

URGENCY ORDINANCE NO. 1707

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, AMENDING ITS ZONING CODE AND LOCAL COASTAL PROGRAM BY REPEALING AND REPLACING CHAPTER 25.17 OF THE CITY OF LAGUNA BEACH MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH RECENT CHANGES IN STATE LAW, AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 21080.17 OF THE PUBLIC RESOURCES CODE

WHEREAS, the City of Laguna Beach, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the California Coastal Act (“Coastal Act”) is a comprehensive scheme governing land use planning for the state’s entire coastal zone; and

WHEREAS, as part of its enactment, the Legislature made several findings related to the Coastal Act’s purpose: (1) the coastal zone “is a distinct and valuable natural resource of vital and enduring interest to all the people”; (2) that “permanent protection of the state’s natural and scenic resources is of paramount concern”; (3) that “it is necessary to protect the ecological balance of the coastal zone”; and (4) that “existing developed uses, and future developments that are carefully planned and developed consistent with the policies of [the Coastal Act], are essential to the economic and social well-being of the people of this state. . . .” (Pub. Res. Code §§ 30001(a), (d)); and

WHEREAS, the Coastal Act further provides that: “scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of

surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. . . .” (Pub. Res. Code § 30251); and

WHEREAS, the Coastal Act is “interpreted liberally to accomplish its objectives” and relies heavily on local governments “[t]o achieve maximum responsiveness to local conditions, accountability, and public accessibility. . . .” (Pub. Res. Code § 30004(a); Pub. Res. Code § 30009). The Coastal Act requires local governments to develop local coastal programs (“LCPs”), comprised of a land use plan and implementing ordinances, to promote the Coastal Act’s objectives. (*Id.*; see also Pub. Res. Code §§ 30001.5; 30500–30526.) Once the California Coastal Commission certifies a local government’s program, the Coastal Commission delegates authority over coastal development permits to the local government. (Pub. Res. Code §§ 30519(a); 30600.5(a)-(c)); and

WHEREAS, the City has authority over coastal development permits by virtue of the California Coastal Commission’s January 13, 1993 certification of the City’s LCP. The Coastal Act allows the Coastal Commission to specify, by regulation, those classes of development which involve a risk of adverse environmental effect and require coastal development permits. (Pub. Res. Code § 30610.) Through its certified LCP, the City has the authority to specify those classes of development which involve a risk of adverse environmental effect and require coastal development permit; and

WHEREAS, as recognized by the Coastal Commission, the City’s LCP is comprised of a Land Use Plan and an Implementation Plan. The Land Use Plan consists of several planning documents, including, but not limited to, the Coastal Land Use Plan Technical Appendix (“Coastal Technical Appendix”) and the General Plan’s Land Use and Open Space/Conservation Elements. The LCP’s Implementation Plan is comprised of numerous resources, including, among other things, Laguna Beach Municipal Code (“LBMC”) Title 25 (Zoning Code), Title 22 (Excavation and

Grading), and Title 16 (Water Quality).^{1, 2} The documents that collectively comprise the City's certified LCP are publicly accessible on the City's website (linked in footnote 2, below); and

WHEREAS, within the Land Use Plan, the Coastal Technical Appendix contains a descriptive text and evaluation of coastal problems and issues; the Land Use and OpenSpace/Conservation Elements set forth actual solutions or responses to these issues in the form of City policies. (Coastal Technical Appendix, at p. 2); and

WHEREAS, among other things, the Coastal Technical Appendix addresses the importance of visual and scenic resources. It identifies that the principal focus concerns property situated adjacent to the major transportation system in the City (*i.e.*, Laguna Canyon Road and Pacific Coast Highway) since it is along those roadways that a majority of residents and non-residents view the community and have visual access to scenic corridors. The Coastal Technical Appendix also identifies that the scenic qualities symbolic of Laguna Beach represent one of the community's more valuable resources; the uncluttered hillsides and open space areas offer residents and visitors relief from urbanized and physically confined areas which separate Laguna Beach from development occurring elsewhere in the county. It further identifies that these visual and scenic resources can be protected through design considerations and land use controls. (See Coastal Technical Appendix, at p. 54 ["With proper design considerations and land use controls, the visual impact of new development can be minimized and accomplished in a manner compatible with the natural landscape."]); and

WHEREAS, the City's Land Use Element explains that by designing and siting new development to protect natural and environmentally sensitive resources, such as areas of unique scenic

¹ See e.g., p. 9 of April 12, 2023 Coastal Commission staff report, which can be accessed at: <https://documents.coastal.ca.gov/reports/2023/4/W12b/W12b-4-2023-report.pdf>

² The materials that collectively comprise the City's certified LCP can be accessed here: <https://www.lagunabeachcity.net/government/departments/community-development/planning-zoning/land-use-plans/local-coastal-program>.

quality and public views, to protect visual compatibility with surrounding uses, and to minimize natural landform alternations, the City is implementing Goal 7 to protect, preserve, and enhance the community's natural resources and Goal 10 to ensure that proposals for new development are sufficiently evaluated to protect natural resources. (See Land Use Element Policies 7.3 and 10.2); and

WHEREAS, the City's Open Space/Conservation Element recognizes that the "scenic quality of the local landscape remains high today because significant portions of the hillsides and coastline continue to function as natural open space" and "the scenic value of the hillside and coastal areas is especially important because they are so visible to residents and visitors alike." (Open Space/Conservation Element, at pgs. 17, 33). The Open Space/Conservation Element further recognizes that "[n]ew development and/or remodels should not be of a scale that would significantly diminish natural open space areas in a manner out of character with existing proportions. The scenic value of even large natural areas can be diminished when its visual continuity is disrupted by "islands" or "peninsulas" of manmade intrusions. (*Id.*, at p. 34.) The Open Space/Conservation Element requires the City to attempt to preserve natural hillside open space in large segments that are visually continuous and physically undisturbed and to evaluate whether new development in a particular area or type of feature is necessary or desirable for open space use and, if so, what type and degree of regulation is practical and feasible. The Open Space/Conservation Element mandates the following policies to protect visual resources: (1) 7-A: Preserve to the maximum extent feasible the quality of public views from hillsides and along the city's shorelines; (2) 7-K: Preserve as much as possible the natural character of the landscape (including coastal bluffs, hillsides, and ridgelines) by requiring proposed development plans to preserve and enhance scenic and conversation values to the maximum extent possible. . . .; and (3) 7-M: New development along Pacific Coast Highway shall preserve

existing views where feasible and, where topography allows, new development shall be terraced below the grade of Pacific Coast Highway; and

WHEREAS, in recent years, the Legislature has approved, and the Governor has signed into law, numerous bills that amended Government Code Sections 65852.2 and 65852.22 to impose new limits on local authority to regulate accessory dwelling units and junior accessory dwelling units (collectively “State ADU Law”)³; and

WHEREAS, notwithstanding this legislation, State ADU Law provides that it “shall not be construed to supersede or in any way alter or lessen the effect or application of the Coastal Act of 1976. . . .” (Gov. Code § 66329.) The California Department of Housing and Community Development’s (“HCD”) *ADU Handbook* advises that State ADU Law applies in the coastal zone, but “do[es] not necessarily alter or lessen the effect or application of Coastal Act resource protection policies.” Accordingly, HCD opines, a local government could, for example, impose stricter setback or parking standards in the coastal zone “if required by a local [c]oastal [p]rogram.” (HCD’s July 2022 *ADU Handbook*, at pgs. 15-16, 27-28)⁴; and

WHEREAS, the City’s regulations governing the approval of ADUs and JADUs are provided in the City’s LCP, specifically Chapter 25.17 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of Title 25 (Zoning) of the LBMC; and

WHEREAS, on November 16, 2021, the City Council adopted Ordinance No. 1665, which identified self-contained accessory dwelling units as subject to the coastal development permit application process; and

³ The State ADU Law has been re-chaptered at Gov. Code § 66314, et seq.

⁴ HCD’s *ADU Handbook* is authorized by Gov. Code § 65852.2(i), which provides that HCD may “review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section.” The *ADU Handbook* is available at the following location: <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>

WHEREAS, the City most recently updated Chapter 25.17 to comply with State ADU Law via LCP Amendment No. 21-8239, which was certified by the Coastal Commission on September 7, 2023; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend State ADU Law; and

WHEREAS, AB 2533 and SB 1211 take effect January 1, 2025 and the City must amend its existing ADU ordinance to comply; and

WHEREAS, the City Council intends to harmonize the City’s responsibilities under the LCP and Coastal Act (as set forth above) with its obligations to approve the development of ADUs in accordance with State ADU Law, including AB 2533’s and SB 1211’s changes to state law; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare based on the passage of AB 2533 and SB 1211 because the City’s existing ordinance will not comply with this legislation if the City does not adopt this Ordinance by January 1, 2025; and

WHEREAS, there is also a current and immediate threat to the public health, safety, or welfare because the Ordinance amends the City’s LCP and the Coastal Act requires that the Coastal Commission review and certify the Ordinance before it becomes effective. (Pub. Res. Code, § 30514(a); see also LBMC Section 25.07.026(E).) The duration of the Coastal Commission’s review and certification process can vary, and, in some instances, has taken numerous months. The City Council desires to ensure that ensure that the City’s coastal resources are protected during the pendency of the Ordinance’s review by the Coastal Commission; and

WHEREAS, to protect the public safety, health, and welfare, the City Council may adopt this Ordinance as an urgency measure by a four-fifths vote of the City Council in accordance with Government Code Sections 65858 and 36937; and

WHEREAS, City staff provided notice of a public hearing on the proposed urgency ordinance in accordance with law; and

WHEREAS, on December 10, 2024, the City Council held a public hearing on the proposed urgency ordinance in accordance with law.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN, AS FOLLOWS:

SECTION 1. Incorporation. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION 2. CEQA. 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 Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 66313. Therefore, adoption of the Ordinance is statutorily exempt from CEQA in that it implements State ADU Law. Under State CEQA Guidelines Section 15265, CEQA does not apply to activities and approvals pursuant to the Coastal Act by any local government necessary for the preparation and adoption of a local coastal program because CEQA applies to the certification of a local coastal program by the California Coastal Commission. Therefore, the adoption of the Ordinance is statutorily exempt from CEQA because the City is adopting a local coastal program amendment, which must be certified by the Coastal Commission.

The Coastal Commission's LCP review and approval procedures have been found to be functionally equivalent to the environmental review process.

SECTION 3. Urgency Findings. Given the foregoing, the City Council hereby finds that there is a current and immediate threat to the public health, safety, and welfare based on: (1) the passage of AB 2533 and SB 1211 because the City's existing ordinance will not comply with this legislation if the City does not adopt this Ordinance by January 1, 2025; and (2) the Ordinance amends the City's LCP and the Coastal Act requires that the Coastal Commission review and certify the Ordinance before it becomes effective. (Pub. Res. Code, § 30514(a); see also LBMC Section 25.07.026(E).) The duration of the Coastal Commission's review and certification process can vary, and, in some instances, has taken numerous months. The City Council desires to ensure that ensure that the City's coastal resources are protected during the pendency of the Ordinance's review by the Coastal Commission. The Legislature has mandated coastal resources be considered and protected as a resource of public importance. (Pub. Res. Code, § 30251; see also Pub. Res. Code, §§ 30001(a), (d) [(1) the coastal zone "is a distinct and valuable natural resource of vital and enduring interest to all the people"; (2) that "permanent protection of the state's natural and scenic resources is of paramount concern"; (3) that "it is necessary to protect the ecological balance of the coastal zone"; and (4) "existing developed uses, and future developments that are carefully planned and developed consistent with the policies of [the Coastal Act], are essential to the economic and social well-being of the people of this state. . .".]) Adopting this urgency ordinance effectuates the foregoing and protects the public health, safety and welfare by enabling the City to review and approve ADUs in a manner that harmonizes its coastal resource protection responsibilities under the LCP and Coastal Act with its obligations to approve ADUs under State ADU Law.

SECTION 4. Code Amendment. Chapter 25.17 of the LBMC is hereby repealed and replaced to read in its entirety as provided in Exhibit “A,” attached hereto and incorporated herein by reference.

SECTION 5. Effective Date and Extension; 10-Day Report. This urgency ordinance is adopted under the provisions of Government Code Sections 36937 and 65858, and shall take effect immediately upon its passage by a four-fifths vote of the City Council. The urgency ordinance shall remain in effect for 45 days from its adoption. If this urgency ordinance is proposed to be extended, the City Council shall issue a written report not less than 10 days prior to the scheduled expiration in accordance with Government Code Section 65858(d).

SECTION 6. HCD Submittal. In accordance with Government Code Section 66326, the City Clerk is directed to submit a copy of this Ordinance to the California Department of Housing and Community Development within 60 days after adoption.

SECTION 7. Publication. The City Clerk directed to certify to the adoption of this Ordinance and post or publish this Ordinance as required by law.

SECTION 8. Custodian of Records. The custodian of records for this Ordinance is the City Clerk and the records comprising the administrative record are located at 505 Forest Avenue, Laguna Beach, CA 92651.

SECTION 9. Severability. If any provision of this Ordinance or its application to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

ADOPTED this 10th day of December, 2024.

Alex Rounaghi, Mayor

ATTEST:

City Clerk

I, Ann Marie McKay, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Urgency Ordinance No. 1707 was adopted as an urgency measure at a regular meeting of the City Council on December 10, 2024, by the following vote:

AYES: COUNCILMEMBER(S): Jones, Kempf, Whalen, Orgill, Rounaghi

NOES: COUNCILMEMBER(S): None

ABSTAIN: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None

City Clerk, City of Laguna Beach, CA

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

City Attorney

EXHIBIT A

Amended ADU Regulations

(follows this page)

EXHIBIT A: AMENDED CODE

Chapter 25.17 Accessory Dwelling Units and Junior Accessory Dwelling Units

Section 25.17.010 Accessory Dwelling Units and Junior Accessory Dwelling Units

- (a) **Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.
- (b) **Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
 - (1) Deemed to be inconsistent with the city’s general plan and zoning designation for the lot on which the ADU or JADU is located.
 - (2) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - (3) Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - (4) Required to correct a nonconforming zoning condition, as defined in subsection (c)(9) below. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- (c) **Definitions.** As used in this section, terms are defined as follows:
 - (1) “Accessory dwelling unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:
 - (A) An efficiency unit, as defined by section 17958.1 of the California Health and Safety Code; and
 - (B) A manufactured home, as defined by section 18007 of the California Health and Safety Code.
 - (2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.
 - (3) “Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

- (4) “Efficiency kitchen” means a kitchen that includes all of the following:
 - (A) A cooking facility with appliances.
 - (B) A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- (5) “Junior accessory dwelling unit” or “JADU” means the following: a residential unit that satisfies all of the following:
 - (A) It is no more than 500 square feet in size.
 - (B) It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - (C) It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - (D) If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
 - (E) It includes an efficiency kitchen, as defined in subsection (c)(4) above.
- (6) “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
- (7) “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.
- (8) “Multifamily dwelling” means a structure with two or more attached primary dwellings on a single lot, not counting any existing or proposed ADU.
- (9) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- (10) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- (11) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (12) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

- (13) “Single-family dwelling” means a structure with only one primary dwelling unit, not counting any existing or proposed ADU.
 - (14) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (d) **Approvals.** The following approvals apply to ADUs and JADUs under this section:
- (1) **Coastal Development Permit**
 - (A) Consistent with Government Code section 66329, nothing in Chapter 13 of Division 1 of Title 7 of the California Government Code or this chapter supersedes or in any way alters or lessens the effect or application of the California Coastal Act of 1976 or of the City’s implementing regulations. The City may elect to hold public hearings for coastal development permit applications for ADUs, as it may under Government Code section 66329.
 - (B) When an ADU or JADU requires a coastal development permit under the City’s certified Local Coastal Program (“LCP”), including this chapter, the ADU or JADU must comply with the requirements of the City’s certified LCP.
 - (C) Application; Appeals.
 - (i) An application for an ADU and a JADU is considered “development” under LBMC Chapter 25.07.
 - (ii) The following projects are exempt from any CDP requirement under the City’s certified LCP:
 - (I) An application that only seeks to convert existing livable space in a legally established primary dwelling unit into a JADU (LBMC § 25.07.008(1)(1)(a)); and
 - (II) An application that only seeks to convert existing livable space in a legally established primary dwelling unit into a ADU (LBMC § 25.07.008(1)(1)(a)).
 - (iii) An application for any other ADU or JADU is subject to the CDP requirement, and must be processed as de minimis development under LBMC section 25.07.008, minor development under LBMC section 25.07.013, or regular development under LBMC section 25.07.012, whichever applies.
 - (iv) Appeals. Appeals are processed in accordance with LBMC chapters 25.07 and 25.05.

- (D) Development standards. For projects within the Coastal Zone, more restrictive standards may apply. (See LBMC section 25.17.020.)
- (2) **Building-permit Only.** If an ADU or JADU does not require a CDP under section (d)(1) above, and it complies with each of the general requirements in subsection (f) below, it is allowed with only a building permit in the following scenarios:
 - (A) **Converted on Single-family Lot:** One ADU as described in this subsection (d)(2)(A) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - (i) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - (ii) Has exterior access that is independent of that for the single-family dwelling; and
 - (iii) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - (iv) The JADU complies with the requirements of Government Code sections 66333 through 66339.
 - (B) **Limited Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (d)(2)(A) above), if the detached ADU satisfies each of the following limitations:
 - (i) The side- and rear-yard setbacks are at least four feet.
 - (ii) The total floor area is 800 square feet or smaller.
 - (iii) The peak height does not exceed the applicable height limit in subsection (f)(2) below.
 - (C) **Converted on Multifamily Lot:** One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (d)(2)(C), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

(D) **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot with a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies all of the following:

- (i) The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.
- (ii) The peak height does not exceed the applicable height limit provided in subsection (f)(2) below.
- (iii) If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

(3) **ADU Permit.**

- (A) If an ADU or JADU does not require a CDP under section (d)(1) above, and it does not qualify under subsection (d)(2) above, it requires both a building permit and an ADU permit in compliance with the standards set forth in subsections (f) and (g) below.
- (B) The city may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ADU-permit processing fee is determined by the Community Development Director and approved by the City Council by resolution.

(e) **Process and Timing.**

(1) **Coastal Development Permit.** Each CDP application for an ADU or JADU is processed in accordance with LBMC chapter 25.07. The Permit Streamlining Act applies to CDP to the extent required by state law.

(2) **Building-permit Only and ADU Permit.**

- (A) An application for an ADU or JADU that does not require a CDP is considered and decided ministerially, without discretionary review or a hearing.
- (B) The city must approve or deny an application to create an ADU or JADU within 60 days from the date that the city receives a completed application. If the city has not approved or denied the completed application within 60 days, the application is deemed approved unless either:

- (i) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - (ii) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
 - (C) If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (e)(2)(B) above.
 - (D) A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.
- (f) **General ADU and JADU Requirements.** The following requirements apply to all ADUs and JADUs that are approved under subsections (d)(2) or (d)(3) above:
- (1) **Zoning.**
 - (A) An ADU that is subject only to a building permit under subsection (d)(2) above may be created on a lot in a residential or mixed-use zone.
 - (B) An ADU that is subject to an ADU permit under subsection (d)(3) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
 - (C) In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned for single-family residences.
 - (2) **Height.**
 - (A) Except as otherwise provided by subsections (f)(2)(B) and (f)(2)(C) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.
 - (B) A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or high quality transit corridor, as those terms are defined in section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in

height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

- (C) A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
- (D) An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (f)(2)(D) may not exceed two stories.
- (E) For purposes of this subsection (f)(2), height is measured from existing legal grade or the level of the lowest floor, whichever is lower, to the peak of the structure. The maximum height of the peak allowed by this subsection (f)(2) applies to every part of the structure, including but not limited to, chimneys, vents, and mechanical equipment.

(3) **Fire Sprinklers.**

- (A) Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
- (B) The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

(4) **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

(5) **No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code section 66341, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

(6) **Septic System.** If the ADU or JADU will connect to an onsite wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

(7) **Owner Occupancy.**

- (A) ADUs created under this section on or after January 1, 2020 are not subject to an owner-occupancy requirement.
- (B) As required by state law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the

person's legal domicile and permanent residence. However, the owner-occupancy requirement in this subsection (f)(7)(B) does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

- (8) **Deed Restriction.** Prior to issuance of a certificate of occupancy for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:
- (A) Except as otherwise provided in Government Code section 66341, the ADU or JADU may not be sold separately from the primary dwelling.
 - (B) The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - (C) The deed restriction runs with the land and may be enforced against future property owners.
 - (D) The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Community Development Director, providing evidence that the ADU or JADU has in fact been eliminated. The Community Development Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Community Development Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - (E) The deed restriction is enforceable by the Community Development Director or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the city is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
- (9) **Rent Reporting.** In order to facilitate the city's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 66330, the following requirements must be satisfied:
- (A) With the building-permit application, the applicant must provide the city with an estimate of the projected annualized rent that will be charged for the ADU or JADU.

- (B) Within 90 days after each January 1 following issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the city does not receive the report within the 90-day period, the owner is in violation of this Code, and the city may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the city may enforce this provision in accordance with applicable law.

(10) **Building & Safety.**

- (A) **Must comply with building code.** Subject to subsection (f)(10)(B) below, all ADUs and JADUs must comply with all local building code requirements.
- (B) **No change of occupancy.** Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (f)(10)(B) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

- (g) **Specific ADU Requirements.** The following requirements apply only to ADUs that require an ADU permit under subsection (d)(3) above.

(1) **Maximum Size.**

- (A) The maximum size of a detached or attached ADU subject to this subsection (g) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
- (B) An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
- (C) Application of other development standards in this subsection (g) might further limit the size of the ADU, but no application of the percent-based size limit in subsection (g)(1)(B) above or of a front setback may require the ADU to be less than 800 square feet.

(2) **Setbacks.**

- (A) ADUs that are subject to this subsection (g) must conform to 4-foot side and rear setbacks. ADUs that are subject to this subsection (g) must conform to 20-foot front setbacks, subject to subsection (g)(1)(C) above.

- (B) No setback is required for an ADU that is subject to this subsection (g) if the ADU is constructed in the same location and to the same dimensions as an existing structure.
- (3) **Passageway.** No passageway, as defined by subsection (c)(10) above, is required for an ADU.
- (4) **Parking.**
 - (A) Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection (c)(14) above.
 - (B) Exceptions. No parking under subsection (g)(4)(A) is required for an ADU under this subsection (g) in the following situations:
 - (i) The ADU is located within one-half mile walking distance of public transit, as defined in subsection (c)(12) above.
 - (ii) The ADU is located within an architecturally and historically significant historic district.
 - (iii) The ADU is part of the proposed or existing primary residence or an accessory structure under subsection (d)(2)(A) above.
 - (iv) When on-street parking permits are required but not offered to the occupant of the ADU.
 - (v) When there is an established car share vehicle stop located within one block of the ADU.
 - (vi) When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (g)(4)(B)(i) through (v) above.
 - (C) No Replacement. When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced. For clarity, this paragraph does not apply to an ADU or JADU that requires a CDP.
- (5) **Architectural Requirements.**
 - (A) The materials and colors of the exterior walls, roof, and windows and doors must be the same as those of the primary dwelling.

- (B) The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - (C) The exterior lighting must be fully shielded and aimed downward or as otherwise required by the building or fire code.
 - (D) The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
 - (E) The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of seven feet.
 - (F) No window or door of the ADU may have a direct line of sight to an adjoining residential property. Each window and door must either be located where there is no direct line of sight or screened using fencing, landscaping, or privacy glass to prevent a direct line of sight.
 - (G) All windows and doors in an ADU less than 30 feet from a property line that is not a public right-of-way line must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.
- (6) **Historical Protections.** The following requirements apply to any detached or attached ADU proposed on a property listed on the California Register of Historic Resources:
- (A) **Visibility.** Attached and detached ADUs must be: (1) located entirely behind the rear building line of the historic structure; and (2) located such that at least 50 percent of the ADU's front-facing façade is behind the historic structure. For through-lots, the front and rear facades are designated based on the orientation of the historic structure. The front-facing façade is defined for this purpose as the building side that is facing a street and providing an entrance doorway. If the entrance doorway is located along a side elevation, or when an entrance doorway exists at each street-facing façade, the front-facing façade is instead defined as the façade closest to the street.
 - (B) **Character-Defining Features.** The ADU must not affect any historic building or site feature that has been identified as a "character-defining feature" of the historic resource by a professional that meets the U.S. Secretary of the Interior's professional-qualification standards. This "character-defining feature" determination is limited to a review of information on file with the City on the date that the City receives a complete application for the ADU.

- (7) **Allowed Stories.** No ADU subject to this subsection (g) may have more than one story, except that an ADU that is attached to the primary dwelling may have the stories allowed under subparagraph (f)(2)(D) of this section.
- (h) **Fees.** The following requirements apply to all ADUs that are approved under subsection (d) above.
- (1) **Impact Fees.**
- (A) No impact fee is required for an ADU that is less than 750 square feet in size. For purposes of this subsection (h)(1), “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
- (B) Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)
- (2) **Utility Fees.**
- (A) If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
- (B) Except as described in subsection (h)(2)(A), converted ADUs on a single-family lot that are created under subsection (d)(2)(A) above are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.
- (C) Except as described in subsection (h)(2)(A), all ADUs that are not covered by subsection (h)(2)(B) require a new, separate utility connection directly between the ADU and the utility for any utility that is provided by the city. All utilities that are not provided by the city are subject to the connection and fee requirements of the utility provider.
- (i) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
- (ii) The portion of the fee or charge that is charged by the city may not exceed the reasonable cost of providing this service.

(i) **Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.**

(1) **Generally.** The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

(2) **Unpermitted ADUs and JADUs constructed before 2020.**

(A) **Permit to Legalize.** As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:

- (i) The ADU or JADU violates applicable building standards, or
- (ii) The ADU or JADU does not comply with state ADU or JADU law or this ADU ordinance (section 25.17.010).

(B) **Exceptions:**

- (i) Notwithstanding subsection (i)(2)(A) above, the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code section 17920.3.
- (ii) Subsection (i)(2)(A) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

(j) **Nonconforming ADUs and Discretionary Approval.** Any proposed ADU or JADU that would otherwise be allowed under this section but that does not conform to the objective design or development standards set forth in subsections (a) through (i) of this section may be allowed by the city with a conditional use permit, in accordance with the other provisions of this title.

Section 25.17.020 Coastal Act and Certified Local Coastal Program Requirements.

- (a) The following requirements apply to all ADUs and JADUs in the Coastal Zone that do not qualify under section 25.17.010(d)(1)(C)(ii).
- (b) This chapter must not be implemented in a way that would be inconsistent with any other coastal resource protection policy or regulation within the certified LCP or the Coastal Act. More restrictive development standards may be imposed on an ADU or JADU as needed to protect coastal resources consistent with the requirements of the certified Local Coastal Program. Resources may include, but are not limited to, hazardous areas, environmentally sensitive areas, wetlands, public views, and public trails and accessways.

(c) **Coastal Act and Certified LCP Requirements for ADUs and JADUs.**

(1) **Setbacks.**

- (A) Front Yard: The development must comply with the front yard setback requirement of the underlying zone.
- (B) Additional Building Setback for Front and Rear: The development must comply with the additional building setback at the front and rear yard setbacks pursuant to LBMC section 25.50.004(D).
- (C) Bluff Edge Setback: The development must maintain a minimum setback of 25 feet from the top of an oceanfront bluff.
- (D) Watercourse Setback.
 - (i) The development must maintain a 25-foot setback from the centerline of a watercourse.
 - (ii) The development must maintain a 25-foot setback from the top of the watercourse bank when a watercourse is also identified as a “blue-line” stream on the USGS 7.5 Minute Quadrangle Series map.

(2) **Parking.**

- (A) Replacement Parking
 - (i) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU or JADU, the demolition permit for the garage, carport, or covered parking structure is reviewed at the same time as the ADU or JADU application.
 - (ii) The number of existing parking spaces for a single-family or multifamily dwelling must be replaced on-site at a one-to-one ratio. However, an applicant is not required to provide more spaces than the minimum number of required off-street parking spaces for the single-family or multifamily dwelling.
 - (iii) Replacement parking may be done either through construction or relocation of existing parking, through any of the following:
 - (I) Uncovered parking;
 - (II) Tandem parking, as defined by LBMC section 25.17.010(c)(14) above; and

- (III) Located in the setback – but not a watercourse or bluff edge setback – if it is located at least 3 feet from all property lines.
 - (iv) The replacement parking must also be located entirely on the private property and may not be located within a required on-site turnaround area.
- (3) **Pedestrian Access.** An all-weather firefighter access path must be provided from the right-of-way to the front door of the ADU or JADU. The access must be a minimum of 3 feet wide and non-combustible. Stairs must be provided for any slope greater than 10 percent.
- (4) **Vehicular Access.** An ADU or JADU must utilize the same vehicular access that serves the primary dwelling unless the Fire Department and the Public Works Department find that secondary access will not degrade existing safety or traffic concerns. New vehicular access to streets or alleys is subject to discretionary design review approval and potentially other entitlements.
- (5) **Outdoor Living Space Requirements.**
 - (A) Covered exterior porches, decks, patios, and other outdoor living spaces that are attached to an ADU must comply with the same height and setbacks that apply to the ADU.
 - (B) Roof decks are prohibited. For purposes of this subsection, a “roof deck” is defined to mean a deck above the uppermost story of a building, with no access from interior living space at the same floor level.
- (d) **Applicable Provisions of the Certified Local Coastal Program.**
 - (1) There are provisions in the City’s certified LCP that apply to residential development generally. No ADU or JADU may cause a violation of any provision in the certified LCP.
 - (2) ADUs and JADUs under this section do not count toward the calculation for major remodel projects, except as necessary to comply with section 30253 of the Coastal Act limiting alterations of existing bluff top, beachfront, and coastal canyons, and to determine applicability of section 30253 of the Coastal Act and equivalent LCP policies and ensure compliance with the same.