



CITY COUNCIL Agenda

Sept. 1, 2020, 3 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Welcome

We welcome your interest and involvement in the city's legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

to Your City Council Meeting

How to watch



City cable channel

Charter Spectrum channel 24
AT&T U-verse channel 99.



City website

carlsbadca.gov/news/cityty.asp

Virtual meeting format

- Per California Executive Order N-29-20, and in the interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding City Council and other public meetings online only.
- All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the City Council.

How to participate

- **By phone:** Sign up at <https://www.carlsbadca.gov/cityhall/clerk/meetings/default.asp> by 2 p.m. the day of the meeting to provide comments live by phone. You will receive a confirmation email with instructions about how to call in.
- **In writing:** Email comments to clerk@carlsbadca.gov. Comments received by 2 p.m. the day of the meeting will be shared with the City Council prior to the meeting. When e-mailing comments, please identify in the subject line the agenda item to which your comments relate. All comments received will be included as part of the official record. **Written comments will not be read out loud.**
- These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

Reasonable accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as required by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the City Manager's Office at 760-434-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or manager@carlsbadca.gov by noon on the Monday before the meeting to make arrangements.

IN THE EVENT A QUORUM OF THE CITY COUNCIL LOSES ELECTRICAL POWER OR SUFFERS AN INTERNET CONNECTION OUTAGE THAT IS NOT CORRECTED WITHIN 15 MINUTES, THE MEETING WILL AUTOMATICALLY BE ADJOURNED. ANY ITEMS NOTICED AS PUBLIC HEARINGS WILL BE CONTINUED TO THE NEXT REGULARLY SCHEDULED MEETING OF THE CITY COUNCIL. ANY OTHER AGENDA ITEMS THE COUNCIL HAS NOT TAKEN ACTION ON WILL BE PLACED ON A FUTURE AGENDA.

More information about City Council meeting procedures can be found at the end of this agenda and in the Carlsbad Municipal Code chapter 1.20. PLEASE NOTE: AS A RESULT OF THE WAIVERS IN EXECUTIVE ORDER N-29-20, THE BROWN ACT PERMITS FULL PARTICIPATION BY OFFICIALS IN MEETINGS THROUGH VIDEO OR AUDIO TELECONFERENCE.

The City Council also sits as the Carlsbad Municipal Water District Board, Public Financing Authority Board, Community Development Commission and Successor Agency to the Redevelopment Agency. When considering items presented to the Carlsbad Municipal Water District Board, each member receives an additional \$100 per meeting (max \$300/month). When considering items presented to the Community Development Commission each member receives an additional \$75 per meeting (max \$150/month).

CALL TO ORDER:

ROLL CALL:

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

INVOCATION:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

Minutes of the Regular Meeting held July 28, 2020

PRESENTATIONS:

2019 Citizens of the Year Recognition

PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION:

PUBLIC COMMENT: *In conformance with the Brown Act and California Executive Order No. N-29-20, a total of 15 minutes is provided so members of the public participate in the meeting by submitting comments as provided on the front page of this agenda. The City Council will receive comments as requested up to a total of 15 minutes. All other comments will trail until the end of the meeting. In conformance with the Brown Act, no Council action can occur on these items.*

CONSENT CALENDAR: *The items listed under Consent Calendar are considered routine and will be enacted by one motion as listed below. There will be no separate discussion on these items prior to the time the Council votes on the motion unless members of the Council, the City Manager, or the public request specific items be discussed and/or removed from the Consent Calendar for separate action.*

WAIVER OF ORDINANCE TEXT READING:

This is a motion to waive the reading of the text of all ordinances and resolutions at this meeting.

1. REPORT ON CITY INVESTMENTS AS OF JULY 31, 2020 – Accept and file report on city investments as of July 31, 2020. (Staff contact: Craig Lindholm and Laura Rocha, Administrative Services)
2. RESCIND CITY COUNCIL POLICIES 6, 7, 32 AND 34 – Adoption of a resolution rescinding City Council Policies 6, 7, 32 and 34. (Staff contact: Sheila Cobian, City Manager’s Department)

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION:

3. ORDINANCE NO. CS-380 WAIVER OF ADJUSTMENTS TO CITY COUNCIL COMPENSATION FOR 2019 AND 2020 – Adoption of Ordinance No. CS-380 permanently waiving City Council compensation adjustments for 2019 and 2020. (Staff contact: Faviola Medina, City Clerk’s Office)

City Manager’s Recommendation: Adopt the ordinance.

PUBLIC HEARINGS:

4. CTBID ASSESSMENT MODIFICATION PUBLIC HEARING AND ADOPTION OF ORDINANCE NO. CS-381
– 1) Adoption of a resolution confirming the modified annual report of the Carlsbad Tourism Business Improvement District (CTBID) and levying the modified assessments for fiscal year 2020-21 beginning Nov. 1, 2020; and
2) Adoption of Ordinance No. CS-381 amending Carlsbad Municipal Code Section 3.37.050 to modify the assessment for the Carlsbad Tourism Business Improvement District. (Staff Contact: Cheryl Gerhardt, Administrative Services Department)

City Manager's Recommendation: Take public input, close the public hearing, adopt the resolution and ordinance.

5. UPDATE TO THE CITY'S DENSITY BONUS REGULATIONS TO REFLECT CHANGES IN STATE LAW – Introduction of an ordinance adopting a Zone Code amendment and a Local Coastal Program amendment to update the city's density bonus regulations to reflect changes in state law (Case Name: Density Bonus Amendments 2020; Case No.: ZCA 2020-0001/LCPA 2020-0005). (Staff contact: Corey Funk, Community Development)

City Manager's Recommendation: Take public input, close the public hearing and introduce the ordinance.

6. UPDATE TO THE CITY'S DEVELOPMENT REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW ON ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS – 1) Introduction of an ordinance adopting amendments to the Carlsbad Municipal Code Chapter 5.60 (Short-Term Vacation Rentals) to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units (Case Name: Accessory Dwelling Unit Amendments 2020; Case No.: MCA 2020-0001);
2) Introduction of an ordinance adopting amendments to Title 21 of the Carlsbad Municipal Code (Zone Code), Village and Barrio Master Plan and Local Coastal Program to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units (Case Name: Accessory Dwelling Unit Amendments 2020; Case No.: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006). (Staff contact: Corey Funk, Community Development)

City Manager's Recommendation: Take public input, close the public hearing and introduce the ordinances.

DEPARTMENTAL AND CITY MANAGER REPORTS:

7. COVID-19 ACTIONS AND EXPENDITURES REPORT – Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

City Manager's Recommendation: Receive the report and provide direction as appropriate.

8. TEMPORARILY SUSPEND COLLECTION OF FEES TO MITIGATE ECONOMIC EFFECTS OF COVID-19 PANDEMIC – Adoption of a resolution empowering the director of emergency services to temporarily suspend the collection of fees for sidewalk café, outdoor display, and curb café permits. (Staff contact: David Graham, Administrative Services)

City Manager's Recommendation: Receive the report and adopt the resolution.

9. SPONSORSHIP OF THE GIFT CARLSBAD SHOP LOCAL PROGRAM – Adoption of a resolution appropriating funding to the Carlsbad Chamber of Commerce to sponsor the Gift Carlsbad Shop Local Program. (Staff contact: David Graham, Administrative Services)

City Manager’s Recommendation: Receive the report and adopt the resolution.

10. DISCUSSION TO INITIATE REVIEW OF CARLSBAD POLICE POLICIES & PROCESSES, INCLUDING USE OF FORCE AND DE-ESCALATION POLICIES – Consider a request from City Council Member Schumacher to review the following: 1) The administrative reorganization that placed the Homeless Response Plan under the Police Department; 2) Carlsbad Municipal Code Section 2.04.060.B and 2.06.090.B, which allow a City Council Member or the Mayor to serve, without compensation, as a voluntary police officer; 3) City of Carlsbad use of force policy; and 4) City of Carlsbad de-escalation policy. (Staff contact: Sheila Cobian, City Manager’s Department)

City Manager’s Recommendation: Receive the report.

11. DESIGNATION OF VOTING DELEGATE AND ALTERNATES FOR LEAGUE OF CALIFORNIA CITIES CONFERENCE – Adoption of a resolution designating a voting delegate and alternates for the League of California Cities Annual Conference to be held virtually on Oct. 7-9, 2020. (Staff contact: Faviola Medina, City Clerk’s Office)

City Manager’s Recommendation: Adopt the resolution.

COUNCIL COMMENTARY AND REQUESTS FOR CONSIDERATION OF MATTERS:

City Council Regional Assignments (Revised 4/7/20)

Matt Hall
Mayor
 North County Mayors and Managers
 City/School Committee
 Chamber of Commerce Liaison (primary)
 Clean Energy Alliance JPA (alternate)
 San Diego County Water Authority
 San Diego Regional Economic Development Corporation Board of Directors

Keith Blackburn
Mayor Pro Tem
 Buena Vista Lagoon JPC
 Encina Wastewater Authority/JAC Board of Directors
 North County Dispatch Joint Powers Authority
 Chamber of Commerce Liaison (alternate)
 SANDAG (1st alternate)
 North County Transit District (alternate)

Priya Bhat-Patel
Council Member – District 3
 SANDAG (2nd alternate)
 North County Transit District (primary)
 City/School Committee
 League of California Cities – SD Division
 Encina Wastewater Authority/JAC Board of Directors (alternate)

Cori Schumacher
Council Member – District 1
 SANDAG (primary)
 Buena Vista Lagoon JPC
 Clean Energy Alliance JPA (primary)
 Encina Wastewater Authority/JAC Board of Directors
 North County Dispatch Joint Powers Authority (alternate)

**Vacant – At-Large
Council Member**

PUBLIC COMMENT: Continuation of the Public Comments

This portion of the agenda is set aside for continuation of public comments, if necessary, due to exceeding the total time allotted in the first public comments section. In conformance with the Brown Act, no Council action can occur on these items.

ANNOUNCEMENTS:

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

CITY MANAGER COMMENTS:

CITY ATTORNEY COMMENTS:

ADJOURNMENT:

In accordance with Carlsbad Municipal Code (CMC) Section 20.20.20, notice is hereby given that the City Engineer has reviewed and, immediately following this City Council Meeting of September 1, 2020 will approve the following final map:

Carlsbad Tract CT 2019-0002, located generally at 735 Oak Avenue.

Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- 1) The map substantially conforms to the approved tentative map, and approved alterations thereof and any conditions of approval imposed with said tentative map.
- 2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- 3) The map is technically correct.

Said map will be finalized and recorded, unless an interested party files a valid appeal of the City Engineer's action to City Council no later than 10 calendar days from the date of the City Engineer's action. The appeal shall specifically state the reason(s) for the appeal; see CMC Section 20.20.165 and 21.54.150.

If you have any question about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact the City Clerk's Office at (760) 434-2808.

City Council Meeting Procedures (continued from page 1)

Written Materials

Written materials related to the agenda that are submitted to the City Council after the agenda packet has been published will be available for review prior to the meeting during normal business hours at the City Clerk's office, 1200 Carlsbad Village Drive and on the city website. To review these materials during the meeting, please see the City Clerk

Visual Materials

Visual materials, such as pictures, charts, maps or slides, are allowed for comments on agenda items, not general public comment. Please contact the City Manager's Office at 760-434-2820 or manager@carlsbadca.gov to make arrangements in advance. All materials must be received by the City Manager's Office no later than noon the day before the meeting. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. **Please note that video presentations are not allowed.**

Decorum

All participants are expected to conduct themselves with mutual respect. Loud, boisterous and unruly behavior can interfere with the ability of the City Council to conduct the people's business. That's why it is illegal to disrupt a City Council meeting. Following a warning from the presiding officer, those engaging in disruptive behavior are subject to law enforcement action.

City Council Agenda

The City Council follows a regular order of business that is specified in the Carlsbad Municipal Code. The City Council may only make decisions about topics listed on the agenda.

Presentations

The City Council often recognizes individuals and groups for achievements and contributions to the community. Well-wishers often fill the chamber during presentations to show their support and perhaps get a photo. If you don't see an open seat when you arrive, there will likely be one once the presentations are over.

Consent Items

Consent items are considered routine and may be enacted together by one motion and vote. Any City Council member may remove or "pull" an item from the "consent calendar" for a separate vote. Members of the public may pull an item from the consent calendar by requesting to speak about that item. A speaker request form must be submitted to the clerk prior to the start of the consent portion of the agenda.

Public Comment

Members of the public may speak on any city related item that does not appear on the agenda. State law prohibits the City Council from taking action on items not listed on the agenda. Comments requiring follow up will be referred to staff and, if appropriate, considered at a future City Council meeting. Members of the public are also welcome to provide comments on agenda items during the portions of the meeting when those items are being discussed. In both cases, a request to speak form must be submitted to the clerk in advance of that portion of the meeting beginning.

Public Hearing

Certain actions by the City Council require a "public hearing," which is a time within the regular meeting that has been set aside and noticed according to different rules.

Departmental Reports

This part of the agenda is for items that are not considered routine and do not require a public hearing. These items are usually presented to the City Council by city staff and can be informational in nature or require action. The staff report about each item indicates the purpose of the item and whether or not action is requested.

Other Reports

At the end of each meeting, City Council members and the city manager, city attorney and city clerk are given an opportunity to share information. This usually includes reports about recent meetings, regional issues, and recent or upcoming meetings and events.

City Council Actions

Resolution

A resolution is an official statement of City Council policy that directs administrative or legal action or embodies a public City Council statement. A resolution may be introduced and adopted at the same meeting. Once adopted, it remains City Council policy until changed by subsequent City Council resolution.

Ordinance

Ordinances are city laws contained in the Carlsbad Municipal Code. Enacting a new city law or changing an existing one is a two-step process. First, the ordinance is "introduced" by city staff to the City Council. If the City Council votes in favor of the introduction, the ordinance will be placed on a subsequent City Council meeting agenda for "adoption." If the City Council votes to adopt the ordinance, it will usually go into effect 30 days later.

Motion

A motion is used to propose City Council direction related to an item on the agenda. Any City Council member may make a motion. A motion must receive a "second" from another City Council member to be eligible for a City Council vote.



CITY COUNCIL
Minutes

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

July 28, 2020 3 p.m.

CALL TO ORDER: 3 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

ANNOUNCEMENT OF CONCURRENT MEETINGS: The Mayor announced that the City Council is serving as the Carlsbad Municipal Water District Board of Directors on Consent Calendar Item No. 5.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Blackburn led the Pledge of Allegiance.

INVOCATION: None.

APPROVAL OF MINUTES:

Minutes of the Special Meeting held July 21, 2020.

Motion by Mayor Pro-Tem Blackburn, seconded by Council Member Bhat-Patel, to approve the minutes as presented. Motion carried unanimously, 4/0.

PRESENTATIONS: None.

PUBLIC COMMENT: None.

PUBLIC REPORT OF ACTION TAKEN IN CLOSED SESSION: No reportable action.

CONSENT CALENDAR:

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to approve Consent Calendar Item Nos. 1, 2, 4 through 7. Motion carried unanimously, 4/0.

1. **APPROVAL OF THE PURCHASE OF THE OKTA SOFTWARE SUBSCRIPTION RENEWAL FROM CDW-G, LLC** – Adoption of Resolution No. 2020-157 authorizing the city manager or a designee to purchase the Okta Software Subscription renewal from CDW-G, LLC in an amount not to exceed \$381,135 for a three-year term ending Aug. 24, 2023. (Staff contact: Maria Callander, Administrative Services)
2. **LICENSE AGREEMENT WITH CROWN CASTLE TOWERS 06-2** – Adoption of Resolution No. 2020-158 authorizing the city manager to execute a license agreement with Crown Castle Towers 06-02 LLC to operate a wireless communication facility on city property (APN 208-010-38-00, 208-010-39-00, and 208-010-42-00); future Robertson Ranch Community Park site. (Staff contact: Curtis Jackson, Real Estate)

This item was pulled for discussion by Council Member Schumacher.

3. AUTHORIZATION TO REQUEST BIDS FOR THE TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT PROJECT – Adoption of resolution approving the plans and specifications, appropriation of additional Gas Tax Funds in the amount of \$150,261, and authorizing the city clerk to advertise for bids for the Tamarack Avenue and Valley Street Pedestrian Improvement Project, Capital Improvement Program Project No. 6335. (Staff contact: John Kim, Public Works)
4. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE NEW VILLAGE ARTS BUILDING ROOF AND EXTERIOR REFURBISHMENT PROJECT – Adoption of Resolution No. 2020-160 approving plans and specifications and authorizing the city clerk to advertise for bids for the New Village Arts Building Roof and Exterior Refurbishment Project, Capital Improvement Program Project No. 4739. (Staff contact John Maashoff, Public Works)
5. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE VALVE REPLACEMENT PHASE II PROJECT – Adoption of Carlsbad Municipal Water District (CMWD) Resolution No. 1643 approving plans and specifications and authorizing the Secretary to the CMWD Board to advertise for bids for the Valve Replacement Phase II, Capital Improvement Program Project No. 5019-E. (Staff contact: Stephanie Harrison and Vicki Quiram, Public Works)
6. ACCEPTANCE OF THE AMERICANS WITH DISABILITIES ACT BEACH ACCESS FEASIBILITY STUDY – Adoption of Resolution No. 2020-161 accepting the Americans with Disabilities Act Beach Access Feasibility Study, including the corresponding concept plans, and directing staff to prepare a request for proposals to pursue the environmental review, agency permitting, engineering and construction documentation phases of the project. (Staff contact: Sheila Cobian, City Manager Department)
7. NOVEMBER 3, 2020 COUNCIL COMPENSATION BALLOT MEASURE – 1) Adoption of Resolution No. 2020-162 ordering the submission to the qualified electors of the City of Carlsbad a certain measure relating to City Council compensation on the general election to be held on Tuesday, November 3, 2020, requesting that the San Diego County Board of Supervisors place the measure on the ballot and provide consolidation services and appropriating the necessary funds; and
2) Adoption of Resolution No. 2020-163 setting priorities for filing written arguments regarding a city measure pertaining to City Council compensation and directing the city attorney to prepare an impartial analysis; and
3) Adoption of Resolution No. 2020-164 setting priorities for filing of rebuttal arguments regarding a city measure pertaining to City Council compensation that will be submitted at the November 3, 2020, general municipal election. (Staff contact: Faviola Medina, City Clerk Department)

CONSENT CALENDAR ITEMS PULLED FOR DISCUSSION:

This item was pulled for discussion by Council Member Schumacher.

3. AUTHORIZATION TO REQUEST BIDS FOR THE TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT PROJECT – Adoption of Resolution No. 2020-159 approving the

plans and specifications, appropriation of additional Gas Tax Funds in the amount of \$150,261 and authorizing the city clerk to advertise for bids for the Tamarack Avenue and Valley Street Pedestrian Improvement Project, Capital Improvement Program Project No. 6335. (Staff contact: John Kim, Public Works)

Council Member Schumacher thanked staff for their work on the project and commented that this will increase safety for pedestrians and the children who walk to school in the area.

Motion by Council Member Schumacher, seconded by Mayor Pro Tem Blackburn, to adopt Resolution No. 2020-159. Motion carried unanimously, 4/0.

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION: None.

PUBLIC HEARINGS:

8. PUBLIC HEARING TO FINALIZE THE 2020 WEED ABATEMENT COST REPORT – Adoption of Resolution No. 2020-165 accepting the 2020 Weed Abatement Cost Report and directing the city clerk to file a certified copy of the resolution with the San Diego County Assessor. (Staff contact: Randy Metz, Fire)

City Manager’s Recommendation: Take public input, close the public hearing and adopt the resolution.

Fire Marshall Randy Metz presented the report.

Mayor Hall opened the duly noticed Public Hearing at 3:06 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 3:06 p.m.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-165. Motion carried unanimously, 4/0.

9. AN AMENDMENT TO THE CARLSBAD CORPORATE PLAZA SPECIFIC PLAN PARKING STRUCTURE
– 1) Introduction of Ordinance No. CS-379 amending the Carlsbad Corporate Plaza Specific Plan (SP 23(H)) to remove the 6,000-square-foot limitation on medical office use for existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the city’s Local Coastal Program and Local Facilities Management Zone 3 (Case Name: Carlsbad Corporate Plaza Parking Structure; Case No.: Amend 2019-002); and
2) Adoption of Resolution No. 2020-166 approving Minor Site Development Plan and Coastal Development Permit to allow the construction of a 35,360-square-foot, two-level parking structure located over an existing parking lot serving existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the Local Coastal Program and Local

Facilities Management Zone 3 (Case Name: Carlsbad Corporate Plaza Parking Structure; Case No.: SDP 2019-0003/CDP 2019-0005). (Staff contact: Esteban Danna, Community Development)

City Manager's Recommendation: Take public input, close the public hearing, Introduce the ordinance and adopt the resolution.

Associate Planner Esteban Danna and City Planner Don Neu presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed Public Hearing at 3:27 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 3:27 p.m.

Council Member Priya Bhat-Patel disclosed that she met with the applicant and the property owner and visited the facility.

Bill Hoffman of Hoffman Planning and Engineering and Scott Leggett, co-owner of NextMed presented a PowerPoint presentation about the project.

Mayor Pro Tem Blackburn disclosed that he has had medical surgeries at the Carlsbad Surgery Center which NextMed is associated with.

City Attorney Celia Brewer titled the ordinance.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to introduce Ordinance No. CS-379 and adopt Resolution No. 2020-166. Motion carried unanimously, 4/0.

DEPARTMENTAL AND CITY MANAGER REPORTS:

10. **COVID-19 ACTIONS AND EXPENDITURES REPORT** – Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

City Manager's Recommendation: Receive the report and provide direction as appropriate.

City Manager Scott Chadwick, Assistant Director of Emergency Services David Harrison, Deputy City Manager of Community Services Gary Barberio, Police Chief Neil Gallucci, Fire Chief Michael Calderwood, Chief Innovation Officer David Graham and Deputy City Manager of Administrative Services Laura Rocha presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Council Member Schumacher asked the City Council if they would be interested in revisiting the eviction moratorium and extending the repayment terms from 3 months to 6 months.

In response to an inquiry from Mayor Hall, Council Member Schumacher explained revisiting the eviction moratorium and repayment extension would include all commercial properties in the City of Carlsbad and not solely those that the City of Carlsbad leases to. She further added that she is hearing from the public if the repayment terms could be extended from 3 months to 6 months.

Minute Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to direct staff to provide an update of the eviction moratorium and consider options for potential action at a future City Council meeting. Motion carried unanimously, 4/0.

11. ADMINISTRATIVE ENFORCEMENT OF THE FACIAL COVERING REQUIREMENTS OF STATE AND COUNTY PUBLIC HEALTH ORDERS – Adoption of a resolution issuing an emergency order mandating face coverings for all persons within Carlsbad city limits in accordance with the most recent San Diego County Order of the health officer and emergency regulations and the most recent California Department of Public Health face covering guidance. (Staff contact: Allegra Frost, City Attorney Department)

City Manager’s Recommendation: Adopt the resolution.

Deputy City Attorney Allegra Frost and Assistant Director of Emergency Services David Harrison presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

The following individuals called into the City Council Meeting and shared their comments for the record:

Sharon McKeeman spoke about some of the harassment she faces for not wearing a face-covering in public. She further commented on her concern for those who do not wear face masks due to medical reasons. She encouraged the City of Carlsbad to understand the medical and ADA exemptions of not wearing a face mask.

Liam Ferguson spoke about his concerns regarding face masks and encouraged the City Council to keep Carlsbad free. He further commented that the spread of COVID-19 was likely due to the recent protests seen throughout California.

Council Member Schumacher asked staff if police was aware of their rights once COVID-19 was deemed a direct threat under the ADA.

In response to an inquiry from Council Member Schumacher, Police Chief Neil Gallucci explained when Carlsbad Police Officers walk up to someone, they need reasonable suspicion before they question the person.

Council Member Schumacher commented that the reasonable suspicion has already been determined via the direct threat of COVID-19.

Deputy City Attorney Allegra Frost explained that the legal precedent that they are looking at is the fourth amendment and not the ADA. She further explained that the legal standard you must meet is that police must have reasonable suspicion to stop someone. She added that to determine if there is reasonable suspicion, the police officer needs to know by looking and observing and determining whether a crime has been committed.

Council Member Schumacher expressed that it is our responsibility to protect the general welfare of our residents. She further added that she wishes to give law enforcement a different track to citing the enforcement of face masks. She questioned that if police or the City Council are not enforcing the face mask requirement, then who is expected to enforce the requirement. She commented that the enforcement issue is currently happening in Carlsbad.

Deputy City Attorney Marissa Kawecki explained that from a prosecution standpoint if someone were to be charged and appeal this violation in an administrative context or in criminal court, the city must consider all constitutional challenges. She further explained that this is not to say that the police cannot go up to someone and attempt to ask questions to determine a medical exemption, but if the individual chooses not to answer the questions, then the police cannot do anything about it. She added that this is a tool that can be useful under certain conditions, but it does not allow police to pursue every individual.

Council Member Schumacher commented that she would like to adopt the resolution but would also like to revisit the City of Carlsbad specific face covering ordinance that is specifically tailored with time, place and manner restrictions specifically to certain locations, walks and stairs and that drills into our indoor businesses.

In response to an inquiry by Mayor Pro Tem Blackburn, City Attorney Celia Brewer commented that the intent of the item presented was to provide an additional tool for enforcement that is within the city's control, and while it may not be used for individual face masks outside, it gives staff a tool for inside.

Mayor Hall expressed that the reason this item is before the City Council is so that the city can be more aggressive in enforcing face masks and the City Council should not shy away from that, but also has heard multiple times today that the city is in conflict with our federal and state constitution and believes all this is going to create further animosity in the community.

Mayor Pro Tem Blackburn explained that he would not be supporting this item because he is not getting the commitment from the City Council that this is not going to be a slippery slope. He wished to make it clear that he absolutely supports the wearing of face masks but is concerned with the slippery slope that this agenda item would bring.

Council Member Schumacher explained that the city does have an underlying current to not enforce and that it is putting the community at risk.

Council Member Bhat-Patel expressed that she doesn't see this issue as a slippery slope, believes is a clear-cut decision, and to put it that way makes the Carlsbad community think that the city is not putting their best interests forward.

Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to adopt the resolution. Motion failed – 2/2 (Hall, Blackburn – No).

Minute Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to direct staff to draft a City of Carlsbad specific face covering Ordinance that includes time, place and manner of restrictions on boardwalks, staircases, gatherings and businesses. Motion carried, 3/1 (Hall – No).

Mayor Hall declared a recess at 5:05 p.m.

Mayor Hall reconvened the meeting at 5:15 p.m.

12. EMPOWER THE DIRECTOR OF EMERGENCY SERVICES TO TEMPORARILY SUSPEND OR MODIFY CERTAIN LAND DEVELOPMENT STANDARDS TO MITIGATE THE ECONOMIC EFFECTS OF THE COVID-19 PANDEMIC STATE OF EMERGENCY ON LOCAL BUSINESSES – Adoption of Resolution No. 2020-167 empowering the Director of Emergency Services to temporarily suspend or modify certain land development standards to mitigate the economic effects of the COVID-19 pandemic state of emergency on local business. (Staff contact: Jeff Murphy, Community Development)

Community Development Director Jeff Murphy presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Attorney Celia Brewer commented that this item involves items in the Village and Barrio Master Plan and while Mayor Hall usually recuses himself from discussions on these items Mayor Hall can participate because there are special emergency regulations in the FPPC guidelines that allow him to vote on this item.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-167. Motion carried unanimously, 4/0.

13. ANALYSIS AND OPTIONS ON PHYSICAL CHANGES TO COLLEGE BOULEVARD, FROM CARLSBAD VILLAGE DRIVE TO CANNON – 1) Receive the presentation regarding options on roadway safety and physical changes to College Boulevard, from Carlsbad Village Drive to Cannon Road; and
2) Adoption of Resolution No. 2020-168 approving implementation of up to 11 speed feedback signs on College Boulevard, North of Cannon Road. (Staff contact: John Kim and Tom Frank, Public Works)

City Manager's Recommendation: Receive the presentation and adopt the resolution.

Transportation Director Tom Frank and City Traffic Engineer John Kim presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Council received the presentation.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-168. Motion carried unanimously, 4/0.

14. CLEAN ENERGY ALLIANCE LOAN TERMS – 1) Provide feedback on the proposed terms of a potential loan to fund the Clean Energy Alliance’s community choice aggregation program launch; and
- 2) Consider the following options to direct staff to either:
- a. Return to the City Council with a proposed loan agreement based on the terms discussed and agreed on by the City Council to obtain the council’s final approval authorizing the city manager to execute the loan agreement and appropriate the funds
 - b. Adopt a resolution appropriating \$4,450,000 from the city’s unassigned General Fund reserve and authorizing the city manager to negotiate terms, within the City Council’s agreed upon parameters, and execute a loan agreement with the Clean Energy Alliance
 - c. Take no further action on the matter. (Staff contact: Ryan Green, Administrative Services Department and Jason Haber, City Manager Department)

City Manager’s Recommendation: Consider options and provide staff with feedback.

Intergovernmental Affairs Director Jason Haber, Assistant Finance Director Ryan Green and Interim CEO Barbara Boswell presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Attorney Celia Brewer stated that a comment was received earlier regarding a conflict of duties question involving a Council Member sitting on one agency that is giving a loan to an agency that is receiving a loan but added that it does not apply to Council Members sitting on Joint Power Authority’s.

The following individual called into the City Council Meeting and voiced their comment for the record:

Anthony Bona spoke regarding a potential conflict of interest with Council Member Schumacher and this item.

Mayor Hall explained that his biggest concern with this project is the uncertainty behind it and that there is no certain launch date. He also added that in his time of being a Council Member, they have never made a loan to a JPA and that he cannot say with certainty that they could make the 2% discount on the rate structure.

Council Member Bhat-Patel expressed that she would be open to Option A or B tonight and would be making a motion for either as well.

Council Member Blackburn expressed that they he wanted the City of Carlsbad to be the one to make the loan but did not want to tell residents he took a chance with their taxpaying money and made an error. He added that he watched the recent JPA meeting and saw the directors going in different directions which did not instill a lot of confidence in him. He further added that if he could not support the City of Carlsbad as being the lender, then he could not support the city being the loan guarantee entity.

Council Member Schumacher explained that at the last JPA meeting they were grappling with the policy and not frame it as the directors going in different directions. She inquired to staff, what would the ramifications be if the City of Carlsbad were not to be the loan provider.

In response to an inquiry from Council Member Schumacher, Assistant Finance Director Ryan Green responded that the JP Morgan loan would have an estimated interest of \$575,000 whereas the City of Carlsbad is offering close to \$400,000 in interest over a three-year period. He also added that in theory, any savings from the interest rate would be utilized by the Clean Energy Alliance in either one of two ways; either it would apply directly to the rates that they would set or allow for them to buy a cleaner mix of energy. He further added that initially there were three options: the City of Carlsbad loan option, the River City Bank option, and the JP Morgan option. He explained that the JP Morgan loan did not require a guarantee, but the River City Bank loan did and that would not be an option unless the Clean Energy Alliance could find some other means.

Clean Energy Alliance Interim CEO Barbara Boswell explained that while the JP Morgan loan did not require a guarantee, it did have additional covenants that would restrict the board from making discounts for customers.

Council Member Schumacher explained that they would not be able to get savings directly to the customers if the City Council moved forward with the JP Morgan option and that it would not serve the public interest as much as it could which meant that potential customers would be placed at a disadvantage.

Motion by Council Member Bhat-Patel to adopt Option A, seconded by Council Member Schumacher. Motion failed, 2/2 (Hall, Blackburn – No).

15. TRAFFIC & MOBILITY COMMISSION APPOINTMENTS – Adoption of Resolution No. 2020-169 and Resolution No. 2020-170 appointing two members to the Traffic & Mobility Commission. (Staff contact: Tammy McMinn, City Clerk Department)

City Manager's Recommendation: Adopt the resolutions.

Council Member Schumacher requested that they vote on each appointment separately. She expressed that she would not be voting for an individual who she has seen attack Council Members verbally and otherwise online and it is toxic, and we need to not be supporting that type of behavior in our commissioners.

Motion by Mayor Hall to adopt Resolution No. 2020-169 re-appointing Monica Gocan. Motion carried, 3/1 (Schumacher – No).

Council Member Bhat-Patel commented that she would like to advocate for her district since there are a lot of traffic and mobility issues in her district and noticed that there was an applicant for District 3 in the pool.

Motion by Mayor Hall to adopt Resolution No. 2020-170 appointing Allan Wanamaker. Motion carried, 3/1 (Schumacher – No).

COUNCIL REPORTS AND COMMENTS:

Council Member Schumacher requested that the City Council consider at some point and time for all commissioners, City Council members, and public comments, a meeting decorum request. She added that over the years she has watched commissioners and public comments at City Council meetings really veer off course and would like for the City Council to work together to model for the community what respecting the positions of the City Council office looks like.

Council Member Bhat-Patel expressed appreciation for Council Member Schumacher's comments and agreed with the sentiments that they need to be able to work together, and that unfortunately some of the comments that are made can cause discussions to go in disarray. She added that the City Council needs to focus on what the goals are which are to ensure that they are serving the community to the best of their abilities and that they are not letting those in particular get in the way.

Mayor Hall requested that the City Council add Item No. 5 from the July 23, 2020 Clean Energy Alliance meeting agenda regarding the Inclusive & Sustainable Workforce Policy for discussion at the August 18, 2020 City Council meeting. He explained that the agenda item was important to discuss because the project has varied from the City Councils original direction.

Minute Motion by Mayor Hall, seconded by Mayor Pro Tem Blackburn, to direct staff to bring back to City Council Item No. 5 from the July 23, 2020 Clean Energy Alliance meeting agenda regarding the Inclusive & Sustainable Workforce Policy for discussion at the August 18, 2020 City Council meeting. Motion carried, 3/1 (Schumacher – No).

CITY MANAGER COMMENTS: None.

CITY ATTORNEY COMMENTS: None.

CITY CLERK COMMENTS: None.

ANNOUNCEMENTS: None.

ADJOURNMENT:

Mayor Hall adjourned the duly noticed Meeting at 6:47 p.m.

Hector Gomez
Deputy City Clerk



CITY COUNCIL
Staff Report

Meeting Date: Sept. 1, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Corey Funk, Associate Planner
 corey.funk@carlsbadca.gov, 760-602-4645

Subject: Update to the City’s Development Regulations to Ensure Consistency with State Law on Accessory Dwelling Units and Junior Accessory Dwelling Units

Case Name: Accessory Dwelling Unit Amendments 2020

Case No.: MCA 2020-0001/ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006

Recommended Action

Hold a public hearing and introduce two ordinances to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units:

1. An ordinance approving an amendment to the Carlsbad Municipal Code (MCA 2020-0001)
2. An ordinance approving amendments to the zoning code (ZCA 2020-0002), Village and Barrio Master Plan (AMEND 2020-0005) and Local Coastal Program (LCPA 2020-0006).

Executive Summary

Recent changes in state law affect local ordinances and plans on accessory dwelling units.

This is a city-initiated amendment to Title 21 - Zoning and Chapter 5.60 – Short-Term Vacation Rentals of the Carlsbad Municipal Code, the Village and Barrio Master Plan and the Local Coastal Program to amend the city’s regulations for accessory dwelling units so that they are consistent with these recent changes (Exhibits 1 and 2).

The Planning Commission voted 5 to 2 on June 17, 2020, to recommend the City Council approve the amendments, including a recommendation to allow the maximum size limits for accessory units to be consistent with the maximum size limits allowed under state law.

On July 22, 2020, the council’s Municipal Code and City Council Policy Update Subcommittee recommended that the proposed amendments be presented to the full City Council for its consideration along with the answers to process questions that have been addressed in this staff report.

The item is to be considered by the City Council because amendments to the zoning code must be approved by the City Council under Carlsbad Municipal Code Section 21.52.050.

Discussion **Background**

In response to the state housing crisis, the California legislature passed a series of bills – Assembly Bills 68, AB881 and Senate Bill 13 – that amended Government Code sections 65852.2 and 65852.22 to encourage the production of accessory dwelling units, or ADUs, and junior accessory dwelling units.¹ The most notable changes deal with the following topics:

- Location of ADUs
- Allowance for junior ADUs
- ADU size limitations
- Parking limitations on garage conversions
- New time standards for permit processing
- No short-term rental of ADUs

Three other bills made additional changes to state law related to accessory dwelling units:

- Assembly Bill 670: Homeowners associations must allow ADUs and junior ADUs.
- Assembly Bill 671: Housing elements shall incentivize and promote the creation of ADUs.
- Assembly Bill 587: Allows a nonprofit to separately convey title to ADUs.

The new legislation went into effect January 1, 2020, and preempts all local ordinances that do not comply with the new standards. Cities are expected to update their local ordinances to comply with the state legislation. If cities fail to do so, the new state laws automatically apply, and applicants are permitted to develop accessory dwelling units and junior accessory dwelling units under the state legislation.

The new state law also includes a requirement for the California Department of Housing and Community Development to review the city's accessory dwelling unit ordinance for compliance with state law. The city would be given 30-days to respond and indicate if it will either change the ordinance to comply with the state housing department's findings or adopt it as-is, with a resolution explaining why the ordinance does not comply with the department's findings. If no response is made within 30 days, the city may notify the attorney general that the city is in violation of state law.

Local jurisdictions do not have much discretion when it comes to regulating accessory dwelling units. As shown in the table found in Exhibit 3, jurisdictions have very limited authority to adopt local regulations and restrictions on common land development standards such as ADU size, number, height, setback and parking. Given these limitations, the proposed ordinance meets the intent and requirements of state law.

¹ An accessory dwelling unit, sometimes called a granny flat or backyard cottage, is a secondary residential unit that shares a lot with existing residential units. Junior accessory dwelling units are those created within the walls of a proposed or existing single-family home and may be no larger than 500 square feet.

Proposed ordinance

As noted above, several legislative bills were passed in 2019 that require the city to update its current regulations. The proposed new codes are shown in exhibits 1 and 2. Exhibit 4 highlights the exact revisions made to the city code to comply with these new laws. Exhibit 5 provides a comparison of the city's existing accessory dwelling unit requirements and how they differ from state law in table form.

Given the current housing crisis, it is anticipated that the state legislature will make more changes to the regulations on accessory dwelling units in the coming years. These state-initiated modifications often require regular updates to our local code. The proposed ordinance has been revised to the extent possible to refer to many of the ADU-compliance requirements to state law. This will help reduce the need for the city to process annual code amendments when state law changes in the future.

To help understand the constant changes in ADU regulations, staff have prepared educational materials to help customers navigate state law and city processing requirements. A department information bulletin (Exhibit 6) describes the types of accessory dwelling units available, relevant development standards, permit requirements and fees. Staff can update the information bulletin as needed if density bonus law changes in the future.

Commission and subcommittee reviews

The proposed amendments were considered by the Planning Commission, Airport Land Use Commission and Municipal Code and City Council Policy Update Subcommittee. Their actions are summarized below.

Planning Commission

The Planning Commission conducted a public hearing on the proposed code amendments on June 17, 2020 (Exhibit 7). Although most of the state ADU law is a mandate for local jurisdictions, one area of local discretion relates to the establishment of size limitations where the state allows a range for maximum ADU size. The law, unfortunately, is very confusing and poorly worded when it comes to maximum unit size as it allows cities to either apply maximum size depending on whether the ADU is attached versus detached or based on room count, as reflected in the chart below.

State law – Maximum size limit	State law – Minimum, maximum size limit
<ul style="list-style-type: none">• Attached unit: 50% of main dwelling• Detached unit: 1,200 square feet	<ul style="list-style-type: none">• ADU Studio and 1-bedroom: 850 square feet• ADU 2-Bedroom+: 1,000 square feet
Irrespective of the number of bedrooms in the ADU	For either an attached or detached ADU
Size limits (i.e. 50% of the main dwelling) are waived to allow at least an 800-square-foot ADU. This also applies to lot coverage standards.	

For detached ADUs, staff recommended using the minimum size range as reflected in the chart above, 850 square feet for studio and one-bedroom and 1,000 square feet for two bedrooms or more.

For attached ADUs, staff recommended a hybrid of the state standards, as shown below:

- Studio and one-bedroom: 50% of main dwelling or 850 square feet, whichever is less, but not less than 800 square feet
- Two-bedrooms+: 50% of main dwelling or 1,000 square feet, whichever is less, but not less than 800 square feet

Staff's recommendation to limit the size of ADUs to the lower limit is intended to minimize the potential impacts that an ADU may have on the neighborhood, particularly in single-family neighborhoods.

The Planning Commission received two comment letters, one from Kevin Dunn, dated April 6, 2020, and another from Gary Nessim, dated June 17, 2020. Both advocated for the city to adopt a size limitation on accessory dwelling units consistent with the maximum allowed by state law, 1,200 square feet. Their letters are included in Exhibit 8. No public comments were received at the Planning Commission hearing.

The Planning Commission deliberated extensively on this issue, discussing the potential effects a larger size allowance could have on affordability, parking, construction costs, flexibility for applicants and compatibility with the neighborhood and whether many lots would be large enough to accommodate larger ADUs. Ultimately, the Planning Commission voted 5 to 2 to recommend that the City Council adopt the largest size limit allowed by state law (Exhibits 9 and 10), but with a hybrid of the attached ADU standard as follows:

- Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet
- Detached ADUs – 1,200 square feet

The Planning Commission's recommendations are reflected in the attached ordinance (Exhibit 2).

Airport Land Use Commission

The proposed amendments affect land within the Airport Influence Area, so the Airport Land Use Commission of the San Diego County Regional Airport Authority must review and determine that the proposed amendments are consistent with the McClellan-Palomar Airport Land Use Compatibility Plan. The Manager of Airport Planning reviewed the amendment and issued a determination of consistency with the Airport Land Use Compatibility Plan on May 20, 2020. The Airport Land Use Commission reviewed the amendment and the determination at its meeting on June 4, 2020, and agreed with the determination of consistency.

Municipal Code and City Council Policy Update Subcommittee

The subcommittee considered the proposed edits and educational materials on July 23, 2020, and generally supported the approach to revise the ordinance to focus more on process while referring as much as possible to the state law on allowances and standards. Questions were raised about the amount of latitude given to cities to deviate from state law. As explained by staff and noted above, local jurisdictions do not have a lot of discretion in regulating accessory dwelling units. The subcommittee found that understanding this limitation would be beneficial when the City Council considered the proposed regulations. In response, staff prepared a table (Exhibit 3) summarizing a city's limited authority to adopt local regulations and restrictions on common land use standards such as ADU size, number, height, setback and parking.

Fiscal Analysis

There is no anticipated fiscal impact from this item.

Next Steps

Following the City Council's introduction of the ordinance, it will be scheduled at the City Council's next meeting for adoption. Following adoption of the ordinance, amendments to the Municipal Code, Zone Code and Village and Barrio Master Plan will immediately become effective outside of the Coastal Zone.

The amendments will become effective within the Coastal Zone when the California Coastal Commission approves the Local Coastal Program Amendment. Staff will submit an application to the California Coastal Commission for a Local Coastal Program Amendment following the City Council's adoption of the ordinance.

Environmental Evaluation (CEQA)

The city planner has determined that the amendments are exempt from the California Environmental Quality Act under the common sense exemption, Section 15061(b)(3) of the CEQA Guidelines, because there would be no possibility of a significant effect on the environment; and under Section 15282(h) of the CEQA Guidelines, which exempts from CEQA the adoption of an ordinance regarding accessory dwelling units in a single-family or multifamily residential zone to implement Section 65852.2 of the Government Code.

Public Notification

This amendment has been posted online since May 15, 2020. In addition, a six-week public review period for the Local Coastal Program Amendment began on May 15, 2020, and ended on July 21, 2020. Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibits

1. City Council ordinance amending Section 5.60.020 of the Carlsbad Municipal Code
2. City Council ordinance amending Title 21 of the Carlsbad Municipal Code, the Village and Barrio Master Plan, and the Local Coastal Program
3. State ADU Law – Areas of Local Discretion

4. Revisions of proposed amendments
5. Summary of ADU code changes
6. Information Bulletin - Accessory Dwelling Units
7. Planning Commission Staff Report, dated June 17, 2020
8. Comment letters
9. Planning Commission Resolution No. 7374
10. Planning Commission Minutes dated June 17, 2020

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING AMENDMENTS TO THE CARLSBAD MUNICIPAL CODE CHAPTER 5.60 (SHORT-TERM VACATION RENTALS) TO ENSURE CONSISTENCY WITH STATE LAW RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

CASE NAME: ACCESSORY DWELLING UNIT AMENDMENTS 2020

CASE NO: MCA 2020-0001

WHEREAS, Sections 65852.2 and 65852.22 of the California Government Code requires cities and counties to permit construction of accessory dwelling units and junior accessory dwelling units, and allows cities and counties to adopt ordinances that govern the permitting of accessory dwelling units and junior accessory dwelling units consistent with state law; and

WHEREAS, California Governor Gavin Newsom signed Senate Bill 13 and Assembly Bills 68, 587, 670, 671 and 881 into law, which amended state law to further encourage and incentivize the construction of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the above legislative bills took effect January 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, the City Planner has prepared a Municipal Code Amendment MCA 2020-0001, to amend Section 5.60.020 of the Carlsbad Municipal Code as necessary to comply with amended state law as described above; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider MCA 2020-0001; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to MCA 2020-0001; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain that:

1. *The above recitations are true and correct.*
2. *The definition of "short-term vacation rental" in Carlsbad Municipal Code Section 5.60.20 is amended to read as follows:*

“Short-term vacation rental” is defined as the rental of any legally permitted dwelling unit as that term is defined in Chapter 21.04, Section 21.04.120 of this code, or any portion of any legally permitted dwelling unit for occupancy for dwelling, lodging or sleeping purposes for a period of less

than 30 consecutive calendar days. Time-shares as defined in Chapter 21.04 and 21.04.357 are not considered short-term vacation rentals. Accessory dwelling units and junior accessory dwelling units as defined in Chapter 21.04, Sections 21.04.121 and 21.04.122, for which a building permit was issued on or after January 1, 2020, are not considered short-term vacation rentals. A trailer coach as defined in Chapter 5.24, Section 5.24.005 of this code, which is parked on the property of a legally permitted dwelling unit, is not considered a short-term vacation rental, and it may not be rented out for occupancy pursuant to Chapter 5.24, Section 5.24.145 of this code. Short-term vacation rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive days and which was subsequently amended, either orally or in writing to permit the occupant(s) of the owner's short-term vacation rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive days.

EFFECTIVE DATE OF THIS: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

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INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the _____ day of _____, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING AMENDMENTS TO TITLE 21 OF THE CARLSBAD MUNICIPAL CODE (ZONE CODE), VILLAGE AND BARRIO MASTER PLAN AND LOCAL COASTAL PROGRAM TO ENSURE CONSISTENCY WITH STATE LAW RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

CASE NAME: ACCESSORY DWELLING UNIT AMENDMENTS 2020

CASE NO: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006

WHEREAS, Sections 65852.2 and 65852.22 of the California Government Code requires cities and counties to permit construction of accessory dwelling units and junior accessory dwelling units, and allows cities and counties to adopt ordinances that govern the permitting of accessory dwelling units and junior accessory dwelling units consistent with state law; and

WHEREAS, California Governor Gavin Newsom signed Senate Bill 13 and Assembly Bills 68, 587, 670, 671 and 881 into law, which amended state law to further encourage and incentivize the construction of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the above legislative bills took effect January 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, the City Planner has prepared amendments to the Zone Code (ZCA 2020-0002)/ Village and Barrio Master Plan (AMEND 2020-0005) and the Local Coastal Program (LCPA 2020-0006) pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS, the Carlsbad Zone Code and Village and Barrio Master Plan are the implementing ordinances of the Carlsbad Local Coastal Program, and therefore, amendments to the Zone Code and Village and Barrio Master Plan also constitute amendments to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began **May 15, 2020** and ending on **June 26, 2020**; and

WHEREAS, on May 20, 2020 the Airport Land Use Commission reviewed and found that the proposed Zone Code Amendment and Village and Barrio Master Plan Amendment are consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 17, 2020, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7374 recommending to the City Council that ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004 be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain that:

1. *The above recitations are true and correct.*
2. *The findings of the Planning Commission in Planning Commission Resolution No. 7374 shall also constitute the findings of the City Council*
3. *In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, the use listing for Accessory Dwelling Unit is amended to read as follows:*

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Accessory Dwelling Unit (accessory to one-family, two-family, multifamily, and mixed-use dwellings; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.121)	A	A	A	A	A	A	A

4. *In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, a new use listing Junior Accessory Dwelling Unit is added as follows:*

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Junior Accessory Dwelling Unit (accessory to a one-family dwelling; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.122)		A			A	A	A

5. *In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, the parking requirements for Accessory Dwelling Unit are amended to read as follows:*

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Accessory Dwelling Unit (no additional parking is required for a Junior Accessory Dwelling Unit)	<ul style="list-style-type: none"> • One space, in addition to the parking requirement for the primary dwelling. • Tandem parking is permitted. Parking may be located in the side and rear yard setbacks. • Parking exceptions exist for accessory dwelling units. Refer to CMC Section 21.10.030 E

6. *In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, a new parking requirement for Junior Accessory Dwelling Unit is added as follows:*

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Junior Accessory Dwelling Unit	No parking requirement

7. *Carlsbad Municipal Code Section 21.04.020 is amended to read as follows:*

21.04.020 Accessory.

“Accessory” means a building, part of a building or structure, or use that is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot. If an accessory building is attached to the main building by a common wall, with a width dimension of at least three feet and a height dimension of at least one story, such building area is considered a part of the main building and not an accessory building or structure, except for “accessory dwelling units” or “junior accessory dwelling units” as defined in Sections 21.04.121 and 21.04.122. Accessory dwelling units and junior accessory dwelling units that comply with the requirements of Section 21.10.030 and California Government Code Sections 65852.2 and 65852.22, respectively, are considered accessory.

8. *Carlsbad Municipal Code Section 21.04.121 is amended to read as follows:*

21.04.121 Dwelling unit, accessory (ADU).

Refer to California Government Code Section 65852.2.

9. *Section 21.04.122 is added to the Carlsbad Municipal Code as follows:*

21.04.122 Dwelling unit, junior accessory (JADU).

Refer to California Government Code Section 65852.22.

10. *A new use listing for “Junior accessory dwelling unit” is added to the permitted uses tables in the following eight sections of the Carlsbad Municipal Code as shown below:*

- 21.08.020 Permitted uses, Table A.
- 21.09.020 Permitted uses, Table A.
- 21.10.020 Permitted uses, Table A.
- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X

11. *The following four sections are amended as shown below:*

- 21.08.060 Placement of buildings
- 21.10.080 Placement of buildings
- 21.12.060 Placement of buildings

21.16.060 Placement of buildings

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

1. Interior Lots.
 - a. No building shall occupy any portion of a required yard;
 - b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
 - c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
 - d. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
 - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iv. Buildings shall not exceed one story,
 - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
 - e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
 - f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
 - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,

- ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
 - iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
2. Corner Lots and Reversed Corner Lots.
- a. No building shall occupy any portion of a required yard;
 - b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
 - c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
 - d. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
 - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iv. Buildings shall not exceed one story,
 - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
 - e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
 - f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio

covers shall comply with the following additional development standards when located within a lot's required setback areas:

- i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
 - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
 - iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

12. In Section 21.09.020 Table A, the use listing for "Accessory dwelling units" is amended to read as follows:

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

13. Section 21.09.100 of the Carlsbad Municipal Code is amended to read as follows:

21.09.100 Placement of buildings

Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

- (1) Except as permitted by Sections 21.09.080 and 21.09.090, no building shall occupy any portion of a required yard.

- (2) Any building, any portion of which is used for human habitation, shall observe a distance from any rear property line the equivalent of twice the required interior side yard.
- (3) The distance between buildings used for human habitation and detached accessory buildings shall not be less than ten feet.
- (4) The keeping of all domestic animals provided for in this chapter shall conform to all other provisions of law governing the same, and no pen, coop, stable or barn shall be erected within forty feet of any building used for human habitation or within twenty-five feet of any property line.
- (5) A building permit for a dwelling unit to be located further than five hundred feet from a fire hydrant shall not be issued without the approval of the fire chief. The fire chief may require the installation of additional safety equipment, including fire hydrants or stand pipes, as a condition of such approval.

14. *Section 21.10.030 of the Carlsbad Municipal Code is repealed and replaced to read as follows:*

21.10.030 Accessory dwelling units and junior accessory dwelling units.

- A. Purpose. This section provides standards for the establishment of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Pursuant to California Government Code Sections 65852.2 and 65852.22, local governments have the authority to adopt regulations designed to promote ADUs and JADUs.
- B. Standards of Review. Review of ADUs and JADUs shall be consistent with the following:
 1. ADU or JADU applications shall be considered a ministerial action without discretionary review or a public hearing if all requirements of this section (21.10.030) are met, notwithstanding any other requirements of state law or this development code.
 2. ADUs or JADUs developed within the coastal zone are subject to the permit requirements of Chapter 21.201 and require a building permit. Development of ADUs or JADUs outside of the coastal zone requires a building permit.
 3. The city shall act on an application to create an ADU or a JADU within the time period specified under California Government Code Sections 65852.2 and 65852.22.

4. If the permit application to create an ADU or a JADU is submitted with a permit application to create a new one-family dwelling on the lot, the city may delay acting on the permit application for the ADU or the JADU until the city acts on the permit application to create the new one-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or public hearing. If the applicant requests a delay, the time period specified under California Government Code Sections 65852.2 and 65852.22 shall be tolled for the period of the delay.
- C. Residential Use and Density. ADUs and JADUs, which comply with the requirements of this section (21.10.030) and California Government Code Sections 65852.2 and 65852.22:
1. Shall be considered accessory residential uses or accessory residential buildings that are consistent with the general plan or zoning designations for the lot; and
 2. Shall not be considered to exceed the allowable density for the lot upon which it is located; and
 3. Shall not be considered a dwelling unit when implementing the dwelling unit limitations established by Proposition E enacted by Carlsbad voters on November 4, 1986 and shall not be considered a dwelling unit under the definition of “short-term vacation rental” in Chapter 5.60, Short-Term Vacation Rentals.
- D. Number and Location.
1. ADUs shall be permitted in zones that allow one-family dwellings, two-family dwellings, multiple-family dwellings, and mixed-use (residential uses in combination with non-residential uses), provided there is an existing or proposed dwelling on the lot where the ADU is proposed, as specified in California Government Code Sections 65852.2 and 65852.22 . Refer to a specific zone’s Permitted Uses table within this Title.
 2. For zones that allow one-family dwellings, one JADU shall be permitted with an associated existing or proposed one-family dwelling. Refer to a specific zone’s Permitted Uses table within this Title.
 3. The number and location of ADUs or JADUs on a lot shall be subject to California Government Code Sections 65852.2 and 65852.22.
- E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:

1. ADUs and JADUs shall comply with the development requirements and standards of California Government Code Sections 65852.2 and 65852.22.
2. When not in conflict with California Government Code Sections 65852.2 and 65852.22, ADUs and JADUs shall also comply with applicable development requirements and standards of this code.
3. The maximum size of an ADU or JADU shall be limited as follows, consistent with California Government Code Sections 65852.2 and 65852.22:
 - a. Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet;
 - b. Detached ADUs – 1,200 square feet
 - c. JADUs – 500 square feet
4. A detached ADU shall be limited to one story and 16 feet maximum height, except that an ADU constructed above or below a detached garage shall be permitted and shall conform to the height limits applicable to the zone. Structures that contain an ADU located above or below a detached garage shall be limited to a maximum of two stories including the garage.
5. Roof decks shall not be permitted on detached ADUs.
6. The construction of an ADU or JADU that is all new construction, or is a conversion of a portion or all of an existing structure, or expands the square footage of an existing structure shall be consistent with all habitat preserve buffers and geologic stability setbacks in the certified local coastal program, habitat management plan, general plan or geotechnical report as applicable.
7. On lots with one-family dwelling(s), the exterior roofing, trim, walls, windows and the color palette of the ADU or JADU shall incorporate the same features as the primary dwelling unit.
8. On lots with two-family or multiple-family dwellings, the exterior roofing, trim, walls, windows and the color palette of the ADU addition shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.
9. An ADU shall provide off-street parking in compliance with Chapter 21.44 (Parking), unless it qualifies for an exemption as specified in California Government Code Section 65852.2. No off-street parking is required for a JADU if it meets the requirements specified in California Government Code Section 65852.22.

10. ADUs intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including, but not limited to, the applicable rental rates and income limit standards.
11. A Notice of Restriction shall be recorded on the property declaring that:
 - a. The ADU(s) and/or JADU shall not be used for short-term rentals less than 30 days. This requirement does not apply to any unit that was issued a building permit prior to January 1, 2020.
 - b. The obligations and restrictions imposed on the approval of the ADU(s) per California Government Code Section 65852.2 and/or JADU per California Government Code Section 65852.22 are binding on all present and future property owners.
 - c. For a JADU, the property owner must reside in either the primary residence or the JADU. Sale of the JADU separate from the single-family residence is prohibited; said prohibition is binding on all present owners and future purchasers.
12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner-occupancy of the ADU or primary residence.
13. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26.
- G. Conflicting Standards. If there is a conflict between the requirements of this section and the requirements of the California Government Code provisions relating to ADUs and JADUs, including but not limited to Sections 65852.2 or 65852.22, the California Government Code provisions shall apply.

15. *The use listing for “Accessory dwelling unit” in the permitted use tables of the following five sections of the Carlsbad Municipal Code is amended as shown below:*

- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

16. *Subsections A.7 through A.15 of Section 21.18.030 of the Carlsbad Municipal Code are amended to read as follows:*

7. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
 - a. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
 - b. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
 - c. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
 - d. Buildings shall not exceed one story; and
 - e. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
8. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit of a lot including setbacks.
9. Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
 - a. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
 - b. The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
 - c. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
 - d. The additional development standards listed above (subsections A.10.a. through c. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

10. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
11. Other than as provided in subsection 9 above, no building shall be located in any of the required yards.
12. Height Limits. In the R-P zone the maximum building height shall be thirty-five feet.
13. Lot Coverage. In the R-P zone all buildings shall not cover more than sixty percent of the total lot area.
14. Parking Off-Street. Parking shall not be provided in the required front or side yards.

17. *The use listing for “Accessory dwelling unit” in Section 21.20.010 Table A of the Carlsbad Municipal Code is amended to read as follows:*

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

18. *Section 21.20.080 of the Carlsbad Municipal Code is amended to read as follows:*

21.20.080 Accessory structures.

- (1) All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
 - (A) The lot coverage shall include accessory structures in the lot coverage calculations for the lot.
 - (B) The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet.
 - (C) When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department.
 - (D) Buildings shall not exceed one story.

- (E) Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
- (2) Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- (3) Detached accessory structures, which are not dwelling units and contain no habitable space, including but not limited to garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
 - (A) The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet.
 - (B) The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet.
 - (C) The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures.
 - (D) The additional development standards listed above (subsections (3)(A) through (C) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- (4) The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

19. *Section 21.22.070 of the Carlsbad Municipal Code is amended to read as follows:*

21.22.070 Accessory structures.

- A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
 - 1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
 - 2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
 4. Buildings shall not exceed one story;
 5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided; and
- B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
 2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
 3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
 4. The additional development standards listed above (subsections C.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

20. *Section 21.24.090 of the Carlsbad Municipal Code is amended to read as follows:*

21.24.090 Accessory structures.

- A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
 2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
 4. Buildings shall not exceed one story; and
 5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
- B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks
- C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
 2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
 3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
 4. The additional development standards listed above (subsections D.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

21. *A new use listing for "Accessory dwelling unit" is added to Table A in the following three sections of the Carlsbad Municipal Code as shown below:*

21.26.010 Permitted uses.

21.28.010 Permitted uses.

21.31.030 Permitted uses.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Sections 21.04.121)			X

22. *Section 21.38.025 of the Carlsbad Municipal Code is amended to read follows:*

21.38.025 Accessory dwelling units.

Accessory dwelling units or junior accessory dwelling units are permitted according to the provisions of Section 21.10.030.

23. *In Table A of Section 21.44.020 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:*

Accessory dwelling units	1 space (covered or uncovered), in addition to the parking required for the primary use; unless otherwise specified in Section 21.10.030 of this code.
	The additional parking space may be provided through tandem parking on a driveway and may be within the front or side yard setback.

24. *In Table C of Section 21.44.060 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:*

Accessory dwelling units	Same as parking required for primary residential use, with the following exceptions: <ul style="list-style-type: none">• May be located in the front or side yard setback; and• May be located as a tandem space on a driveway.• Other parking requirements and exemptions may be applicable pursuant to Section 21.10.030.
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25. *Section 21.45.090 of the Carlsbad Municipal Code is amended to read follows:*

21.45.090 Residential additions and accessory uses.

- A. General.
 - 1. Additions and accessory uses shall be subject to all applicable development standards of this chapter, unless otherwise specified in this section and except as otherwise permitted for accessory dwelling units or junior accessory dwelling units pursuant to Section 21.10.030.
 - 2. Additions to buildings that are legally nonconforming shall comply with the requirements of Chapter 21.48 of this code.
- B. One-Family Dwellings and Twin-Homes on Small Lots.
 - 1. Table F lists the provisions for residential additions and accessory uses to one-family dwellings and twin-homes on small lots.
 - 2. The additions and accessory uses listed in Table F shall be subject to the approval/issuance of a building permit.

Table F

Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers ⁽²⁾	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Pool, spa	20 feet	5 feet - pool 2 feet - spa
Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height) ^{(1),(2),(3)}	20 feet	5 feet
Accessory dwelling units or junior accessory dwelling units ^{(2), (3)}	20 feet	See 21.10.030
Habitable detached accessory buildings (i.e. guest houses; not including accessory dwelling units) ^{(1), (2), (3),}	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:

- (1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
- (2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
- (3) Must be architecturally compatible with the existing structure.

C. Condominium projects. Additions and accessory uses to condominium projects shall be subject to Section 21.45.100 (Amendments to permits). (Ord. CS 324 §§ 2, 23, 2017; Ord. CS-050 § IV, 2009; Ord. NS-834 § II, 2007)

26. *Section 21.48.020 of the Carlsbad Municipal Code is amended to read as follows:*

21.48.020 Applicability.

- A. The provisions of this chapter apply to:
1. Legally created lots which do not conform to the current requirements and development standards of the zone in which they are located.
 2. Legally constructed structures and site development features that do not comply with the current requirements and development standards of the zone in which they are located.
 3. Legally established uses which do not conform to the current permitted use regulations of the zone in which they are located.
- B. The provisions of this chapter do not apply:
1. To nonconforming signs, which are addressed in Section 21.41.130.
 2. When an accessory dwelling unit or junior accessory dwelling unit is proposed with an existing nonconforming residential structure. Pursuant to California Government Code Section 65852.2, the city shall not require, as a condition for approval of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

27. *Subsections A and B.1 of Section 21.201.060 of the Carlsbad Municipal Code are amended to read follows:*

- A. For the purposes of subsection B.1 of this section, an existing single-family residential building shall include:
1. All appurtenances and other accessory structures, including decks, directly attached to the residence;

2. Accessory structures or improvements on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds, and junior accessory dwelling units and accessory dwelling units that are attached to or converted from the existing space of a primary residence or attached accessory structure, but not including guest houses or self-contained residential units that are detached from an existing single-family residential building;
 3. Landscaping on the lot.
- B. Exemptions. The following projects are exempt from the requirements of a minor coastal development permit and coastal development permit:
1. Improvements to an existing single-family residential building, except:
 - a. On a beach, wetland or seaward of the mean high tide line;
 - b. Where the residence or proposed improvement would encroach in an environmentally sensitive habitat area or within fifty feet of the edge of a coastal bluff;
 - c. Improvements that would result in an increase of ten percent or more of internal floor area of an existing structure or an additional improvement of ten percent or less where an improvement to the structure had previously been undertaken pursuant to California Public Resources Code Section 30610(a), or an increase in height by more than ten percent of an existing structure and/or any significant nonattached structure such as garages, fences, shoreline protective works or docks, and such improvements are on property located:
 - i. Between the sea and the first public road paralleling the sea,
 - ii. Within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or
 - iii. In significant scenic resources areas as designated by the Commission;
 - d. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff except as provided in subsections B.8, B.9, B.10 and B.11 of this section;
 - e. Expansion or construction of water wells or septic systems;
 - f. Improvements to establish an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure or a junior accessory dwelling unit within a one-family dwelling where such primary residence or attached accessory structure is nonconforming with

respect to habitat preserve buffers or geologic stability setbacks in the certified local coastal program.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUTSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0006, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

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INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the _____ day of _____, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

State ADU Law – Areas of Local Discretion

State law gives the city limited authority to establish local standards for ADUs, including but not limited to unit size, parking, height, setbacks, landscape, architecture, and to prevent adverse impacts on property that is listed in the California Register of Historic Resources. The table below provides a summary of the level of discretion that a city can apply to local land development standards on accessory dwelling units.

Topic	City Discretion	Description
Unit size	Limited	Local agencies may establish size limits for ADUs, provided the limits are within the range allowed by state law as shown below:
		<table border="1"> <tr> <td> Maximum: <ul style="list-style-type: none"> • Attached Unit: 50% of main dwelling, not less than 800 square feet • Detached Unit: 1,200 square feet </td> <td> Minimum (Maximum): <ul style="list-style-type: none"> • ADU Studio and 1-bedroom: 850 square feet • ADU 2-Bedroom+: 1,000 square feet </td> </tr> </table>
Maximum: <ul style="list-style-type: none"> • Attached Unit: 50% of main dwelling, not less than 800 square feet • Detached Unit: 1,200 square feet 	Minimum (Maximum): <ul style="list-style-type: none"> • ADU Studio and 1-bedroom: 850 square feet • ADU 2-Bedroom+: 1,000 square feet 	
Parking	Limited	<p>Local agencies may impose off-street parking standards on ADUs provided the parking rate does not exceed one space per unit or one space per bedroom, whichever is less. There are exceptions:</p> <p>A local agency cannot require parking if the ADU meets any one of the following:</p> <ul style="list-style-type: none"> • Located within ½ mile walking distance of public transit • Located within an architecturally and historically significant historic district • A part of the proposed or existing primary residence, or an accessory structure • Located where on-street parking permits are required, but when the ADU occupant is not offered such a permit • Located within one block of a car share vehicle <p>Additionally, a local agency cannot require replacement parking if a garage, carport or covered parking structure is converted into an ADU.</p>
Height	Limited	Local agencies may impose a height limit for detached ADUs provided it is not less than 16 feet. State law is silent with respect to height limits for attached ADUs.
Roof decks	Full	State law is silent on roof decks.

Topic	City Discretion	Description
Setbacks	Limited	<p>Local agencies may impose side and rear yard setbacks provided they are consistent with the following:</p> <ul style="list-style-type: none"> • For ADUs that involve new construction (attached or detached), a setback of no more than four feet from the side and rear lot lines can be required. • For ADUs that are conversions of existing space, or involve rebuilding a structure in the same location and with the same dimensions as an existing structure, no setback can be required. <p>Local agencies may impose front yard setbacks and have limited discretion to impose additional setbacks for safety or compliance with other state laws such as required habitat buffers.</p>
Building separation	Full	State law is silent on building separation requirements between detached structures on the same lot.
Landscape	Full	State law gives local agencies discretion on landscape requirements.
Architecture	Full	Local agencies may impose architectural requirements provided that the standards can be imposed through a building permit application process (ministerial process).
Standards to prevent adverse impacts to property listed in the California Register of Historic Resources	Full	Local agencies may establish standards that prevent impacts to historic resources.

MCA 2020-0002/ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006 – Accessory Dwelling Unit Amendments 2020

Draft revisions to the VBMP and Carlsbad Municipal Code Titles 5 and 21 (Zone Code)

A. Proposed amendments to the Carlsbad Village and Barrio Master Plan

- 1. In Section 2.3.3, Table 2-1 Permitted Uses, the use listing for Accessory Dwelling Unit is proposed to be amended to read as follows:**

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Accessory Dwelling Unit: accessory to one-family, two-family, multifamily, and mixed-use dwellings; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.121 (accessory to a single one-family dwelling only and provided no other dwellings are on the same lot)	A	A	A	A	A	A	A

- 2. Section 2.3.3, Table 2-1 Permitted Uses is proposed to be amended by the addition of a new use listing for Junior Accessory Dwelling Unit as follows:**

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
<u>Junior Accessory Dwelling Unit (accessory to a one-family dwelling; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.122)</u>		<u>A</u>			<u>A</u>	<u>A</u>	<u>A</u>

- 3. In Section 2.6, Table 2-3, the parking requirements for Accessory Dwelling Unit are proposed to be amended as follows:**

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Accessory Dwelling Unit	<ul style="list-style-type: none"> • One space, in addition to the parking requirement for the primary use (single, one-family dwelling) dwelling. • Tandem parking is permitted. <u>Parking may be located in the side and rear yard setbacks.</u> • Parking exceptions exist for accessory dwelling units. Refer to CMC Section 21.10.030 <u>ED-10.s</u>

4. In Section 2.6, Table 2-3, a new parking requirement for Junior Accessory Dwelling Unit is proposed to be added as follows:

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Junior Accessory Dwelling Unit	No parking requirement

B. Proposed amendments to Title 5 of the Carlsbad Municipal Code

1. The definition of "short-term vacation rental" in Carlsbad Municipal Code Section 5.60.20 is amended to read as follows

“Short-term vacation rental” is defined as the rental of any legally permitted dwelling unit as that term is defined in Chapter 21.04, Section 21.04.120 of this code, or any portion of any legally permitted dwelling unit for occupancy for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive calendar days. Time-shares as defined in Chapter 21.04, Section 21.04.357 are not considered a short-term vacation rental. [Accessory dwelling units and junior accessory dwelling units as defined in Chapter 21.04, Sections 21.04.121 and 21.04.122, for which a building permit was issued on or after January 1, 2020, are not considered short-term vacation rentals.](#) A trailer coach as defined in Chapter 5.24, Section 5.24.005 of this code, which is parked on the property of a legally permitted dwelling unit, is not considered a short-term vacation rental, and it may not be rented out for occupancy pursuant to Chapter 5.24, Section 5.24.145 of this code. Short-term vacation rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive days and which was subsequently amended, either orally or in writing to permit the occupant(s) of the owner’s short-term vacation rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive days.

C. Proposed amendments to Title 21 of the Carlsbad Municipal Code

1. **Section 21.04.020 is proposed to be amended as follows:**

21.04.020 Accessory.

“Accessory” means a building, part of a building or structure, or use ~~which that~~ is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot. If an accessory building is attached to the main building by a common wall, [with a width dimension of at least three feet and a height dimension of at least one story](#), such building area is considered a part of the main building and not an accessory building or structure, [except for](#)

“accessory dwelling units” or “junior accessory dwelling units” as defined in Sections 21.04.121 and 21.04.122. Accessory dwelling units and junior accessory dwelling units that comply with the requirements of Section 21.10.030 and California Government Code Sections 65852.2 and 65852.22, respectively are considered accessory. (Ord. NS-355 § 1, 1996; Ord. 9060 § 203)

2. Section 21.04.121 is proposed to be amended to read as follows:

21.04.121 Dwelling unit, accessory (ADU).

~~A.— Accessory dwelling unit means a residential dwelling unit that is all of the following:~~

~~1.— Located on a lot zoned for residential use, and the lot contains a single one-family dwelling and no other dwelling; and~~

~~2.— Either detached from or attached to a one-family dwelling, or converted from the existing space of a one-family dwelling or accessory structure; and~~

~~3.— A dwelling that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

~~B.— If consistent with subsection A of this definition, the following may be considered an accessory dwelling unit:~~

~~1.— An efficiency unit, as defined in Section 17958.1 of California Health and Safety Code.~~

~~2.— A manufactured home, as defined in Section 18007 of California Health and Safety Code.~~

Refer to California Government Code Section 65852.2.

3. Section 21.04.122 is proposed to be added as follows:

21.04.122 Dwelling unit, junior accessory (JADU).

Refer to California Government Code Section 65852.22.

4. A new use listing for “Junior accessory dwelling unit” is proposed to be added to the permitted uses tables in the following sections as shown below:

21.08.020 Permitted uses, Table A.

21.09.020 Permitted uses, Table A.

21.10.020 Permitted uses, Table A.

21.12.020 Permitted uses, Table A.

21.16.020 Permitted uses, Table A.

21.18.020 Permitted uses, Table B.

21.22.020 Permitted uses, Table A.

21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
<u>Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)</u>			X

5. The following sections are proposed to be amended as shown below:

21.08.060 Placement of buildings

21.10.080 Placement of buildings

21.12.060 Placement of buildings

21.16.060 Placement of buildings

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

1. Interior Lots.

- a. No building shall occupy any portion of a required yard;
- b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot, ~~except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~
- c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
- d. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
 - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - ~~iv. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030,~~
 - iv. Buildings shall not exceed one story,

vi. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;

~~e. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures;~~

~~fe. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~

gf. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,

ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,

iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

hg. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

2. Corner Lots and Reversed Corner Lots.

a. No building shall occupy any portion of a required yard;

b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;

c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot, ~~except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~

d. All accessory structures shall comply with the following development standards:

i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,

ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,

iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,

~~iv. — Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030,~~

iv. Buildings shall not exceed one story,

vi. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;

~~e. — Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures;~~

~~fe.~~ Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks, ~~except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~

~~gf.~~ Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,

ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,

iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

~~hg.~~ The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 5, 2017; Ord. NS-718 § 5, 2004)

6. In Section 21.09.020 Table A, the use listing for "Accessory dwelling units" is proposed to be amended to read as follows:

Use	P	CUP	Acc
Accessory dwelling units (subject to Section 21.10.030; defined: Section 21.04.121)			X

7. Section 21.09.100 is proposed to be amended as follows:

21.09.100 Placement of buildings.

Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

- (1) Except as permitted by Sections 21.09.080 and 21.09.090, no building shall occupy any portion of a required yard.
- (2) Any building, any portion of which is used for human habitation, shall observe a distance from any rear property line the equivalent of twice the required interior side yard, ~~except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~
- (3) The distance between buildings used for human habitation and detached accessory buildings shall not be less than ten feet.
- (4) The keeping of all domestic animals provided for in this chapter shall conform to all other provisions of law governing the same, and no pen, coop, stable or barn shall be erected within forty feet of any building used for human habitation or within twenty-five feet of any property line.
- (5) A building permit for a dwelling unit to be located further than five hundred feet from a fire hydrant shall not be issued without the approval of the fire chief. The fire chief may require the installation of additional safety equipment, including fire hydrants or stand pipes, as a condition of such approval. (Ord. CS 324 § 7, 2017; Ord. 9498 § 4, 1978)

8. Section 21.10.030 is proposed to be repealed and replaced to read as follows (*deleted text not shown, only new replacement text is included below*):

21.10.030 Accessory Dwelling Units and Junior Accessory Dwelling Units

A. Purpose. This section provides standards for the establishment of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Pursuant to California Government Code Sections 65852.2 and 65852.22, local governments have the authority to adopt regulations designed to promote ADUs and JADUs.

B. Standards of Review. Review of ADUs and JADUs shall be consistent with the following:

1. ADU or JADU applications shall be considered a ministerial action without discretionary review or a public hearing if all requirements of this section (21.10.030) are met, notwithstanding any other requirements of state law or this development code.
2. ADUs or JADUs developed within the coastal zone are subject to the permit requirements of Chapter 21.201 and require a building permit. Development of ADUs or JADUs outside of the coastal zone requires a building permit.
3. The city shall act on an application to create an ADU or a JADU within the time period specified under California Government Code Sections 65852.2 and 65852.22.
4. If the permit application to create an ADU or a JADU is submitted with a permit application to create a new one-family dwelling on the lot, the city may delay acting on

the permit application for the ADU or the JADU until the city acts on the permit application to create the new one-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or public hearing. If the applicant requests a delay, the time period specified under California Government Code Sections 65852.2 and 65852.22 shall be tolled for the period of the delay.

C. Residential Use and Density. ADUs and JADUs, which comply with the requirements of this section (21.10.030) and California Government Code Sections 65852.2 and 65852.22:

1. Shall be considered accessory residential uses or accessory residential buildings that are consistent with the general plan or zoning designations for the lot; and
2. Shall not be considered to exceed the allowable density for the lot upon which it is located; and
3. Shall not be considered a dwelling unit when implementing the dwelling unit limitations established by Proposition E enacted by Carlsbad voters on November 4, 1986, and shall not be considered a dwelling unit under the definition of “short-term vacation rental” in Chapter 5.60, Short-Term Vacation Rentals.

D. Number and Location.

1. ADUs shall be permitted in zones that allow one-family dwellings, two-family dwellings, multiple-family dwellings, and mixed-use (residential uses in combination with non-residential uses), provided there is an existing or proposed dwelling on the lot where the ADU is proposed, as specified in California Government Code Sections 65852.2 and 65852.22. Refer to a specific zone’s Permitted Uses table within this Title.
2. For zones that allow one-family dwellings, one JADU shall be permitted with an associated existing or proposed one-family dwelling. Refer to a specific zone’s Permitted Uses table within this Title.
3. The number and location of ADUs or JADUs on a lot shall be subject to California Government Code Sections 65852.2 and 65852.22.

E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:

1. ADUs and JADUs shall comply with the development requirements and standards of California Government Code Sections 65852.2 and 65852.22.
2. When not in conflict with California Government Code Sections 65852.2 and 65852.22, ADUs and JADUs shall also comply with applicable development requirements and standards of this code.
3. The maximum size of an ADU or JADU shall be limited as follows, consistent with California Government Code Sections 65852.2 and 65852.22:
 - a. Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet;
 - b. Detached ADUs – 1,200 square feet

c. JADUs – 500 square feet

4. A detached ADU shall be limited to one story and 16 feet maximum height, except that an ADU constructed above or below a detached garage shall be permitted and shall conform to the height limits applicable to the zone. Structures that contain an ADU located above or below a detached garage shall be limited to a maximum of two stories including the garage.
5. Roof decks shall not be permitted on detached ADUs.
6. The construction of an ADU or JADU that is all new construction, or is a conversion of a portion or all of an existing structure, or expands the square footage of an existing structure shall be consistent with all habitat preserve buffers and geologic stability setbacks in the certified local coastal program, habitat management plan, general plan or geotechnical report as applicable.
7. On lots with one-family dwelling(s), the exterior roofing, trim, walls, windows and the color palette of the ADU or JADU shall incorporate the same features as the primary dwelling unit.
8. On lots with two-family or multiple-family dwellings, the exterior roofing, trim, walls, windows and the color palette of the ADU addition shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.
9. An ADU shall provide off-street parking in compliance with Chapter 21.44 (Parking), unless it qualifies for an exemption as specified in California Government Code Section 65852.2. No off-street parking is required for a JADU if it meets the requirements specified in California Government Code Section 65852.22.
10. ADUs intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including, but not limited to, the applicable rental rates and income limit standards.
11. A Notice of Restriction shall be recorded on the property declaring that:
 - a. The ADU(s) and/or JADU shall not be used for short-term rentals less than 30 days. This requirement does not apply to any unit that was issued a building permit prior to January 1, 2020.
 - b. The obligations and restrictions imposed on the approval of the ADU(s) per California Government Code Section 65852.2 and/or JADU per California Government Code Section 65852.22 are binding on all present and future property owners.
 - c. For a JADU, the property owner must reside in either the primary residence or the JADU. Sale of the JADU separate from the single-family residence is

prohibited; said prohibition is binding on all present owners and future purchasers.

12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner-occupancy of the ADU or primary residence.

13. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26.

G. Conflicting Standards. If there is a conflict between the requirements of this section and requirements of the California Government Code provisions relating to ADUs and JADUs, including but not limited to Sections 65852.2 or 65852.22, the California Government Code provisions shall apply.

9. In the following sections, the use listing for “Accessory dwelling unit” is proposed to be amended as follows:

- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Accessory dwelling unit (accessory to a one-family dwelling only)(subject to Section 21.10.030; defined: Section 21.04.121)			X

10. Subsections A.7 through A.15 of Section 21.18.030 are proposed be amended as follows:

21.18.030 Development standards.

...

7. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

- a. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
- b. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
- c. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

~~d. — Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~

~~de.~~ Buildings shall not exceed one story; and

~~ef.~~ Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

~~8. — Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

~~89.~~ Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit of a lot including setbacks, ~~except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~

~~910.~~ Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

a. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

b. The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

c. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and

d. The additional development standards listed above (subsections A.10.a. through c. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

~~1011.~~ The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

~~1112.~~ ~~Except for an accessory structure which is not a dwelling unit and contains no habitable space and complies with the development standards specified in this chapter~~Other than as provided in [subsection 9 above](#), no building shall be located in any of the required yards, ~~except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~

~~1213.~~ Height Limits. In the R-P zone the maximum building height shall be thirty-five feet.

~~1314.~~ Lot Coverage. In the R-P zone all buildings shall not cover more than sixty percent of the total lot area.

~~1415.~~ Parking Off-Street. Parking shall not be provided in the required front or side yards. (Ord. CS 324 § 13, 2017; Ord. NS-718 § 10, 2004)

11. Section 21.20.010 Table A is proposed to be amended as follows:

Use	P	CUP	Acc
Accessory dwelling units are permitted according to the provisions of Section 21.10.030 of this title on lots which are developed with a detached single family residence (subject to Section 21.10.030; defined: Section 21.04.121)			X

12. Section 21.20.080 is proposed to be amended as follows:

21.20.080 Accessory structures.

(1) All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

(A) The lot coverage shall include accessory structures in the lot coverage calculations for the lot.

(B) The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet.

(C) When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department.

~~(D) Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~

~~(DE)~~ Buildings shall not exceed one story.

~~(EF)~~ Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

~~(G) Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

(2) Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.

(3) Detached accessory structures, which are not dwelling units and contain no habitable space, including but not limited to garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

(A) The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet.

(B) The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet.

(C) The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures.

(D) The additional development standards listed above (subsections (3)(A) through (C) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

(4) The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 15, 2017; Ord. NS-718 § 12, 2004; Ord. NS-355 § 12, 1996; Ord. NS-243 § 17, 1993; Ord.

13. Section 21.22.070 is proposed to be amended as follows:

21.22.070 Accessory structures.

A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
- ~~4. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~
- ~~5. Buildings shall not exceed one story;~~
- ~~6. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided; and~~
- ~~7. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.

C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
 4. The additional development standards listed above (subsections C.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 16, 2017; Ord. NS-718 § 13, 2004)

14. Section 21.24.090 is proposed to be amended as follows:

21.24.090 Accessory structures.

A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:

1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
- ~~4. Accessory buildings, by definition, do not share a common wall with the main dwelling unit structure, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030;~~
- ~~45.~~ Buildings shall not exceed one story; and
- ~~56.~~ Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.

~~B. Accessory dwelling units constructed above detached garages, pursuant to Section 21.10.030 are not subject to the one-story/fourteen-foot height limitation imposed on accessory structures.~~

~~BC.~~ Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.

~~CD.~~ Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;

3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
4. The additional development standards listed above (subsections D.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.

DE. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015. (Ord. CS 324 § 17, 2017; Ord. NS-718 § 14, 2004)

15. In Table A of the following sections, a new use listing for “Accessory dwelling unit” is proposed to be added as shown below:

- 21.26.010 Permitted uses.
- 21.28.010 Permitted uses.
- 21.31.030 Permitted uses.

Use	P	CUP	Acc
<u>Accessory dwelling unit (subject to Section 21.10.030; defined: Sections 21.04.121)</u>			X

16. Section 21.38.025 is proposed to be amended as follows:

21.38.025 Accessory dwelling units and junior accessory dwelling units.

Accessory dwelling units or junior accessory dwelling units are permitted according to the provisions of Section 21.10.030 ~~in areas designated by a master plan for single family detached dwellings. For accessory dwelling units proposed on standard lots (minimum seven thousand five hundred square feet in area) which are developed with detached single family residences, the development standards of Chapter 21.10 shall apply. For accessory dwelling units proposed on substandard lots (less than seven thousand five hundred square feet in area) which are developed with detached single family residences, the development standards of Chapter 21.45 shall apply. (Ord. CS 324 § 2, 2017; Ord. NS 718 § 16, 2004; Ord. NS 663 § 11, 2003; Ord. NS 283 § 6, 1994)~~

17. In Section 21.44.020 Table A, the requirements accessory dwelling units are proposed to be amended as follows:

Accessory dwelling units	1 space (covered or uncovered), in addition to the parking required for the primary use (single, one family dwelling) ; unless otherwise specified in Section 21.10.030 of this code.
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	The additional parking space may be provided through tandem parking on a driveway and may be within the front or side yard setback.
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18. In Section 21.44.060 Table C, the requirements for accessory dwelling units are proposed to be amended as follows:

Accessory dwelling units	<p>Same as parking required for primary residential use, with the following exceptions:</p> <ul style="list-style-type: none"> • May be located in the front or side yard setback; and • May be located as a tandem space on a driveway. • <u>Other parking requirements and exemptions may be applicable pursuant to Section 21.10.030.</u>
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19. Section 21.45.090 is proposed to be amended to read as follows:

21.45.090 Residential additions and accessory uses.

A. General.

1. Additions and accessory uses shall be subject to all applicable development standards of this chapter, unless otherwise specified in this section and except as otherwise permitted for accessory dwelling units or junior accessory dwelling units pursuant to Section 21.10.030.
2. Additions to buildings that are legally nonconforming shall comply with the requirements of Chapter 21.48 of this code.

B. One-Family Dwellings and Twin-Homes on Small Lots.

1. Table F lists the provisions for residential additions and accessory uses to one-family dwellings and twin-homes on small lots.
2. The additions and accessory uses listed in Table F shall be subject to the approval/issuance of a building permit.

Table F

Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers ⁽²⁾	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Pool, spa	20 feet	5 feet - pool 2 feet - spa

Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height) ^{(1),(2),(3)}	20 feet	5 feet
<u>Accessory dwelling units or junior accessory dwelling units^{(2), (3)}</u>	<u>20 feet</u>	<u>See 21.10.030</u>
Habitable detached accessory buildings (i.e. guest houses; <u>not including accessory dwelling units and accessory dwelling units</u>) ^{(1), (2), (3), (4)}	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:

- (1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
- (2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
- (3) Must be architecturally compatible with the existing structure.
- ~~(4) Except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.~~

C. Condominium projects. Additions and accessory uses to condominium projects shall be subject to Section 21.45.100 (Amendments to permits). (Ord. CS 324 §§ 2, 23, 2017; Ord. CS-050 § IV, 2009; Ord. NS-834 § II, 2007)

20. Section 21.48.020 is proposed to be amended to read as follows:

21.48.020 Applicability

A. The provisions of this chapter apply to:

1. Legally created lots which do not conform to the current requirements and development standards of the zone in which they are located.
2. Legally constructed structures and site development features ~~(except for nonconforming signs which are addressed in Section 21.41.130)~~ which do not comply with the current requirements and development standards of the zone in which they are located.
3. Legally established uses which do not conform to the current permitted use regulations of the zone in which they are located.

B. The provisions of this chapter do not apply:

1. To nonconforming signs, which are addressed in Section 21.41.130
2. When an accessory dwelling unit or junior accessory dwelling unit is proposed with an existing nonconforming residential structure. Pursuant to California Government Code Section 65852.2, the

city shall not require, as a condition for approval of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

21. Subsections A and B.1 of Section 21.201.060 are proposed to be amended to read as follows:

21.201.060 Exemptions and categorical exclusions from minor coastal development permit and coastal development permit procedures.

A. For the purposes of subsection B.1 of this section, an existing single-family residential building shall include:

1. All appurtenances and other accessory structures, including decks, directly attached to the residence;
2. Accessory structures or improvements on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds, and junior accessory dwelling units and accessory dwelling units that are attached to or converted from the existing space of a primary residence or attached accessory structure, but not including guest houses or self-contained residential units that are detached from an existing single-family residential building;
3. Landscaping on the lot.

B. Exemptions. The following projects are exempt from the requirements of a minor coastal development permit and coastal development permit:

1. Improvements to an existing single-family residential building, ~~including an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure~~, except:
 - a. On a beach, wetland or seaward of the mean high tide line;
 - b. Where the residence or proposed improvement would encroach in an environmentally sensitive habitat area or within fifty feet of the edge of a coastal bluff;
 - c. Improvements that would result in an increase of ten percent or more of internal floor area of an existing structure or an additional improvement of ten percent or less where an improvement to the structure had previously been undertaken pursuant California to Public Resources Code Section 30610(a), or an increase in height by more than ten percent of an existing structure and/or any significant nonattached structure such as garages, fences, shoreline protective works or docks, and such improvements are on property located:
 - i. Between the sea and the first public road paralleling the sea,
 - ii. Within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or
 - iii. In significant scenic resources areas as designated by the Commission;

- d. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff except as provided in subsections B.8, B.9, B.10 and B.11 of this section;
- e. Expansion or construction of water wells or septic systems;
- f. Improvements to establish an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure [or a junior accessory dwelling unit within a one-family dwelling](#) where such primary residence or attached accessory structure is nonconforming with respect to habitat preserve buffers or geologic stability setbacks in the certified local coastal program.

State Changes to Existing ADU Regulations

Topic	City's Existing Regulation	New State ADU Law	
Where ADUs are permitted	On lots with an existing or proposed one-family dwelling	On lots with an existing or proposed one-family dwelling On lots with existing multifamily dwellings <ul style="list-style-type: none"> • Up to two detached ADUs • Existing non-livable space (garages, storage etc.) may be converted to ADUs, up to a number equal to 25% of the existing units in the building 	
Junior ADU (JADU)	No provision for a JADU (per previous state law, allowing JADUs was optional)	JADUs must be allowed by right on a lot with an existing or proposed one-family dwelling. JADUs must be limited to 500 square feet and must be entirely within the space of the main dwelling. JADUs exempt from parking standards Must allow a detached ADU and JADU on the same lot with an existing or proposed one-family dwelling.	
ADU size	Detached ADUs: 640 square feet (s.f.) maximum Attached ADUs: Shall not exceed 50% of the living area of the main dwelling, up to 640 s.f.	Maximum size limit for Detached ADUs: <ul style="list-style-type: none"> • 1,200 square feet 	Minimum (maximum) size limit for either attached or detached ADUs <ul style="list-style-type: none"> • Studio/one-bedroom – a local ordinance can establish a maximum size that is no less than 850 s.f., but no more than 1,200 s.f. • Two+ bedrooms – a local ordinance can establish a maximum size that is no less than 1,000 s.f.
Replacement of required parking when converting a garage to an ADU	Any loss of required parking for the primary dwelling shall be replaced; may be in any configuration on the lot – covered, uncovered, tandem.	When a garage, carport or covered parking structure is demolished or converted in conjunction with construction of an ADU, the city shall not require the lost parking spaces to be replaced.	

Topic	City's Existing Regulation	New State ADU Law
Permit processing time	120 days after city receives a complete application, per previous state ADU law	60 days after the city receives a complete application, if there is an existing dwelling on the lot. If the ADU application is submitted with an application to build a new primary dwelling, the permit processing shall be the same as required for the primary dwelling.
Waiver of standards for lot coverage and ADU size limit as a percentage of the primary residence	ADU must meet all applicable standards even if this results in an ADU less than the maximum size allowed	Standards for lot coverage or ADU size limit as a percentage of the primary residence must be waived to allow at least an 800 s.f. ADU that provides a 4 ft side and rear setback
Maximum height for detached ADUs	14 ft	16 ft
Side and rear setbacks	Garage conversions – 0 ft ADUs above detached garages – 5 ft Other new construction – same as underlying zoning	Conversions of existing space (garage, living area or accessory structures) and rebuilds in the same location – 0 ft New construction – 4 ft
Owner occupancy requirements	Owner must reside in the primary residence or ADU, unless both units are leased to a single lessee	Prohibited for ADUs until Jan. 1, 2025. Properties that have a JADU require an owner to reside in the primary residence or the JADU
Correction of nonconforming zoning conditions	Not required when nonconforming by reason of substandard yards	Not required for any nonconforming zoning condition
Impact Fees	Proportional based on square footage	ADUs less than 750 s.f. are exempt, ADUs over 750 s.f. are subject to proportional fees based on square footage
Sale of ADU separate from	Prohibited	An ADU developed by a qualified nonprofit corporation may be sold to a lower income buyer subject to certain criteria

Topic	City's Existing Regulation	New State ADU Law
primary residence		
Short-term rentals	In the Coastal Zone, ADUs may be used as short-term vacation rentals	ADUs and JADUs that were issued a building permit on or after January 1, 2020 shall not be used as short-term vacation rentals, including within the Coastal Zone.

Accessory Dwelling Units

This information bulletin outlines the state's development requirements as of Jan. 1, 2020, for constructing accessory dwelling units, often called "ADUs" for short. A complete summary of the regulations can be found on the California Department of Housing and Community Development website, www.hcd.ca.gov.

OVERVIEW

Aside from traditional market-rate construction, alternative housing types help address home supply and affordability. ADUs can be integrated into existing or proposed single-family residences and at existing multi-family properties in a variety of ways, including converting a portion of an existing house, adding to the existing house, converting an existing garage or storage area, or constructing a new detached structure. ADUs and Junior ADUs offer many benefits:

- **Low Cost to Build & Affordable-by-Design**

Units require no public subsidy and cost anywhere from \$10,000 for a simple bedroom conversion to \$200,000 for a high-end companion unit.

- **Provides Income to Homeowners**

Units help create a new income stream, which can help supplement the mortgage on the primary residence.

- **Environmentally Friendly**

Accessory units have a low-carbon footprint, using less water, electricity and construction materials. A detached ADU can save 26,000 pounds of CO2 emissions a year compared to a single-family dwelling.

- **Flexibility for Changing Households**

The makeup of today's household is rapidly changing. Many families are now made up of single parents, extended families or both. Traditional larger single-family homes are often not well suited to the demands associated with this new shift in family structure.

TYPES OF ACCESSORY UNITS

Accessory Dwelling Unit

An ADU, sometimes referred to as a second dwelling unit, is an attached or detached residential dwelling unit that provides complete independent living facilities for one or more people. An ADU includes permanent provisions for living, sleeping, eating, cooking and sanitation. A separate entrance from the main home is required.



Documents Referenced

[HCD – ADU and JADU Regulations](#)
Accessory Dwelling Units,
Carlsbad Municipal Code [§21.10.030](#)

Junior Accessory Dwelling Unit

A Junior ADU is like an ADU, but typically smaller and has unique standards. Junior ADUs are attached to the main single-family residential dwelling unit. A separate entrance from the main home is required. An efficiency cooking area is required to be provided within the unit. It may include independent sanitation within the unit or shared facilities with the existing residence. No additional parking is required.



Guest House

A guest house can be an accessory building for the sole use of people employed on the property or temporary use by guests of the primary residence. A guest house cannot include a kitchen or wet-bar. Guest houses are not ADUs or Junior ADUs, but are regulated as accessory structures. They cannot be rented or used as a separate dwelling unit.



Tiny Houses

Tiny houses, sometimes referred to as park model trailers, are not allowed for permanent use on private property. California Health and Safety Code §18009.3 and §18010 consider tiny houses *recreational vehicles*, not a type of mobile or modular home that has been approved or certified by state for permanent living.



ADU DEVELOPMENT STANDARDS

Construction of an ADU is allowed "by-right" (meaning you just need a building permit) in zones that allow residential development. They require a building permit and, if the property is located within the Coastal Zone, a minor coastal development permit may be required (with no public hearing). Following are other requirements:

Single-Family Residential Locations

- One ADU is allowed, either attached to an existing or proposed single-family (main) residence or detached and on the same legal lot as the main residence.

- To qualify for an ADU, the property must have an existing main residence; or the ADU must be constructed concurrently with the main residence.
- If attached to the main residence, an ADU shall not exceed 50% of the total floor area of the main residence, or 1,200 square feet, whichever is less. Cities must allow an ADU to be a minimum of 800 square feet.
- If detached from the main residence, an ADU is allowed up to 1,200 square feet.
- A detached ADU may be combined with a Junior ADU located within the existing or proposed main residence.

Multi-Family Residential Locations

- ADUs may be constructed at existing multi-family buildings as follows:
 - Two ADUs are allowed if located on a lot that has an existing multi-family building, but are detached from that building;
 - Existing non-livable space may be converted to ADUs. Examples of areas that can be converted include storage areas and garages. The minimum number of ADUs allowed is one, up to a maximum equal to 25% of the number of existing multi-family units.
 - Maximum size is limited to 1,200 square feet.

All locations

- ADUs must meet the California Residential Code for “Efficiency Dwelling Units” and provide a living area of not less than 220 square feet; an additional 100 square feet must be provided for each occupant more than two (CRC§1208.4). A “living room” is defined as the combined habitable square footage in an ADU dedicated for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage, or utility space or similar areas are not considered habitable.
- An ADU must contain complete independent living facilities, including a permanent kitchen, and separate areas for living and sleeping.
- An attached ADU must have a separate entrance from the main residence.
- Detached ADUs are limited to one story and 16 feet in height, unless located above or below a garage.
- ADU setback standards include the following:
 - Four-foot minimum setbacks from rear and side-yard property line. Front yard setback and required building separation per zoning standards.
 - Existing setbacks can be maintained for an existing legal detached garage or existing accessory structure that is converted to an ADU on a lot with a single-family residence.

- Setbacks for new ADU can conform to those of a legally demolished structure, provided that the construction of the proposed ADU is built in the same location and to the same dimensions per applicable zoning standards.
- Please note: ADU setback separation must meet all applicable fire and safety standards.

Parking

No additional off-street parking is required for ADUs that meet one of the conditions below; otherwise one space must be provided on-site:

- ADU is within half mile walking distance from public transit, which includes bus stops
- ADU is within an established historic district
- ADU is within an area where on-street parking permits are required, but not offered to the ADU occupants or ADU is located within one block of a car share area.
- ADU is part of existing or proposed primary residence or an accessory structure.

If the ADU is constructed in conjunction with the demolition of a garage, carport or covered parking structure, or one of these structures is converted to an ADU, the parking space(s) are not required to be replaced.

JUNIOR ADU DEVELOPMENT STANDARDS

Construction of a Junior ADU is allowed “by-right” provided the following standards are met:

- Only allowed on a single-family residence property and limited to one junior ADU.
- Must be contained within the existing or proposed main residence or accessory structure.
- A maximum of 500 square feet in size.
- An efficiency cooking area is required to be within unit.
- A separate entrance from the main dwelling unit or accessory unit is required. An internal connection is optional, unless a restroom is shared with the main home where an internal connection is required.
- No separate water, sewer or power connection required.
- No parking is required for a Junior ADU.

MANDATORY APPROVAL CRITERIA

New state regulations specify criteria for “mandatory approval ADUs/Junior ADUs.” These can be with a single-family residence or multi-family building in zones that allow residential development as described above. If the following additional specific criteria are met and the ADU/Junior ADU is not located within the Coastal Commission’s permit or appeal jurisdiction of the Coastal Zone, then only a building permit is required for approval:

Single-Family Lots with one ADU or Junior ADU with an existing or proposed single-family residence:

- Expansion of existing home limited to 150 square feet and is limited to accommodating ingress and egress.
- Setbacks shall be sufficient for fire safety.

Single-Family Lots with one detached ADU on lots with an existing or proposed single-family residence:

- Maximum size of 800 square feet.
- Maximum height of 16 feet per city building height calculation method.
- Minimum 4-foot side and rear setbacks, front yard setback per the zone.
- One Junior ADU within the home may be combined with one ADU.

Multi-family Lots with an existing multi-family building as described above:

- ADUs converted from non-livable space
- Detached ADUs:
 - Maximum height of 16 feet per city building height calculation method.
 - Minimum 4-foot side and rear setbacks, front yard setback per the zone.

Additional limits/requirements on mandatory ADUs:

- No fire sprinklers for ADU unless required for the primary home.
- City cannot require correction of nonconforming zoning conditions, but shall require compliance with building codes.

GENERAL STANDARDS FOR ALL ADUS AND JUNIOR ADUS

- No minimum lot size is required; however, ADUs must meet other zoning standards for maximum size, maximum lot coverage and minimum open space unless the standards would prevent the construction of an ADU that is 800 square feet in size, 16 feet in height with four-foot side and rear yard setbacks and compliant with all other development standards.
- At single-family locations, the exterior roofing, trim, walls, windows and color palette of the ADU or Junior ADU shall incorporate the same features as the main dwelling unit.
- At multi-family locations, the exterior roofing, trim, walls, windows and the color palette of the ADU conversion shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.

- ADUs and Junior ADUs shall only be rented for a term of longer than 30 days. ADUs that were issued a building permit prior to January 1, 2020 are exempt from this requirement.
- AB 670 states that private restrictions such as Conditions, Covenants and Restrictions (HOA CC&Rs) can no longer restrict or prohibit ADUs or Junior ADUs.

ADU PERMIT REQUIREMENTS

- ADUs require review and approval of a building permit application and may require review and approval of a minor coastal development permit application (if located in the Coastal Zone). The coastal development permit does not require a hearing.
- If there is an existing dwelling unit on the property, the city has 60 days from the date of a complete application to approve the ADU/Junior ADU application. Otherwise, the permit is automatically “deemed approved.”
- An ADU/Junior ADU associated with a new primary dwelling unit shall follow the permit process timeline of the main permit.
- Applicable floor plans of the existing main residence, existing accessory structures, and multi-family structures shall be provided for the attached ADU in addition to any other application submittal requirements.
- Applicants must provide mathematical computations of the applicable "floor area" for existing/proposed units.
- The project site may require other types of approvals (apart from the ADU approval), depending on the existing and proposed site conditions. For example, if a retaining wall is needed at the side of the lot, this may require a structural load analysis). Please check with city staff for further information prior to submittal.

FEES

- Plan check and inspection fees apply.
- No impact fees are charged by the city for development of an ADU that is less than 750 square feet. There may be other “non-impact” fees by special districts or local agencies (example – plan check or inspection by the other agencies) – please verify in terms of applicability.
- Impact fees for an ADU more than 750 square feet are charged proportionately in relation to the square footage of the primary dwelling unit. (For example: If you have a proposed 1,000 square feet ADU, and you have an existing 2,000 square foot primary dwelling unit, you would be charged 50% on an equivalent basis).
- Connection fees and capacity charges are based upon either the ADU’s square feet or the number of its drainage fixture unit values, as defined by the Uniform Plumbing Code.

Item No. **3**

P.C. AGENDA OF: June 17, 2020

Application complete date: n/a
 Project Planner: Corey Funk
 Project Engineer: n/a

SUBJECT: **ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006 – ACCESSORY DWELLING UNIT AMENDMENTS 2020** – Request for a recommendation to approve amendments to the Zone Code, Village and Barrio Master Plan and Local Coastal Program to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units. The City Planner has determined that the proposed amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15282(h) of the CEQA Guidelines.

I. RECOMMENDATION

That the Planning Commission **ADOPT** Planning Commission Resolution No. 7374 **RECOMMENDING APPROVAL** of Zone Code Amendment ZCA 2020-0002, Village and Barrio Master Plan Amendment AMEND 2020-0005 and Local Coastal Program Amendment LCPA 2020-0006, based on the findings contained therein.

II. PROJECT DESCRIPTION AND BACKGROUND

This project is a city-initiated amendment to the Zone Code, Village and Barrio Master Plan and Local Coastal Program consisting of amendments to the city's regulations for accessory dwelling units to reflect changes in state law. With regard to the Local Coastal Program, the Zone Code is the Local Coastal Program implementing ordinance; therefore, an amendment to the Zone Code is an amendment to the Local Coastal Program.

A. State Law

To respond to the current state housing crisis, the California State Legislature passed a series of bills (Assembly Bill 68, Assembly Bill 881 and Senate Bill 13) that amended Government Code sections 65852.2 and 65852.22 which are designed to encourage the production of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). The most notable changes include the following topics:

- Where ADUs are permitted
- Requirement to allow junior ADUs
- ADU size limitations
- Loss of parking when a garage is converted to an ADU
- Permit process time reduced
- No short-term rental of ADUs

Additional changes to other sections of state law related to ADUs were made by the following bills:

- Assembly Bill 670: Homeowners associations must allow ADUs and JADUs.
- Assembly Bill 671: Housing elements shall incentivize and promote the creation of ADUs at all income levels.
- Assembly Bill 587: Allows a nonprofit to separately convey title to ADUs subject to specific criteria.

The new legislation (Attachment 3) went into effect January 1, 2020 and pre-empts all local ordinances that do not comply with the new standards. Cities are expected to update their local ordinances to comply with the state legislation. If cities fail to conform their local ordinances, the new state laws automatically apply, and applicants are permitted to develop ADUs and JADUs under the state legislation.

The new state law also includes a requirement for the California Department of Housing and Community Development to review the city's ADU ordinance for compliance with state law. If the ordinance is found to be out of compliance, the attorney general can enforce compliance; in such case, the city would be given a 30-day right to cure or state findings to support the ordinance.

Table 1 in the Analysis section below provides a detailed comparison of the city's existing ADU regulations and new state law.

B. Proposed Ordinance Approach

Over the past several years, the state legislature has made several modifications to ADU law to encourage more affordable housing development. More changes are expected in the coming years. These state-initiated modifications often require regular changes/updates to our local code. As such, the proposed ordinance focuses more on the city's ADU permit processing requirements and standards that state law gives the city the authority to establish, while deferring to the state law on the other ADU requirements and allowances. This will help reduce the need to process local code amendments when state law changes in the future.

Educational materials have also been prepared to help customers navigate state law and city processing requirements; specifically, a department information bulletin (Attachment 4), which describes the different types of ADUs, relevant development standards, permit requirements and fees. The information bulletin is provided to the Planning Commission as informational material, no action is requested. Staff can update the information bulletin as needed due to future changes to state law.

Amendments are also required for Title 5 of the Municipal Code to prohibit the use of ADUs and JADUs as short-term vacation rentals. Although amendments to other Municipal Code titles are not subject to Planning Commission review, they are included with the proposed ordinance in Exhibit A of Attachment 1 and in the strikeout/underline version of the proposed amendments in Attachment 2.

III. ANALYSIS

A. Proposed Changes to Existing ADU regulations

As noted above, Table 1 compares the city's existing ADU regulations to the new state law. Also, the proposed amendments to the Zone Code are provided in strikethrough/underline format (Attachment 2).

Table 1: Changes to Existing ADU Regulations

Topic	City's Existing Regulation	New State ADU Law
Where ADUs are permitted	On lots with an existing or proposed one-family dwelling	On lots with an existing or proposed one-family dwelling
		On lots with existing multifamily dwellings <ul style="list-style-type: none"> • Up to two detached ADUs • Existing non-livable space (garages, storage etc.) may be converted to ADUs, up to a number equal to 25% of the existing units in the building
Junior ADU (JADU)	No provision for a JADU (per previous state law, allowing JADUs was optional)	JADUs must be allowed by right on a lot with an existing or proposed one-family dwelling.
		JADUs must be limited to 500 square feet and must be entirely within the space of the main dwelling.
		JADUs exempt from parking standards
		Must allow a detached ADU and JADU on the same lot with an existing or proposed one-family dwelling.
ADU size	Detached ADUs: 640 square feet (s.f.) maximum	Detached ADUs: <ul style="list-style-type: none"> • Studio/one-bedroom - a local ordinance can establish a maximum size that is no less than 850 s.f., but no more than 1,200 s.f. • Two+ bedrooms - a local ordinance can establish a maximum size that is no less than 1,000 s.f., but no more than 1,200 s.f.
	Attached ADUs: Shall not exceed 50% of the living area of the main dwelling, up to 640 s.f.	Attached ADUs: <ul style="list-style-type: none"> • Studio/one-bedroom - a local ordinance can establish a maximum size that is 50% of the total floor area of the main dwelling or 850 s.f., whichever is less, but not less than 800 s.f. • Two+ bedrooms - a local ordinance can establish a maximum size that is 50% of the total floor area of the main dwelling or 1,000 s.f., whichever is less, but not less than 800 s.f.

Topic	City's Existing Regulation	New State ADU Law
Replacement of required parking when converting a garage to an ADU	Any loss of required parking for the primary dwelling shall be replaced; may be in any configuration on the lot - covered, uncovered, tandem.	When a garage, carport or covered parking structure is demolished or converted in conjunction with construction of an ADU, the city shall not require the lost parking spaces to be replaced.
Permit processing time	120 days after city receives a complete application, per previous state ADU law	60 days after the city receives a complete application, if there is an existing dwelling on the lot. If the ADU application is submitted with an application to build a new primary dwelling, the permit processing shall be the same as required for the primary dwelling.
Waiver of standards for lot coverage and ADU size limit as a percentage of the primary residence	ADU must meet all applicable standards even if this results in an ADU less than the maximum size allowed	Standards for lot coverage or ADU size limit as a percentage of the primary residence must be waived to allow at least an 800 sf ADU that provides a 4 ft side and rear setback
Maximum height for detached ADUs	14 ft	16 ft
Side and rear setbacks	Garage conversions – 0 ft ADUs above detached garages – 5 ft Other new construction – same as underlying zoning	Conversions of existing space (garage, living area or accessory structures) and rebuilds in the same location – 0 ft New construction – 4 ft
Owner occupancy requirements	Owner must reside in the primary residence or ADU, unless both units are leased to a single lessee	Prohibited for ADUs until Jan. 1, 2025. Properties that have a JADU require an owner to reside in the primary residence or the JADU
Correction of nonconforming zoning conditions	Not required when nonconforming by reason of substandard yards	Not required for any nonconforming zoning condition
Impact Fees	Proportional based on square footage	ADUs less than 750 sf are exempt, ADUs over 750 sf are subject to proportional fees based on square footage
Sale of ADU separate from primary residence	Prohibited	An ADU developed by a qualified nonprofit corporation may be sold to a lower income buyer subject to certain criteria

Topic	City's Existing Regulation	New State ADU Law
Short-term rentals	In the Coastal Zone, ADUs may be used as short-term vacation rentals	ADUs created after January 1, 2020, shall not be used as short-term vacation rentals, including within the Coastal Zone.

All of the provisions of state law are required to be implemented by the city. State law does give the city the authority to establish standards for ADUs, including maximum size of a unit, parking, height, setbacks, landscape, architecture, and to prevent adverse impacts on property that is listed in the California Register of Historic Resources. Regarding these standards, staff recommends the following:

- Maximum Size

The city can establish the maximum size of an ADU within certain limits, as described in Table 1, above. For detached ADUs, staff recommends using the lower limit of the state's maximum size range - 850 square feet for studio/one-bedroom units and 1,000 square feet for units with two or more bedrooms; and in the case of attached ADUs, a maximum of 50% of the floor area of the primary dwelling, if less than 850/1,000 square feet, but no less than 800 square feet.

The purpose of limiting the size of ADUs to the lower limit of the state's maximum size range is to minimize potential impacts that an ADU may have to neighborhood compatibility, particularly in single-family neighborhoods. Attachment 5 includes a letter from Rincon Homes requesting that the city consider allowing detached ADUs up to 1,200 square feet, which is the maximum allowed by state law.

- Parking

The proposed Zone Code amendments are consistent with state law, which includes a new parking provision regarding garage/carport conversions/demolitions, as described in Table 1, above. All other existing ADU parking requirements are recommended to be retained.

- Height

State law requires that the height limit for a detached ADU be no less than 16 feet. The proposed ordinance deletes the city's existing height limit of 14 feet for a detached ADU and adds reference to state law for the required height limit. Height limits for attached ADUs and ADUs above detached garages remain the same. Also, the city's existing standard that prohibits roof decks on ADUs will remain.

- Setbacks

The proposed Zone Code amendments are consistent with state law, which includes narrower setbacks than currently required by the city, as described in Table 1 above. Existing required setbacks for habitat buffers, fire and geologic safety remain applicable.

- Landscape

No changes are proposed to the city's existing landscape requirements for ADUs. An ADU is not subject to landscape requirements, except to be consistent with any landscape requirements of the main dwelling or otherwise required for fire safety or habitat protection.

- Architecture

The city's existing architecture requirements for ADUs, which require consistency with the primary dwelling, remain the same and now are applicable to ADUs in a multifamily development.

- Prevent Adverse Impacts to Property Listed in the California Register of Historic Resources

ADUs remain subject to the California Environmental Quality Act (CEQA) if there are potential adverse impacts to historic resources.

B. Consistency with Applicable Policies and Regulations

The proposed amendments are consistent with California Government Code Sections 65852.2 and 65852.22 and the changes to state law described above that went into effect Jan. 1, 2020.

The proposed amendments are consistent with the residential density ranges of the General Plan Land Use and Community Design Element in that, pursuant to Government Code 65852.2, an ADU shall not be considered to exceed the allowable density for the lot upon which it is located. Additionally, the proposed amendments implement the General Plan, as demonstrated below:

Land Use Element Goal 2-G.4 – Provide balanced neighborhoods with a variety of housing types and density ranges to meet the diverse demographic, economic and social needs of residents, while ensuring a cohesive urban form with careful regard for compatibility.

Land Use Element Policy 2-P.6 – Encourage the provision of lower and moderate-income housing to meet the objectives of the Housing Element.

Housing Element Program 3.15 – The city will continue to implement its Accessory Dwelling Unit Ordinance and support alternative types of housing.

This proposal does not conflict with the Growth Management Plan in that, pursuant to Government Code 65852.2, ADUs shall not be considered in the application of any local ordinance, policy, or program to limit residential growth. Though state law exempts ADUs from the Proposition E growth limitations, their population impacts are factored into facility calculations for City Administrative Facilities, Libraries and Parks.

The proposed amendments affect land within the Airport Influence Area, which covers a large portion of Carlsbad and includes residential properties; however, the amendment is consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan in that it does not propose any land use or development standard changes that affect compatibility with the plan's safety, noise, airspace protection and overflight criteria. The Airport Land Use Commission reviewed the amendment and found it to be consistent with the Airport Land Use Compatibility Plan.

Regarding the Zone Code, the proposed amendments are consistent with the other provisions of the Zone Code that are not being amended.

Local Coastal Program Amendment LCPA 2020-0006 is required for consistency with Zone Code Amendment ZCA 2020-0002. The proposed Local Coastal Program amendment meets the requirements of, and is in conformity with, with the policies of Chapter 3 of the Coastal Act and all applicable policies of the Carlsbad Local Coastal Program not being amended by this amendment. The amendments do not conflict with any regulation, land use designations or policies, with which development must comply.

IV. ENVIRONMENTAL REVIEW

The City Planner has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the common sense exemption, Section 15061(b)(3) of the CEQA Guidelines, since there would be no possibility of a significant effect on the environment; and pursuant to Section 15282(h) of the CEQA Guidelines, which exempts from CEQA the adoption of an ordinance regarding accessory dwelling units in a single-family or multifamily residential zone to implement Section 65852.2 of the Government Code.

ATTACHMENTS:

1. Planning Commission Resolution No. 7374
 - a. Exhibit A – Draft City Council Ordinance
2. Proposed text changes to the Carlsbad Municipal Code and Village and Barrio Master Plan shown in strikeout/underline format
3. State law relating to accessory dwelling units and junior accessory dwelling units
4. Information Bulletin Accessory Dwelling Units
5. Letter from Rincon Homes

State Law Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units

Senate Bill 13 and Assembly Bills 68, 587, 670, 671 and 881 amended or added the following sections of state law relating to accessory dwelling units and junior accessory dwelling units:

Government Code Sections: 65583(c)(7), 65852.2, 65852.22 and 65852.26

Health and Safety Code Sections: 17980.12 and 50504.5

Civil Code Section: 4751

These sections of state law are attached to this cover sheet as a reference.



ARTICLE 10.6. Housing Elements [65580 - 65589.11]

(Article 10.6 added by Stats. 1980, Ch. 1143.)

65583(c)

...

(7) Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Web link:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65583

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph,

including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting

agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the 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 unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, 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, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit

written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department 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 guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" 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. It shall include 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. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "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.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

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

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "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.

(11) "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.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

(Repealed (in Sec. 1.5) and added by Stats. 2019, Ch. 659, Sec. 2.5. (AB 881) Effective January 1, 2020. Section operative January 1, 2025, by its own provisions.)

65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a

hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(Amended by Stats. 2019, Ch. 655, Sec. 2. (AB 68) Effective January 1, 2020.)

State of California

GOVERNMENT CODE

Section 65852.26

65852.26. (a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties

intended to be sold to low-income families who participate in a special no-interest loan program.

(Added by Stats. 2019, Ch. 657, Sec. 1. (AB 587) Effective January 1, 2020.)

State of California

HEALTH AND SAFETY CODE

Section 17980.12

17980.12. (a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

(A) The accessory dwelling unit was built before January 1, 2020.

(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

(Added by Stats. 2019, Ch. 653, Sec. 3. (SB 13) Effective January 1, 2020. Repealed as of January 1, 2035, by its own provisions.)

State of California

HEALTH AND SAFETY CODE

Section 50504.5

50504.5. (a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

(Added by Stats. 2019, Ch. 658, Sec. 2. (AB 671) Effective January 1, 2020.)

State of California

CIVIL CODE

Section 4751

4751. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, “reasonable restrictions” means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

(Added by Stats. 2019, Ch. 178, Sec. 2. (AB 670) Effective January 1, 2020.)

From: Kevin Dunn <kdunn@rincongrp.com>

Sent: Monday, April 6, 2020 10:51 AM

To: Don Neu <Don.Neu@carlsbadca.gov>; Teri Delcamp <Teri.Delcamp@carlsbadca.gov>; Corey Funk <Corey.Funk@carlsbadca.gov>; Tom St.Clair <tstclair@rincongrp.com>

Subject: Detached ADU's

Don and Teri

I hope this email finds you and your families to be healthy and safe. What an unprecedented time we are currently living through. I don't know about you, but I don't seem to be quite as efficient working from home. I'm sure it has something to do with my 3 young boys running around the house all day.

Last year, we (Rincon Homes) started business planning for ways to be able to offer smaller scale residential rental properties to the community rather than provide only "for sale" homes. Because of this, we started tracking the proposed ADU bills at the state level closely and have spent a considerable amount of time researching the new state ADU guidelines and the new information recently disseminated by the Coastal Commission.

Last week, we had a conversation with Corey Funk regarding the new ADU guidelines. Corey was extremely helpful and mentioned that staff is proposing Carlsbad's new ADU guidelines to the planning commission very soon. I would like to take a moment to discuss one topic in which the City of Carlsbad has the autonomy to implement its own guidelines--the size of the detached ADU.

According to the state, the detached ADU shall not exceed 1200 SF for 2+ bedrooms. To ensure maximum tenant affordability as well as diversity of the city's ADU tenant mix, we believe the planning department should consider allowing the maximum unit size for the detached ADU to be 1,200 SF. The below reasons and attached documents will help you understand how we have come to that conclusion.

Affordability

A 1,000 SF detached ADU, will max out with 2 bedrooms and 2 bathrooms. Whereas, a 1,200 SF detached ADU, will max out with 3 bedrooms and 2 bathrooms. Obviously, overall rent for a two bedroom unit will be less than a three bedroom unit - seemingly more affordable. However, with a deeper look, you will see this is not necessarily true. A price *per bedroom* for a three bedroom will be much more affordable. We pulled all of the Carlsbad rental comps available in the MLS over the last 12 months (see attachments). The average rental rate *per bedroom* for a 2 bed/2 bath unit is \$1,380. The average rental rate *per bedroom* for a 3 bed/2 bath is \$1,112. That equates to a 19.4% discount when renting the 3rd bedroom. We believe this discount will be even greater for a detached ADU because

almost all of the 3 bedroom options for rent in Carlsbad are single family homes. These will rent for more than a detached ADU.

By allowing up to 1200 SF, you do not prevent someone from building a smaller unit (in fact most lots in Carlsbad wouldn't be able to fit a 1,200 sf detached ADU), however, you do allow the opportunity for families in specific circumstances to take advantage of a more affordable or necessary option by having a 3 bedroom unit.

Financially Feasible

In certain economic situations it will only make financial sense to build a 3 bedroom unit for property owners. When factoring in all the infrastructure and build costs, certain circumstances won't make it financially feasible based upon the market rents. For example, some properties will require longer undergrounding runs for utilities and more grading - these additional costs can only be absorbed by knowing you can achieve a higher rent from a three bedroom unit.

Inclusionary

Allowing 1,200 sf, will not prohibit someone from building a 850 or 1,000 sf unit who's specific needs require a 1 or 2 bedroom ADU. We would argue most property owners will still opt for the 1 or 2 bedroom options due to lot size constraints. However, maxing out the allowable square footage at 1,000, would exclude many young or multi-generational families that would like an ADU living option but require three bedrooms (kids rooms, home office, etc.). A 3 bedroom detached ADU is a great middle ground between a 3 bedroom apartment (very difficult to find) and a 3 bedroom single family home.

If the goal is to incentivize the development of more affordable units, we strongly believe allowing the maximum SF for detached ADU's should be 1200 SF.

I appreciate you taking the time to consider our thoughts. I can make myself available almost anytime for a call with you to discuss in more detail if needed.

Thanks again and stay safe,

Kevin Dunn

Rincon Homes

Principal

5315 Avenida Encinas, Suite 200, Carlsbad, CA 92008

p: [949.637.3254](tel:949.637.3254) | e: kdunn@rincongrp.com | w: www.rincon-homes.com

CA DRE #01996419

CMA Summary Report

RESIDENTIAL RENTAL Summary Statistics

High	Low	Average	Median
LP:\$4,525	\$2,095	\$2,747	\$2,572
SP:\$4,525	\$2,050	\$2,761	\$2,595

Sept. 1, 2020

RESIDENTIAL RENTAL - Active

Number of Properties: 5

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	PcrRfl	EstSF	DOM	LP	LP/EstSF
1	190062114	All Other Attached	823 Kalpati Cir	102	CARLSBAD (92008)	2	2	Monthly	1,506	141	\$2,595	\$1.72
2	200014853	All Other Attached	2475 jefferson jefferson	305	CARLSBAD (92008)	2	2	Monthly	1,168	10	\$2,795	\$2.39
3	200015164	Townhome	381 Tamarack Ave.		CARLSBAD (92008)	2	2	Monthly	1,120	11	\$2,900	\$2.59
4	190051460	All Other Attached	7494 Altiva Pl		CARLSBAD (92009)	2	2	Monthly	900	204	\$2,100	\$2.33
5	200015549	Townhome	3082 Via Maximo		CARLSBAD (92009)	2	2	Monthly	1,338	5	\$2,550	\$1.91
Avg						2	2		1206	74	\$2,588	\$2.19
Min						2	2		900	5	\$2,100	\$1.72
Max						2	2		1506	204	\$2,900	\$2.59
Med						2	2		1168	11	\$2,595	\$2.33

RESIDENTIAL RENTAL - Rented

Number of Properties: 51

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	EstSF	PcrRfl	OffMktDate	EstSF	DOM	LP	LP/EstSF	SP	SP/EstSF
1	190046527	Townhome	4006 Layang Layang Cir	A	CARLSBAD (92008)	2	2	1,600	Monthly	11/5/2019	1,600	77	\$2,495	\$1.56	\$2,495	\$1.56
2	190056745	All Other Attached	4637 Park Dr	3	CARLSBAD (92008)	2	2	1,141	Monthly	11/17/2019	1,141	34	\$2,600	\$2.28	\$2,600	\$2.28
3	190001488	All Other Attached	2475 jefferson	305	CARLSBAD (92008)	2	2	1,168	Monthly	5/31/2019	1,168	145	\$2,600	\$2.23	\$2,600	\$2.23
4	190033266	All Other Attached	4021 Canario Street	236	CARLSBAD (92008)	2	2	1,450	Monthly	7/3/2019	1,450	16	\$2,850	\$1.97	\$2,850	\$1.97
5	190040241	Townhome	762 Laguna		CARLSBAD (92008)	2	2	1,200	Monthly	7/31/2019	1,200	11	\$2,850	\$2.38	\$2,850	\$2.38
6	200005581	All Other Attached	801 #B Kalpati		CARLSBAD (92008)	2	2	1,253	Monthly	3/10/2020	1,253	36	\$2,950	\$2.35	\$2,950	\$2.35
7	190066206	All Other Attached	2475 jefferson	205	CARLSBAD (92008)	2	2	1,200	Monthly	2/25/2020	1,200	57	\$3,000	\$2.50	\$3,000	\$2.50

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Information Provided Courtesy

Caitlin A Petrush

DRE LIC#: CA1757241

760-707-7372

Rincon Homes, Inc. - Office: 888-357-3553

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04/06/2020

Search Criteria

Area
(Minor)=92008,92009,92010
,92011 AND Class=RT AND
Off Market
Date=04/01/2019-06/06/20

8	190053632	Detached	3468 Garfield St	CARLSBAD (92008)	2	2	1,226	Monthly	12/13/2019	1,226	76	\$3,295	\$2.69	\$3,295	\$2.69
9	190062873	Detached	295 Juniper Ave	CARLSBAD (92008)	2	2	1,600	Monthly	12/29/2019	1,600	35	\$3,600	\$2.25	\$3,600	\$2.25
10	190044411	All Other Attached	4050 Garfield Street	CARLSBAD (92008)	2	2	1,514	Monthly	8/21/2019	1,514	12	\$3,995	\$2.64	\$3,995	\$2.64
11	190057825	All Other Attached	725 Grand Ave	CARLSBAD (92008)	2	2	1,369	Monthly	1/6/2020	1,369	76	\$4,000	\$2.92	\$4,000	\$2.92
12	190060871	All Other Attached	723 Grand	CARLSBAD (92008)	2	2	1,369	Monthly	1/6/2020	1,369	58	\$4,000	\$2.92	\$4,000	\$2.92
13	190061252	All Other Attached	4038 Garfield St	CARLSBAD (92008)	2	2	1,749	Monthly	12/9/2019	1,749	26	\$4,100	\$2.34	\$4,100	\$2.29
14	190056664	All Other Attached	4038 Garfield St	CARLSBAD (92008)	2	2	1,514	Monthly	10/21/2019	1,514	6	\$4,100	\$2.71	\$4,100	\$2.64
15	190009356	Twinhome	3053 Ocean St	CARLSBAD (92008)	2	2	1,250	Monthly	4/12/2019	1,250	52	\$4,525	\$3.62	\$4,525	\$3.62
16	190025208	All Other Attached	6903 Quail Pl	CARLSBAD (92009)	2	2	1,040	Monthly	6/25/2019	1,040	48	\$2,095	\$2.01	\$2,095	\$1.97
17	190014473	Townhome	7309 Alicante Rd.	CARLSBAD (92009)	2	2	1,284	Monthly	4/26/2019	1,284	40	\$2,195	\$1.71	\$2,195	\$1.71
18	190041613	Townhome	6953 Sandpiper Pl	CARLSBAD (92009)	2	2	1,073	Monthly	8/26/2019	1,073	31	\$2,195	\$2.05	\$2,195	\$2.05
19	190043805	All Other Attached	2348 La Costa Ave.	CARLSBAD (92009)	2	2	1,225	Monthly	9/24/2019	1,225	48	\$2,195	\$1.79	\$2,195	\$1.71
20	190051834	Townhome	7301 Alicante Rd	CARLSBAD (92009)	2	2	1,284	Monthly	12/3/2019	1,284	76	\$2,200	\$1.71	\$2,200	\$1.71
21	190031659	All Other Attached	2306 Altisma	CARLSBAD (92009)	2	2	1,227	Monthly	6/21/2019	1,227	14	\$2,225	\$1.81	\$2,225	\$1.81
22	190026112	All Other Attached	2348 La Costa Ave	CARLSBAD (92009)	2	2	1,225	Monthly	5/29/2019	1,225	16	\$2,250	\$1.84	\$2,250	\$1.84
23	200006244	All Other Attached	7757 Caminito Encanto	CARLSBAD (92009)	2	2	1,022	Monthly	2/27/2020	1,022	21	\$2,250	\$2.20	\$2,250	\$2.20
24	200003568	All Other Attached	2302 Altisma Way	CARLSBAD (92009)	2	2	1,225	Monthly	2/28/2020	1,225	37	\$2,295	\$1.87	\$2,295	\$1.87
25	200010531	All Other Attached	2404 La Costa Ave.	CARLSBAD (92009)	2	2	1,100	Monthly	3/9/2020	1,100	7	\$2,300	\$2.09	\$2,300	\$2.09
26	190030319	All Other Attached	3527 Caminito Sierra	CARLSBAD (92009)	2	2	1,022	Monthly	6/13/2019	1,022	10	\$2,350	\$2.30	\$2,350	\$2.30
27	200010158	All Other Attached	6940 Sandpiper Place	CARLSBAD (92009)	2	2	1,153	Monthly	3/12/2020	1,153	13	\$2,375	\$2.06	\$2,375	\$2.06
28	190053594	Townhome	2544 Navarra Dr	CARLSBAD (92009)	2	2	1,326	Monthly	10/4/2019	1,326	6	\$2,395	\$1.81	\$2,395	\$1.81
29	190032882	All Other Attached	3201 Sirena Vista	CARLSBAD (92009)	2	2	968	Monthly	8/6/2019	968	53	\$2,490	\$2.57	\$2,490	\$2.57
30	180067627	All Other Attached	7061 Estrella De Mar Road	CARLSBAD (92009)	2	2	1,392	Monthly	7/11/2019	1,392	208	\$2,500	\$1.80	\$2,500	\$1.80
31	190045059	Townhome	2376 Altisma Way	CARLSBAD (92009)	2	2	1,280	Monthly	10/1/2019	1,280	49	\$2,500	\$1.95	\$2,500	\$1.95
32	190047770	All Other Attached	3507 Caminito Sierra	CARLSBAD (92009)	2	2	1,022	Monthly	9/17/2019	1,022	20	\$2,550	\$2.50	\$2,550	\$2.50
33	190034424	Twinhome	2742 Luciernaga Street	CARLSBAD (92009)	2	2	1,380	Monthly	6/28/2019	1,380	7	\$2,550	\$1.85	\$2,550	\$1.81
34	190064859	Townhome	2826 Unicornio St	CARLSBAD (92009)	2	2	1,332	Monthly	12/19/2019	1,332	7	\$2,550	\$1.91	\$2,550	\$1.91
35	190018866	All Other Attached	7227 Plaza De La Costa	CARLSBAD (92009)	2	2	1,400	Monthly	5/30/2019	1,400	52	\$2,595	\$1.85	\$2,595	\$1.85
36	200001665	Townhome	2824 Unicornio	CARLSBAD (92009)	2	2	1,332	Monthly	1/21/2020	1,332	12	\$2,700	\$2.03	\$2,700	\$2.03
37	190044629	All Other Attached	3162 Arroyo Vista	CARLSBAD (92009)	2	2	1,409	Monthly	9/17/2019	1,409	39	\$2,749	\$1.95	\$2,650	\$1.88
38	190060382	All Other Attached	7539 Gibraltar Street	CARLSBAD (92009)	2	2	1,867	Monthly	12/13/2019	1,867	36	\$2,750	\$1.47	\$2,750	\$1.47
39	200005488	All Other Attached	7539 Gibraltar Street	CARLSBAD (92009)	2	2	1,867	Monthly	2/6/2020	1,867	3	\$2,750	\$1.47	\$2,750	\$1.47
40	190059348	Detached	7558 Agua Dulce	CARLSBAD (92009)	2	2	1,291	Monthly	12/9/2019	1,291	39	\$2,900	\$2.25	\$2,900	\$2.25

of 105

Information Provided Courtesy

Caitlin A Petrush

DRE LIC#: CA1757241

760-707-7372

Rincon Homes, Inc. - Office: 888-357-3553

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Search Criteria

Area
(Minor)=92008,92009,92010
,92011 AND Class=RT AND
Off Market
Date=04/01/2019-06/06/20

41	200009026	Detached	7915 Calle San Felipe	CARLSBAD (92009)	2	2	1,101	Monthly	3/3/2020	1,101	10	\$3,250	\$2.95	\$3,250	\$2.95
42	190035926	All Other Attached	2857 Nantucket Lane	CARLSBAD (92010)	2	2	1,000	Monthly	8/9/2019	1,000	42	\$2,195	\$2.20	\$2,195	\$2.20
43	200000906	All Other Attached	2836 Winthrop Ave	CARLSBAD (92010)	2	2	1,112	Monthly	2/24/2020	1,112	49	\$2,225	\$2.00	\$2,225	\$2.00
44	190065848	Townhome	2860 Nantucket Ln	CARLSBAD (92010)	2	2	1,000	Monthly	1/5/2020	1,000	13	\$2,300	\$2.30	\$2,300	\$2.30
45	190059132	Twinhome	1418 Sweet Briar Circle	CARLSBAD (92011)	2	2	1,100	Monthly	1/11/2020	1,100	73	\$2,295	\$2.09	\$2,295	\$2.09
46	190031991	Townhome	918 Caminito Estrada F	CARLSBAD (92011)	2	2	1,188	Monthly	6/28/2019	1,188	18	\$2,500	\$2.10	\$2,400	\$2.02
47	190029737	All Other Attached	906 Caminito Madrigal D	CARLSBAD (92011)	2	2	959	Monthly	7/7/2019	959	38	\$2,500	\$2.61	\$2,500	\$2.61
48	190058755	Townhome	6815 Zinnia Ct	CARLSBAD (92011)	2	2	1,263	Monthly	11/12/2019	1,263	15	\$2,595	\$2.05	\$2,595	\$2.05
49	200003618	Twinhome	815 Caminito Verde	CARLSBAD (92011)	2	2	1,204	Monthly	1/31/2020	1,204	9	\$2,695	\$2.24	\$2,695	\$2.24
50	200000109	All Other Attached	6978 Batiquitos Dr	CARLSBAD (92011)	2	2	999	Monthly	1/22/2020	999	21	\$2,800	\$2.80	\$2,800	\$2.80
51	180066878	Detached	829 Okra	CARLSBAD (92011)	2	2	1,181	Monthly	4/22/2019	1,181	113	\$3,700	\$3.13	\$3,700	\$3.13
Avg					2	2	1263			1263	39	\$2,763	\$2.21	\$2,761	\$2.21
Min					2	2	959			959	3	\$2,095	\$1.47	\$2,050	\$1.47
Max					2	2	1867			1867	208	\$4,525	\$3.62	\$4,525	\$3.62
Med					2	2	1226			1226	35	\$2,550	\$2.10	\$2,595	\$2.16

Information Provided Courtesy

Caitlin A Petrush

DRE LIC#: CA1757241

760-707-7372

Rincon Homes, Inc. - Office: 888-357-3553

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Search Criteria

Area
(Minor)=92008,92009,92010
,92011 AND Class=RT AND
Off Market
Date=04/01/2019-06/06/20

CMA Summary Report

RESIDENTIAL RENTAL Summary Statistics

High	Low	Average	Median
LP:\$6,495	\$2,100	\$3,364	\$3,147
SP:\$6,000	\$2,100	\$3,335	\$3,197

Sept. 1, 2020

RESIDENTIAL RENTAL - Active

Number of Properties: 4

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	PcrRfl	EstSF	DOM	LP	LP/EstSF
1	200011941	Twinhome	3057 Ocean St		CARLSBAD (92008)	3	2	Monthly	1,550	24	\$6,495	\$4.19
2	200012420	All Other Attached	6125 Paseo Ensililar		CARLSBAD (92009)	3	2	Monthly	1,044	22	\$2,395	\$2.29
3	190065602	All Other Attached	7051 Estrella De Mar Rd.	70	CARLSBAD (92009)	3	2	Monthly	1,783	106	\$2,800	\$1.57
4	200015141	Detached	2707 Southampton Rd		CARLSBAD (92010)	3	2	Monthly	1,345	4	\$3,000	\$2.23
Avg						3	2		1430	39	\$3,673	\$2.57
Min						3	2		1044	4	\$2,395	\$1.57
Max						3	2		1783	106	\$6,495	\$4.19
Med						3	2		1447	23	\$2,900	\$2.26

RESIDENTIAL RENTAL - Rented

Number of Properties: 38

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	EstSF	PcrRfl	OffMktDate	EstSF	DOM	LP	LP/EstSF	SP	SP/EstSF
1	190036150	All Other Attached	810 Home Ave		CARLSBAD (92008)	3	2	1,200	Monthly	8/6/2019	1,200	36	\$2,795	\$2.33	\$2,795	\$2.33
2	190055176	Detached	4823 Neblina Dr		CARLSBAD (92008)	3	2	1,902	Monthly	11/18/2019	1,902	42	\$2,995	\$1.57	\$2,995	\$1.57
3	200012909	Detached	1982 E Pointe		CARLSBAD (92008)	3	2	1,442	Monthly	3/18/2020	1,442	4	\$3,100	\$2.15	\$3,100	\$2.15
4	190036154	All Other Attached	2741 Madison Street		CARLSBAD (92008)	3	2	1,750	Monthly	9/24/2019	1,750	85	\$3,195	\$1.83	\$3,195	\$1.83
5	190058548	All Other Attached	2038 Avenue Of The Trees		CARLSBAD (92008)	3	2	1,700	Monthly	11/4/2019	1,700	10	\$3,500	\$2.06	\$3,500	\$2.06
6	190058742	Detached	2550 Gregory		CARLSBAD (92008)	3	2	1,400	Monthly	11/13/2019	1,400	16	\$3,800	\$2.71	\$3,800	\$2.71
7	170051779	Detached	5016 Tierra Del Oro		CARLSBAD (92008)	3	2	1,973	Monthly	6/6/2019	1,973	610	\$4,000	\$2.03	\$4,000	\$2.03
8	190022760	Detached	3525 Garfield		CARLSBAD (92008)	3	2	1,769	Monthly	5/16/2019	1,769	20	\$6,000	\$3.39	\$6,000	\$3.39
9	190066043	Townhome	2903 Rancho Posta		CARLSBAD (92009)	3	2	1,156	Monthly	12/31/2019	1,156	4	\$2,450	\$2.12	\$2,450	\$2.12

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Information Provided Courtesy

Caitlin A Petrush
DRE LIC#: CA1757241
760-707-7372

Search Criteria

Area
 (Minor)=92008,92009,92010
 92011 AND Class=RT AND
 Off Market
 Date=04/01/2019-06/06/20

Rincon Homes, Inc. - Office: 888-357-3553

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04/03/2020

10	190055594	Twinhome	2286 Levante Street	B	CARLSBAD (92009)	3	2	1,250	Monthly	10/14/2019	1,250	5	\$2,675	\$2.14	\$2,675	\$2.14
11	190046558	All Other Attached	7310 Alta Vista		CARLSBAD (92009)	3	2	1,566	Monthly	8/27/2019	1,566	6	\$2,695	\$1.72	\$2,695	\$1.72
12	190052575	Townhome	6169 Paseo Granito		CARLSBAD (92009)	3	2	1,140	Monthly	10/8/2019	1,140	15	\$2,700	\$2.37	\$2,700	\$2.37
13	200006119	Townhome	2556 LUCIERNAGA ST		CARLSBAD (92009)	3	2	1,369	Monthly	2/14/2020	1,369	8	\$2,700	\$1.97	\$2,700	\$1.97
14	190054041	Twinhome	2821 Cebu Pl		CARLSBAD (92009)	3	2	1,340	Monthly	11/25/2019	1,340	55	\$2,750	\$2.05	\$2,800	\$2.09
15	190056931	Twinhome	2286 Levante Street	B	CARLSBAD (92009)	3	2	1,250	Monthly	11/14/2019	1,250	29	\$2,795	\$2.24	\$2,795	\$2.24
16	200010002	All Other Attached	7310 Alta Vista		CARLSBAD (92009)	3	2	1,566	Monthly	3/20/2020	1,566	21	\$2,795	\$1.78	\$2,795	\$1.78
17	190052400	All Other Attached	3127 Vista Rica		CARLSBAD (92009)	3	2	1,566	Monthly	11/12/2019	1,566	52	\$2,995	\$1.91	\$2,995	\$1.91
18	190044837	Detached	2745 La Gran Via		CARLSBAD (92009)	3	2	1,712	Monthly	9/30/2019	1,712	49	\$3,400	\$1.99	\$3,400	\$1.99
19	190029077	Detached	6416 Cayenne Lane		CARLSBAD (92009)	3	2	1,830	Monthly	7/1/2019	1,830	34	\$3,500	\$1.91	\$3,500	\$1.91
20	190066036	Detached	7245 carpa ct. 7245 carpa ct.		CARLSBAD (92009)	3	2	2,000	Monthly	1/12/2020	2,000	16	\$3,500	\$1.75	\$3,600	\$1.80
21	190061757	All Other Attached	2530 Navarra Dr	B	CARLSBAD (92009)	3	2	1,865	Monthly	12/28/2019	1,865	43	\$3,500	\$1.88	\$3,500	\$1.88
22	190029982	Detached	3080 Paseo Estribo		CARLSBAD (92009)	3	2	1,901	Monthly	7/3/2019	1,901	33	\$3,695	\$1.94	\$3,695	\$1.94
23	190041862	Detached	7603 Primavera Way		CARLSBAD (92009)	3	2	1,936	Monthly	8/23/2019	1,936	25	\$3,775	\$1.95	\$3,775	\$1.95
24	190011102	Detached	3021 Segovia Way		CARLSBAD (92009)	3	2	2,122	Monthly	4/22/2019	2,122	51	\$4,000	\$1.89	\$4,000	\$1.89
25	190015125	Detached	2251 Paseo Saucedal		CARLSBAD (92009)	3	2	1,963	Monthly	4/7/2019	1,963	18	\$4,250	\$2.17	\$4,250	\$2.17
26	200012965	Detached	2251 Paseo Saucedal		CARLSBAD (92009)	3	2	1,963	Monthly	3/15/2020	1,963	1	\$4,350	\$2.22	\$4,350	\$2.22
27	190053061	Detached	2544 La Costa Ave		CARLSBAD (92009)	3	2	2,428	Monthly	11/12/2019	2,428	49	\$4,975	\$2.05	\$4,975	\$2.05
28	190027095	Manufactured/Mobile Home	5228 Don Valdez Drive		CARLSBAD (92010)	3	2	1,344	Monthly	6/28/2019	1,344	43	\$2,100	\$1.56	\$2,100	\$1.56
29	190049583	All Other Attached	2716 Via Plato		CARLSBAD (92010)	3	2	1,104	Monthly	9/16/2019	1,104	10	\$2,525	\$2.29	\$2,525	\$2.29
30	190015130	All Other Attached	2866 Englewood Way		CARLSBAD (92010)	3	2	1,362	Monthly	4/12/2019	1,362	22	\$2,695	\$1.98	\$2,695	\$1.98
31	190052589	All Other Attached	2804 Winthrop Ave		CARLSBAD (92010)	3	2	1,362	Monthly	12/30/2019	1,362	100	\$2,700	\$1.98	\$2,700	\$1.98
32	190057625	Townhome	2810 Via Cascada		CARLSBAD (92010)	3	2	1,104	Monthly	1/10/2020	1,104	81	\$2,750	\$2.49	\$2,750	\$2.49
33	190057520	Detached	3604 Kingston St		CARLSBAD (92010)	3	2	1,996	Monthly	12/16/2019	1,996	58	\$3,100	\$1.55	\$3,100	\$1.55
34	190029137	Detached	2768 Avalon Ave.		CARLSBAD (92010)	3	2	1,600	Monthly	6/6/2019	1,600	10	\$3,200	\$2.00	\$3,200	\$2.00
35	190065342	Detached	1735 Catalpa Road		CARLSBAD (92011)	3	2	1,559	Monthly	1/11/2020	1,559	25	\$3,200	\$2.05	\$3,200	\$2.05
36	190065279	Detached	1749 Mallow Court		CARLSBAD (92011)	3	2	1,653	Monthly	1/19/2020	1,653	34	\$3,500	\$2.12	\$3,500	\$2.12
37	190021353	Detached	1038 Turnstone		CARLSBAD (92011)	3	2	2,400	Monthly	4/27/2019	2,400	8	\$3,950	\$1.65	\$3,950	\$1.65
38	190043339	Detached	1851 Tule Ct		CARLSBAD (92011)	3	2	1,512	Monthly	8/15/2019	1,512	10	\$4,000	\$2.65	\$4,000	\$2.65
# of Avg						3	2	1633			1633	45	\$3,332	\$2.06	\$3,336	\$2.07
Min						3	2	1104			1104	1	\$2,100	\$1.55	\$2,100	\$1.55
Max						3	2	2428			2428	610	\$6,000	\$3.39	\$6,000	\$3.39

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Information Provided Courtesy

Caitlin A Petrush
DRE LIC#: CA1757241
760-707-7372
Rincon Homes, Inc. - Office: 888-357-3553

Search Criteria

Area
(Minor)=92008,92009,92010
92011 AND Class=RT AND
Off Market
Date=04/01/2019-06/06/20

From: [Gary Nessim](#)
To: [Planning](#)
Subject: PC meeting item #4 ADUs
Date: Wednesday, June 17, 2020 9:32:32 AM

ADU maximum allowable sf should be 1200sf as the State of California suggests.

Don't you want your kids to be able to live in Carlsbad?

Each unit needs a kitchen and bathroom, the most expensive components.
Restraining the size unnecessarily raises the cost per square foot and makes for more expensive affordable housing!

Gary Nessim
First Team Real Estate
500 Grand Avenue
Carlsbad, CA 92008
760 519-5556

...

[CAUTION: Do not open attachments or click on links unless you recognize the sender and know the content is safe.](#)

From: Planning <Planning@CarlsbadCA.gov>
Sent: Wednesday, June 17, 2020 10:57 AM
To: Planning Commission <PlanningCommission@CarlsbadCA.gov>
Cc: Corey Funk <Corey.Funk@carlsbadca.gov>; Don Neu <Don.Neu@carlsbadca.gov>; Ronald Kemp <Ronald.Kemp@carlsbadca.gov>
Subject: FW: PC meeting item #4 ADUs

From: Gary Nessim <garynessim@att.net>
Sent: Wednesday, June 17, 2020 9:32 AM
To: Planning <Planning@CarlsbadCA.gov>
Subject: PC meeting item #4 ADUs

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Gary Nessim
First Team Real Estate
500 Grand Avenue
Carlsbad, CA 92008
760 519-5556

From: Kevin Dunn <kdunn@rincongrp.com>

Sent: Monday, April 6, 2020 10:51 AM

To: Don Neu <Don.Neu@carlsbadca.gov>; Teri Delcamp <Teri.Delcamp@carlsbadca.gov>; Corey Funk <Corey.Funk@carlsbadca.gov>; Tom St.Clair <tstclair@rincongrp.com>

Subject: Detached ADU's

Don and Teri

I hope this email finds you and your families to be healthy and safe. What an unprecedented time we are currently living through. I don't know about you, but I don't seem to be quite as efficient working from home. I'm sure it has something to do with my 3 young boys running around the house all day.

Last year, we (Rincon Homes) started business planning for ways to be able to offer smaller scale residential rental properties to the community rather than provide only "for sale" homes. Because of this, we started tracking the proposed ADU bills at the state level closely and have spent a considerable amount of time researching the new state ADU guidelines and the new information recently disseminated by the Coastal Commission.

Last week, we had a conversation with Corey Funk regarding the new ADU guidelines. Corey was extremely helpful and mentioned that staff is proposing Carlsbad's new ADU guidelines to the planning commission very soon. I would like to take a moment to discuss one topic in which the City of Carlsbad has the autonomy to implement its own guidelines--the size of the detached ADU.

According to the state, the detached ADU shall not exceed 1200 SF for 2+ bedrooms. To ensure maximum tenant affordability as well as diversity of the city's ADU tenant mix, we believe the planning department should consider allowing the maximum unit size for the detached ADU to be 1,200 SF. The below reasons and attached documents will help you understand how we have come to that conclusion.

Affordability

A 1,000 SF detached ADU, will max out with 2 bedrooms and 2 bathrooms. Whereas, a 1,200 SF detached ADU, will max out with 3 bedrooms and 2 bathrooms. Obviously, overall rent for a two bedroom unit will be less than a three bedroom unit - seemingly more affordable. However, with a deeper look, you will see this is not necessarily true. A price *per bedroom* for a three bedroom will be much more affordable. We pulled all of the Carlsbad rental comps available in the MLS over the last 12 months (see attachments). The average rental rate *per bedroom* for a 2 bed/2 bath unit is \$1,380. The average rental rate *per bedroom* for a 3 bed/2 bath is \$1,112. That equates to a 19.4% discount when renting the 3rd bedroom. We believe this discount will be even greater for a detached ADU because

almost all of the 3 bedroom options for rent in Carlsbad are single family homes. These will rent for more than a detached ADU.

By allowing up to 1200 SF, you do not prevent someone from building a smaller unit (in fact most lots in Carlsbad wouldn't be able to fit a 1,200 sf detached ADU), however, you do allow the opportunity for families in specific circumstances to take advantage of a more affordable or necessary option by having a 3 bedroom unit.

Financially Feasible

In certain economic situations it will only make financial sense to build a 3 bedroom unit for property owners. When factoring in all the infrastructure and build costs, certain circumstances won't make it financially feasible based upon the market rents. For example, some properties will require longer undergrounding runs for utilities and more grading - these additional costs can only be absorbed by knowing you can achieve a higher rent from a three bedroom unit.

Inclusionary

Allowing 1,200 sf, will not prohibit someone from building a 850 or 1,000 sf unit who's specific needs require a 1 or 2 bedroom ADU. We would argue most property owners will still opt for the 1 or 2 bedroom options due to lot size constraints. However, maxing out the allowable square footage at 1,000, would exclude many young or multi-generational families that would like an ADU living option but require three bedrooms (kids rooms, home office, etc.). A 3 bedroom detached ADU is a great middle ground between a 3 bedroom apartment (very difficult to find) and a 3 bedroom single family home.

If the goal is to incentivize the development of more affordable units, we strongly believe allowing the maximum SF for detached ADU's should be 1200 SF.

I appreciate you taking the time to consider our thoughts. I can make myself available almost anytime for a call with you to discuss in more detail if needed.

Thanks again and stay safe,

Kevin Dunn

Rincon Homes

Principal

5315 Avenida Encinas, Suite 200, Carlsbad, CA 92008

p: [949.637.3254](tel:949.637.3254) | e: kdunn@rincongrp.com | w: www.rincon-homes.com

CA DRE #01996419

CMA Summary Report

RESIDENTIAL RENTAL Summary Statistics

High	Low	Average	Median
LP:\$4,525	\$2,095	\$2,747	\$2,572
SP:\$4,525	\$2,050	\$2,761	\$2,595

Sept. 1, 2020

RESIDENTIAL RENTAL - Active

Number of Properties: 5

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	PcrRfl	EstSF	DOM	LP	LP/EstSF
1	190062114	All Other Attached	823 Kalpati Cir	102	CARLSBAD (92008)	2	2	Monthly	1,506	141	\$2,595	\$1.72
2	200014853	All Other Attached	2475 jefferson jefferson	305	CARLSBAD (92008)	2	2	Monthly	1,168	10	\$2,795	\$2.39
3	200015164	Townhome	381 Tamarack Ave.		CARLSBAD (92008)	2	2	Monthly	1,120	11	\$2,900	\$2.59
4	190051460	All Other Attached	7494 Altiva Pl		CARLSBAD (92009)	2	2	Monthly	900	204	\$2,100	\$2.33
5	200015549	Townhome	3082 Via Maximo		CARLSBAD (92009)	2	2	Monthly	1,338	5	\$2,550	\$1.91
Avg						2	2		1206	74	\$2,588	\$2.19
Min						2	2		900	5	\$2,100	\$1.72
Max						2	2		1506	204	\$2,900	\$2.59
Med						2	2		1168	11	\$2,595	\$2.33

RESIDENTIAL RENTAL - Rented

Number of Properties: 51

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	EstSF	PcrRfl	OffMktDate	EstSF	DOM	LP	LP/EstSF	SP	SP/EstSF
1	190046527	Townhome	4006 Layang Layang Cir	A	CARLSBAD (92008)	2	2	1,600	Monthly	11/5/2019	1,600	77	\$2,495	\$1.56	\$2,495	\$1.56
2	190056745	All Other Attached	4637 Park Dr	3	CARLSBAD (92008)	2	2	1,141	Monthly	11/17/2019	1,141	34	\$2,600	\$2.28	\$2,600	\$2.28
3	190001488	All Other Attached	2475 jefferson	305	CARLSBAD (92008)	2	2	1,168	Monthly	5/31/2019	1,168	145	\$2,600	\$2.23	\$2,600	\$2.23
4	190033266	All Other Attached	4021 Canario Street	236	CARLSBAD (92008)	2	2	1,450	Monthly	7/3/2019	1,450	16	\$2,850	\$1.97	\$2,850	\$1.97
5	190040241	Townhome	762 Laguna		CARLSBAD (92008)	2	2	1,200	Monthly	7/31/2019	1,200	11	\$2,850	\$2.38	\$2,850	\$2.38
6	200005581	All Other Attached	801 #B Kalpati		CARLSBAD (92008)	2	2	1,253	Monthly	3/10/2020	1,253	36	\$2,950	\$2.35	\$2,950	\$2.35
7	190066206	All Other Attached	2475 jefferson	205	CARLSBAD (92008)	2	2	1,200	Monthly	2/25/2020	1,200	57	\$3,000	\$2.50	\$3,000	\$2.50

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Information Provided Courtesy

Caitlin A Petrush

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04/06/2020

Search Criteria

Area
(Minor)=92008,92009,92010
,92011 AND Class=RT AND
Off Market
Date=04/01/2019-06/06/20

8	190053632	Detached	3468 Garfield St	CARLSBAD (92008)	2	2	1,226	Monthly	12/13/2019	1,226	76	\$3,295	\$2.69	\$3,295	\$2.69
9	190062873	Detached	295 Juniper Ave	CARLSBAD (92008)	2	2	1,600	Monthly	12/29/2019	1,600	35	\$3,600	\$2.25	\$3,600	\$2.25
10	190044411	All Other Attached	4050 Garfield Street	CARLSBAD (92008)	2	2	1,514	Monthly	8/21/2019	1,514	12	\$3,995	\$2.64	\$3,995	\$2.64
11	190057825	All Other Attached	725 Grand Ave	CARLSBAD (92008)	2	2	1,369	Monthly	1/6/2020	1,369	76	\$4,000	\$2.92	\$4,000	\$2.92
12	190060871	All Other Attached	723 Grand	CARLSBAD (92008)	2	2	1,369	Monthly	1/6/2020	1,369	58	\$4,000	\$2.92	\$4,000	\$2.92
13	190061252	All Other Attached	4038 Garfield St	CARLSBAD (92008)	2	2	1,749	Monthly	12/9/2019	1,749	26	\$4,100	\$2.34	\$4,100	\$2.29
14	190056664	All Other Attached	4038 Garfield St	CARLSBAD (92008)	2	2	1,514	Monthly	10/21/2019	1,514	6	\$4,100	\$2.71	\$4,100	\$2.64
15	190009356	Twinhome	3053 Ocean St	CARLSBAD (92008)	2	2	1,250	Monthly	4/12/2019	1,250	52	\$4,525	\$3.62	\$4,525	\$3.62
16	190025208	All Other Attached	6903 Quail Pl	CARLSBAD (92009)	2	2	1,040	Monthly	6/25/2019	1,040	48	\$2,095	\$2.01	\$2,095	\$1.97
17	190014473	Townhome	7309 Alicante Rd.	CARLSBAD (92009)	2	2	1,284	Monthly	4/26/2019	1,284	40	\$2,195	\$1.71	\$2,195	\$1.71
18	190041613	Townhome	6953 Sandpiper Pl	CARLSBAD (92009)	2	2	1,073	Monthly	8/26/2019	1,073	31	\$2,195	\$2.05	\$2,195	\$2.05
19	190043805	All Other Attached	2348 La Costa Ave.	CARLSBAD (92009)	2	2	1,225	Monthly	9/24/2019	1,225	48	\$2,195	\$1.79	\$2,195	\$1.71
20	190051834	Townhome	7301 Alicante Rd	CARLSBAD (92009)	2	2	1,284	Monthly	12/3/2019	1,284	76	\$2,200	\$1.71	\$2,200	\$1.71
21	190031659	All Other Attached	2306 Altisma	CARLSBAD (92009)	2	2	1,227	Monthly	6/21/2019	1,227	14	\$2,225	\$1.81	\$2,225	\$1.81
22	190026112	All Other Attached	2348 La Costa Ave	CARLSBAD (92009)	2	2	1,225	Monthly	5/29/2019	1,225	16	\$2,250	\$1.84	\$2,250	\$1.84
23	200006244	All Other Attached	7757 Caminito Encanto	CARLSBAD (92009)	2	2	1,022	Monthly	2/27/2020	1,022	21	\$2,250	\$2.20	\$2,250	\$2.20
24	200003568	All Other Attached	2302 Altisma Way	CARLSBAD (92009)	2	2	1,225	Monthly	2/28/2020	1,225	37	\$2,295	\$1.87	\$2,295	\$1.87
25	200010531	All Other Attached	2404 La Costa Ave.	CARLSBAD (92009)	2	2	1,100	Monthly	3/9/2020	1,100	7	\$2,300	\$2.09	\$2,300	\$2.09
26	190030319	All Other Attached	3527 Caminito Sierra	CARLSBAD (92009)	2	2	1,022	Monthly	6/13/2019	1,022	10	\$2,350	\$2.30	\$2,350	\$2.30
27	200010158	All Other Attached	6940 Sandpiper Place	CARLSBAD (92009)	2	2	1,153	Monthly	3/12/2020	1,153	13	\$2,375	\$2.06	\$2,375	\$2.06
28	190053594	Townhome	2544 Navarra Dr	CARLSBAD (92009)	2	2	1,326	Monthly	10/4/2019	1,326	6	\$2,395	\$1.81	\$2,395	\$1.81
29	190032882	All Other Attached	3201 Sirena Vista	CARLSBAD (92009)	2	2	968	Monthly	8/6/2019	968	53	\$2,490	\$2.57	\$2,490	\$2.57
30	180067627	All Other Attached	7061 Estrella De Mar Road	CARLSBAD (92009)	2	2	1,392	Monthly	7/11/2019	1,392	208	\$2,500	\$1.80	\$3,000	\$2.16
31	190045059	Townhome	2376 Altisma Way	CARLSBAD (92009)	2	2	1,280	Monthly	10/1/2019	1,280	49	\$2,500	\$1.95	\$2,500	\$1.95
32	190047770	All Other Attached	3507 Caminito Sierra	CARLSBAD (92009)	2	2	1,022	Monthly	9/17/2019	1,022	20	\$2,550	\$2.50	\$2,550	\$2.50
33	190034424	Twinhome	2742 Luciernaga Street	CARLSBAD (92009)	2	2	1,380	Monthly	6/28/2019	1,380	7	\$2,550	\$1.85	\$2,500	\$1.81
34	190064859	Townhome	2826 Unicornio St	CARLSBAD (92009)	2	2	1,332	Monthly	12/19/2019	1,332	7	\$2,550	\$1.91	\$2,550	\$1.91
35	190018866	All Other Attached	7227 Plaza De La Costa	CARLSBAD (92009)	2	2	1,400	Monthly	5/30/2019	1,400	52	\$2,595	\$1.85	\$2,595	\$1.85
36	200001665	Townhome	2824 Unicornio	CARLSBAD (92009)	2	2	1,332	Monthly	1/21/2020	1,332	12	\$2,700	\$2.03	\$2,700	\$2.03
37	190044629	All Other Attached	3162 Arroyo Vista	CARLSBAD (92009)	2	2	1,409	Monthly	9/17/2019	1,409	39	\$2,749	\$1.95	\$2,650	\$1.88
38	190060382	All Other Attached	7539 Gibraltar Street	CARLSBAD (92009)	2	2	1,867	Monthly	12/13/2019	1,867	36	\$2,750	\$1.47	\$2,750	\$1.47
39	200005488	All Other Attached	7539 Gibraltar Street	CARLSBAD (92009)	2	2	1,867	Monthly	2/6/2020	1,867	3	\$2,750	\$1.47	\$2,750	\$1.47
40	190059348	Detached	7558 Agua Dulce	CARLSBAD (92009)	2	2	1,291	Monthly	12/9/2019	1,291	39	\$2,900	\$2.25	\$2,900	\$2.25

of 105

Information Provided Courtesy

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41	200009026	Detached	7915 Calle San Felipe	CARLSBAD (92009)	2	2	1,101	Monthly	3/3/2020	1,101	10	\$3,250	\$2.95	\$3,250	\$2.95
42	190035926	All Other Attached	2857 Nantucket Lane	CARLSBAD (92010)	2	2	1,000	Monthly	8/9/2019	1,000	42	\$2,195	\$2.20	\$2,195	\$2.20
43	200000906	All Other Attached	2836 Winthrop Ave	CARLSBAD (92010)	2	2	1,112	Monthly	2/24/2020	1,112	49	\$2,225	\$2.00	\$2,225	\$2.00
44	190065848	Townhome	2860 Nantucket Ln	CARLSBAD (92010)	2	2	1,000	Monthly	1/5/2020	1,000	13	\$2,300	\$2.30	\$2,300	\$2.30
45	190059132	Twinhome	1418 Sweet Briar Circle	CARLSBAD (92011)	2	2	1,100	Monthly	1/11/2020	1,100	73	\$2,295	\$2.09	\$2,295	\$2.09
46	190031991	Townhome	918 Caminito Estrada F	CARLSBAD (92011)	2	2	1,188	Monthly	6/28/2019	1,188	18	\$2,500	\$2.10	\$2,400	\$2.02
47	190029737	All Other Attached	906 Caminito Madrigal D	CARLSBAD (92011)	2	2	959	Monthly	7/7/2019	959	38	\$2,500	\$2.61	\$2,500	\$2.61
48	190058755	Townhome	6815 Zinnia Ct	CARLSBAD (92011)	2	2	1,263	Monthly	11/12/2019	1,263	15	\$2,595	\$2.05	\$2,595	\$2.05
49	200003618	Twinhome	815 Caminito Verde	CARLSBAD (92011)	2	2	1,204	Monthly	1/31/2020	1,204	9	\$2,695	\$2.24	\$2,695	\$2.24
50	200000109	All Other Attached	6978 Batiquitos Dr	CARLSBAD (92011)	2	2	999	Monthly	1/22/2020	999	21	\$2,800	\$2.80	\$2,800	\$2.80
51	180066878	Detached	829 Okra	CARLSBAD (92011)	2	2	1,181	Monthly	4/22/2019	1,181	113	\$3,700	\$3.13	\$3,700	\$3.13
Avg					2	2	1263			1263	39	\$2,763	\$2.21	\$2,761	\$2.21
Min					2	2	959			959	3	\$2,095	\$1.47	\$2,050	\$1.47
Max					2	2	1867			1867	208	\$4,525	\$3.62	\$4,525	\$3.62
Med					2	2	1226			1226	35	\$2,550	\$2.10	\$2,595	\$2.16

Item #6

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Information Provided Courtesy

Caitlin A Petrush

DRE LIC#: CA1757241

760-707-7372

Rincon Homes, Inc. - Office: 888-357-3553

©CRMLS and ©SDMLS. Information is believed to be accurate, but shall not be relied

Search Criteria

Area
(Minor)=92008,92009,92010
,92011 AND Class=RT AND
Off Market
Date=04/01/2019-06/06/20

04/06/2020

CMA Summary Report

RESIDENTIAL RENTAL Summary Statistics

High	Low	Average	Median
LP:\$6,495	\$2,100	\$3,364	\$3,147
SP:\$6,000	\$2,100	\$3,335	\$3,197

Sept. 1, 2020

RESIDENTIAL RENTAL - Active

Number of Properties: 4

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	PcrRfl	EstSF	DOM	LP	LP/EstSF
1	200011941	Twinhome	3057 Ocean St		CARLSBAD (92008)	3	2	Monthly	1,550	24	\$6,495	\$4.19
2	200012420	All Other Attached	6125 Paseo Ensililar		CARLSBAD (92009)	3	2	Monthly	1,044	22	\$2,395	\$2.29
3	190065602	All Other Attached	7051 Estrella De Mar Rd.	70	CARLSBAD (92009)	3	2	Monthly	1,783	106	\$2,800	\$1.57
4	200015141	Detached	2707 Southampton Rd		CARLSBAD (92010)	3	2	Monthly	1,345	4	\$3,000	\$2.23
Avg						3	2		1430	39	\$3,673	\$2.57
Min						3	2		1044	4	\$2,395	\$1.57
Max						3	2		1783	106	\$6,495	\$4.19
Med						3	2		1447	23	\$2,900	\$2.26

RESIDENTIAL RENTAL - Rented

Number of Properties: 38

Num	MLS #	Type	Address	Address 2	ZipArea	Beds	TotB	EstSF	PcrRfl	OffMktDate	EstSF	DOM	LP	LP/EstSF	SP	SP/EstSF
1	190036150	All Other Attached	810 Home Ave		CARLSBAD (92008)	3	2	1,200	Monthly	8/6/2019	1,200	36	\$2,795	\$2.33	\$2,795	\$2.33
2	190055176	Detached	4823 Neblina Dr		CARLSBAD (92008)	3	2	1,902	Monthly	11/18/2019	1,902	42	\$2,995	\$1.57	\$2,995	\$1.57
3	200012909	Detached	1982 E Pointe		CARLSBAD (92008)	3	2	1,442	Monthly	3/18/2020	1,442	4	\$3,100	\$2.15	\$3,100	\$2.15
4	190036154	All Other Attached	2741 Madison Street		CARLSBAD (92008)	3	2	1,750	Monthly	9/24/2019	1,750	85	\$3,195	\$1.83	\$3,195	\$1.83
5	190058548	All Other Attached	2038 Avenue Of The Trees		CARLSBAD (92008)	3	2	1,700	Monthly	11/4/2019	1,700	10	\$3,500	\$2.06	\$3,500	\$2.06
6	190058742	Detached	2550 Gregory		CARLSBAD (92008)	3	2	1,400	Monthly	11/13/2019	1,400	16	\$3,800	\$2.71	\$3,800	\$2.71
7	170051779	Detached	5016 Tierra Del Oro		CARLSBAD (92008)	3	2	1,973	Monthly	6/6/2019	1,973	610	\$4,000	\$2.03	\$4,000	\$2.03
8	190022760	Detached	3525 Garfield		CARLSBAD (92008)	3	2	1,769	Monthly	5/16/2019	1,769	20	\$6,000	\$3.39	\$6,000	\$3.39
9	190066043	Townhome	2903 Rancho Posta		CARLSBAD (92009)	3	2	1,156	Monthly	12/31/2019	1,156	4	\$2,450	\$2.12	\$2,450	\$2.12

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Information Provided Courtesy

Caitlin A Petrush
DRE LIC#: CA1757241
760-707-7372

Rincon Homes, Inc. - Office: 888-357-3553

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04/03/2020

Search Criteria

Area
 (Minor)=92008,92009,92010
 92011 AND Class=RT AND
 Off Market
 Date=04/01/2019-06/06/20

10	190055594	Twinhome	2286 Levante Street	B	CARLSBAD (92009)	3	2	1,250	Monthly	10/14/2019	1,250	5	\$2,675	\$2.14	\$2,675	\$2.14
11	190046558	All Other Attached	7310 Alta Vista		CARLSBAD (92009)	3	2	1,566	Monthly	8/27/2019	1,566	6	\$2,695	\$1.72	\$2,695	\$1.72
12	190052575	Townhome	6169 Paseo Granito		CARLSBAD (92009)	3	2	1,140	Monthly	10/8/2019	1,140	15	\$2,700	\$2.37	\$2,700	\$2.37
13	200006119	Townhome	2556 LUCIERNAGA ST		CARLSBAD (92009)	3	2	1,369	Monthly	2/14/2020	1,369	8	\$2,700	\$1.97	\$2,700	\$1.97
14	190054041	Twinhome	2821 Cebu Pl		CARLSBAD (92009)	3	2	1,340	Monthly	11/25/2019	1,340	55	\$2,750	\$2.05	\$2,800	\$2.09
15	190056931	Twinhome	2286 Levante Street	B	CARLSBAD (92009)	3	2	1,250	Monthly	11/14/2019	1,250	29	\$2,795	\$2.24	\$2,795	\$2.24
16	200010002	All Other Attached	7310 Alta Vista		CARLSBAD (92009)	3	2	1,566	Monthly	3/20/2020	1,566	21	\$2,795	\$1.78	\$2,795	\$1.78
17	190052400	All Other Attached	3127 Vista Rica		CARLSBAD (92009)	3	2	1,566	Monthly	11/12/2019	1,566	52	\$2,995	\$1.91	\$2,995	\$1.91
18	190044837	Detached	2745 La Gran Via		CARLSBAD (92009)	3	2	1,712	Monthly	9/30/2019	1,712	49	\$3,400	\$1.99	\$3,400	\$1.99
19	190029077	Detached	6416 Cayenne Lane		CARLSBAD (92009)	3	2	1,830	Monthly	7/1/2019	1,830	34	\$3,500	\$1.91	\$3,500	\$1.91
20	190066036	Detached	7245 carpa ct. 7245 carpa ct.		CARLSBAD (92009)	3	2	2,000	Monthly	1/12/2020	2,000	16	\$3,500	\$1.75	\$3,600	\$1.80
21	190061757	All Other Attached	2530 Navarra Dr	B	CARLSBAD (92009)	3	2	1,865	Monthly	12/28/2019	1,865	43	\$3,500	\$1.88	\$3,500	\$1.88
22	190029982	Detached	3080 Paseo Estribo		CARLSBAD (92009)	3	2	1,901	Monthly	7/3/2019	1,901	33	\$3,695	\$1.94	\$3,695	\$1.94
23	190041862	Detached	7603 Primavera Way		CARLSBAD (92009)	3	2	1,936	Monthly	8/23/2019	1,936	25	\$3,775	\$1.95	\$3,775	\$1.95
24	190011102	Detached	3021 Segovia Way		CARLSBAD (92009)	3	2	2,122	Monthly	4/22/2019	2,122	51	\$4,000	\$1.89	\$4,000	\$1.89
25	190015125	Detached	2251 Paseo Saucedal		CARLSBAD (92009)	3	2	1,963	Monthly	4/7/2019	1,963	18	\$4,250	\$2.17	\$4,250	\$2.17
26	200012965	Detached	2251 Paseo Saucedal		CARLSBAD (92009)	3	2	1,963	Monthly	3/15/2020	1,963	1	\$4,350	\$2.22	\$4,350	\$2.22
27	190053061	Detached	2544 La Costa Ave		CARLSBAD (92009)	3	2	2,428	Monthly	11/12/2019	2,428	49	\$4,975	\$2.05	\$4,975	\$2.05
28	190027095	Manufactured/Mobile Home	5228 Don Valdez Drive		CARLSBAD (92010)	3	2	1,344	Monthly	6/28/2019	1,344	43	\$2,100	\$1.56	\$2,100	\$1.56
29	190049583	All Other Attached	2716 Via Plato		CARLSBAD (92010)	3	2	1,104	Monthly	9/16/2019	1,104	10	\$2,525	\$2.29	\$2,525	\$2.29
30	190015130	All Other Attached	2866 Englewood Way		CARLSBAD (92010)	3	2	1,362	Monthly	4/12/2019	1,362	22	\$2,695	\$1.98	\$2,695	\$1.98
31	190052589	All Other Attached	2804 Winthrop Ave		CARLSBAD (92010)	3	2	1,362	Monthly	12/30/2019	1,362	100	\$2,700	\$1.98	\$2,700	\$1.98
32	190057625	Townhome	2810 Via Cascada		CARLSBAD (92010)	3	2	1,104	Monthly	1/10/2020	1,104	81	\$2,750	\$2.49	\$2,750	\$2.49
33	190057520	Detached	3604 Kingston St		CARLSBAD (92010)	3	2	1,996	Monthly	12/16/2019	1,996	58	\$3,100	\$1.55	\$3,100	\$1.55
34	190029137	Detached	2768 Avalon Ave.		CARLSBAD (92010)	3	2	1,600	Monthly	6/6/2019	1,600	10	\$3,200	\$2.00	\$3,200	\$2.00
35	190065342	Detached	1735 Catalpa Road		CARLSBAD (92011)	3	2	1,559	Monthly	1/11/2020	1,559	25	\$3,200	\$2.05	\$3,200	\$2.05
36	190065279	Detached	1749 Mallow Court		CARLSBAD (92011)	3	2	1,653	Monthly	1/19/2020	1,653	34	\$3,500	\$2.12	\$3,500	\$2.12
37	190021353	Detached	1038 Turnstone		CARLSBAD (92011)	3	2	2,400	Monthly	4/27/2019	2,400	8	\$3,950	\$1.65	\$3,950	\$1.65
38	190043339	Detached	1851 Tule Ct		CARLSBAD (92011)	3	2	1,512	Monthly	8/15/2019	1,512	10	\$4,000	\$2.65	\$4,000	\$2.65
# of Avg						3	2	1633			1633	45	\$3,332	\$2.06	\$3,336	\$2.07
Min						3	2	1104			1104	1	\$2,100	\$1.55	\$2,100	\$1.55
Max						3	2	2428			2428	610	\$6,000	\$3.39	\$6,000	\$3.39

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Information Provided Courtesy

Caitlin A Petrush
DRE LIC#: CA1757241
760-707-7372
Rincon Homes, Inc. - Office: 888-357-3553

Search Criteria

Area
(Minor)=92008,92009,92010
92011 AND Class=RT AND
Off Market
Date=04/01/2019-06/06/20

PLANNING COMMISSION RESOLUTION NO.7374

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, RECOMMENDING APPROVAL OF AMENDMENTS TO THE ZONE CODE, VILLAGE AND BARRIO MASTER PLAN AND LOCAL COASTAL PROGRAM TO ENSURE CONSISTENCY WITH STATE LAW RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

CASE NAME: ACCESSORY DWELLING UNIT AMENDMENTS 2020

CASE NO: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006

WHEREAS, the City Planner has prepared amendments to the Zone Code, Village and Barrio Master Plan and Local Coastal Program, pursuant to Chapter 21.52 of the Carlsbad Municipal Code, to ensure consistency with state laws related to accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the City Planner has prepared a Local Coastal Program Amendment, as provided in Public Resources Code Section 30514 and Section 13551 of California Code of Regulations Title 14, Division 5.5, to ensure consistency with the Zone Code and Village and Barrio Master Plan; and

WHEREAS, the proposed amendment is set forth in the draft City Council Ordinance, Exhibit A dated, **June 17, 2020**, and attached hereto **ZCA2020-0002/AMEND 2020-0005/LCPA 2020-0006 ACCESSORY DWELLING UNIT AMENDMENTS 2020**; and

WHEREAS, California Coastal Commission Regulations require a six-week public review period for any amendment to the Local Coastal Program; and

WHEREAS, on May 20, 2020, the Airport Land Use Commission reviewed and found that the proposed Zone Code Amendment are consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, the Planning Commission did on **June 17, 2020**, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to

the Zone Code Amendment, Village and Barrio Master Plan Amendment and Local Coastal Program Amendment.

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

- A) That the foregoing recitations are true and correct.
- B) At the end of the state-mandated six-week review period for the Local Coastal Program Amendment, starting on **May 15, 2020** and ending on **June 26, 2020**, staff shall present to the City Council a summary of the comments received.
- C) That based on the evidence presented at the public hearing, the Commission **RECOMMENDS APPROVAL** of **ACCESSORY DWELLING UNIT AMENDMENT 2020 – ZCA2020-0002/AMEND 2020-0005/LCPA 2020-0006**, based on the following findings:

Findings:

- 1. That the proposed amendments to the Zone Code **ZCA 2020-0002** and Village and Barrio Master Plan **AMEND 2020-0005** are consistent with the General Plan, as described by the following:
 - Land Use Element Goal 2-G.4 – Provide balanced neighborhoods with a variety of housing types and density ranges to meet the diverse demographic, economic and social needs of residents, while ensuring a cohesive urban form with careful regard for compatibility.**
 - Land use Element Policy 2-P.6 – Encourage the provision of lower and moderate-income housing to meet the objectives of the Housing Element.**
 - Housing Element Program 3.15 – The city will continue to implement its Accessory Dwelling Unit Ordinance and support alternative types of housing.**
- 2. That the proposed amendments reflect sound planning principles, in that it amends the Zone Code and Village and Barrio Master Plan to ensure consistency with state law.
- 3. The proposed amendments are consistent with the City's Growth Management Program in that they do not conflict with Growth Management dwelling unit limitations and performance standards to ensure public facilities and services keep pace with development; **pursuant to Government Code 65852.2, accessory dwelling units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.**

4. That the proposed Local Coastal Program Amendment meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act and all applicable policies of the Carlsbad Local Coastal Program not being amended by this amendment, in that **the proposed amendments ensure consistency between the Carlsbad Zoning Ordinance and Village and Barrio Master Plan and state accessory dwelling unit regulations; and the amendments do not conflict with any coastal zone regulations, land use designations or policies, with which development must comply.**
5. That the proposed amendment to the Carlsbad Local Coastal Program is required to bring it into consistency with **the proposed Zone Code Amendment ZCA 2016-0001.**
6. That the City Planner has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the common sense exemption, Section 15061(b)(3) of the CEQA Guidelines, since there would be no possibility of a significant effect on the environment; and pursuant to Section 15282(h) of the CEQA Guidelines, which exempts from CEQA the adoption of an ordinance regarding accessory dwelling units to implement Section 65852.2 of the Government Code.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Carlsbad, held on **June 17, 2020**, by the following vote, to wit:

AYES: Commissioners Geldner, Lafferty, Luna, Meenes, and Stine

NOES: Chair Anderson, and Commissioner Merz

ABSENT:

ABSTAIN:



VELYN ANDERSON, Chairperson
CARLSBAD PLANNING COMMISSION

ATTEST:



DON NEU
City Planner

ACTION:

Motion by Commissioner Geldner, seconded by Commissioner Meenes, to adopt Resolution No. 7375 as amended. Motion carried, 7/0.

3. **ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006 – ACCESSORY DWELLING UNIT AMENDMENTS 2020** – Request for a recommendation to approve amendments to the Zone Code, Village and Barrio Master Plan and Local Coastal Program to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units. The City Planner has determined that the proposed amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15282(h) of the CEQA Guidelines.

City Planner Neu introduced Agenda Item 3 and stated Associate Planner Funk would make the staff presentation (on file in the Planning Division).

Associate Planner Funk gave the staff presentation.

Commissioner Stine asked for additional information on why staff is recommending 1,000 square feet as a maximum size and what neighboring cities are allowing. Specifically, Encinitas and Vista.

Associate Planner Funk stated that larger units may be built closer to neighbors, larger units increase demand for parking, and generally larger units accommodate more people. He stated the intent on recommending the smaller size is to balance the existing neighborhood's desire for compatibility and the need to provide affordable housing. He stated that Encinitas and Vista are both allowing up to 1,200 square feet. Escondido and Del Mar have drafts for 850-1,000. He stated the rest of the cities in the county are proposing up to 1,200 square feet.

City Planner Neu added that in previous years the city had lax standards covering accessory structures and some were being built to the property lines. He stated at one point the city council directed staff to review the standards to ensure compatibility in neighborhoods were being met and new standards for accessory structure were adopted.

Commissioner Stine suggested a compromise where studio and one bedroom units would be capped at 1,000 and two or three bedroom units would have the 1,200 square foot cap.

Associate Planner Funk stated that staff would support that if that is what the commission decided. He stated staff would also support 1,200 square feet across the board to simplify things suggesting the one size limit would be easier for staff and the public to understand and implement.

Chair Anderson asked if there were any members of the public who wished to speak on the project. Seeing none, she opened and closed public testimony at 5:27 p.m.

Commissioner Lafferty asked if stock plans would be provided with this proposal. She stated the smaller cap of 1,000 may be good in certain areas of the city, such as the barrio, where the lot sizes are smaller. She asked what fire safety was being considered with the reduced setbacks.

Associate Planner Funk stated that stock plans were not being developed at this time. He stated that could be something considered with the housing element update. He stated that the same fire building safety codes would apply to an accessory unit as if it were a main building.

Commissioner Lafferty stated it is concerning that there are no additional fire safety measures being considered when increasing density. She stated concern that a 60 day permit process will be difficult other agencies to meet, such as SDG&E.

City Planner Neu stated the 60 day permit process set out by the state is intended to limit the time frame that local jurisdictions have to act on the permit.

Chair Anderson stated that in her experience as a real estate agent, that the larger the unit the more expensive it will be to rent. She stated larger units will not be affordable. She stated in her recent search on rentals, a 700 square foot two-bedroom condo was renting for \$1,700. She stated a larger detached unit in a private area will exceed an amount that would qualify under the cities allocated RHNA numbers. She stated she is strongly opposed to increasing the staff recommendation of 1,000 square feet.

Assistant City Attorney Kemp stated that part of the intent of ADU's is to increase housing stock, not solely for affordability.

Associate Planner Funk confirmed that the only time an accessory dwelling unit would be required to be an affordable unit is when a developer is using the unit as part of their inclusionary requirement.

Commissioner Merz stated he supports staff's recommendation for a maximum size of 1,000 square feet. He stated the reduction in parking could adversely impact neighborhoods and he agrees that a smaller unit respects the character and compatibility of neighborhoods.

Commissioners Luna, Geldner, Meenes and Stine, stated support for the larger maximum size of 1,200 square feet. The supporting factors include additional housing stock, housing for elderly and extended family, simplifying the permit process by allowing a maximum size across the board, and allowing free market to dictate the size.

ACTION:

Motion by Commissioner Meenes, seconded by Commissioner Stine, to adopt Resolution No. 7374 as amended. Motion carried, 5/2 (Commissioner Anderson and Merz no).

4. **ZCA 2020-0001/LCPA 2020-0005 – DENSITY BONUS AMENDMENTS 2020** – Request for a recommendation to approve a Zone Code Amendment and Local Coastal Program Amendment to update the city's density bonus regulations to reflect changes in state law. The city planner has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because the amendments do not have the potential to cause a significant effect on the environment.

City Planner Neu introduced Agenda Item 4 and stated Associate Planner Funk would make the staff presentation (on file in the Planning Division).

Associate Planner Funk gave the staff presentation.

ACTION:

Motion by Commissioner Luna, seconded by Commissioner Meenes, to adopt Resolution No. 7373. Motion carried, 7/0.



CITY COUNCIL Staff Report

Meeting Date: Sept. 1, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Geoff Patnoe, Assistant City Manager
Geoff.patnoe@carlsbadca.gov, 760-434-2820
Subject: COVID-19 Actions and Expenditures Report

Recommended Action

Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate.

Executive Summary/Discussion

At the April 7, 2020, City Council meeting, the City Council voted unanimously to direct staff to return to the City Council with financial expenditure reports relating to the city's response to the COVID-19 pandemic. The city manager further committed to provide a bi-weekly update to the City Council on recent actions and expenditures related to the city's response to the pandemic. For these updates, staff from the following major service areas will provide verbal reports on current statistics, data, programming and relevant communications:

- City Manager's Office
- Emergency Operations
- Community Services
- Police
- Fire
- Economic Revitalization and Recovery
- Administrative Services

Fiscal Analysis

None.

Next Steps

Staff will continue to provide the reports bi-weekly until the end of the emergency.

Environmental Evaluation (CEQA)

This action does not constitute a "project" within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification

Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibits

None



CITY COUNCIL
Staff Report

Meeting Date Sept. 1, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Laura Rocha, Deputy City Manager
laura.rocha@carlsbadca.gov, 760-602-2415

David Graham, Chief Innovation Officer
david.graham@carlsbadca.gov, 760-434-5992

Subject Empower the Director of Emergency Services to Temporarily Suspend the Collection of Fees for Sidewalk Café, Outdoor Display, and Curb Café Permits to Mitigate the Economic Effects of the COVID-19 Pandemic State of Emergency on Local Businesses

Recommended Action

1. Adopt a resolution that includes the following actions:
 - a. Empower the director of emergency services to suspend the collection of fees for sidewalk café, outdoor display, and curb café permits until February 28, 2021, or for the duration of the local COVID-19 pandemic emergency, whichever is later
 - b. Empower the director of emergency services to suspend the collection of fees for sidewalk café, outdoor display, and curb café-related encroachment agreements until February 28, 2021, or for the duration of the local COVID-19 pandemic emergency, whichever is later
 - c. Authorize the director of emergency services to reimburse fees that were paid for sidewalk café, outdoor display, or curb café permits that were issued from March 1, 2020, to the effective date of this resolution using Economic Recovery and Revitalization Initiative funds set aside for contingency or future City Council decisions
 - d. Authorize the director of emergency services to reimburse fees that were paid for sidewalk café, outdoor display, or curb café-related encroachment agreements that were issued from March 1, 2020, to the effective date of this resolution using Economic Recovery and Revitalization Initiative funds set aside for contingency or future City Council decisions
 - e. Authorize the deputy city manager of administrative services to offset revenue lost from the suspension of fee collection associated with this action from the Economic Recovery and Revitalization Initiative funds set aside for contingency or future City Council decisions

- f. Authorize the director of emergency services to take any further action necessary and appropriate to carry out the purpose and intent of this resolution

Executive Summary

The city has a process to approve the use of public right-of-way for business operations that include sidewalk café, outdoor display, and curb café permits. The City Council has temporarily modified certain standards and land use rules to provide more flexibility in approving these permits during the pandemic. The city has since issued permits to more than 50 businesses allowing them to temporarily move their operations outdoors, onto private property, public sidewalks and on-street public parking spaces so that they can comply with the public health orders issued to fight COVID-19.

The City Council passed a minute motion on August 18, 2020, directing staff to present the council with this agenda item, which would enact a fee holiday for sidewalk café, outdoor display, and curb café permits.

The proposed resolution would empower the city manager, as the city’s director of emergency services, to suspend the fees on temporary and longer-term sidewalk café, outdoor display, and curb café permits. It would also allow the director to refund any outdoor activation permit fees that have been paid since March 1, 2020.

Discussion

The state and county public health orders issued to slow the spread of COVID-19 have closed indoor operations or reduced operable space for many businesses. In response, city staff have been working with local businesses to help them move their operations outdoors. The city has also temporarily suspended or modified certain land use rules to allow for a greater number and more varied types of businesses to operate on public sidewalks and in on-street public parking spaces.

The city has long allowed for the use of public sidewalks and public on-street parking through sidewalk café, outdoor display, and curb café permits. When the pandemic’s public health orders required the closure of indoor operations, businesses were able to use these permits to quickly activate outdoor spaces on public sidewalks and in on-street parking spots. Some businesses were also granted no-cost permits allowing them to use private property, such as their parking spaces, to add to their existing outdoor areas.

Outdoor commercial activation of the public right-of-way can contribute to a vibrant walkable experience in the city by allowing certain business operations to be appropriately conducted outdoors while still providing adequate space for pedestrians. Dining and shopping outdoors can enhance the vitality of the Village and other commercial areas throughout the city.

The fees associated with the temporary and longer-term permits to activate public right-of-way for business operations are as follows:

Type of permit	Fees
Private property activation	\$0
Sidewalk café or outdoor display	\$381, one time

Parking stall used for temporary or long-term curb café	\$381, one time + \$1,200 per parking stall per year
Encroachment agreement processing for activation improvements affixed to the public sidewalk	\$369, one time

These fees were set long before the pandemic’s health restrictions were imposed on businesses across the state. A statewide public health order was issued July 13, 2020, closing bars, pubs, brewpubs, and indoor operations of dine-in restaurants, wineries and tasting rooms, family entertainment centers, movie theaters and certain other attractions. The orders allow these businesses to move their operations outdoors, which studies show reduces the risk of disease transmission.

It is not known when indoor operations at businesses that have been closed by the statewide public health order will be allowed to reopen. In his news conference on August 19, 2020, Governor Gavin Newsom announced that the state was working with county health officers on a plan for reopening businesses. That plan will include new criteria and new conditions. The approach currently under consideration would likely involve reopening different sectors in stages, in a phased approach intended to give epidemiologists the time they need to better understand whether a particular type of business or activity causes COVID-19 case rates to increase.

The city has been trying to help businesses weather these uncertain times by reducing barriers to business operations during the pandemic. Suspending the collection of fees businesses have been required to pay to move operations outdoor is in keeping with these ongoing efforts.

The proposed resolution would reimburse applicants for the fees paid for sidewalk café, outdoor display, and curb café permits from March 1, 2020, to the effective date of the resolution associated with this action.

On August 24, 2020 the Ad Hoc City Council Economic Revitalization Subcommittee considered the proposed temporary suspension of permit fees outlined by this item and recommended approval.

Suspending these fees will provide economic relief to businesses that have had indoor operations restricted due to the public health orders while providing more outdoor space for business activities, which reduces the risk of disease transmission and contributes to the longer-term activation of public right-of-way to foster dynamically walkable commercial areas.

Fiscal Analysis

The city has allocated \$5 million to COVID-19 related economic response, recovery and revitalization. Fee reimbursement and the revenue offset from the suspension of fee collection will be funded from the Economic Recovery and Revitalization Initiative funds set aside for contingency or future city council actions. There is \$225,000 remaining for contingency or future city council actions.

It is difficult to estimate how many sidewalk café, outdoor display, and curb café permits may be issued given the uncertain nature of the COVID-19 health emergency. To estimate the

potential fiscal impact of this measure, staff evaluated permit applications that are in process, engaged with businesses that expressed interest in the temporary right-of-way permits and conducted a citywide visual assessment of business areas. An analysis of permitting activity shows that there is significantly more use of private property than the public right-of-way by businesses moving operations outdoors. Fourteen percent of temporary activation permits are on public sidewalks and public on-street parking.

The city collected between \$7,500 and \$8,000 in fees for outdoor activation permits issued from March 1 to Aug. 25, 2020. Staff will present updated fees paid to date information to the City Council during the council meeting.

Given the information currently available, staff estimates that suspending the collection of fees authorized by this action could result in an approximate loss of \$15,000 to \$25,000 over the next six months. This would be offset by the Economic Recovery and Revitalization Initiative funds set aside for contingency or future City Council actions. Future public health orders, the length of time the COVID-19 pandemic persists, and the decisions of local businesses will either increase or decrease the loss of revenue that would need to be covered.

Next Steps

City staff will contact and reimburse fees paid for permits issued from March 1, 2020, to the effective date of the resolution. City staff will continue outreach and engagement with businesses to support permitting outdoor operations of businesses on private and public right-of-way. Staff will continue working with businesses that have not been granted permits but are conducting business operations on outdoor private property areas or in to public right-of-way to educate their managers on the requirements and help bring the businesses into compliance.

Environmental Evaluation (CEQA)

This action does not constitute a “project” within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification

Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibits

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, EMPOWERING THE DIRECTOR OF EMERGENCY SERVICES TO TEMPORARILY SUSPEND THE COLLECTION OF FEES FOR SIDEWALK CAFÉ, OUTDOOR DISPLAY, AND CURB CAFÉ PERMITS

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the spread of COVID-19; and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a statewide state of emergency as a result of the spread of COVID-19; and

WHEREAS, on March 16, 2020, the Director of Emergency Services proclaimed a local state of emergency as a result of the COVID-19 pandemic, which the City Council subsequently ratified and extended; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing individuals living in California to comply with a State Public Health Officer order to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations at critical infrastructure sectors; and

WHEREAS, on May 4, 2020, Governor Newsom issued Executive Order N-60-20 allowing non-essential businesses to reopen in four stages in compliance with criteria set by the State Public Health Officer and based on certain public health criteria being met on a county-by-county basis; and

WHEREAS, on June 19, 2020, dine-in restaurants, alcohol-serving businesses offering dine-in meals, personal care services businesses and other businesses in the County of San Diego were permitted to reopen subject to compliance with state issued guidance; and

WHEREAS, on July 13, 2020, a statewide public health officer order was issued closing bars, pubs, brewpubs, and closing indoor operations of dine-in restaurants, wineries, tasting rooms, family entertainment centers, movie theaters, zoos, museums, and cardrooms; and

WHEREAS, the July 13, 2020, statewide public health officer orders states that the rationale for moving activities outdoors to reduce risk is anchored in the science of disease transmission and recent studies show that transmission is greater in indoor settings due to the release of infectious particles into the air when someone speaks, coughs, sneezes, or sings, which is exacerbated in indoor spaces particularly when lacking appropriate ventilation; and

WHEREAS, the State of California has issued industry guidance for businesses that are allowed to reopen that require modification to business operations which has a direct cost and may have an impact on the space in which businesses may operate thus impacting revenue; and

WHEREAS, the impact of COVID-19 on businesses and the workforce is significant with the State of California unemployment rate in July standing at 13.3%, which is higher than the 12.3% it was during the height of the Great Recession (March, October, and November 2010); and

WHEREAS, the City of Carlsbad unemployment rate in June was 11% compared to a 2019 average of 2.9%; and

WHEREAS, the City of Carlsbad conducted a survey of businesses impacted by COVID-19 which ended in July and found that seventy-two percent of companies indicated the need for further financial assistance to maintain operations over the next six months; and

WHEREAS, 78% of businesses surveyed indicated that they experienced a revenue decrease of more than 25% due to COVID-19; and

WHEREAS, it is in the public interest to take steps to ensure local businesses remain economically viable during the COVID-19 pandemic state of emergency; and

WHEREAS, there is a public benefit to providing economic relief to businesses impacted by the COVID-19 health emergency, so they may continue providing jobs and tax revenue to the City of Carlsbad to fund public services; and

WHEREAS, there is a public benefit to permitting sidewalk café, outdoor display, and curb café operations for the enjoyment of patrons and to assist businesses in generating revenue; and

WHEREAS, there is a public benefit to expanding outdoor business operations to reduce the risk of disease transmission which according to the California Department of Public Health is exacerbated in indoor spaces particularly when lacking appropriate ventilation; and

WHEREAS, adopting this resolution is necessary and appropriate to mitigate the immediate threats to the public health, safety, and welfare of residents and local businesses from the significant economic impacts of the COVID-19 pandemic by providing economic relief and providing resources to remain open in compliance with the public health orders.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.

2. That the director of emergency services is empowered to suspend the collection of fees for the issuance of sidewalk café, outdoor display, and curb café permits until February 28, 2021, or for the duration of the local COVID-19 pandemic emergency, whichever is later.
3. That the director of emergency services is empowered to suspend the collection of fees for the issuance of sidewalk café, outdoor display, and curb café related encroachment agreements until February 28, 2021, or for the duration of the local COVID-19 pandemic emergency, whichever is later.
4. That the director of emergency services is authorized to reimburse fees that were paid for sidewalk café, outdoor display, or curb café permits that were issued from March 1, 2020, until the effective date of this resolution funded by the Economic Recovery and Revitalization Initiative monies set aside for contingency or future City Council decisions.
5. That the director of emergency services is authorized to reimburse fees that were paid for encroachment agreements related to sidewalk café, outdoor display, or curb café permits issued from March 1, 2020, until the effective date of this resolution funded by the Economic Recovery and Revitalization Initiative monies set aside for contingency or future City Council decisions.
6. That the deputy city manager, administrative services is authorized to offset revenue lost from the suspension of fee collection associated with this action from the Economic Recovery and Revitalization Initiative monies set aside for contingency or future city council actions.
7. That the director of emergency services may take any further action necessary and appropriate to carry out the purpose and intent of this resolution.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)



CITY COUNCIL
Staff Report

Meeting Date September 1, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Laura Rocha, Deputy City Manager
laura.rocha@carlsbadca.gov, 760-602-2415

David Graham, Chief Innovation Officer
david.graham@carlsbadca.gov, 760-434-5992

Subject Sponsorship of Gift Carlsbad Shop Local Program

Recommended Action

1. Adopt a resolution that includes the following actions:
 - a. Finds that sponsoring the Gift Carlsbad shop local program to mitigate the economic impacts of COVID-19 on small businesses serves a public purpose and provides a public benefit
 - b. Authorizes the deputy city manager, administrative services to appropriate and disperse up to \$50,000, matching other donations provided to the Gift Carlsbad shop local program administered by the Carlsbad Chamber of Commerce, from the balance of funds previously appropriated for the Economic Recovery and Revitalization Initiative for contingency or future city council actions

Executive Summary

The public health orders issued in response to the COVID-19 pandemic have required the complete closure, closure of indoor operations, or modification of business operations to reduce the risk of disease transmission. Businesses in the food and beverage, retail, and personal care services have been affected. Many of these are small businesses, which make up over 95% of Carlsbad businesses.

Some businesses have taken advantage of federal assistance through programs such as the Paycheck Protection Program and the Small Business Administration Emergency Disaster Impact Loan program. Unfortunately, federal financial assistance is running out for many businesses and no new federal resources have been authorized.

Many local small businesses rely on the summer tourist season for a boost in revenue that helps them stay open through the rest of the year. Visitor-serving accommodations were closed to all travelers except essential workers from the beginning of Governor Newsom's stay-at-home order until June 12, 2020.

The complete closure, closure of indoor operations, modification of business operations, and a decrease in tourism since the beginning of the pandemic have all had a significant impact on local businesses.

To encourage people to patronize local small businesses, the Carlsbad Chamber of Commerce, the Carlsbad Village Association and Visit Carlsbad have developed Gift Carlsbad, a shop local gift card program. The program allows people to purchase gift cards online for businesses in the city that have signed up for the program. The gift card, for use at a specific business, comes with a bonus gift card that adds additional value for purchases at that business. The bonus card is funded by private fundraising and, if this action is approved by the City Council, public funding from the city.

This shop local program provides an added injection of revenue for participating businesses and discounts to residents at a time when resources are short for many people.

The action staff is recommending would authorize \$50,000 of the Economic Recovery and Revitalization Initiative funds set aside for contingency or for future city council actions to be used as matching funds for the program administered by the Chamber of Commerce.

Discussion

Overview

On May 5, 2020, the City Council approved \$5 million in funding for the Economic Recovery and Revitalization Initiative to support businesses affected by the COVID-19 pandemic and the restrictions in the health orders issued to slow the spread of the disease. The City Council also has approved the following funding priorities:

- \$4,400,000 to the small business loan program
- \$250,000 to a joint marketing strategy with the Chamber of Commerce and the Carlsbad Village Association
- \$225,000 to be held as a contingency or for future City Council decisions
- \$50,000 for the city to secure landlord-tenant mediation and renegotiation services
- \$50,000 for relief for the leaseholders of city properties
- \$25,000 for business community outreach

In addition to these efforts, the Ad Hoc City Council Economic Revitalization Subcommittee, the City Council, and city staff have taken significant steps to address the economic impacts of COVID-19. This includes:

- Passage of a commercial eviction moratorium
- Empowering the director of emergency services (the city manager) to temporarily suspend or modify certain land development standards to mitigate the economic impact of COVID-19
- Creating joint communications with the Carlsbad Chamber of Commerce and the Carlsbad Village Association and distributing them to every business license holder in Carlsbad
- Funding the “Carlsbad is Calling” \$250,000 business promotion and tourism marketing campaign
- Funding and delivering resources and materials to Carlsbad hotels and motels, encouraging guests to observe safety protocols while in the city

Supporting local small businesses has been a goal of the city’s economic response and recovery efforts. Encouraging residents and visitors to patronize food and beverage, retail, and personal services in Carlsbad through a shop local program will provide economic relief when businesses

need it the most. The city can leverage private funding and encourage additional fundraising by sponsoring a shop local program developed by business organizations in Carlsbad. This would serve a public purpose and provide a public benefit by providing revenue to local businesses and the jobs they provide.

Gift Carlsbad – Shop Local stimulus program

The Carlsbad Chamber of Commerce, Carlsbad Village Association, and Visit Carlsbad, with input from staff, have created a shop local program that will benefit Carlsbad businesses, especially small businesses through a value-added gift card program. The organizers have asked the city to help fund the program.

The program is designed to generate much-needed revenue for Carlsbad businesses in the season that follows the summer peak of tourist activity. The program will also help residents and guests by stretching their dollar at a time when local unemployment is at 11%. Based on staff research, similar programs are underway or have been executed by the City of Freemont, City of Clovis, the Downtown San Diego Partnership, City of Vista, La Jolla Village Merchant's Association and several other cities.

People will be able to buy a gift card from an online marketplace at GiftCarlsbad.com. The program will run for a defined timeline to encourage customers to act quickly, ensuring revenue flows to participating businesses quickly. The program will launch in September and may be extended through October based upon participation and funding.

The program helps Carlsbad businesses by incentivizing people to purchase gift cards that are accompanied by a bonus gift card with their purchase. If customers buy a \$25 gift card for a participating business, they'll receive a \$5 bonus card. If customers buy a \$40 gift card for a participating business, they'll receive a \$10 bonus. Bonus funds and administration costs are covered by fundraising from private sources and, with the council's approval, support from the city. The Chamber of Commerce's non-profit foundation has committed the first \$25,000 to the program.

The program is to be administered by the Chamber of Commerce and will be supported by collaboration with other local businesses and business organizations. Any funds raised from private sector or philanthropic sources will be donated to a non-profit foundation run by the chamber.

Staff from the Chamber of Commerce, Carlsbad Village Association, and Visit Carlsbad staff will jointly market the program and get businesses to sign up. All Carlsbad businesses may participate.

In response to the request that the city provide funding for the program, staff recommends that \$50,000 be appropriated, matching other donations provided to the Gift Carlsbad shop local program, from the Economic Recovery and Revitalization Initiative appropriation for contingency or future City Council actions. City funding will match \$25,000 already committed to the program by the Chamber of Commerce Foundation and will provide a dollar-for-dollar match for any additional funds raised up to a limit of \$50,000.

The program is designed to use public and private funding to leverage the buying power of consumers. Potential customers are incentivized to participate in the gift card program because

they receive the benefit of the bonus card. That incentive, which benefits the consumer, also results in an economic multiplier for every dollar donated by public or private sources. If private fundraising equals the amount of public matching dollars, then it is estimated that at least \$395,000 in revenue would be generated for participating Carlsbad businesses. The actual economic impact of the program may be even greater. When using a gift card, customers often spend more than the amount of the card which would result in greater revenue for participating businesses than the conservative estimate provided here. Promoting the program may make potential customers aware of businesses they have not frequented leading to new patrons for participating businesses. For every dollar raised from public or private sources, there is at least a \$3 to \$4 impact in revenue directly to participating businesses.

Fiscal Analysis

The city has allocated \$5 million to COVID-19-related economic response, recovery and revitalization. The \$50,000 sponsorship for the Gift Carlsbad shop local program administered by the Carlsbad Chamber of Commerce will be funded by the Economic Recovery and Revitalization Initiative funds set aside for contingency or future City Council actions. There is a balance of \$225,000 remaining in that funding priority and if this action is approved that balance will be \$175,000.

Next Steps

City staff will also participate in actively marketing the program to local businesses and residents. Updates regarding the progress of the program will be provided to the Ad Hoc City Council Economic Revitalization Subcommittee and during the regular COVID-19 updates at City Council. Upon completion of the program staff will evaluate the impact of the program and assess additional ways to support local businesses during the economic response to COVID-19 and recovery efforts.

Environmental Evaluation (CEQA)

This action does not constitute a “project” within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification

Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibits

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROPRIATING FUNDING TO THE CARLSBAD CHAMBER OF COMMERCE TO SPONSOR THE GIFT CARLSBAD SHOP LOCAL PROGRAM

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the spread of COVID-19; and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a statewide state of emergency as a result of the spread of COVID-19; and

WHEREAS, on March 16, 2020, the Director of Emergency Services proclaimed a local state of emergency as a result of the COVID-19 pandemic, which the City Council subsequently ratified and extended; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing individuals living in California to comply with a State Public Health Officer order to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations at critical infrastructure sectors; and

WHEREAS, on May 4, 2020, Governor Newsom issued Executive Order N-60-20 allowing non-essential businesses to reopen in four stages in compliance with criteria set by the State Public Health Officer and based on certain public health criteria being met on a county-by-county basis; and

WHEREAS, on June 19, 2020, dine-in restaurants, alcohol-serving businesses offering dine-in meals, personal care services businesses and other businesses in the County of San Diego were permitted to reopen subject to compliance with state issued guidance; and

WHEREAS, on July 13, 2020, a statewide public health officer order was issued closing bars, pubs, brewpubs, and closing indoor operations of dine-in restaurants, wineries, tasting rooms, family entertainment centers, movie theaters, zoos, museums, personal care services, and cardrooms; and

WHEREAS, the State of California has issued industry guidance to businesses that are allowed to reopen requiring modification to business operations, which has a direct cost and may have an impact on the space in which businesses may operate thus impacting revenue; and

WHEREAS, the impact of COVID-19 on businesses and the workforce is significant with the State of California unemployment rate in July standing at 13.3%, which is higher than the 12.3% it was during the height of the Great Recession (March, October, and November 2010); and

WHEREAS, the City of Carlsbad unemployment rate in July was 11.6% compared to a 2019 average of 2.9%; and

WHEREAS, the City of Carlsbad conducted a survey of businesses impacted by COVID-19 which ended in July and found that 72% of companies indicated the need for further financial assistance to maintain operations over the next six months; and

WHEREAS, 78% of businesses surveyed indicated that they experienced a revenue decrease of more than 25% due to COVID-19; and

WHEREAS, it is in the public interest to take steps to ensure local businesses remain economically viable during the COVID-19 pandemic state of emergency; and

WHEREAS, there is a public benefit to providing economic relief to businesses impacted by the COVID-19 health emergency, so they may continue providing jobs and tax revenue to the City of Carlsbad to fund public services; and

WHEREAS, there is a public benefit from the city sponsorship of the Gift Carlsbad shop local program which can provide \$395,000 in revenue to Carlsbad businesses if fully funded; and

WHEREAS, there is a public benefit in promoting Carlsbad businesses through the Gift Carlsbad shop local program which may increase the total economic impact of the program and support small business entities in the city; and

WHEREAS, adopting this resolution is necessary and appropriate to mitigate the immediate threats to the public health, safety, and welfare of residents and local businesses from the significant economic impacts of the COVID-19 pandemic by providing economic relief and providing resources to remain open in compliance with the public health orders.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That sponsoring the Gift Carlsbad shop local program to mitigate the impacts of COVID-19 serves a public purpose and provides a public benefit.
3. That the deputy city manager, administrative services is authorized to appropriate and disburse up to \$50,000, matching other donations provided to the Gift Carlsbad shop local program administered by the Carlsbad Chamber of Commerce, from the balance

of funds previously appropriated for the Economic Recovery and Revitalization Initiative for contingency or future city council actions.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)



CITY COUNCIL
Staff Report

Meeting Date: Sept. 1, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Sheila Cobian, Assistant to the City Manager
Sheila.cobian@carlsbadca.gov or 760-494-2917

Subject: Review of Carlsbad Police Policies and Processes, Including Use of Force Policy and De-Escalation Policy

Recommended Action

Consider a request from City Council Member Schumacher to review the following:

1. The administrative reorganization that placed the Homeless Response Plan under the Police Department
2. Carlsbad Municipal Code Section 2.04.060.B and 2.06.090.B, which allow a City Council member or the mayor to serve, without compensation, as a voluntary police officer
3. City of Carlsbad use of force policy
4. City of Carlsbad de-escalation policy

Executive Summary

On July 9, 2020, Council Member Schumacher submitted the attached email (Exhibit 1) to the city manager requesting that these topics be placed on a City Council agenda for the council's discussion:¹

- Administrative reorganization of homeless response plan
- Carlsbad Municipal Code sections that allow council members or the mayor to serve as voluntary police officers
- City police policy on use of force
- City police policy on de-escalation

¹ Carlsbad Municipal Code Section 1.20.060.C states, "The city manager is responsible for scheduling matters for consideration by the council based on established council priorities, the city's business and governmental needs, and requirements of applicable law. Items of business may be placed on the agenda by any member of the council, the city manager or the city attorney, or by council action. Council-originated items must be submitted to the city manager not less than seven days before the date of the council meeting at which the member desires the item to appear on the agenda. Nothing in this section precludes a council member from requesting council action to place an item on the agenda for a future meeting."

Discussion

Administrative reorganization of Homeless Response Plan

Carlsbad Municipal Code section 2.12.035 vests in the City Manager the responsibility to administratively reorganize city offices and functions to achieve efficient, effective and economical conduct of the city's business. The City Manager regularly reviews organizational efficiencies and on occasion will make the decision to shift responsibilities from one department to another.

The City Council established the Homeless Response Plan on Oct. 24, 2017. The Plan was originally administered by a cross-departmental team of staff from the Housing & Neighborhood Services Department and the Carlsbad Police Department with the budget residing in Housing & Neighborhood Services.

The city uses Interfaith Community Services, Inc. to provide a range of services to the homeless in the city in partnership with the Police Department's Homeless Outreach Team. In July 2019, the administration of the contract with this provider was shifted from Housing & Neighborhood Services to the Police Department. This transition was the result of a realignment of duties within Housing & Neighborhood Services and Human Resources. The staff member who was responsible for the administration of the Interfaith Services contract was reassigned to the Human Resources department because her primary function was to be the city's volunteer coordinator.

In fall 2019, it was determined that the administration of the Homeless Response Plan as well as the homeless program manager position would be moved to the Police Department.

The administration of the plan was shifted to the Police department to provide for:

- Enhanced communication between the homeless program manager, the Homeless Outreach Team and social workers
- Enhanced coordination by the homeless program manager regarding community concerns and the Homeless Outreach Team and social workers in the field
- A better aligned chain of command from the homeless response plan manager, to the Homeless Outreach Team sergeant to the police lieutenant overseeing the Homeless Outreach Team
- Less confusion by eliminating the potential for conflicting directions from different departments for the city staff charged with addressing homelessness issues
- The responsibility to implement the Homeless Response Plan resting with the department that has the majority of resources to perform the work
- Direct daily contact between the homeless program manager and the officers on the Homeless Outreach Team
- Better data collection and documentation, which is essential to the success of the program

The approved budget for administration of the plan and associated staff within Housing & Neighborhood Services for fiscal year 2019-20 was \$631,090, with \$521,544 for maintenance and operations from the Housing Trust Fund Budget and \$109,546 for personnel from the General Fund.

The homeless program manager position was approved in the fy 2019-20 budget and was hired on Dec. 9, 2019. The program manager's salary and benefits were charged to the Housing & Neighborhood Services budget in the General Fund for the month of December 2019. The salary and benefits for this position started being charged to the police budget in the General Fund in January 2020. Although the expenses for the position were charged to the police budget, the program expenses remained in the Housing Trust Fund. No additional budget was requested or approved during the fiscal year for this program.

With the adoption of the fy 2020-21 budget, the program expenses that were historically budgeted in the Housing Trust Fund were budgeted in the General Fund in the Police budget. The adopted budget for administration of the plan and associated staff under the Police Department for fiscal year 2020-21 is \$680,289, with \$546,000 for maintenance and operations and \$134,289 for personnel. Although no additional positions were added as a result of the transition of the program to the Police Department, the adopted budget reflected the program manager classification as a senior program manager.

Carlsbad Municipal Code Sections 2.04.060.B and 2.06.090.B

State law addresses the eligibility of a local agency employee of a general law city to serve on the legislative body of the entity. Generally, Government Code section 53227 prohibits an employee of a local agency from also serving as a member of the legislative body. However, Government Code section 53227 (c) makes an exception for a volunteer firefighter. The subsection is silent as to a volunteer police officer.

In 2009, the Carlsbad City Council exercised its newly adopted charter powers, which allowed the Council to exercise plenary authority over matters of local concern, to allow a volunteer police officer eligibility to serve as a member of the legislative body. On Feb. 17, 2009, the City Council adopted Ordinance No. CS-023, which added Municipal Code sections 2.04.060.B and 2.06.090.B to allow a City Council member or the mayor to serve, without compensation, as a voluntary police officer. The sections read as follows:

2.04.060 Eligibility for office.

- A. A person is not eligible to hold office as a member of the city council unless that person is, at the time of assuming such office, an elector of the City of Carlsbad.
- B. Notwithstanding Government Code Section 53227 or any successor statute regulating the eligibility of a local agency employee to serve on the legislative body of that agency, a city council member may simultaneously serve, without compensation, as a volunteer police officer subject to all federal and state laws, municipal ordinances and rules and regulations of the police department. (Ord. CS-023 § 1, 2009)

2.06.090 Eligibility for office.

- A. A person is not eligible to hold office as mayor unless that person is, at the time of assuming such office, an elector of the city.
- B. Notwithstanding Government Code Section 53227 or any successor statute regulating the eligibility of a local agency employee to serve on the legislative body of that agency, the mayor may simultaneously serve, without compensation, as a volunteer police officer subject to all federal and state laws, municipal ordinances and rules and regulations of the police department. (Ord. CS-023 § 2, 2009; Ord. 1258 § 3, 1982)

City of Carlsbad Use of Force Policy

The Carlsbad Police Department's Use of Force Policy states,

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties. The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

The policy defines force as, "the application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained."

The policy requires officers to intercede if they witness another officer using "force that is clearly beyond that which is objectively reasonable under the circumstances." It also lists the factors used to determine the reasonableness of force, details when the use of deadly force is justified, prohibits shooting at or from moving vehicles and establishes specific requirements for reporting and document any use of force by the city's police officers.

The policy was presented to City Council on Aug. 18 and is attached as Exhibit 3.

City of Carlsbad de-escalation policy

The Carlsbad Police Department adopted the policy used by law enforcement agencies in San Diego County. This policy, Countywide Crisis Management Philosophy; Considerations for De-escalation, defines de-escalation as, "the use of strategies and/or techniques to gain voluntary compliance from an individual in order to gain or maintain control of an incident while reducing the need for physical coercion. These strategies and/or techniques are used to increase time and distance from the individual while attempting to establish effective communication."

The policy states,

When law enforcement is called upon to respond to a crisis or criminal acts, they will if reasonable under the circumstances, use tactics and techniques to persuade the individual to voluntarily comply or mitigate the need to use increased physical tactics to resolve the situation safely. Some situations require an immediate response, while other situations may allow peace officers the opportunity to communicate with the individual, refine tactical plans, and, if necessary, call for additional resources. When reasonable opportunity exists, peace officers should consider the concepts of Pre-Engagement, De-Escalation, and Disengagement, consistent with the definitions provided in this document.

The policy was presented to City Council on Aug. 18 and is attached as Exhibit 4.

Additional information

Policy issues related to the Police Department's use of force were detailed in a June 4, 2020, memorandum to the City Council. In this memorandum, staff reported that the Police Department had already put into place the policies recommended by the Campaign Zero – Eight Can't Wait Program. The memorandum is attached as Exhibit 5.

Fiscal Analysis

No city funding is being requested.

Next Steps

Should City Council decide to move forward with a review of items within their purview, they may consider the following mechanisms to facilitate the review:

- Incorporate review into the ad-hoc Carlsbad Municipal Code and City Council Policy Update Subcommittee work. The Subcommittee is currently comprised of City Council Members Blackburn and Schumacher with staff assistance from the City Attorney's office and City Clerk's office.
- Form a new ad-hoc subcommittee comprised of two members of the City Council.
- Full City Council review – staff would bring forward recommendations for full City Council consideration based on City Council direction.

Depending on the option selected by Council, staff will return with recommendations for a process that incorporates all stakeholders identified by Council.

Environmental Evaluation (CEQA)

This action does not constitute a "project within the meaning of the California Environmental Quality Act under Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for viewing at least 72 hours prior to the scheduled meeting date.

Exhibits

1. July 9, 2020 – Request from Council Member Schumacher to place an item on a City Council Agenda (Email correspondence)
2. Carlsbad Municipal Code Sections 2.04.060 and 2.06.090
3. Carlsbad Use of Force Policy 300 – Use of Force
4. Carlsbad Special Order 2020-04 – Consideration for De-Escalation
5. June 4, 2020, Council Memorandum – Campaign Zero-Eight Can't Wait Program

Sheila Cobian

Subject: FW: Request for Agenda Item

From: Scott Chadwick
Sent: Tuesday, August 11, 2020 12:14 PM
To: Sheila Cobian <Sheila.Cobian@carlsbadca.gov>
Subject: FW: Request for Agenda Item

From: Cori Schumacher <Cori.Schumacher@carlsbadca.gov>
Sent: Thursday, July 9, 2020 12:47 PM
To: Scott Chadwick <scott.chadwick@carlsbadca.gov>
Cc: Geoff Patnoe <Geoff.Patnoe@carlsbadca.gov>; Jason Haber <Jason.Haber@carlsbadca.gov>
Subject: Request for Agenda Item

Dear Scott,

Pursuant to CMC § 1.20.060: "*Items of business may be placed on the agenda by any member of the council...*"

I would like to request that an agenda item be added to a non-workshop meeting of the Carlsbad City Council, after we return from summer recess (end of August or the beginning of September), to discuss and take action as appropriate on the following:

A request to the Carlsbad Council to initiate a review of select Carlsbad Police policies and processes, including use-of-force policies and de-escalation policies (e.g. the Eight Can't Wait policies).

Council should begin the review with the following:

1. A recent administrative reorganization that placed the Homeless Response Plan under the Police Department. It had previously been located within the Housing Department.
2. Carlsbad Municipal Code sections that allow a Council Member and the Mayor to simultaneously serve as a reserve police officers in the Carlsbad Police Department.
3. Carlsbad's Use-of-Force Policies
4. Carlsbad's De-escalation Policies

Please let me know if you would like me to provide any further details.

Sincerely,
Cori Schumacher
Councilmember, District 1
City of Carlsbad

Carlsbad Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 2 ADMINISTRATION AND PERSONNEL](#)[Chapter 2.04 CITY COUNCIL](#)**2.04.060 Eligibility for office.**

- A. A person is not eligible to hold office as a member of the city council unless that person is, at the time of assuming such office, an elector of the City of Carlsbad.
- B. Notwithstanding [Government Code](#) Section 53227 or any successor statute regulating the eligibility of a local agency employee to serve on the legislative body of that agency, a city council member may simultaneously serve, without compensation, as a volunteer police officer subject to all federal and state laws, municipal ordinances and rules and regulations of the police department. (Ord. CS-023 § 1, 2009)

View the [mobile version](#).

2.06.090 Eligibility for office.

- A. A person is not eligible to hold office as mayor unless that person is, at the time of assuming such office, an elector of the city.
- B. Notwithstanding [Government Code](#) Section 53227 or any successor statute regulating the eligibility of a local agency employee to serve on the legislative body of that agency, the mayor may simultaneously serve, without compensation, as a volunteer police officer subject to all federal and state laws, municipal ordinances and rules and regulations of the police department. (Ord. CS-023 § 2, 2009; Ord. 1258 § 3, 1982)

View the [mobile version](#).

Carlsbad Police Department Policy Manual Special Order 2020-03

Pursuant to Carlsbad Police Department Policy 300, this Special Order becomes effective June 4, 2020.

USE OF FORCE POLICY 300

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties. The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to

accomplish a legitimate law enforcement purpose (Penal Code § 835a). The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving. Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose. While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Carlsbad Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force,

make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts. Officers shall not use deadly force against a person based on the danger that person poses to him/ herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a). An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a TASER device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or

continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible. The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration). Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

When a supervisor is notified of an incident involving any application of force defined in policy section 300.5.1 (a)-(i), the supervisor shall respond to the incident. The supervisor is expected to:

- a. Obtain the basic facts from the involved officers. Absent suspected misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject(s) upon whom force was applied. If this interview is conducted with a person who is in police custody, a Miranda Admonishment must be given and a waiver of rights obtained prior to any interview. If the suspect(s) invokes either a right to silence or for representation, no interview shall be conducted.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses and insure that all witnesses are interviewed. These interviews should be audio recorded if possible.
- f. Insure that all reports are reviewed and approved by a supervisor.
- g. Determine if there is any indication that the subject may pursue civil litigation, if appropriate the supervisor should complete and route a notification of a potential claim through their chain of command.
- h. Evaluate the circumstances surrounding the incident and complete a Supervisor's Complaint Summary report and forward it to the Professional Standards and Services Division Lieutenant through the supervisor's chain of command if there is a question of policy noncompliance

or if for any reason further administrative investigation may be appropriate.

i. Prepare a Supervisor's Use of Force investigation report. This report shall be attached to the associated crime and/or arrest reports documenting the incident. This report shall be reviewed and approved by another supervisor.

300.7.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall insure that a supervisor responds to all use of force incidents by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

DELETION OF POLICY 300.3.4

Policy 300.3.4 outlining the use of Carotid Control Hold has been **deleted** from Policy 300 and this policy is no longer applicable.



Neil Gallucci, Chief of Police

6-4-20

Date

Carlsbad Police Department

Policy Manual Special Order 2020-04

Pursuant to Carlsbad Police Department Policy 204, this Special Order becomes effective June 18, 2020.

New policy 301 reads as follows:

Countywide Crisis Management Philosophy; Considerations for De-escalation

301.1 PURPOSE AND SCOPE

Law enforcement is guided by the overarching principle of reverence for human life in all investigative, enforcement, and other interactions between law enforcement and members of the community. San Diego County Law Enforcement Agencies are committed to providing peace officers with the training, equipment and resources necessary to encourage peaceful resolutions.

301.2 SAN DIEGO COUNTYWIDE PHILOSOPHY

Every situation law enforcement responds to is unique. When law enforcement is called upon to respond to a crisis or criminal acts, they will if reasonable under the circumstances, use tactics and techniques to persuade the individual to voluntarily comply or mitigate the need to use increased physical tactics to resolve the situation safely. Some situations require an immediate response, while other situations may allow peace officers the opportunity to communicate with the individual, refine tactical plans, and, if necessary, call for additional resources. When reasonable opportunity exists, peace officers should consider the concepts of Pre-Engagement, De-Escalation, and Disengagement, consistent with the definitions provided in this document.

301.3 DEFINITIONS

Pre-Engagement Considerations: Pre-Engagement considerations involve the process of gathering and assessing information prior to deploying the available personnel, tactics, equipment, and other appropriate and obtainable resources. Discretionary time, reactionary distance, communication, and barriers are key objectives to enhance the probability of a peaceful outcome. Self-regulation is a key component to the decision-making process.

De-Escalation: De-escalation is the use of strategies and/or techniques to gain voluntary compliance from an individual in order to gain or maintain control of an incident while reducing the need for physical coercion. These strategies and/or techniques are used to increase time and distance from the individual while attempting to establish effective communication.

Disengagement (Tactical Withdraw): Disengagement is a tactic designed to avoid potentially violent outcomes. Disengagement may be a viable option for individuals in crisis who pose no additional threats to others, or resistant offenders who may later be apprehended under safer conditions.

301.4 DISENGAGEMENT

Anytime peace officers intend to disengage from an incident, they should attempt to advise involved individuals of the withdrawal from the incident. Peace officers should attempt to ensure those involved have had the opportunity to establish a position of relative safety with respect to the incident, and they are aware that officers will no longer be present to protect the safety of the involved persons.

301.4.1 SPECIAL RELATIONSHIP

Under the law, peace officers have no duty to come to the aid of another unless the officers have created a peril or a special relationship exists. However, individual department policies may require an officer to take action under specific circumstances. A special relationship between law enforcement and a person may be created one of two ways. First, a special relationship may be created where the officer makes a representation, either express or implied, that is detrimentally relied upon and causes a foreseeable harm to another person. (For example, no warning was given after an officer promised to warn a person if a prisoner, who had threatened her life, was released and the prisoner murdered that individual.) Second, a special relationship may be created where the officer engages in an affirmative act that increases the foreseeable risk of harm to the individual. (For example, an officer investigating an accident directs an individual to follow him/her to the middle of the intersection. The individual complies, and the individual is hit by a car.) In other words, a special relationship has (1) an aspect of dependency, where one party relies to some degree on an officer for protection, and, (2) the officer has superior control over the means of protection.

Officers should consider special relationship concerns with respect to the handling of an incident, and subsequent decisions to disengage.

301.5 TRAINING

Agencies should include the principles of this Philosophy and the crisis management considerations handout, in regular training evolutions.

Following any significant incident, field supervisors are encouraged to debrief and evaluate the event within the context of this Philosophy and its considerations. The objective of debriefs are for individual and agency development and may serve to augment the capacities of peace officers with the objective of protecting the lives and safety of all persons.


Neil Gallucci, Chief of Police

6-18-20
Date



To the members of the:
CITY COUNCIL
Date 6/4/20 CA X CC X
CM X ACM X DCM (3) X

Council Memorandum

June 4, 2020

To: Honorable Mayor Hall and Members of the City Council
From: Neil Gallucci, Chief of Police
Via: Scott Chadwick, City Manager
Re: CAMPAIGN ZERO-EIGHT CAN'T WAIT PROGRAM

As you are aware, Campaign Zero, a national organization advocating against police violence, gave the City of Carlsbad Police Department the highest ranking among the 100 largest police departments in California. Campaign Zero is currently proposing the Eight Can't Wait program which focuses on eight police policy modifications that are intended to reduce violence by police. This memo is intended to provide Council with the status of Carlsbad PD with respect to these eight policy recommendations and to provide Council with an update on the innovative and state leading efforts the Carlsbad PD has been engaged in with respect to de-escalation.

Below information details Carlsbad PD's efforts with respect to the eight proposed policy modifications.

1. Ban Chokeholds.

Effective June 3, 2020, Carlsbad PD no longer authorizes the use of the carotid control hold.

2. Require de-escalation.

Carlsbad PD policy expressly requires officers employ de-escalation techniques when dealing with persons in crisis. In 2015, all officers were provided 8-hours of emotional intelligence training. In 2017, all officers were provided 8-hours of de-escalation and crisis intervention training. Last December/January, all officers received training regarding the changes in use of force law and policy as a result of Assembly Bill 392. Just this year, the PD has created and obtained California Commission on Peace Officer Standards and Training (POST) certification for an 8-hour de-escalation training that will be provided to all officers.

3. Require warning before shooting.

Carlsbad PD policy expressly requires officers provide verbal warnings when reasonably feasible prior to the use of any deadly force (including shooting), prior to the deployment of a canine, Taser, or less-lethal projectile, or use of any control device. Verbal warnings must also be provided prior to the use of force against a person involved in an unlawful assembly.

4. Exhaust all other means before shooting.

Carlsbad PD policy only permits the use of any deadly force when 1) an officer reasonably believes that the use of deadly force is necessary to protect the officer or another from a threat of imminent death or serious bodily injury, or 2) to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

5. Department shall require officers to intervene in the event of excessive force.

Carlsbad PD policy expressly requires officers to intervene and stop excessive force if they observe it occurring. Policy also requires every officer to report any excessive force to a supervisor.

6. Ban shooting at vehicles.

Carlsbad PD policy expressly prohibits shooting at vehicles except in extreme circumstances. PD policy acknowledges that shooting at or from a moving vehicle is rarely effective. Officers are required to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. Officers may only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others, such as if the occupants of the vehicle were shooting at the officer or another person. Officers are expressly prohibited from shooting at any part of a vehicle in an attempt to disable the vehicle.

7. Require use of force continuum.

Carlsbad PD policy expressly provides that officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event, and only to accomplish a legitimate law enforcement purpose. This policy provides that officers may only escalate the use of force if that escalation is reasonable in light of the officers' perceptions of the continuum of risk presented to an officer or someone the officer is protecting.

8. Require comprehensive reporting of use of force incidents.

Carlsbad PD policy requires that all uses of force be reported promptly, accurately, and completely. Nearly all incidents of use of force require that the officer immediately notify a

supervisor of the use of force (with the exception of an incident without injury or without the use of any weapon). The supervisor is required to respond to the incident and conduct an investigation to include capturing evidence, interviewing witnesses, interviewing the subject who the force was used upon, reviewing body worn camera if appropriate, and the supervisor must prepare a report detailing their investigation. Both the officer and supervisors' reports and investigations are then reviewed by the respective lieutenant and captain to ensure compliance with department policy, applicable law, to identify training issues or opportunities, and to identify any trends involving the use of force.

Carlsbad PD is a leader in the county and state with respect to de-escalation and crisis management.

In addition to the de-escalation training that was discussed earlier, Carlsbad PD also has 13 officers that have been specially trained as Crisis/Hostage Negotiators who may be deployed as needed to resolve incidents peacefully. The PD also has a cadre of seven specially trained Tactical Communications Instructors who provide POST required tactical communications training to all officers.

In 2019, Carlsbad PD lead a countywide initiative to develop best practices for crisis management with the intent to reduce the use of force, specifically officer involved shootings. The PD brought together experts from all departments in the county, including the District Attorney's Office, and the Carlsbad City Attorney's Office. Carlsbad PD representatives served as chairpersons for the three sub-committees focused on pre-engagement decision making, de-escalation methods and decision making, and dis-engagement or factors where police 'walking away' serves the public's best interest. The chairpersons from Carlsbad PD represented our department firearms training division, defensive tactics training division, and our field training division.

This committee prepared a tri-fold resource for all police officers to be used by officers when handling crisis events, which remind officers of the best-practices in preventing use of force and officer involved shootings. The committee also proposed a countywide crisis management philosophy that focuses on de-escalation and peaceful resolutions to incidents.

As a result, in April, a Carlsbad PD representative was invited to lead a discussion with the SD County Police Chiefs and Sheriff regarding the adoption countywide of these documents at the annual conference. Unfortunately, this conference was cancelled due to COVID19. Additionally, as evidence of the proactive work in this area by the Carlsbad PD, a PD representative was invited to present at the California Crisis Intervention Training Conference, which was also cancelled due to COVID19.

Notwithstanding the delay in countywide adoption of the crisis management best practices, Carlsbad PD already has implemented the best practices into department training, field training of new officers, and supervisor expectations regarding supervising crisis incidents.

Eight Can't Wait Program

June 4, 2020

Page 4

Cc: Celia Brewer, City Attorney
Geoff Patnoe, Assistant City Manager
Kristina Ray, Communication & Engagement Director



CITY COUNCIL
Staff Report

Meeting Date: Sept. 1, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Faviola Medina, City Clerk Services Manager
faviola.medina@carlsbadca.gov, 760-434-5989
Subject: Designation of Voting Delegate and Alternates for the League of California Cities Annual Conference Oct. 7-9, 2020

Recommended Action

Adopt a resolution designating a voting delegate and alternates for the League of California Cities Annual Conference being held virtually Oct. 7-9, 2020.

Executive Summary /Discussion

The League of California Cities asked each member city to select a voting representative for the group's annual business meeting being held during the general assembly on Friday, Oct. 9 at 11 a.m. Staff received notification on Aug. 24, 2020, that the conference will be held online rather than in-person. At this meeting, the league membership considers and takes action on resolutions that establish League policy. Each member city has a right to cast one vote on matters pertaining to League policy.

League bylaws require a city's voting delegate and up to two alternates to be designated by the City Council, so the council is being asked to appoint a delegate to vote during the general assembly at the annual conference. The City Council may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated member is unable to serve in that capacity.

Fiscal Analysis

Designating a voting delegate and alternates does not result in a fiscal impact to the city. Adequate funds were included in the City Council budget for the costs associated with attending the annual conference.

Next Steps

Staff will submit the necessary notification to the League of the City Council's appointed voting delegate and alternates before Sept. 30, 2020.

Environmental Evaluation (CEQA)

This action does not constitute a "project" within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. City Council resolution
2. July 6, 2020, correspondence from the League of California Cities requesting action
3. Aug. 24, 2020, League 2020 Annual Conference Resolution Packet

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, DESIGNATING A VOTING DELEGATE AND ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE TO BE HELD VIRTUALLY ON OCTOBER 7-9, 2020

WHEREAS, the City of Carlsbad is a member of the League of California Cities; and

WHEREAS, as a member, the City of Carlsbad is entitled to vote on resolutions that establish League policy at the virtual General Assembly scheduled for 11 a.m. on Friday, Oct. 9, 2020.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows that:

1. The above recitations are true and correct.
2. That the following are designated as the Voting Delegate and Alternates for the League of California Cities Annual Conference representing the City of Carlsbad:

Voting Delegate: _____

Voting Delegate Alternate: _____

Voting Delegate Alternate: _____

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

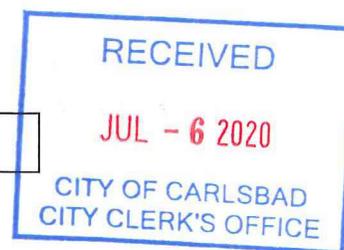
MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)



Council Action Advised by August 31, 2020



June 30, 2020

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference & Expo – October 7 – 9, 2020**

The League's 2020 Annual Conference & Expo is scheduled for October 7 – 9. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly) on Friday, October 9. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League's office no later than Wednesday, September 30. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures are intended to ensure the integrity of the voting process at the Annual Business Meeting. These procedures assume that the conference will be held in-person at the Long Beach Convention Center as planned. Should COVID-19 conditions and restrictions prohibit the League from holding an in-person conference, new procedures will be provided.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration will open by the end of July at www.cacities.org. In order to cast a vote, at least one voter must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the

special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Long Beach Convention Center, will be open at the following times: Wednesday, October 7, 8:00 a.m. – 6:00 p.m.; Thursday, October 8, 7:00 a.m. – 4:00 p.m.; and Friday, October 9, 7:30 a.m.–11:30 a.m.. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League's office by Wednesday, September 30. If you have questions, please call Darla Yacub at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

2020 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Wednesday, September 30, 2020. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____

Email _____

Mayor or City Clerk _____

Date _____ Phone _____

(circle one) (signature)

Please complete and return by Wednesday, September 30, 2020

League of California Cities
ATTN: Darla Yacub
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: dyacub@cacities.org
(916) 658-8254



***Annual Conference
Resolutions Packet***

2020 Annual Conference Resolutions



October 7 – 9, 2020

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, one resolution has been introduced for consideration at the Annual Conference and referred to League policy committees.

POLICY COMMITTEES: Two policy committees will meet virtually at the Annual Conference to consider and take action on the resolution referred to them. The committees are: Governance, Transparency & Labor Relations and Public Safety. These committees will meet virtually on Tuesday, September 29, with the Governance, Transparency and Labor Relations Policy Committee meeting from 9:30 – 11:30 a.m. and the Public Safety Policy Committee meeting from 1:00 – 3:00 p.m. The sponsor of the resolution has been notified of the time and location of the meeting.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet virtually at 1:00 p.m. on Thursday, October 8, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president.

GENERAL ASSEMBLY: This meeting will be held virtually at 11:00 a.m. on Friday, October 9.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, October 8.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3

1 - Policy Committee Recommendation to General Resolutions Committee
 2 - General Resolutions Committee
 3 - General Assembly

GOVERNANCE, TRANSPARENCY & LABOR RELATIONS POLICY COMMITTEE

		1	2	3
1	Amendment to Section 230 of The Communications Decency Act of 1996			

PUBLIC SAFETY POLICY COMMITTEE

		1	2	3
1	Amendment to Section 230 of The Communications Decency Act of 1996			

KEY TO ACTIONS TAKEN ON RESOLUTIONS (Continued)

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

- 1. Policy Committee
- 2. General Resolutions Committee
- 3. General Assembly

KEY TO ACTIONS TAKEN

- A Approve
- D Disapprove
- N No Action
- R Refer to appropriate policy committee for study

ACTION FOOTNOTES

- * Subject matter covered in another resolution
- ** Existing League policy
- *** Local authority presently exists

- a Amend+
- Aa Approve as amended+
- Aaa Approve with additional amendment(s)+
- Ra Refer as amended to appropriate policy committee for study+
- Raa Additional amendments and refer+
- Da Amend (for clarity or brevity) and Disapprove+
- Na Amend (for clarity or brevity) and take No Action+
- W Withdrawn by Sponsor

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League’s website by clicking on this link: [Resolution Process](#).

1. A RESOLUTION OF THE GENERAL ASSEMBLY OF THE LEAGUE OF CALIFORNIA CITIES CALLING FOR AN AMENDMENT OF SECTION 230 OF THE COMMUNICATIONS DECENCY ACT OF 1996 TO REQUIRE SOCIAL MEDIA COMPANIES TO REMOVE MATERIALS WHICH PROMOTE CRIMINAL ACTIVITIES

Source: City of Cerritos

Concurrence of five or more cities/city officials

Cities: City of Hawaiian Gardens, City of Lakewood, City of Ontario, City of Rancho Cucamonga, City of Roseville

Referred to: Governance, Transparency and Labor Relations and Public Safety Policy Committees

WHEREAS, local law enforcement agencies seek to protect their communities' residents, businesses, and property owners from crime; and

WHEREAS, increasingly, criminals use social media platforms to post notices of places, dates and times for their followers to meet to commit crimes; and

WHEREAS, Section 230 of the Communications Decency Act of 1996 currently provides online platforms (including social media platforms) immunity from civil liability based on third-party content and for the removal of content; and

WHEREAS, in the 25 years since Section 230's enactment, online platforms no longer function simply as forums for the posting of third-party content but rather use sophisticated algorithms to promote content and to connect users; and

WHEREAS, the United States Department of Justice, in its June 2020 report, "Section 230 — Nurturing Innovation or Fostering Unaccountability?," concluded the expansive interpretation courts have given Section 230 has left online platforms immune from a wide array of illicit activity on their services, with little transparency or accountability, noting it "makes little sense" to immunize from civil liability an online platform that purposefully facilitates or solicits third-party content or activity that violates federal criminal law; and

WHEREAS, current court precedent interpreting Section 230 also precludes state and local jurisdictions from enforcing criminal laws against such online platforms that, while not actually performing unlawful activities, facilitate them; and

WHEREAS, amendment of Section 230 is necessary to clarify that online platforms are not immune from civil liability for promoting criminal activities; and

NOW, THEREFORE, BE IT RESOLVED at the League General Assembly, assembled at the League Annual Conference on October 9, 2020 in Long Beach, California, that the League calls upon the U.S. Congress to amend Section 230 of the Communications Decency Act of 1996 to condition immunity from civil liability on the following:

1. Online platforms must establish and implement a reasonable program to identify and take down content which solicits criminal activity; and
2. Online platforms must provide to law enforcement information which will assist in the identification and apprehension of persons who use the services of the platform to solicit and to engage in criminal activity; and
3. An online platform that willfully or negligently fails in either of these duties is not immune from enforcement of state and local laws which impose criminal or civil liability for such failure.

Background Information to Resolution

Source: City of Cerritos

Background:

Social media platforms are now used as a primary means of communication, including by criminals who use them to advertise locations, dates, and times where the criminal acts will take place. Such communications, because they occur online, render the online platform immune from any civil liability for the costs incurred by law enforcement agencies that respond under Section 230 of the Communications Decency Act of 1996. Immunity from civil liability extends even to injunctive relief, thus preventing local governments from merely seeking an injunction against the online platform to have such a post removed.

The City of Cerritos supports the rights of free speech and assembly guaranteed under the First Amendment, but believes cities should have the ability to hold social media companies liable for their role in promoting criminal acts. Recently, the City suffered thousands of dollars in damages to respond to online threats that the Cerritos Mall would be looted. Anonymous posts on Instagram.com invited followers to “work together to loot Cerritos [M]all” only several days after the Lakewood Mall had been looted, causing thousands of dollars in damages. The posts were made under the names “cerritosmalllooting” and “cantstopusall,” among others. The City of Cerritos had no choice but to initiate response to protect the Mall and the public from this credible threat.

At the same time local governments face historic shortfalls owing to the economic effects of COVID-19, the nation’s social media platforms are seeing a record rise in profits. The broad immunity provided by Section 230 is completely untenable. Online platforms should be held responsible—and liable—for the direct harm they facilitate. Local governments are in no position to bear the costs of the crimes facilitated by these companies alone.

Congress is currently reviewing antitrust legislation and by extension, Section 230’s immunity provisions. The League urges Congress to amend Section 230 to limit the immunity provided to online platforms when they promote criminal activity to provide local governments some measurable form of relief.

League of California Cities Staff Analysis on Resolution No. 1

Staff: Charles Harvey, Legislative Representative
Bijan Mehryar, Legislative Representative
Caroline Cirrincione, Policy Analyst
Johnnie Piña, Policy Analyst

Committees: Governance, Transparency and Labor Relations
Public Safety

Summary:

This resolution states that the League of California Cities should urge Congress to amend Section 230 of the federal Communications Decency Act of 1996 (CDA) to limit the immunity provided to online platforms where their forums enable criminal activity to be promoted.

Ultimately, the policy objectives proposed under this resolution, if enacted, would incentivize social media companies to establish and implement a reasonable program to identify and remove content that solicits criminal activity.

Background:

The City of Cerritos is sponsoring this resolution in reaction to events whereby persons, using social media platforms to coordinate locations, dates, and times for their planned criminal activity, have committed acts of looting and vandalism resulting in both actual economic harm for targeted businesses, and pecuniary loss to cities who used resources to prevent such acts from occurring when such plans are discovered.

For example, just days after the Lakewood Mall had been looted, the City of Cerritos uncovered online communications via social media that persons were planning to target the nearby Cerritos Mall. Consequently, the city felt compelled to undertake measures to protect the Cerritos Mall, costing the city thousands of dollars to guard against what officials believed to be a credible threat.

Staff Comments:

Overview:

While there is certainly an argument to substantiate concerns around censorship, the use of social media as a tool for organizing violence is equally disturbing.

Throughout much of the 2020 Summer, there have been many reports of looting happening across the country during what were otherwise mostly peaceful demonstrations. Combined with the speculation of who is really behind the looting and why, the mayhem has usurped the message of peaceful protestors, causing a great deal of property damage in the process. Likewise, these criminal actions have upended the livelihood of some small business owners, many of whom were already reeling in the wake of the COVID-19 pandemic.

While social media allows people to connect in real time with others all over the world, organized illegal activity using social media is made easier by the anonymous nature of virtual interactions.

Nation's Reaction to the Murder of George Floyd:

Shortly after the senseless killing of George Floyd by law enforcement on May 26, 2020, civil unrest began as local protests in the Minneapolis–Saint Paul metropolitan area of Minnesota before quickly spreading nationwide to more than 2,000 cities and towns across the United States, and in approximately 60 countries in support of the Black Lives Matter movement. Protests unfolded across the country throughout the entire month of June and into July, and persisted in a handful of cities such as Portland and Seattle into the month of August.

Although the majority of protests were peaceful, some demonstrations in cities escalated into riots, looting, and street skirmishes with police. While much of the nation's focus has been on addressing police misconduct, police brutality, and systemic racism, some have used demonstrators' peaceful protests on these topics as opportunities to loot and/or vandalize businesses, almost exclusively under the guise of the "Black Lives Matter" movement. It has been uncovered that these "flash robs"¹ were coordinated through the use of social media. The spontaneity and speed of the attacks enabled by social media make it challenging for the police to stop these criminal events as they are occurring, let alone prevent them from commencing altogether.

As these events started occurring across the country, investigators quickly began combing through Facebook, Twitter, and Instagram seeking to identify potentially violent extremists, looters, and vandals and finding ways to charge them after — and in some cases before — they sow chaos. While this technique has alarmed civil liberties advocates, who argue the strategy could negatively impact online speech, law enforcement officials claim it aligns with investigation strategies employed in the past.

Section 230 and other Constitutional Concerns

At its core, Section 230(c)(1) of the CDA provides immunity from liability for providers and users of an "interactive computer service" who publish information provided by third-party users. Essentially, this protects websites from lawsuits if a user posts something illegal, although there are exceptions for copyright violations, sex work-related material, and violations of federal criminal law.

Protections from Section 230 have come under more recent scrutiny on issues related to hate speech and ideological biases in relation to the influence technology companies can hold on political discussions.

Setting aside Section 230, there are some potential constitutional issues one could raise, should there be an attempt to implement such a resolution into statute.

¹ The "flash robs" phenomenon—where social media is used to organize groups of teens and young adults to quickly ransack and loot various retail stores—began to occur sporadically throughout the United States over the past ten years.

In the United States, the First Amendment prohibits the government from restricting most forms of speech, which would include many proposals to force tech companies to moderate content. While “illegal” types of speech enjoy limited or no First Amendment protection, the line for delineating between “legal” and “illegal” speech is very difficult to determine. Consequently, one would expect online platforms to push back on whether there is a constitutionally feasible way for them to “identify” protected speech versus unprotected speech, or whether there is a feasible way to define “content which solicits criminal activity.” A law requiring companies to moderate content based on the political viewpoint it expresses, for example, would likely be struck down as unconstitutional.

Nonetheless, private companies can create rules to restrict speech if they so choose. Online platforms sometimes argue they have constitutionally-protected First Amendment rights in their “editorial activity,” and therefore, it violates their constitutional rights to require them to monitor (i.e., “identify and take down”) content that may be protected under the First Amendment. They may also argue, along the same lines, that the government may not condition the granting of a privilege (i.e., immunity) on doing things that amount to a violation of their first amendment rights. This is why Facebook and Twitter ban hate speech and other verifiably false information, for example, even though such speech is permitted under the First Amendment.

With respect to privacy and the Fourth Amendment, online platforms may argue that requiring them to “provide to law enforcement information that will assist in the identification and apprehension of persons who use the services of the platform to solicit and to engage in criminal activity,” turns them into government actors that search users’ accounts without a warrant based on probable cause, in violation of the Fourth Amendment.

Industry Perspective

Unsurprisingly, industry stakeholders have strong opinions for what such changes could mean for their respective business models.

For instance, a Facebook spokesperson recently noted in a Fortune article that, “By exposing companies to potential liability for everything that billions of people around the world say, this would penalize companies that choose to allow controversial speech and encourage platforms to censor anything that might offend anyone.”

The article acknowledges that in recent years, both political parties have put social media companies under increased scrutiny, but they are not unified in their stated concerns. While Republicans accuse the companies of unfairly censoring their post, Democrats complain that these companies fail to do enough to block misinformation, violent content, and hate speech.

The article concludes that there is no way companies like Facebook and Twitter could operate without Section 230, and that the removal of this section would thereby “eliminate social media as we know it.”

Recent Federal Action on Social Media

The President recently issued an *Executive Order on Preventing Online Censorship*. In it, he notes the following:

“The growth of online platforms in recent years raises important questions about applying the ideals of the First Amendment to modern communications technology. Today, many Americans follow the news, stay in touch with friends and family, and share their views on current events through social media and other online platforms. As a result, these platforms function in many ways as a 21st century equivalent of the public square.

Twitter, Facebook, Instagram, and YouTube wield immense, if not unprecedented, power to shape the interpretation of public events; to censor, delete, or disappear information; and to control what people see or do not see.”

Ultimately the President implores the U.S. Attorney General to develop a proposal for federal legislation that “would be useful to promote the policy objectives of this order.” The President is not subtle in communicating his desire to ultimately see legislation heavily slanted toward the preservation of free speech on social media, which some interpret as a maneuver to preempt Twitter and Facebook from regulating speech they otherwise deem as hateful or demonstrably false.

Considerations for Congress

Courts have generally construed Section 230 to grant internet service providers broad immunity for hosting others’ content. Many have claimed that Section 230’s immunity provisions were critical to the development of the modern internet, and some continue to defend Section 230’s broad scope. But simultaneously, a variety of commentators and legislators have questioned whether those immunity provisions should now be narrowed, given that the internet looks much different today than it did in 1996 when Section 230 was first enacted.

One way for Congress to narrow Section 230’s liability shield would be to create additional exceptions, as it did with FOSTA and SESTA². If a lawsuit does not fall into one of the express exceptions contained in Section 230(e)³, courts may have to engage in a highly fact-specific inquiry to determine whether Section 230 immunity applies: Section 230(c)(1) immunity will be inapplicable if the provider itself has developed or helped to develop the disputed content, while Section 230(c)(2) immunity may not apply if a service provider’s decision to restrict access to content was not made in good faith.

Date Storage and Usage Considerations for Cities

Section 2 of the conditions the resolution applies to civil immunity requires that online platforms provide relevant information to law enforcement to assist in the identification and apprehension of persons who use the services of the platform to solicit and to engage in criminal activity. This section would most likely require the development of new procedures and protocols that govern law enforcements usage and retention of such information. Those new policies and procedures would undoubtedly raise privacy concerns depending on how wide the latitude is for law

² The Fight Online Sex Trafficking Act (FOSTA) and the Stop Enabling Sex Traffickers Act (SESTA) create an exception to Section 230 that means website publishers *would* be responsible if third parties are found to be posting ads for prostitution — including consensual sex work — on their platforms.

³ Section 230(e) says that Section 230 will not apply to: (1) federal criminal laws; (2) intellectual property laws; (3) any state law that is “consistent with” Section 230; (4) the Electronic Communications Privacy Act of 1986; and (5) civil actions or state prosecutions where the underlying conduct violates federal law prohibiting sex trafficking.

enforcement to request such information. In those circumstances cities could end up themselves incurring new liability for the governance of data that could either violate certain privacy rules or increase their data governance costs.

Fiscal Impact:

Unlike the costly resources needed to support or oppose a ballot measure, a federal resolution from the League of California Cities that simply urges Congress to undertake certain action should have a negligible fiscal impact, if any monetary impact at all.

Regarding cities, if social media had no immunity for its failure to police content that solicits criminal activity, then an individual city could theoretically save thousands if not millions of dollars, depending on its size and other subjective circumstances. Collectively, cities across the country could potentially save at least hundreds of millions between redress for actual economic harm suffered and/or the cost of preventative measures taken to stop criminal activity from occurring in the first place.

Conversely, if social media platforms were to shut down, due to an inability to comply with a policy requirement to regulate speech on the internet, it is unclear on how cities might be impacted from a fiscal standpoint.

Existing League Policy:

Public Safety:

Law Enforcement

The League supports the promotion of public safety through:

- Stiffer penalties for violent offenders, and
- Protecting state Citizens' Option for Public Safety (COPS) and federal Community Oriented Police Services (COPS) funding and advocating for additional funding for local agencies to recoup the costs of crime and increase community safety.

Violence

The League supports the reduction of violence through strategies that address gang violence, domestic violence, and youth access to tools of violence, including but not limited to firearms, knives, etc.

The League supports the use of local, state, and federal collaborative prevention and intervention methods to reduce youth and gang violence.

Governance, Transparency & Labor Relations:

Private Sector Liability

The League will work closely with private sector representatives to evaluate the potential for League support of civil justice reform measures designed to improve the business climate in California. These measures should be evaluated on a case-by-case basis through the League police process.

Questions to Consider:

Many cities obviously believe that creating civil liability for social media platforms—due to their role in providing the communication mediums for those who organize looting attacks— is key to deterring this organized criminal activity.

If such a change was actually passed by Congress, it would force social media to essentially police every conversation on stakeholders’ respective platforms, putting immense pressure on the industry to make subjective determinations about what conversations are appropriate and what are unacceptable.

At the end of the day, there are a few questions to consider in assessing this proposed resolution:

- 1) *What would this resolution’s impact be on free speech and government censorship?*
- 2) *What are the expectations for cities when they receive information from a social media platform about a potentially credible threat in their respective communities? Does a city become liable for having information from a social media platform and the threat occurs?*
- 3) *What would the costs be to develop and maintain new data governance policies, including data infrastructure, to store this information?*
- 4) *What is the role of the League in engaging in issues relating to someone’s privacy?*

Support:

The following letters of concurrence were received:

City of Hawaiian Gardens
City of Lakewood
City of Ontario
City of Rancho Cucamonga
City of Roseville

LETTERS OF CONCURRENCE

Resolution No. 1

Amendment to Section 230 of the Communications
Decency Act of 1996



CITY OF HAWAIIAN GARDENS

"Our Youth - Our Future"

August 7, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

This proposed resolution with the required background information will be submitted to the League of California Cities for consideration by the General Assembly at the Annual Conference on October 9, 2020. (Attachments 1 and 2) The intent of the resolution is to address the use of social medial platforms for posting information that leads followers to meet and commit crimes and to also hold these platforms and the persons who post said information civilly and criminally accountable for all costs incurred by the local jurisdictions where the crimes occurred.

The public safety efforts in the City of Hawaiian Gardens would certainly benefit from such legislation. This letter serves to support the City of Cerritos in their efforts to submit of the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

Ernie Hernandez
City Manager

cc Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us

Jeff Wood
Vice Mayor

Ariel Pe
Council Member

Steve Craft
Council Member

Diane DuBois
Council Member



Todd Rogers
Mayor

August 5, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

This proposed resolution, with the required background information, will be submitted to the League of California Cities for consideration by the General Assembly at the Annual Conference on October 9, 2020. (Attachments 1 and 2) The intent of the resolution is to address the use of social medial platforms for posting information that leads followers to meet and commit crimes and to also hold these platforms and the persons who post said information civilly and criminally accountable for all costs incurred by the local jurisdictions where the crimes occurred.

This letter serves to support the City of Cerritos in their efforts to submit the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

Todd Rogers
Mayor

cc: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us

Lakewood



PAUL S. LEON
MAYOR

SCOTT OCHOA
CITY MANAGER

DEBRA DORST-PORADA
MAYOR PRO TEM

August 6, 2020

SHEILA MAUTZ
CITY CLERK

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

JAMES R. MILHISER
TREASURER

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

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This letter serves to support the City of Cerritos in their efforts to submit the above-mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

Alan D. Wapner
Council Member
League of California Cities Board Member

- c: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
- Meg Desmond, League of California Cities - mdesmond@cacities.org
- Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
- Kathy Matsumoto, Assistant City Manager, City of Cerritos – kmatsumoto@cerritos.us



CITY OF RANCHO CUCAMONGA

10500 Civic Center Drive | Rancho Cucamonga, CA 91730 | 909.477.2700 | www.CityofRC.us

August 6, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

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On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

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On behalf of the City of Rancho Cucamonga, this letter serves to support the City of Cerritos in their efforts to submit the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

L. Dennis Michael
Mayor

cc: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us



City Council
311 Vernon Street
Roseville, California 95678

August 7, 2020

John Dunbar, President
jdunbar@yville.com
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Dunbar:

On August 3, 2020, the Cerritos City Council approved to sponsor a **Resolution of the City Council of the City of Cerritos Submitting to the League of California Cities General Assembly a Proposed Resolution Regarding Support of Legislation Related to Social Media Platform Accountability for Promotion of Criminal Acts.**

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On behalf of the City of Roseville, this letter serves to support the City of Cerritos in their efforts to submit the above mentioned resolution to the League of California Cities for consideration at the 2020 Annual Conference.

Sincerely,

A handwritten signature in blue ink, appearing to read "John B. Allard II", is written over a horizontal line.

John B. Allard II,
Mayor

Cc: Blanca Pacheco, President, LA County Division/League of California Cities - bpacheco@downeyca.org
Meg Desmond, League of California Cities - mdesmond@cacities.org
Kristine Guerrero, LA County Division/League of California Cities - kguerrero@cacities.org
Kathy Matsumoto, Assistant City Manager, City of Cerritos - kmatsumoto@cerritos.us
Jason Gonsalves, Joe A. Gonsalves and Son