

ORDINANCE NO. 841-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING ARTICLE 4 (R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT); ARTICLE 4.5 (ACCESSORY DWELLING UNITS); ARTICLE 5 (R-2 TWO-FAMILY RESIDENTIAL DISTRICT); AND ARTICLE 6 (R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT) OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE TO INCORPORATE CALIFORNIA LAW UPDATES RELATED TO ACCESSORY DWELLING UNIT CONSTRUCTION (TA-115-19) AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT(CEQA)

WHEREAS, on October 9, 2017, the City Council adopted Ordinance No. 825-C.S. approving Text Amendment TA-105-17 to amend the Pacifica Municipal Code (PMC) to be consistent with Section 65852.2 of the Government Code (Gov. Code), as amended by Assembly Bill 2299 (Bloom) ("AB 2299") and Senate Bill 1069 (Wieckowski) ("SB 1069"), which became effective January 1, 2017, pertaining to local regulation of accessory dwelling unit (ADU) construction; and

WHEREAS, Section 65852.2 of the Gov. Code, as amended by AB 2299 and SB 1069, nullifies local ordinances regulating ADU construction if such ordinances do not comply with its provisions; and

WHEREAS, in 2017, California Legislature enacted Senate Bill 229 (Wieckowski) ("SB 229") and Assembly Bill 494 (Bloom) ("AB 494"), effective January 1, 2018, further amending Section 65852.2 of the Gov. Code pertaining to local regulation of ADU construction; and

WHEREAS, amendments to the zoning ordinance are necessary in order to maintain consistency with Section 65852.2 of Gov. Code, as amended by SB 229 and AB 494; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments contained in Text Amendment TA-115-19 (File No. 2019-004) on March 18, 2019 and adopted Resolution No. 2019-010 by a vote of 5 ayes, 0 noes, and 2 absences initiating and recommending City Council approval of Text Amendment TA-115-19 on March 18, 2019; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on the proposed ordinance on April 8, 2019 and introduced Ordinance No. 841-C.S. on April 8, 2019.

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. Amendments.

Subpart (a)(7) of Section 9-4.401 of Article 4 "R-1 Single-Family Residential District" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.401.

(a) *Permitted uses.*

[...]

(7) 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.”

Subpart (j) of Section 9-4.451 of Article 4.5 “Accessory Dwelling Units” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.451. - Purpose.

[...]

(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.”

Subpart (m) of Section 9-4.452 of Article 4.5 "Accessory Dwelling Units" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

"Sec. 9-4.452. - Definitions.

[...]

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

Subparts (a)(1), (a)(4), (a)(5), (a)(7), (b), (d), (d)(2)(iv), (e), (e)(2)(iv), (f)(1), (f)(5), (f)(6), and (f)(7)(iii) of Section 9-4.453 of Article 4.5 "Accessory Dwelling Units" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in their entirety as follows:

"Sec. 9-4.453. - Development standards.

(a) *General provisions.*

- (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.

[...]

- (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.

[...]

- (5) The site's owner may at any time offer for rent either the primary dwelling unit or the accessory dwelling unit. 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.

[...]

- (7) An accessory dwelling unit shall not be sold or otherwise conveyed separate from the primary dwelling unit.

[...]

- (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 and that includes a proposed or existing attached or detached single-family dwelling. An accessory dwelling unit shall be prohibited on any other site.

[...]

- (d) *Attached accessory dwelling units* . The provisions of this subsection shall apply to an accessory dwelling unit attached horizontally or vertically to a primary dwelling unit or accessory structure, including, without limitation, a garage.

[...]

(2) *Setbacks.*

[...]

- (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.

[...]

- (e) Accessory dwelling units contained within the existing space of a single-family residence or accessory structure. The provisions of this subsection shall apply to accessory dwelling units established within the space of an existing primary dwelling unit or an existing accessory structure, including without limitation an existing attached or detached garage, studio, pool house, or other similar structure. 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.

[...]

(2) *Setbacks.*

[...]

- (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.

[...]

(f) *Parking.*

- (1) An accessory dwelling unit shall require one (1) off-street parking space per unit or per bedroom, whichever is less. No parking shall be required for an accessory dwelling unit described in subsection (7) of this subsection or an accessory dwelling unit described in subsection (e) of this section.

[...]

- (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 be replaced on site.

[...]

- (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.

[...]

- (7) No off-street parking shall be required for an accessory dwelling unit in any of the following circumstances:

[...]

- (iii) The accessory dwelling unit is a type described in subsection (d) or (e)."

Subpart (f) of Section 9-4.454 of Article 4.5 "Accessory Dwelling Units" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

"Sec. 9-4.454. - Compliance with other regulations.

[...]

- (f) 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."

Subpart (a)(7) of Section 9-4.501 of Article 5 "R-2 Two Family Residential District" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

- (a) *Permitted uses.*

[...]

- (7) 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.”

Subpart (a)(6) of Section 9-4.601 of Article 6 “R-3 Multiple-Family Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

- (a) *Permitted uses.*

[...]

- (6) 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.”

Section 3. 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 multifamily residential zone by a city or county to implement the provisions of Section 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. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

Section 4. Severability. If any section, subsection, sentence, clause or phrase 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 5. Publication. The City Clerk is hereby ordered and directed to certify 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 6. 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 for review and comment.

Section 7. 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.

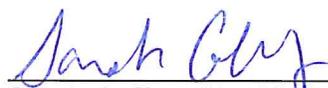
PASSED AND ADOPTED this 22nd day of April, 2019 by the following vote:

AYES: Vaterlaus, Beckmeyer, O'Neill, Bier
NOES: None
ABSTAIN: None
ABSENT: Martin



Sue Vaterlaus, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



For Michelle Kenyon, City Attorney