

RESOLUTION NO. 979

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA
INITIATING A ZONING TEXT AMENDMENT AND RECOMMENDING CITY COUNCIL
APPROVAL OF TEXT AMENDMENT TA-105-17 TO REPEAL AND REPLACE
ARTICLE 4.5 OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE
AND AMEND OTHER RELATED PACIFICA MUNICIPAL CODE PROVISIONS**

Initiated by: Planning Commission

WHEREAS, the California Legislature enacted Assembly Bill 2299 (Bloom) ("AB 2299") and Senate Bill 1069 (Wieckowski) ("SB 1069"), effective January 1, 2017, amending Section 65852.2 of the Government Code pertaining to local regulation of accessory dwelling unit (ADU) construction; and

WHEREAS, Section 65852.2 of the Government 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, 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, Article 4.5 is not consistent with Section 65852.2 of the Government Code, and the City of Pacifica must adopt an ordinance that complies with Section 65852.2 of the Government Code in order to retain local control over ADU construction; and

WHEREAS, various amendments to other zoning provisions are necessary to ensure consistency with Section 65852.2 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 study session to solicit public input on proposed changes to Article 4.5 on March 20, 2017; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed changes to Article 4.5 and other zoning amendments contained in Text Amendment TA-105-17 on April 17, July 17, and August 21, 2017; and

WHEREAS, the Planning Commission is disappointed and concerned that the State has taken a "one size fits all" approach to regulating ADUs without regard to the unique topographical and built environment of Pacifica and other communities throughout the state; and

WHEREAS, the Planning Commission's recommendation addresses the unique conditions in Pacifica to the extent allowed under state law including but not limited to impacts to privacy, emergency vehicle access, parking availability, and transit availability; and

WHEREAS, the Planning Commission's recommendation that the City Council approve this ADU Ordinance, on balance, maintains more local control over certain aspects of the review and approval process for ADUs than allowing the regulations to

default to those contained in state law which do not take Pacifica's unique aspects under consideration.

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 amendment recommended by the Planning Commission is 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 CEQA Guidelines § 15282(h) 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 Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code," and under CEQA Guidelines § 15061(b)(3) 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.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby find that Appendix D of the 2016 California Fire Code, adopted by ordinance by the City of Pacifica, 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 75,000 pounds. It further requires streets to be at least 20 feet in width and prohibits on-street parking on streets 26 feet or less in width. Appendix D allows on-street parking on one side of streets greater than 26 feet but less than 32 feet in width.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby find that, in order to preserve public safety, it is necessary to prohibit attached and detached ADU 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 ADU 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 ADUs. In particular, ADUs located within one-half 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 ADUs (see Gov. Code §§ 65852.2(d), (e)). Additionally, households occupying ADUs located elsewhere may own more vehicles than can be accommodated in the off-street parking facilities the City is permitted to require for ADUs under state law (not more than one space per bedroom or per unit; see Gov. Code § 65852.2(a)(1)(D)(x)(I)). Therefore, the Planning Commission finds and determines it is possible and likely that ADU construction on streets 26 feet or less in width could result in increased on-street parking demand. The Planning Commission further finds and determines that 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.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby intend to initiate a repeal and replacement 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.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby recommend approval to the City Council of the City of Pacifica the text amendment described in Text Amendment TA-105-17 included as 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 21st day of August 2017.

AYES, Commissioners:	CAMPBELL, CLIFFORD, GORDON, STEGINK
NOES, Commissioners:	BARINGER
ABSENT, Commissioners:	COOPER, NIBBELIN
ABSTAIN, Commissioners:	N/A




Josh Gordon, Acting Chair

ATTEST:



Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:


Michelle Kenyon, City Attorney

EXHIBIT A

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); REPEALING AND REPLACING ARTICLE 4.5 OF CHAPTER 4 (SECOND RESIDENTIAL 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 19 OF CHAPTER 4 (AGRICULTURAL DISTRICT (A)); AMENDING ARTICLE 22 OF CHAPTER 4 (PLANNED DEVELOPMENT DISTRICT (P-D)); AMENDING ARTICLE 23 OF CHAPTER 4 (GENERAL PROVISIONS AND EXCEPTIONS); AMENDING ARTICLE 27 OF CHAPTER 4 (PROJECTIONS INTO YARDS); AMENDING ARTICLE 28 OF CHAPTER 4 (OFF-STREET PARKING AND LOADING); 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 42 OF CHAPTER 4 (TRANSFER OF RESIDENTIAL DEVELOPMENT RIGHTS), 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-105-17), AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, the California Legislature enacted Assembly Bill 2299 (Bloom) ("AB 2299") and Senate Bill 1069 (Wieckowski) ("SB 1069"), effective January 1, 2017, amending Section 65852.2 of the Government Code pertaining to local regulation of accessory dwelling unit (ADU) construction; and

WHEREAS, Section 65852.2 of the Government 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, 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, Article 4.5 is not consistent with Section 65852.2 of the Government Code, and the City Council of the City of Pacifica desires to repeal and replace Article 4.5 with an ordinance that complies with Section 65852.2 of the Government Code in order to retain local control over ADU 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 of the Government Code and Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code; and

WHEREAS, the Planning Commission of the City of Pacifica held a study session to solicit public input on proposed changes to Article 4.5 on March 20, 2017; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed changes to Article 4.5 and other zoning amendments on April 17, July 17, and August 21 2017, and adopted Resolution No. 979 initiating and recommending City Council approval of Text Amendment TA-105-17 on August 21, 2017; 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 September 11, 2017, 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. Non-substantive Modifications. The provisions of this section shall not be codified as part of this ordinance. The City Council of the City of Pacifica adopted Ordinance No. 819 on July 10, 2017. Ordinance No. 819 amends several of the same provisions of the Pacifica Municipal Code as this ordinance, but will take effect only upon an affirmative vote of a majority of the voters of the City of Pacifica at an election scheduled for November 7, 2017. Because it cannot be determined with certainty whether Ordinance No. 819 will take effect, and in order to harmoniously integrate the provisions of this ordinance with Ordinance No. 819 should that ordinance take effect, the City Clerk is hereby authorized to make non-substantive amendments to the numbering of sections and subsections and any related references to such sections and subsections in this ordinance to ensure the internal consistency of the Pacifica Municipal Code.

Section 3. Amended. Article 4 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-1 Single-Family Residential District) is hereby amended as follows (deletions in ~~strike through~~, 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; ~~and~~
- (5) Manufactured homes consistent with Chapter 14 of Title 8 of this Code; and
- (6) Accessory dwelling units on sites that contain an existing attached or detached single-family dwelling, subject to the standards of Article 4.5.

(b) Conditional uses. Conditional uses allowed in the R-1 District, subject to obtaining a use permit, shall be as follows:

- (1) Churches and schools;
- (2) Parks and playgrounds;
- (3) Landscaped public or private parking lots when adjacent to any C District;
- (4) Crop and tree farming;

(5) Mobile home parks;

~~(6) Second dwelling units pursuant to Article 4.5 of this chapter;~~

* * * * *

Sec. 9-4.402. - Development regulations.

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

* * * * *

(n) Notwithstanding the provisions of this section, the development regulations for accessory dwelling units shall be those set forth in Article 4.5

* * * * *

Section 4. Repealed. Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Second Residential Units) is hereby repealed in its entirety and replaced with the provisions of Section 5 of this Ordinance.

Section 5. Enacted. Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Accessory Dwelling Units) is hereby enacted as follows:

Sec. 9-4.451. – Purpose

The City Council finds and declares its intent as follows:

(a) To enact regulations governing accessory dwelling unit construction in compliance with Section 65852.2 of the Government Code. The provisions of this article shall be liberally construed in order to accomplish development of 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, the provisions of this article shall prevail.

(b) To establish a process for ministerial review and approval of accessory dwelling units. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial of a building permit for an accessory dwelling unit.

(c) To mitigate a widespread and ongoing shortage of affordable housing within the City. The United States Census Bureau's 2011-2015 American Community Survey estimates that 46 percent of renter households in Pacifica pay 30 percent or more of their household income for housing-related expenses. The Census Bureau considers households that pay 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 30 percent of the City of Pacifica's 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;

(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. 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;

(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 enable multi-generational living on a common site. The United States Census Bureau's 2011-2015 American Community Survey estimates that 14 percent of Pacifica's population is 65 years or older, an increase from 11 percent in 2010. As Pacifica's population ages, 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 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 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, 52 percent of households age 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 65 years and older. The report also found that among the 48 percent of households age 55 years and older with some retirement savings, the median amount is approximately \$109,000, or equivalent to an inflation-protected annuity of \$405 per month at current rates for a 65-year old. The report further found that nearly 30 percent of households age 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 52 percent of household income for those age 65 years and older. Based on United States Census Bureau 2011-2015 American Community Survey estimates, the median rent in Pacifica in 2015 was \$1,875 per month. The addition of income from the long-term rental of an 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. An analysis of listings on the short-term rental site Airbnb in October 2015 found 72 accommodations listed within the City of Pacifica, 57 percent of which offered for rent an entire house or apartment. The average price per night for the listed accommodations was \$173 per night, equivalent to a monthly rent of \$5,190. According to the United States Census Bureau's 2011-2015 American Community Survey estimates, median monthly rent during 2015 was \$1,875, equivalent to \$62.50 per night. Even if rented fewer than 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 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 for periods less than 30 days in order to preserve their use for long-term residential occupancy.

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. 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.

(b) "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.

(c) "Cooking facilities" shall mean an area containing all of the following: a refrigeration appliance; and, a kitchen sink and cooking appliance, each having a clear working space of not less than 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.

(d) "Efficiency unit" shall have the meaning as defined in Section 17958.1 of Health and Safety Code.

(e) "Independent living facilities" shall mean all of the following facilities within a single accessory dwelling unit: permanent provisions for sleeping, eating, cooking, and sanitation.

(f) "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.

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

(h) "Primary dwelling unit" means the first lawfully-constructed dwelling unit that exists on a site.

(i) "Public transit" 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 (h): "Public transit" shall mean a defined transit station or stop, with a regular service interval no longer than 30 minutes during peak commute hours from 6:00-9:00 AM and 3:00-6:00 PM 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.

(j) "Sanitation facilities" shall mean a separate room containing a water closet (i.e. toilet), lavatory (i.e. sink), and bathtub or shower.

(k) "Site" shall mean a lawfully-created lot or parcel.

(l) "Sleeping facilities" shall mean an area dedicated to sleeping.

Sec. 9-4.453. – Development standards.

(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.

(2) A site shall contain no more than one accessory dwelling unit.

(i) 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(i) 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.

(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.

(5) An applicant for a building permit to construct an accessory dwelling unit shall, at the time an application is filed with the City, be an owner-occupant of the site's primary dwelling unit and shall provide sufficient proof of occupancy upon request by the City. The site's owner may at any other 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.

(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, but shall not be used for rentals of terms less than 30 consecutive days.

(7) An accessory dwelling unit shall not be sold 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 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 also 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.

(12) 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 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.

(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 that contains an existing attached or detached single-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 as a permitted 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 as a permitted use by considering any existing structures on the site in addition to the structures and development pattern of the area immediately surrounding the site.

(c) *Detached accessory dwelling units.* The provisions of this subsection shall apply to an accessory dwelling unit that is detached from a primary dwelling unit and all accessory structures including without limitation garages.

(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 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') 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.

(3) *Distance between structures.* All portions of a detached accessory dwelling unit shall be located at least ten (10') feet from any other building existing or under construction on the same site or an adjacent site. 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, 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.

(5) *Lot coverage.* Maximum lot coverage shall be that of the underlying zoning district.

(6) *Landscaping.* 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 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 26 feet or less in width.

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

(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 shall not exceed 50 percent of the living area of the primary dwelling unit, and shall not in any instance exceed 1,200 square feet.

(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.

(iii) *Rear.* Minimum rear setback shall be twenty (20') feet.

(iv) Notwithstanding subsections (i) through (iii), the minimum setbacks for an accessory dwelling unit that is constructed above an existing 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 an existing garage.

(3) *Distance between structures.* All portions of an attached accessory dwelling unit shall be located at least ten (10') feet from any other building existing or under construction on the same site or an adjacent site. 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 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, the maximum height shall be fifteen (15') feet.

(5) *Lot coverage.* Maximum lot coverage shall be that of the underlying zoning district.

(6) *Landscaping.* 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 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 26 feet or less in width.

(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. 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 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 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 space of an existing accessory structure: None.

(2) *Setbacks.* 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.* None.

(ii) *Side*. Minimum side setback shall be five (5') 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 (5') feet.

(iv) Notwithstanding subsections (i) through (iii), no setback shall be required for an existing garage that is converted 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.

(f) *Parking*.

(1) An accessory dwelling unit with two or fewer bedrooms shall require one off-street parking space and an accessory dwelling unit with three or more bedrooms shall require two off-street parking spaces. Any such parking space or spaces shall be located on the same site as the accessory dwelling unit. 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.

(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 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 an existing garage which provides the required covered off-street parking space or spaces for a primary dwelling unit is converted 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.

(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 an existing garage which provides the required covered off-street parking space or spaces for a primary dwelling unit is converted 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.

(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) An applicant may not seek relief from the requirements of subsection (6) by application for a variance, minor modification, or parking exception.

(7) 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 mile of public transit.

(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 located within an existing primary dwelling unit or accessory structure.

(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.

(g) 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.

(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. 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 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 residence or accessory structure 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 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.

(i) 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 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 9-4.455.

(5) *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.

(6) *Change in circumstances.* The determination of the applicability of the criteria described in Section 9-4.453(f)(7) 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.

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

(a) An ADU which conforms to the 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 and zoning designations for the site.

(b) An ADU 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 administratively without a public hearing in accordance with the procedures for processing an administrative coastal development permit contained in Section 9-4.4306.

(d) 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) and (h) of Section 9-4.453, respectively.

(e) An applicant may 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 shall be as set forth in Article 34.

(f) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(g) An 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. 9-4.455. – Legalization of existing units.

(a) *Unlawful and nonconforming.* Every 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 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 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 years of the effective date of this article, or during the period in which the building permit is valid, whichever period is shorter.

Section 6. Amended. 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;~~and~~
- (5) Special care facilities for six (6) or fewer persons;~~;~~ and

(6) Accessory dwelling units on sites that contain an 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:

* * * * *

(k) Notwithstanding the provisions of this section, the development regulations for accessory dwelling units shall be those set forth in Article 4.5

Section 7. Amended. 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;~~and~~
- (4) Special care facilities for six (6) or fewer persons;~~;~~ and

(5) Accessory dwelling units on sites that contain an existing attached or detached single-family dwelling, subject to the standards of Article 4.5.

* * * * *

Sec. 9-4.602. - Development regulations.

Development regulations in the R-3 District shall be as follows:

* * * * *

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

Section 8. Amended. Article 19 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Agricultural District (A)) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec.9-4.1901. – Uses permitted: Restrictions (A).

* * * * *

~~(d)(2) One second residential unit as defined in Article 4.5 of Chapter 4 of this title.~~

* * * * *

Section 9. Amended. 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 unit constructed in accordance with the provisions of Article 4.5 (Accessory Dwelling Units).

Section 10. Amended. 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. ~~Second residential~~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.

Section 11. Amended. Article 27 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Projections into Yards) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.2704. - Accessory buildings.

(a) In the event an accessory building is attached to the main building, such accessory building shall be made structurally a part of the main building, and comply in all respects with the requirements of this chapter applicable to the main building. Unless so attached, the following regulations shall apply to accessory buildings in all residential districts:

* * * * *

(7) An accessory dwelling unit constructed in accordance with Article 4.5 of this chapter shall not be considered an "accessory building" for purposes of this section.

* * * * *

Section 12. Amended. Article 28 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Off-Street Parking and Loading) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

* * * * *

Sec. 9-4.2804. - Facilities for existing buildings.

Accessory off-street parking or loading facilities which are located on the same site as the building or use served shall not be reduced below, or, if already less than, shall not be further reduced below, the requirements of this article for a similar new building or use. The off-street parking facilities for a primary dwelling unit may be reduced or eliminated as provided in Article 4.5 of this chapter for construction of an accessory dwelling unit.

* * * * *

Sec. 9-4.2813. - Access to parking facilities.

(a) All required off-street parking spaces shall be non-tandem except as provided for accessory dwelling units in Article 4.5 of this chapter. All off-street parking spaces for residential uses shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking spaces. All off-street parking facilities shall be designed in a manner which will least interfere with traffic movements.

* * * * *

(c) Residential driveways and access roadways shall provide a permanent, unobstructed passageway constructed to the following standards:

(1) When any portion of an exterior wall of the first story of a structure is located more than 150 feet from Fire Department vehicle access, the driveway shall be considered the Fire Department access roadway and shall conform to the applicable provisions of the California Uniform Fire Code.

(2) A driveway serving one dwelling unit shall be a minimum of ten (10') feet in width. For purposes of this subsection, a site containing an accessory dwelling unit shall be subject to the standards for a driveway serving one dwelling unit.

* * * * *

Sec. 9-4.2818. - Number of parking spaces required.

The number of off-street parking spaces required for the uses set forth in this section shall be as follows:

(a) Residential.

* * * * *

(9) Accessory dwelling units. Spaces shall be provided as required by Article 4.5 of this chapter.

* * * * *

Section 13. Amended. 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 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 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 structures ~~and~~ modifications to an existing structures other than an accessory dwelling unit located in the R-1, Single-Family Residential Districts that shall not require Site Development Permits if they meets the development standards for lot coverage and landscaping and additional standards listed below:

* * * * *

Section 14. Amended. 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 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 ~~single-family~~ construction upon substandard lots in the R-1 (Single-Family Residential) or R-2 (Two-Family Residential) zoning districts or for the new construction or legalization of second residential units if determined by the Planning Administrator that the project does not meet all applicable development standards. Except, however, that a site development permit shall not be required for construction of an 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 an accessory dwelling unit shall not include consideration of the 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.

* * * * *

Section 15. Amended. 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.

(a) The Commission shall grant a variance only when all of the following findings are made:

(1) That because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;

(2) That the granting of such variance will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the subject property and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the area;

(3) Where applicable, that the application is consistent with the City's adopted Design Guidelines; and

(4) If located in the Coastal Zone, that the application is consistent with the applicable provisions of the Local Coastal Plan.

(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.

(c) In granting any variance, the Commission shall impose such conditions as will ensure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

* * * * *

Section 16. Amended. Article 42 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Transfer of Residential Development Rights) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

* * * * *

Sec.9-4.4204. – Receiving areas.

(a)(6) ~~Land designated as R-1 (single family residential district) is eligible to receive transfer units only for the purpose of construction of a second residential unit on a single building site. The density limitations of Section 9-4.453 of this Code shall not apply to such a transfer.~~Repealed by Ordinance No. XXX-XX [this Ordinance].

* * * * *

Section 17. Amended. 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.9-4.4302. – Definitions.

* * * * *

(y) "Department" shall mean the City of Pacifica Planning ~~and Building~~ Department.

* * * * *

(aa) "Director" shall mean the City of Pacifica Planning ~~and Building~~ Director, or her/his designee.

* * * * *

(aq) "Rare and/or endangered species" shall mean those animal or plant species identified as rare, endangered, and/or threatened by the United States Department of Interior Fish and Wildlife Service, or the California Department of Fish and ~~Game~~Wildlife.

* * * * *

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

* * * * *

(i)(2)(iv) ~~Second residential~~ Accessory dwelling units which meet all of the criteria as set forth in ~~Pacific Municipal Code 9-4.4.5~~Article 4.5 of this chapter. However, a coastal development permit shall be required for new single-family residences and for new ~~second residential~~accessory dwelling units located within the Coastal Commission's appeal jurisdiction as defined in ~~PRC Section 30603(a)4-5~~ of the Public Resources Code because a risk of adverse environmental impact is involved; Additionally, a coastal development permit shall be required for new 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.

Sec. 9-4.4304. - Coastal development permit procedures and findings.

* * * * *

(e) *Posting.* Within ten (10) calendar days after an application for a coastal development permit is accepted as complete for filing, the applicant shall post, in a conspicuous place on the development site and at the nearest public library, a notice provided by the Director indicating that a coastal development permit application has been submitted. This notice shall include the file number and a general description of the proposed project along with the telephone number of the ~~Community Development and Services~~ Department. Failure by the applicant to post or maintain such a notice throughout the permit review process shall constitute grounds for the suspension of the permit process by the Director, Planning Commission or City Council.

Sec. 9-4.4305. - Coastal development permit appeal.

* * * * *

(b) *City Council.* Any person aggrieved by any action or decision of the Planning Commission, may appeal to the City Council in writing within ten (10) calendar days pursuant to Article 36 of this chapter accompanied by a fee as set forth in City Administrative Policy No. 2. Upon appeal, the City Council may approve, deny, or modify the decision of the Planning Commission or refer the matter back to the Planning Commission for reconsideration.

* * * * *

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; 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 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 in accordance with the provisions in subsection (m); or

* * * * *

~~(e) *Notice by mail.* At least seven (7) calendar days prior to the first public hearing on a proposed coastal development, the Director shall provide notice by first-class mail of the pending coastal development permit application to all persons known to be adversely affected who have stated in writing that they wish to receive such notice. Notice shall also be posted and publicized pursuant to the procedures of Section 9-4.4304, Coastal Development Permit Procedures and Findings, subsections (e), (i) and (j). Prior to the first public hearing on a proposed coastal development, the Director shall provide notice as provided in this subsection.~~

(1) *Posting.* Post notice of receipt of a coastal development permit application pursuant to the procedures of subsection (e) of Section 9-4.4304, Coastal Development Permit Procedures and Findings.

(2) *Notice by mail.* Provide notice by first-class mail of the pending public hearing to consider the coastal development permit application pursuant to the procedures of subsections (1) through (4) of subsection (g) of Section 9-4.4304, Coastal Development Permit Procedures and Findings. The content of a mailed notice shall include the information specified in subsection (h) of Section 9-4.4304.

(3) *Posted notice.* Post notice of the pending public hearing to consider the coastal development permit application pursuant to the procedures of subsection (i) of Section 9-4.4304, Coastal Development Permit Procedures and Findings.

(4) *Published notice.* Publish notice of the pending public hearing to consider the coastal development permit application pursuant to the procedures and content requirements of subsection (j) of Section 9-4.4304, Coastal Development Permit Procedures and Findings.

* * * * *

(g) Effective date of administrative permit.

* * * * *

(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; and

* * * * *

(i) *Appeal.* The decision of the Director may be appealed to the Planning Commission within ~~seventeen (710)~~ seven (7) calendar days pursuant to the Pacifica Municipal Code Article 36 of this chapter, Title 1, Chapter 4. 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 shall be conducted as a public hearing.

* * * * *

(m) 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 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 and to appeals of any approval of an accessory dwelling unit.

(i) Notice of the Director's consideration of a coastal development permit 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 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 shall be those in Section 9-4.4304(k) and 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 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.

Section 18. Amended. 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) ~~Second residential~~Accessory dwelling units as defined by the City's ~~Second Residential~~Accessory Dwelling Unit Ordinance, Pacifica Municipal Code, Title 9, Article 4.5;

Section 19. Amended. Chapter 7 of Title 9 of the Pacifica Municipal Code (Historic Preservation) is hereby amended as follows (deletions in ~~striketrough~~, additions in underline):

* * * * *

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 Sec. 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 landmark or portion thereof is in such a deteriorated condition that it is not feasible to restore or preserve it;

(2) That the owner would have no reasonable economic use of the property unless the structure is removed; or

(3) That the proposed use will provide an overriding and substantial benefit to the citizens of the City which could not be provided unless the structure is removed.

* * * * *

Sec. 9-7.308. - Appeals.

An appeal of the Planning Commission's action concerning an historic preservation permit shall be permitted as required for use permits by Section 9-4.3304 of Article 33 of Chapter 4 of this title. An appeal of the Planning Administrator's action concerning an historic preservation permit shall be permitted as required for decisions of the Zoning Administrator by Section 9-4.3804 of Article 38 of Chapter 4 of this title.

Section 20. 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 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. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

Section 21. 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, sentences, clauses or phrases be declared unconstitutional.

Section 22. 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 once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

Section 23. 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 24. 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 _____, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mike O’Neill, Mayor

ATTEST:

APPROVED AS TO FORM:

Kathy O’Connell, City Clerk

Michelle Kenyon, City Attorney