

P.C. RESOLUTION NO. XXXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH RECOMMENDING THAT THE CITY COUNCIL APPROVE A ZONE TEXT AMENDMENT TO THE HERMOSA BEACH MUNICIPAL CODE TO REPLACE THE TERM “SECOND UNIT” WITH “ACCESSORY DWELLING UNIT”, ADDING CHAPTER 17.21 TO THE HERMOSA BEACH MUNICIPAL CODE TO PROVIDE FOR ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES; AND AMENDING THE HERMOSA BEACH MUNICIPAL CODE TO CONFORM WITH STATE LAW.

The Planning Commission does hereby resolve and order as follows:

Section 1. Due to recent State legislation, staff has initiated this text amendment to replace the term “second unit” with “accessory dwelling unit” and add Chapter 17.21 to the Hermosa Beach Municipal Code to provide for accessory dwelling units in residential zones, in conformance with state law.

Section 2. The Zoning Ordinance text amendments are consistent with the goals, policies, and objectives of the General Plan because accessory dwelling units do not exceed the allowable density for the lot upon which they are located. Furthermore, accessory dwelling units are a residential use that is consistent with the General Plan under Government Code Section 65852.2.

Section 3. On May 15, 2018, the Planning Commission conducted a duly noticed public hearing and accepted and considered all of the public testimony on the issue.

Section 4. The Planning Commission does hereby find and declare as follows:

- A. In light of California’s housing crisis, Assembly Bills (“AB”) 2299 and 2406, and Senate Bill (“SB”) 1069 collectively and significantly impact local authority to regulate accessory dwelling units and were drafted to apply a clear standard for the accessory dwelling unit permit review process, regardless of whether a local government has an adopted ordinance or not. Specifically, Government Code section 65852.150(b) states, “[i]t is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so

arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.”

- B. Signed by the Governor on September 27, 2016, AB 2299 and SB 1069 went into effect on January 1, 2017. Pursuant to Government Code section 65852.2(a)(1), a local ordinance providing for the creation of accessory dwelling units in single-family and multifamily zones must comply with the provisions of Government Code section 65852.2, otherwise the ordinance is null and void. The statute was also updated in 2017, effective January 1, 2018, with a few clarifying measures.
- C. In 1992, the City added provisions to the Hermosa Beach Municipal Code to prohibit the creation of second units in single-family zones. Pursuant to Government Code section 65852.150(c), the authorization for such a prohibition was conditioned on findings acknowledging that such action may limit housing opportunities, as well as further findings that specific adverse impacts on the public health, safety, and welfare would result from allowing second units within the city. Because “second units” would negatively impact traffic, density, the school system, infrastructure, sewer, loss of open space, increased impervious surfaces, and increase of solid waste generation, the City established findings sufficient to prohibit “second units” under State law. Hermosa Beach is almost 98% built out; it is the densest community in terms of housing and population in the South Bay and is ninth in terms of population density on Los Angeles County. The City of Hermosa Beach contains approximately 68 percent residential land area. The City’s residential uses are comprised of approximately 51 percent single family-uses, 47 percent multiple family uses and 2 percent mobile home uses. There are approximately 3,682 residentially zoned lots within the city, of which, approximately 1,589 (43 percent) are at least 4,000 square feet in lot size and have development potential to accommodate junior accessory dwelling units and accessory dwelling units. These statistics have not significantly changed over the years. However, because the legislature has determined that accessory dwelling units can provide for additional rental housing stock, and the ability for cities to make findings to opt out of allowing accessory dwelling units has now been repealed, the City’s current ordinance banning accessory dwelling units must be amended in order to conform to State law.

Section 5. Under California Public Resources Code section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is the State Accessory Dwelling Unit law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state accessory dwelling unit law.

Section 6. Based on the foregoing, the Planning Commission of the City of Hermosa Beach hereby recommends that the City Council approve Zoning Text Amendment 18-1, attached hereto as Attachment A.

VOTE: AYES:
 NOES:
 ABSTAIN:
 ABSENT:

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 18-X is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at its regular meeting of May 15, 2018.

Rob Saemann, Chairman

Ken Robertson, Secretary

Date

ATTACHMENT A

Section 1. Subsection (L) of Section 17.08.020 (Permitted Uses) of Chapter 17.08 (R-1 Single Family Residential Zone) of Title 17 (Zoning) of the Hermosa Beach Municipal Code is amended to read as follows.

L. Accessory Dwelling units and Junior Accessory dwelling units, in accordance with Chapter 17.21.

Section 2. Subsection 1 of Section 17.08.020.M. (Permitted Uses) of Chapter 17.08 (R-1 Single Family Residential Zone) of Title 17 (Zoning) of the Hermosa Beach Municipal Code is hereby deleted in its entirety.

Section 3. The alphabetical list of definitions in Section 17.04.040 (General definitions) of Chapter 17.04 (Definitions) of Title 17 (Zoning) is amended to include the following definitions, in alphabetical order:

“*Car share vehicle*” means a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service.

“*Director of Community Development*” means the City’s Director of Community Development, or his or her designee.

“*Dwelling Unit, Accessory*” or “*Accessory Dwelling Unit*” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence. An accessory dwelling unit also includes the following:

- (1) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code; or
- (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

“*Dwelling Unit, Junior Accessory*” or “*Junior accessory dwelling unit*” means a unit that is no more than 500 square feet in size and contained entirely within an existing primary residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure. For the purposes of providing service for water, sewer, or power, or for fire or life protection, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

“*Existing space*” means a legally permitted space that can be converted to an accessory dwelling unit within the four walls and roofline of any existing structure that can be made safely habitable under Chapter 15 of the City’s Municipal Code at the determination of the City’s Building Official.

“*Living area*” means the legally permitted interior area of a dwelling unit, with the exception of a garage or any accessory structure. “*Living area*” shall also mean basements and attics which meet the habitability requirements of Chapter 15 of this Code.

“*Primary residence*” means a structure that contains the primary one-family dwelling unit on the lot.

Section 4. Chapter 17.21 is hereby added to Title 17 of the Hermosa Beach Municipal Code to read as follows:

Chapter 17.21 ACCESSORY DWELLING UNITS

Section 17.21.010 Purpose and Applicability

Section 17.21.020 Junior Accessory Dwelling Units

Section 17.21.030 Accessory Dwelling Units

Section 17.21.040 Junior Accessory Dwelling Unit and Accessory Dwelling Unit Permit Application, Approval Process and Timelines

Section 17.21.010 Purpose and Applicability.

The purpose of this Chapter is to implement the requirements of Government Code section 65852.2, to allow accessory dwelling units and junior accessory dwelling units in a manner that accounts for the City’s unique land use characteristics (including high density and small lot size) and which will minimize impacts on traffic, density, the school system, infrastructure, sewer, increased impervious surfaces and increased solid waste generation, given Hermosa’s almost entirely built out and incredibly dense characteristics. In accordance with state law, accessory dwelling units and junior accessory dwelling units are an accessory use to the primary use of a parcel as a one-family dwelling unit and do not exceed the allowable density for the parcel.

Section 17.21.020 Junior Accessory Dwelling Units.

A. Junior accessory dwelling units shall comply with the following standards:

- (1) The junior accessory dwelling unit is located on a lot zoned for residential use, with the exception of the Mobile Home Park zone, and shall contain no more than one (1) existing or proposed primary residence;
- (2) The minimum net lot area shall be four thousand (4,000) square feet;
- (3) The lot may contain no more than one (1) accessory dwelling unit or one (1) junior accessory dwelling unit;

- (4) The junior accessory dwelling unit shall be a maximum of 500 square feet in size and shall be constructed within the existing walls of the primary residence and shall utilize an existing bedroom in the dwelling. For the purposes of this subsection, “existing” means a dwelling or bedroom that lawfully exists on the parcel, or was the subject of a building permit;
- (5) The junior accessory dwelling unit shall include an efficiency kitchen, which shall include all of the following:
 - (a) A sink with a maximum waste line diameter of 1.5 inches;
 - (b) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas; and
 - (c) Food preparation counter(s) and storage cabinet(s).
- (6) The primary residence or the junior accessory dwelling unit shall be owner-occupied;
- (7) The junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area;
- (8) The address for the junior accessory dwelling unit shall be assigned by the City and shall be visible from the street and/or alley;
- (9) Both the primary residence and the junior accessory dwelling unit shall permanently remain under one ownership and shall not be sold separately;
- (10) Fire sprinklers shall be installed where required by applicable law; and
- (11) The accessory dwelling unit shall comply with Title 15 (Buildings and Construction) of the Hermosa Beach Municipal Code.
- (12) Storage facilities shall include an area sufficient for two, thirty-five (35) gallon capacity refuse containers. Such storage containers shall be provided in any one of the following ways:
 - (a) Attached to the outside of the structure on privately owned property, enclosed on all sides by suitable screening of not less than four feet in height or similar type of structure so that the same shall not be open to public view, one side of which may be opened as a gate. Such storage facilities shall have a concrete, asphalt or similar base and shall be adequately ventilated; or
 - (b) Constructed within the building structure; or
 - (c) A separate structure enclosed on all sides by suitable screening of not less than four feet in height or similar type of structure so that the same shall not be open to public view, one side of which may be opened as a gate. Such storage facilities shall have a concrete, asphalt or similar base and shall be adequately ventilated; or

- (d) Within an accessory building such as a garage or storage shed, or within a primary structure in a service porch-type area.
- C. No parking space shall be required for junior accessory dwelling units.
- D. In the event the junior accessory dwelling unit is rented, it shall not be rented for a period of less than 30 days, in accordance with Section 17.08.025 of the Code.
- E. Only the owner-occupant of the primary residence located on the residential lot shared by the accessory dwelling unit may apply for an administrative permit under this Chapter.
- F. A covenant in a form approved by the City Attorney shall be recorded with the County Recorder's Office detailing the restriction on the size and attributes of the junior accessory dwelling unit as set forth in this Section. The covenant shall include prohibitions on renting the junior accessory dwelling unit for a period of less than 30 days (in accordance with Section 17.08.025 of the Code), and on the sale of the junior accessory dwelling unit separate from the sale of the primary residence, including a statement that the deed restriction may be enforced against future purchasers. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.
- G. For the purposes of this section, a new or separate utility connection directly between the junior accessory dwelling unit and the utility shall not be required for an accessory structure within an existing structure.
- H. This adopted section shall not validate any illegal structures or existing illegal accessory dwelling units. Accessory dwelling units must comply with and receive a permit under this ordinance to be considered legal.
- I. This adopted section shall not invalidate the requirements of the Section 17.52, Nonconforming Buildings and Uses, as they apply to the primary residence.

Section 17.21.030 Accessory Dwelling Units.

Accessory dwelling units shall comply with the following standards:

- A. Generally.
 - (1) The accessory dwelling unit is located on a lot zoned for residential use, with the exception of the Mobile Home Park zone, and shall contain no more than one (1) existing or proposed primary residence;
 - (2) The minimum net lot area shall be four thousand (4,000) square feet;

- (3) The lot may contain no more than one (1) accessory dwelling unit or one (1) junior accessory dwelling unit;
- (4) The accessory dwelling unit shall be either (i) within or attached to the existing or proposed primary residence; or (ii) detached from the existing primary residence and located on the same lot as the proposed or existing primary residence;
- (5) The owner shall occupy either the existing primary residence or the accessory dwelling unit;
- (6) Exterior access to the accessory dwelling unit shall not face the front yard and shall be located on the side or rear of the primary residence on the lot;
- (7) Exterior access to the accessory dwelling unit shall be independent from the existing primary residence or accessory structure;
- (8) The address for the accessory dwelling unit shall be assigned by the City and shall be visible from the street and/or alley;
- (9) Both the primary residence and the accessory dwelling unit shall permanently remain under one ownership and shall not be sold separately;
- (10) In the event the accessory dwelling unit is rented, it shall not be rented for a period of less than 30 days, in accordance with Section 17.08.025 of the Code;
- (11) Fire sprinklers shall be installed where required by applicable law; and
- (12) The accessory dwelling unit shall comply with Title 15 (Buildings and Construction) of the Hermosa Beach Municipal Code.
- (13) Storage facilities shall include an area sufficient for two, thirty-five (35) gallon capacity refuse containers. Such storage containers shall be provided in any one of the following ways:
 - (a) Attached to the outside of the structure on privately owned property, enclosed on all sides by suitable screening of not less than four feet in height or similar type of structure so that the same shall not be open to public view, one side of which may be opened as a gate. Such storage facilities shall have a concrete, asphalt or similar base and shall be adequately ventilated; or
 - (b) Constructed within the building structure; or
 - (c) A separate structure enclosed on all sides by suitable screening of not less than four feet in height or similar type of structure so that the same shall not be open to public view, one side of which may be opened as a gate. Such storage facilities shall have a concrete, asphalt or similar base and shall be adequately ventilated; or
 - (d) Within an accessory building such as a garage or storage shed, or within a primary structure in a service porch-type area.

B. Parking.

- (1) No additional parking spaces are required for an accessory dwelling unit.
 - (2) When a garage, carport or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted into an accessory dwelling unit, the parking spaces in the garage shall be replaced in any configuration on the same lot as the primary residence in accordance with Chapter 17.44 (except as otherwise indicated herein), and may be in tandem, covered, uncovered or replaced through use of a mechanical automobile lift. For purposes of this chapter, tandem parking may include a configuration where two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another. For purposes of this chapter, replacement parking may be located within the front 20 feet of the lot.
- C. Setback.
Existing structures that are converted to accessory dwelling units shall not be required to conform to setback requirements, but side and rear yard setbacks shall be sufficient for fire safety. New accessory dwelling unit structures shall conform to the setback requirements for the zone, including the building placement requirements.
- D. Size.
The maximum size (habitable floor area) for an accessory dwelling unit shall be no more than 640 square feet.
- E. A covenant in a form approved by the City Attorney shall be recorded with the County Recorder's Office detailing the restriction on the size and attributes of the accessory dwelling unit as set forth in this section. The covenant shall include prohibitions on renting the accessory dwelling unit for a period of less than 30 days (in accordance with Section 17.08.025 of the Code), and on the sale of the accessory dwelling unit separate from the sale of the primary residence, including a statement that the deed restriction may be enforced against future purchasers. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.
- F. For the purposes of this section, a new or separate utility connection directly between the accessory dwelling unit and the utility shall not be required for an accessory structure within an existing structure. Where the proposed accessory dwelling unit will be located within a new structure, the applicant shall provide a new or separate utility connection directly between the accessory dwelling unit and the utility.
- G. This adopted section shall not validate any illegal structures or existing illegal accessory dwelling units. Accessory dwelling units must comply with and receive a permit under this ordinance to be considered legal.

- H. This adopted section shall not invalidate the requirements of the Section 17.52, Nonconforming Buildings and Uses, as they apply to the primary residence.

Section 17.21.040 Junior Accessory Dwelling Unit and Accessory Dwelling Unit Permit Application, Approval Process and Timelines.

- A. An administrative permit shall be required for junior accessory dwelling units and accessory dwelling units. As set forth in Section 17.55.040, the Director of Community Development shall make a decision on the administrative permit within 120 days of receipt of a complete application that has been deemed complete by the City for an administrative permit for a junior accessory dwelling unit or an accessory dwelling unit. The application shall be accompanied by a fee in the amount set by City Council resolution.
- B. Mandatory approval of the administrative permit required by the Director of Community Development when all of the following requirements are met:
- (1) The owner-occupant has applied for approval of a proposed junior accessory dwelling unit or accessory dwelling unit; and
 - (2) The junior accessory dwelling unit complies with Section 17.21.020; or
 - (3) The accessory dwelling unit complies with Section 17.21.030.
- C. Upon approval of an administrative permit under this Chapter, the City Manager may release an existing covenant recorded on the property where the existing covenant prohibits accessory or junior accessory dwelling units that are otherwise permitted by this Chapter.

Section 5. A new Subsection F. is added to Section 17.44.020 of Chapter 17.44 of Title 17 to read as follows:

	<u>Use</u>	<u>Parking Requirements</u>
F.	<u>Junior Accessory Dwelling Unit and Accessory Dwelling Unit</u>	<u>No parking space shall be required for a junior accessory dwelling unit or an accessory dwelling unit.</u>

Section 6. Section 17.55.040 (Report of decision and findings) of Chapter 17.55 (Administrative Permits) of Title 17 (Zoning) of the Hermosa Beach Municipal Code is amended to read as follows:

17.55.040 Report of decision and findings.

Except as set forth below, the Community Development Director shall issue the administrative permit no more than thirty (30) days following the filing of a complete application therefor. Approval will be based upon determining the request complies with

the standards, limitations and other regulations in the governing section, which may include the imposition of conditions and limitations to ensure the permit is consistent with said requirements and protects the public health, safety and welfare; otherwise, the Director shall deny the application and provide the applicant a written statement of the reasons the permit cannot be issued. The applicant shall be advised in writing of the right to appeal the Director's decision pursuant to Section 17.55.050.

Notwithstanding above, permits for accessory dwelling units and/or junior accessory dwelling units shall be decided within 120 days of receipt of a complete application and subject to the provisions outlined in Chapter 17.21.