undeveloped, nonconforming lots may be considered legal building sites and have a structure or building erected upon them provided any new structure or building meets all applicable development standards, except that mergers of lots or parcels which come into common ownership on or after July 1, 1984, shall be accomplished pursuant to the merger procedures set forth in Article 12 of Chapter 1 of Title 10 of the Code. In addition, all regular building sites which contain three thousand nine hundred ninety-nine (3,999) square feet or less and are located in any residential district shall be used solely for one single-family residence, and may also include an accessory dwelling unit. Any structure for which a building permit is required and which is to be constructed on a nonconforming building site as described in this section shall require a site development permit, except an accessory dwelling unit or junior accessory dwelling unit which is constructed in accordance with all standards of Article 4.5 of this chapter, which shall be governed by the standards of Article 4.5 of this chapter, and except a new structure or modification to an existing structure, other than an accessory dwelling unit or junior accessory dwelling unit, located in the R-1, Single-Family Residential District that meets the development standards for lot coverage and landscaping and additional standards listed below: ”

Unless otherwise identified herein all remaining sections of Article 30 of Chapter 4, Title 9 shall be unchanged.

Section 11. Amendment. Section 9-4.3201(a) and (c) of Article 32 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Site Development Permits) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec.9-4.3201. – Required.

- (a) No building permit shall be issued by the Building Official for any new construction or any addition which increases an existing structure's gross square footage by fifty (50%) percent or more in any R-1-H, R-3, R-3.1, R-3-G, R-3/L.D., R-5, or Commercial District, except upon an application and the issuance of a site development permit to the property owner in accordance with the provisions of this article. Except, however, that construction of an accessory dwelling unit or junior accessory dwelling unit shall not require issuance of a site development permit if undertaken in accordance with all standards of Article 4.5 of this chapter.

* * * * *

(c) A site development permit shall be required for any new construction upon substandard lots in the R-1 (Single-Family Residential) or R-2 (Two-Family Residential) zoning districts Except, however, that a site development permit shall not be required for construction of an accessory dwelling unit or a junior accessory dwelling unit which is undertaken in accordance with all standards of Article 4.5 of this chapter. Consideration of a site development permit for a single-family dwelling with a proposed~~an~~ accessory dwelling unit and/or junior accessory dwelling unit shall not include consideration of the accessory dwelling unit or junior accessory dwelling unit use, but may consider the physical characteristics of the development, other than parking, including without limitation lot coverage, floor area ratio, landscaping, distance between structures, and Design Guidelines consistency.”

Unless otherwise identified herein all remaining sections of Article 32 of Chapter 4, Title 9 shall be unchanged.

Section 12. Amendment. Section 9-4.3404(b) of Article 34 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Variances) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec. 9-4.3404. - Granting or denial: Findings: Conditions.

* * * * *

(b) On the basis of such findings, the Commission may grant, conditionally grant, or deny the application for a variance.

~~(1) Consideration of a variance for an accessory dwelling unit shall include the deviation from development standards as they relate to physical development of the site only, and shall not include the propriety of the use as an accessory dwelling unit.”~~

Unless otherwise identified herein all remaining sections of Article 34 of Chapter 4, Title 9 shall be unchanged.

Section 13. Amendment. Sections 9-4.4303 (h) (2) ; 9-4.4303(i)(2); and various identified subsections of section 9-4.4306 of Article 43 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Coastal Zone Combining District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec.9-4.4303. – Coastal development permit requirement.

* * * * *

(h)(2) Improvements of less than ten (10%) percent increase in building height, bulk or floor area to existing single-family structures and improvements normally associated with a single-family residence, such as accessory dwelling units as described in Section 9-4.453(d) or (e) and junior accessory dwelling units which meet all of the criteria as set forth in Article 4.5 of this chapter, garages, swimming pools, fences, storage sheds, and landscaping, ~~but not including guest houses or self-contained residential units.~~ However, a permit shall be required in the following situations because they involve a risk of adverse environmental impact:

- (i) Improvements to a single-family structure on, abutting, or adjacent to a beach or wetland, or where the structure or proposed improvement would encroach within fifty (50') feet of a coastal bluff,
- (ii) Significant alteration of landforms, including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty (50') feet of a coastal bluff,
- (iii) Expansion, replacement or construction of wells or septic systems, ~~or~~
- (iv) Property located between the sea and the first public road paralleling the sea or within 300 feet of a beach or of the mean high tide line where there is no beach, whichever is the greater distance; or
- (v) New accessory dwelling units as described in Section 9-4.453(c) which meet all of the criteria as set forth in Article 4.5 of this chapter.

* * * * *

(i)(2) Classes of single-family residences no larger than two (2) stories, built on lots zoned for single-family residences as a principal permitted use and which meet all zoning standards.

(i) New single-family residences no larger than two (2) stories, built on lots zoned for single-family residences as a principal permitted use and which meet all zoning standards. However, a coastal development permit shall be required for new single-family residences within the Coastal Commission's appeal jurisdiction as defined in Section 30603(a) of the Public Resources Code because a risk of adverse environmental impact is involved.

(ii) Additions to existing single-family residences provided that the structure, including the addition, does not exceed two (2) stories and meets all zoning standards. In addition, single-family residential projects within the appeal jurisdiction shall be less than a ten (10%) percent increase in building height, bulk, or floor area of the existing structure,

(iii) Improvements normally associated with single-family residences such as garages, swimming pools, fences, storage sheds, and landscaping, but not including guest houses or self-contained residential units, and

(iv) Accessory dwelling units and junior accessory dwelling units which meet all of the criteria as set forth in Article 4.5 of this chapter. ~~However, a coastal development permit shall be required for new single-family residences and for new accessory dwelling units located within and located outside of the Coastal Commission's appeal jurisdiction as defined in Section 30603(a) of the Public Resources Code because a risk of adverse environmental impact is involved. Additionally~~However, a coastal development permit shall be required for new accessory dwelling units and junior accessory dwelling units located outside the Coastal Commission's appeal jurisdiction if they do not meet all of the criteria set forth in Article 4.5 of this chapter. The Director shall consider a coastal development permit application for an accessory dwelling unit administratively without a public hearing pursuant to the procedures in Section 9-4.4306, Administrative Coastal Development Permit.

~~However, a coastal development permit shall be required for new single-family residences and for new second residential units located within the Coastal Commission's appeal jurisdiction as defined in PRC 30603(a)1-5 because a risk of adverse environmental impact is involved;~~

* * * * *

Sec. 9-4.4306. - Administrative coastal development permit.

- (a) *Applicability* . The provisions of this section shall apply to all cases where the Director determines that an administrative coastal development permit is appropriate because the proposed development is minor in nature, including improvements to an existing structure; a single-family dwelling; an accessory dwelling unit; junior accessory dwelling unit; and development specifically authorized as a principal permitted use in the Pacifica Zoning Code not requiring a use permit, variance, subdivision map, planned development permit, or site development permit.
- (b) *Limitations* . The Director may not issue an administrative permit if the proposed development:
 - (1) Lies within the California Coastal Commission's continuing permit jurisdiction pursuant to the California Coastal Act, Section 30519, or is appealable to the Commission pursuant to the California Coastal Act, Section 30603. Except, however, the Director may issue an administrative permit for an accessory dwelling unit or junior accessory dwelling unit within the "coastal zone, appeal zone" subject to the provisions in subsection (m); or
 - (2) Involves a structure or similar integrated physical construction that lies partly within and partly outside the California Coastal Commission's Appeal Zone. In this case, the entire structure or similar integrated physical construction must be subject to at least one public hearing. As an exception to the public hearing requirement, the Director shall not conduct a public hearing when considering an administrative permit for an accessory dwelling unit or junior accessory dwelling unit in accordance with the provisions in subsection (m); or

* * * * *

(g)(1) If three (3) members of the Planning Commission so determine, the issuance of an administrative permit shall be declared invalid, but may, if the applicant wishes to pursue the application, be resubmitted as a coastal development permit application, subject to all provisions of Section 9-4.4304, Coastal Development Permit Procedures and Findings. However, the Planning Commission may not invalidate an administrative coastal development permit for an accessory dwelling unit or junior accessory dwelling unit; and

* * * * *

- (i) *Appeal* . The decision of the Director may be appealed to the Planning Commission within ten (10) calendar days pursuant to Article 36 of this chapter. Upon appeal, the Planning Commission may approve, deny or modify the decision of the Director. The Planning Commission's decision to approve, deny or modify the decision of the Director may be appealed to the City Council within ten (10) calendar days pursuant to Article 36 of this chapter. Any appeal to the Planning Commission or City Council related to consideration of an accessory dwelling unit or junior accessory dwelling unit shall be conducted as a public hearing.

* * * * *

- (m) *Accessory dwelling units and junior accessory dwelling units* . The provisions of this section shall apply to processing an application for a coastal development permit to construct an accessory dwelling unit, as defined in Article 4.5 of this chapter, except as modified by this subsection.
 - (1) *Public hearing* . The Director shall consider a coastal development permit application for an accessory dwelling unit or a junior accessory dwelling unit administratively without a public hearing.
 - (2) *Notice* . Where this section requires public notice to be provided, the procedures for providing public notice set forth in subsection (e) shall apply to an application to construct an accessory

dwelling unit or junior accessory dwelling unit, and to appeals of any approval of an accessory dwelling unit or junior accessory dwelling unit.

- (i) Notice of the Director's consideration of a coastal development permit to construct an accessory dwelling unit or junior accessory dwelling unit shall indicate that a public hearing will not be conducted. The notice shall also indicate the date by which public comments must be received by the Director in order to be considered prior to a decision on the application, with such deadline not less than ten (10) calendar days from the date of the notice. The notice shall further specify that only written public comments will be accepted, shall include the mailing address to which comments may be submitted, and whenever possible, shall include provisions to submit public comments electronically either by electronic mail, an online form, or other comparable means. Additionally, the notice shall indicate whether the coastal development permit is subject to appeal to the Coastal Commission.
 - (ii) Notice of an appeal hearing before the Planning Commission or City Council shall be provided in accordance with the standard provisions of subsection (e) for public hearings.
- (3) *Findings* . The findings required for approval of a coastal development permit to construct an accessory dwelling unit or junior accessory dwelling unit shall be those specified in article 4.5 of this chapter in Section 9-4.4304(k) and, for an accessory dwelling unit, in subsections (i) and (ii) below, except that the Director shall not include consideration of the propriety of the accessory dwelling unit use when making findings. The Director's review may include all other permissible considerations, including, without limitation, the potential physical or environmental impacts from development of the site.
- (i) Supplementary Finding No. 1: If the proposed accessory dwelling unit would not provide the required number of off-street parking spaces described in Article 4.5 of this chapter due to an exception, any anticipated on-street parking associated with the accessory dwelling unit will not have a detrimental impact on coastal access, including, without limitation, the availability of on-street parking for use by coastal visitors.
 - (ii) Supplementary Finding No. 2: If the proposed accessory dwelling unit would reduce or eliminate existing off-street parking facilities, including, without limitation, parking spaces provided in a garage, carport, or driveway, any anticipated on-street parking associated with the accessory dwelling unit will not have a detrimental impact on coastal access, including, without limitation, the availability of on-street parking for use by coastal visitors.
- (4) *Appeals* . The Director's determination on an administrative coastal development permit for an accessory dwelling unit or junior accessory dwelling unit shall be subject to the same appeal procedures applicable to all administrative coastal development permits, including that the Planning Commission or City Council shall conduct a public hearing."

Unless otherwise identified herein all remaining sections of Article 43 of Chapter 4, Title 9 shall be unchanged.

Section 14. Amendment. Section 9-5.04 (f) of Chapter 5 of Title 9 of the Pacifica Municipal Code (Growth Control) is hereby amended as follows (deletions in ~~striketrough~~, additions in underline):

"Sec.9-5.04. – Exemptions.

* * * * *

(f) Accessory dwelling units and junior accessory dwelling units as defined by the City's Accessory Dwelling Unit Ordinance, Pacifica Municipal Code, Title 9, Article 4.5;”

Unless otherwise identified herein all remaining sections of Chapter 5, Title 9 shall be unchanged.

Section 15. Amendment. Section 9-7.301 and Sections 9-7.304 through 9-7.306 of Article 3 of Chapter 7 of Title 9 of the Pacifica Municipal Code (Historic Preservation Permit) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

“Sec. 9-7.301. - Permits.

An historic preservation permit shall be required to:

- (a) Demolish, alter, or relocate any structure or special site, or any portion thereof, which has been designated an historic landmark pursuant to the provisions of this chapter; and
- (b) Construct, place, alter, or relocate any exterior sign, lighting, fence, parking area, or any other structure or pertinent feature on a landmark or landmark site. Interior remodeling which does not affect the exterior appearance of the historic landmark, structure, or site within an historic district shall not require an historic preservation permit.

However, construction of an accessory dwelling unit or junior accessory dwelling unit shall not require issuance of a historic preservation permit if undertaken in accordance with all standards of Article 4.5 of this chapter.

* * * * *

Sec. 9-7.304. – Hearings: Notices.

Notice of the time and date set for public hearings by the Planning Commission and, on appeal, the Council shall be given as required for use permits by Section 9-4.3302 of Article 33 of Chapter 4 of this title. ~~Except, however, that notice of a project proposing construction of an accessory dwelling unit shall be provided as set forth in subsection (a).~~

~~(a) — Notice of proposed accessory dwelling unit . The public notice of consideration by the Planning Administrator of an application to construct an accessory dwelling unit shall indicate that a public hearing will not be conducted. The notice shall also indicate the date by which public comments must be received by the Planning Administrator in order to be considered prior to a decision on the application, with such deadline not less than ten (10) calendar days from the date of the notice. The notice shall further specify that only written public comments will be accepted, shall include the mailing address to which comments may be submitted, and whenever possible, shall include provisions to submit public comments electronically either by electronic mail, an online form, or other comparable means.~~

Sec. 9-7.305. – Hearings.

The Planning Commission and, on appeal, the Council shall hold a public hearing before taking action on the permit application. The applicant and any interested party may present testimony or

documentary evidence concerning the proposed application. ~~Except, however, that a project proposing construction of an accessory dwelling unit shall be considered by the Planning Administrator and shall not require a public hearing. Notice for a project proposing an accessory dwelling unit shall be provided as set forth in Section 9-7.304.~~

Sec. 9-7.306. - Standards for review: Alterations.

- (a) In evaluating applications, the Planning Commission and Council shall consider, among other things, the purposes of this chapter, the historical and architectural value of the landmark, the texture, material, and color of the structure in question and its appurtenant fixtures and signs, the relationship of such features to similar features of other buildings within the area, and the position of such structure in relation to the street and to other structures. ~~The Planning Administrator's consideration of an application to construct an accessory dwelling unit shall consider these same factors but shall not consider the propriety of the use as an accessory dwelling unit.~~
- (b) The Planning Administrator, Planning Commission and Council shall approve an application if they make the following findings:
 - (1) That the proposed work will not adversely affect the exterior architectural features of the landmark; and
 - (2) That the proposed work will not adversely affect the special historical, architectural, or aesthetic value of the landmark and its site; and
 - (3) That the proposed work will not adversely affect the exterior architectural features of the subject property or its relationship, in terms of harmony and appropriateness, with its surroundings and neighboring structures; or
 - (4) That the owner would have no reasonable economic use of the structure unless the permit is granted. In any instance where there is a claim of no reasonable economic use or a claim that preservation is infeasible, the applicant shall submit to the City such economic and financial data as required by the Planning Administrator to evaluate such claim, including the cost, assessed value, taxes, appraisals, listings, and income from the property."

Unless otherwise identified herein all remaining sections of Chapter 7, Title 9 shall be unchanged.

Section 16. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to the statute (Public Resources Code Section 21000, et seq.) and the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.), including without limitation under section 15282(h) of the CEQA Guidelines pertaining to "[t]he adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code," and under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment. Furthermore, development of certain accessory dwelling units and junior accessory dwelling units that would result from this Ordinance would be further exempt from CEQA under Class 1,2, and/or 3 categorical exemptions as detailed in CEQA Guideline Sections 15301 through 15303 because the development of an accessory dwelling unit or junior accessory dwelling unit would occur within existing facilities, would include the replacement or reconstruction of an existing facility, or would be associated with new construction of a single-family dwelling. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

Section 17. Severability. If any section, subsection, sentence, clause or phase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this

Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases be declared unconstitutional.

Section 18. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

Section 19. Transmittal. The City Clerk is hereby ordered to transmit a copy of this Ordinance to the Department of Housing and Community Development within 60 days after adoption.

Section 20. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City's local coastal program pursuant to Section 30514 of the Public Resources Code.

PASSED AND ADOPTED this __ day of _____, 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Deirdre Martin, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Kenyon, City Attorney