TO:  HONORABLE MAYOR AND CITY COUNCIL

THRU:  KENNETH RUKAVINA, ACTING CITY MANAGER /s/

FROM:  BRIANNA RINDGE, PLANNING MANAGER /s/

SUBJECT:  URGENCY ORDINANCE NO. O20-744U REPEALING SECTION 17.08.170 (DWELLING UNIT, SECOND) OF CHAPTER 17.08 (DEFINITIONS) OF TITLE 17 (ZONING PROCEDURES), AMENDING CHAPTERS 18.04 (R-1 ZONE) AND 18.08 (R-M ZONE) OF TITLE 18 (ZONING REGULATIONS), AND ADDING CHAPTER 18.45 (ACCESSORY DWELLING UNITS) IN THE PALOS VERDE ESTATES MUNICIPAL CODE

DATE:  APRIL 14, 2020

ISSUE/PURPOSE

Shall the City Council adopt Urgency Ordinance No. O20-744U regulating accessory dwelling units in Palos Verdes Estates?

BACKGROUND

Under recent amendments to State law, the City is mandated to ministerially approve Accessory Dwelling Units (ADUs) and Junior ADUs. If an application for an ADU is submitted to the City and is found to be in compliance with State law and City zoning regulations to the extent they don’t conflict with State law, the City must issue permits upon approval of building plans for the proposed ADU(s). State law makes null and void the City’s existing ADU regulations [referred to as “second dwelling units” in the Palos Verdes Estates Municipal Code (PVEMC)] until a compliant code is adopted. The City is currently subject to the less restrictive standards set forth by State law until a local ordinance is adopted. Once the City adopts an ADU ordinance, the State Department of Housing and Community Development (HCD) reviews and may deny the ordinance. If a city fails to make corrections required by HCD, HCD can refer a violation of State law regarding ADUs to the Attorney General for enforcement.

The City has reviewed several iterations of a new ADU ordinance throughout the past two years as described in Attachment B which outlines the history of ADU discussion by the City and provides
links to each staff report. Once a month since October 2019, either Planning Commission or City Council has hosted public hearings during which the public has spoken and elected officials of both the City and the Palos Verdes Homes Association (PVHA) have provided input. At the last meeting, March 10, 2020, City Council directed staff to provide more specific regulations regarding fire safety, prohibit an ADU or JADU from creating a new utility line, and present the ordinance as an urgency ordinance.

**ANALYSIS**

The City is not required to adopt a new ordinance regulating ADUs and JADUs. Until the time that occurs, City staff is subject to approving ADUs per State code, as depicted below. Should the City choose to adopt an ordinance, the City’s discretion occurs at the point in the flowchart below titled “Meets criteria in ordinance?” Otherwise, all ADUs will be approvable without PVE-specific requirements.

The proposed ordinance exercises the City’s limited flexibility to frame a local ordinance to the full extent and proposes the State’s minimums to be the City’s maximums as it relates to several factors, including setbacks, unit square footage, unit height, JADU unit size, unit size relative to the existing primary dwelling, sprinkling, owner occupancy, short-term rental, separate sale, review period, and required applications. For example, the State doesn’t allow the City to force a proposed ADU below 16’ tall, therefore, the proposed ordinance prescribes a maximum new ADU height of 16’. The ordinance also proposes the following.
1. **Floor-Area Ratio** [see 18.45.060(A)(3)]
While PVEMC currently does not regulate Floor-Area Ratio (FAR), it is part of Code’s existing Neighborhood Compatibility process as evidenced by the Neighborhood Compatibility Charts. Staff proposes establishing a maximum FAR for lots applying for construction of an ADU. Legal input suggested a maximum FAR of 45%, however a survey indicates an average FAR of 25-30% for existing homes and 40-45% for proposed homes that have been recently approved. A maximum FAR of 40% is proposed as new homes that are also proposing ADUs will be able to incorporate the requirement into the new design, and existing homes should not be proposing an ADU that requires over 10-20% new lot coverage. As a reminder, a metric such as this cannot restrict an ADU to less than 800 ft².

2. **Fire Safety Setbacks** [see 18.45.050(B)(1)]
While the State restricts cities from implementing setbacks larger than 4’, the ordinance proposes the requirement of side and rear setbacks sufficient for fire and safety as dictated by applicable building and fire codes. The proposed ordinance includes that, “[n]otwithstanding any other provision of this ordinance, all ADUs and JADUs must comply with all applicable building and fire code requirements,” effectively establishing 5’ minimum setbacks as required by fire code.

3. **Measurement of Height** [see 18.45.060(E)(1)]
State code does not specify what type of grade from which the height of the ADU shall be measured. In step with PVEMC on building height, which is codified to be measured from natural grade, the proposed ordinance similarly specifies “the lower of natural, existing, or proposed grade” as the specific grade from which proposed ADU height shall be measured.

4. **ADU Height** [see 18.45.060(E)(2)]
Nothing in State code requires the City to allow a second story addition for an ADU or two-story attached ADUs. If we have an objective height limit that precludes a second story, e.g., 16’, then we may prevent a second story addition above an existing structure in most cases, such as a detached garage. This does not prevent an applicant from converting space above an existing garage. Regulation of height is proposed as follows, with the exception that the City may not force an ADU to be less than 16’ in height: (1) second story or two-story attached ADUs are not permitted; and (2) a new detached ADU may not exceed one story.

5. **JADU Kitchen Size** [see 18.45.030(D)]
State law says that “food preparation counter and storage cabinets” need to be “of reasonable size in relation to the size of the [JADU],” but this calls for the exercise of discretion (“What is reasonable?”), which the law prohibits. Therefore, staff recommends quantifying minimum counter and cabinet space up front, at 15 ft² and 30 ft² respectively (approximately 7 linear feet of a standard-depth counter, with two levels of shelves of the same area each). Units will still be restricted to the City’s maximum total unit square footage.

6. **Parking for Conversion of Garage to ADU** [see 18.45.060(G)(1)]
State law does not allow the City to require replacement parking when a garage is converted to an ADU; however, the proposed ordinance can and does require one space per ADU be provided on the lot.

7. **Parking for New Homes** [see 18.45.050(C)]
When an ADU is proposed in concurrence with a new home, the City can require the development comply with existing City code requiring a two-car garage for every single-family residence. This is already codified by PVEMC 18.04.030 and repeated in 18.45.050(C).

8. **Septic Requirements** [see 18.45.050(E)]
Staff proposes a requirement for a percolation test to accompany any ADU application on a property that is not connected to a public sewer. State law only addresses septic approval for ADU Permit or CUP Permit ADUs. Therefore, the City has no statutory authority to regulate septic for Building Permit-Only ADUs, unless Building Code requires as such. Therefore, staff proposes moving this requirement to the City’s Building Code. The requirement would then apply to all dwellings on septic. Should the ordinance be adopted as proposed, staff will return to City Council with an amendment to the City’s adopted building code for this provision.

9. **Design Standards** [see 18.45.060]
The last metric of which the City has any discretion is design standards as it relates to the architecture and the landscaping of the proposed ADU. Staff has proposed a set of standards which may further limit unreasonable ADUs from construction in our city without usurping the typical role of the PVHA. This basic list of design requirements may be further supplemented in the future by more intricate design requirements. Devising a premediated list of approved landscaping is more likely approvable by the State as individual review of every landscape plan introduces impermissible discretion into the process in the eyes of the State. Similarly, the PVHA’s request to insert “by Palos Verdes Art Jury standards” is not reflected in the proposed ordinance. Additionally, the PVHA, which reviews every landscape change within the city, has raised concerns over overplanting with implications of fire hazard and the fact that many drought-tolerant plants are high-fire hazards and not allowed within 30’ of a building (see Number 6 under the list of items the proposed ordinance does not include for further discussion of this matter). Therefore, staff proposes and the PVHA supports codification of objective standards for tree type, tree size, location, and planting spacing within the supplemental ADU ordinance discussed in the “Planning Commission Recommendation” portion of this staff report.

10. **Definition of “Single-Story”** [see 18.45.030(K)]
City Council directed at its January 15, 2020 hearing to define “single-story” in line with the PVHA’s definition, which defines “story” as “that portion of a building included between the surface of any floor and the finished ceiling above it.”

11. **Certificate of Occupancy** [see 18.45.050(H)]
City Council directed at its January 15, 2020 hearing to require a Certificate of Occupancy for both the main residence and its associated ADU if built at the same time prior to either party moving in.

12. **Grading** [see 18.45.060(J)]
The PVHA suggested regulating grading for ADUs just as PVEMC already provides for any project. Currently, a Grading Application to Planning Commission is required for any project with over 250 yd³ of total cut plus fill, over 10’ cut depth or fill height, or over 100 yd³ of cut plus fill outside of the foundation or driveway. State code does not preclude local regulation of grading for ADUs (excepting building permit-only ADUs). Therefore, the proposed ordinance limits grading for ADU Permits to a maximum of 100 yd³ of fill plus cut or over 5’ fill or cut height, otherwise a CUP is required. The PVHA proposed to cut this number in half, however justification was not provided.

13. **Separate Utility Line Ban** [see 18.45.070(B)(1)]
City Council directed at it March 10, 2020 hearing to ban properties employing an ADU or JADU from installing a separate utility line for the ADU or JADU.

14. Lots Requiring CUP due to Fire Safety [see 18.45.050(B)(3)]
As aforementioned, the State precludes the City from restricting ADUs citywide. Other cities have proposed ADU restrictions within areas designed in accordance with State legislation as part of the Very High Fire Severity Zone (VHFSZ). The dilemma is that the entire city of Palos Verdes Estates is designated as part of a VHFSZ. Since the City cannot enact a total prohibition despite VHFSZ designation, staff carefully studied the geometry of every single-family lot within the city and devised a list of lots upon which an ADU or JADU may not be ministerially approved, but will instead be required to obtain a Conditional Use Permit first, an appealable process requiring Planning Commission approval. The list and the map are provided as attachments to the proposed ordinance, Attachment A of this staff report. Every address on a dead-end street or a on a street that is difficult for Fire Department apparatus to navigate due to the street’s geometry is included. A total of 695 lots comprise this list, or about 13% of single-family lots within the city.

The ordinance does not propose the following:

1. Blanketed Fire Safety Setbacks
The PVHA recommends that the City alter the proposed ordinance to require 5’ minimum side and rear yard setbacks, 10’ between structures, and that landscaping within 30’ of structures comply with LA County Fuel Modifications per fire and safety standards. The proposed ordinance already requires setbacks for fire and safety as dictated by applicable building a fire codes all ADUs, even for converted, building permit-only ADUs [see 18.45.040(A)(1)(c)]. Such codes today provide for respective 5’, 10’, and 30’ minimums in certain situations, and even if this applies to the entire city, the proposed ordinance cannot impose such a blanket requirement as precluded by the new State requirements. Additionally, the proposed ordinance does not specifically prescribe 5’, 10’, and 30’ requirements in case building and safety codes change over time.

2. Connection Requirements
Cities may allow ADUs to connect to and through the primary dwelling when it comes to water and sewer, but are not required to. The requirement for a new, separate utility connection directly between the ADU or JADU and the utility, subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, was removed per direction from City Council on January 15, 2020. Keep in mind that converted ADUs and JADUs are exempt from direct-connection and connection-fee requirements. See 18.45.070(B).

3. Restriction Due to Utilities
Staff contacted Cal Water and LA County Department of Public Works to gauge whether ADUs would impede either water or sewer service. The response did not result in necessary action to immediately block future development of ADUs.

4. Changes in 2025
City Council directed at it January 15, 2020 hearing to adjust from our current required allowance of one ADU and one junior accessory dwelling unit (JADU) to one ADU or one JADU starting in 2025, in line with the governor’s declared Statewide Housing Crisis. However, this is not advisable for approval by HCD. Any ordinance is able to be amended in the future through a zoning text amendment should State regulations loosen in the future.
5. Maximum Lot Size
While this metric is not prescribed by the State, the State Department of Housing & Community Development (HCD) may view this as an unjustified restraint in ADU development.

6. Lot Coverage
State code exempts ADUs from being subject to local lot coverage requirements, however, the PVHA suggests maximum 40% building coverage and 40% lot coverage (implied by the suggestion of minimum 60% open space). The City maintains a maximum 30% building coverage for other developments so the suggested building coverage is less restrictive than that of the proposed ordinance. The City also maintains a maximum 65% lot coverage. The PVHA-proposed 40% leaves no room for non-building lot coverage and is significantly less that the City’s current allowed maximum. Regardless, regulation of any lot and/or building coverage related to ADUs is in direct conflict with State law. An alternative route is to consider instead a similar restriction on lot coverage of non-ADU development; however, this would be a drastic change and would severely impact redevelopment and likely property values. Such a change would need to be done through a duly noticed zoning text amendment process through Planning Commission and City Council. Even if such lot coverage standards were put in place, State law restricts the City from enforcing its prescribed lot coverage maximum if it prevents a property owner from building an 800 ft² ADU.

7. Affordability Requirements
While the new law restricts the City from enforcing its prescribed lot coverage maximum (65% in the single-family zone) if it prevents a property owner from building a 800 ft² ADU; requiring any ADU that would push the lot coverage above 65% to be affordable (memorialized by recording a covenant on the property requiring that the ADU must be rented at rates considered for affordable housing) would match the intent of the State law. The intent of the State code is to ameliorate the Housing Crisis, a large component of which is the lack of affordable housing. The inclusion of such an affordability component would seemingly be justified. The City received correspondence in opposition to the concept on the grounds that ADUs are a function of the availability, not the affordability of housing.

The ordinance also does the following in order to replace all references to second dwelling units with regulations for accessory dwelling units:

- Repeals Section 17.08.107 defining “second dwelling unit”;
- Amends Section 18.04.010 to add “F” which allows accessory dwelling units and junior accessory dwelling units complying with the criteria set forth in PVEMC Chapter 18.45 by right;
- Amends Section 18.04.020 to replace “second dwelling unit” with “accessory dwelling unit” which allows ADUs out of compliance with the ADU ordinance to be considered through the Conditional Use Permit public process;
- Repeals Section 18.04.120 regulating second dwelling units; and
- Amends Section 18.08.010 to remove the provision for second dwelling units.
CEQA

Approval of this ADU Ordinance is exempt from the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq.) pursuant to CEQA Guidelines section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city to implement the provisions of Section 65852.2 of the Government Code, is statutorily exempt from the guidelines for implementation of CEQA.

NOTIFICATION

A notice of public hearing was published in the Palos Verdes Peninsula News on February 27, 2020 and posted in accordance with the City’s standard procedures.

PLANNING COMMISSION RECOMMENDATION

While Planning Commission expressed interest in creative regulations which are at risk of causing the ordinance to be rejected by HCD, Planning Commission recognizes the urgency needed to adopt an ordinance. Therefore, Planning Commission recommended at its most recent hearing on the matter, February 18, 2020, the ordinance an ordinance (linked in Attachment B) likely to be accepted by HCD in order to have regulations in place, with the ability to come forward with an updated ordinance in the future. Planning Commission recommended adoption of the proposed ordinance by a vote of 5-0.

RECOMMENDATION

It is recommended that the City Council open the public hearing, receive public input, close the public hearing, and adopt Urgency Ordinance No. O20-744U.

ALTERNATIVES

1. Introduce the proposed ordinance on first reading.
2. Request additional information.
3. Provide alternative direction.
4. Take no action.

ATTACHMENTS

A) Proposed Urgency Ordinance No. O20-744U
B) History of ADU Regulation actions in PVE (with links to each staff report)
C) Public Correspondence
AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA REPEALING SECTION 17.08.170 (DWELLING UNIT, SECOND) OF CHAPTER 17.08 (DEFINITIONS) OF TITLE 17 (ZONING PROCEDURES), AMENDING CHAPTERS 18.04 (R-1 ZONE) AND 18.08 (R-M ZONE) OF TITLE 18 (ZONING REGULATIONS), AND ADDING CHAPTER 18.45 (ACCESSORY DWELLING UNITS) IN THE PALOS VERDES ESTATES MUNICIPAL CODE

The City Council of the City of Palos Verdes Estates does hereby ordain as follows:

Section 1. Findings.

To address California’s shortage of housing supply, the California Legislature approved, and the Governor signed into law, Senate Bill 13, Assembly Bill 68, and Assembly Bill 881. Amending Government Code sections 65852.2 and 65852.22, the legislation requires the City to make certain amendments to the local regulations governing the development of accessory dwelling units (ADUs).

The purpose of this Ordinance is create a local regulatory scheme for the construction of ADUs that fully complies with California Government Code sections 65852.2 and 65852.22, which provide for local jurisdictions to set standards for the development of ADUs so as to increase the supply of smaller and affordable housing while maintaining compatibility with the existing neighborhood character.

Government Code section 65852.2 and 65852.22 allow local agencies to identify where new ADUs should be disallowed based on a lack of utilities and adverse impacts on traffic flow and public safety. The City communicated with the Los Angeles County Fire Department to identify existing residential areas that are located in mapped Very High Fire Hazard Severity Zones and that are served only by narrow and tightly winding roads as the sole route for ingress and egress or that otherwise lack adequate roadway infrastructure to support optimal emergency ingress and egress.

Additional dwelling units on already developed sites in these areas would be impacted by congestion of the evacuation route during an emergency evacuation, causing significant delay in emergency response and negatively impacting public safety, putting more residents and emergency responders in harm’s way in the case of a disaster or emergency. The increased congestion caused by residents of new ADUs would also cause delay emergency responses to homes in the area.

The City Council has determined that adoption of this Ordinance would facilitate the implementation of appropriate standards for ADUs and Junior ADUs in Palos Verdes Estates in a manner that addresses fire and public safety concerns associated with the intensification of development in the City’s R-1 single-family residential zone.

Section 2. Section 17.08.107 (Dwelling Unit, Second) of Chapter 17.08 (Definitions) of Title 17 (Zoning Procedures) of the Palos Verdes Estates Municipal Code is hereby repealed.

Section 3. Chapter 18.45 is hereby added to Title 18 (Zoning Regulations) of the Palos Verdes Estates Municipal Code to read as follows:
Chapter 18.45 Accessory Dwelling Units

Section 18.45.010 Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code sections 65852.2 and 65852.22.

Section 18.45.020 Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will not be:

A. Deemed to be inconsistent with the City’s general plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered in the application of any local ordinance, policy, or program to limit residential growth.

D. Required to correct a nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

Section 18.45.030 Definitions.

As used in this chapter, terms are defined as follows:

A. “Accessory dwelling unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and

2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

B. “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

C. “Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

D. “Efficiency kitchen” means a kitchen that includes each of the following:
1. a cooking facility with appliances;
2. a food preparation counter or counters that total at least 15 square feet in area; and
3. food storage cabinets that total at least 30 square feet of shelf space.

E. “Junior accessory dwelling unit” or “JADU” means a residential unit that

1. is no more than 500 square feet in size;
2. is contained entirely within an existing or proposed single-family structure;
3. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; and
4. includes an efficiency kitchen.

F. “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

G. “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

H. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

I. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

J. “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.

K. “Story” means that portion of a building included between the surface of any floor and the finished ceiling above it.

L. “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.

Section 18.45.040 Approvals.

The following approvals apply to ADUs and JADUs under this chapter:

A. Building Permit Only. If an ADU or JADU complies with each of the general requirements in Section 18.45.050, it is allowed with only a building permit in the following scenarios:
1. Converted on Single-Family Lot: Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

   a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.

   b. Has exterior access that is independent of that for the single-family dwelling.

   c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

2. Limited Detached on Single-Family Lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under (A)(1) of this section), if the detached ADU satisfies the following limitations:

   a. The side and rear yard setbacks are at least 4 feet.

   b. The total floor area is 800 square feet or smaller.

   c. The peak height above the lower of natural, existing, or proposed grade is 16 feet or less.

3. Converted on Multifamily Lot: Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may each have a converted ADU under this paragraph.

4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:

   a. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

   b. The total floor area is 800 square feet or smaller.

B. ADU Permit.

1. Except as allowed under (A)(1) of this section, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in Sections 18.45.050 and 18.45.060.
2. The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City’s ADU ordinance. The ADU-permit processing fee is determined by the Director of Community Development and approved by the City Council by resolution.

C. Process and Timing.

1. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.

2. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:
   
   a. the applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or
   
   b. in the case of a JADU and the 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 City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.

Section 18.45.050 General ADU and JADU Requirements.

The following requirements apply to all ADUs and JADUs that are approved under PVEMC 18.45.040 (A) or (B):

A. Zoning.

1. An ADU or JADU subject only to a building permit under PVEMC 18.45.040 (A) may be created on a lot in the R-1 (Single-Family Residential) or R-M (Multifamily Residential) Zones.

2. An ADU or JADU subject to an ADU permit under PVEMC 18.45.040 (B) may be created on a lot in the R-1 (Single-Family Residential) or R-M (Multifamily Residential) Zones.

B. Fire Safety.

1. Notwithstanding any other provision of this ordinance, all ADUs and JADUs must comply with all applicable building and fire code requirements.

2. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

3. No ADU or JADU may be approved ministerially if included in the City’s Fire-
Vulnerable Single-Family Lots list.

C. Rental Term. No ADU or JADU may be rented for a term that is shorter than 30 days.

D. No Separate Conveyance. An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

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

F. Owner Occupancy.

1. All ADUs created before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was created.

2. An ADU that is created after that date but before January 1, 2025, is not subject to any owner occupancy requirement.

3. All ADUs that are created on or after January 1, 2025 are subject to an owner occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person’s legal domicile and permanent residence.

4. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person’s legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

G. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder’s office and a copy filed with the Director of Community Development. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

1. The ADU or JADU may not be sold separately from the primary dwelling.

2. The ADU or JADU is restricted to the approved size and to other attributes allowed by this chapter.

3. The deed restriction runs with the land and may be enforced against future property owners.

4. The deed restriction shall be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed
restriction, an owner shall make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director’s determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

5. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

H. A Certificate of Occupancy is required for both the main residence and its associated ADU, if built at the same time, prior to either party moving in.

Section 18.45.060 Specific ADU Requirements.

The following requirements apply only to ADUs that require an ADU permit under PVEMC 18.45.040 (B).

A. Maximum Size.

1. The maximum size of a detached or attached ADU subject to this subsection (f) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms. No more than two bedrooms are allowed per unit.

2. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.

3. Application of other development standards in this section, such as FAR or lot coverage, might further limit the size of the ADU, but no application of FAR or lot coverage may require the ADU to be less than 800 square feet, no matter the number of bedrooms.

B. Floor Area Ratio (FAR). No ADU subject to this section may cause the total FAR of the lot to exceed 40 percent, subject to (A)(3) of this section.

C. Lot Coverage. No ADU subject to this section may cause the total lot coverage of the lot to exceed 65 percent, subject to (A)(3) of this section above.

D. Minimum Open Space. No ADU subject to section may cause the total percentage of open space of the lot to fall below 35 percent, subject to (A)(3) of this section.
E. Height.

1. A single-story attached or detached ADU may not exceed 16 feet in height above the lower of natural, existing, or proposed grade, measured to the peak of the structure.

2. A second story or two-story attached ADU is not permitted.

3. A detached ADU may not exceed a single-story.

F. Passageway. No passageway is required for an ADU.

G. Parking.

1. Generally. One off-street parking space is required for each ADU with a minimum of one off-street parking space required per ADU. The parking space may be provided in setback areas or as tandem parking, however the City reserves the right to restrict tandem parking or parking in setback areas if the City makes specific findings that those parking configurations are not feasible based upon specific site or regional topographic or fire and life safety conditions.

2. Exceptions. No parking under (G)(1) of this section is required in the following situations:

   a. The ADU is located within one-half mile walking distance of public transit.

   b. The ADU is located within an architecturally and historically significant historic district.

   c. The ADU is part of the proposed or existing primary residence or an accessory structure (under (A)(3) of Section 18.45.040).

   d. When on-street parking permits are required but not offered to the occupant of the ADU.

   e. When there is an established car share vehicle stop located within one block of the ADU.

3. No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

H. Architectural Requirements.

1. The materials and colors of the exterior walls, roof, windows, and doors must match the appearance and architectural design of those of the primary dwelling.
2. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.

3. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.

4. The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.

5. The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of seven feet.

6. Windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.

8. The architectural treatment of an ADU to be constructed on a lot that has an identified historical resource listed on the federal, state, or local register of historic places must comply with all applicable ministerial requirements imposed by the Secretary of Interior.

9. The ADU and primary dwelling must use the same driveway to access the street, unless otherwise required for fire-apparatus access, as determined by the fire authority.

10. Each unclosed parking space shall be at least eight and one-half feet wide and eighteen feet long.

11. Each parking space that is provided in an enclosed garage shall be at least ten feet wide and twenty feet long and have at least seven and a half feet vertical clearance.


   a. At least ten business days before starting any construction of a second unit, the property owner shall give written notice to all the owners of record of each of the adjacent residential parcels, which notice shall include the following information:

      i. Notice that construction has been authorized,

      ii. The anticipated start and end dates for construction,

      iii. The hours of construction,
iv. Contact information for the project manager (for construction-related complaints), and

v. Contact information for the City’s building division.

b. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular ADU project under this chapter. This notice requirement is purely to promote neighborhood awareness and expectation.

I. Landscape Requirements.

1. Evergreen landscape screening must be planted and maintained between the ADU and adjacent parcels as follows:

   a. At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24” box size plant shall be provided for every ten linear feet of exterior wall.

   b. For a ground-level ADU, plant specimens must be at least six feet tall when installed. As an alternative, for a ground level ADU, a solid fence of at least 6 feet in height may be installed.

2. All landscaping must be drought-tolerant.

J. Grading. Construction for a proposed ADU or JADU subject to this section shall not yield more than 100 yd³ of fill plus cut volume nor more than 5’ fill or cut in height.

Section 18.45.070 Fees.

A. Impact Fees.

1. No impact fee is required for an ADU that is less than 750 square feet in size.

2. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.

B. Utility Fees.

1. No ADU or JADU shall have a new or separate utility connection directly between the ADU or JADU and the utility. A connection fee or capacity charge is
not required unless the ADU or JADU is constructed with a new single-family home.

2. Converted ADUs and JADUs are exempt from direct-connection and connection-fee requirements.

Section 18.45.080 Nonconforming ADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in this chapter may be allowed by the City with a conditional use permit, in accordance with PVEMC Chapter 17.20. A Grading Permit shall also be required as provided under PVEMC Chapter 18.24.

Section 4. Section 18.04.010 (Uses Permitted) of Chapter 18.04 (R-1 Zone) of Title 18 (Zoning Regulations) of the Palos Verdes Estates Municipal Code is hereby amended as follows:

18.04.010 Uses permitted.

The following uses are permitted in the R-1 zone:

A. A one-family dwelling of a permanent character, placed in a permanent location and used by but one family;

B. Home occupations complying with all of the criteria set forth in PVEMC 18.42.030 and approved by the finance director;

C. Small residential care facilities;

D. The following accessory buildings and uses, provided there is a main building on the premises:

1. Private recreational facilities,

2. Private bath house, private greenhouse, private gardens or private service yard,

3. Private shed or private workshop;

E. The keeping of domestic animals only and excluding all other animals.

F. Accessory dwelling units and junior accessory dwelling units complying with the criteria set forth in PVEMC Chapter 18.45.

Section 5. Section 18.04.020 (Conditional Uses) of Chapter 18.04 (R-1 Zone) of Title 18 (Zoning Regulations) of the Palos Verdes Estates Municipal Code is hereby amended as follows:

The following uses may be permitted in the R-1 zone if a conditional use permit is obtained in the manner prescribed by this code:
A. Agriculture and horticulture, flower and vegetable gardening, nurseries and greenhouses used only for purposes of propagation and culture and not including any sale at retail from the premises nor any signs or displays; provided, however, that field, bush or tree crops may be raised and marketed;

B. Churches, temples and other places of public worship;

C. Public utilities, both publicly and privately owned, subject to the off-street parking provisions in PVEMC 18.12.060;

D. Bed and breakfast inn;

E. Communal housing;


G. Accessory dwelling units and junior accessory dwelling units exceeding the standards set forth in PVEMC 18.45.

Section 6. Section 18.04.120 (Second Dwelling Units) of Chapter 18.04 (R-1 Zone) of Title 18 (Zoning Regulations) of the Palos Verdes Estates Municipal Code is hereby repealed.

Section 7. Section 18.08.010 (Uses Permitted) of Chapter 18.08 (R-M Zone) of Title 18 (Zoning Regulations) of the Palos Verdes Estates Municipal Code is hereby amended as follows:

18.08.010 Uses permitted.

The following uses shall be permitted in the R-M zone:

A. Any use permitted in the R-1 zone subject to all conditions in the R-1 zone.

B. Two-family dwellings and multiple dwellings.

C. Mobile home parks or mobile homes, if a conditional use permit is obtained in the manner prescribed by this code.

Section 8. Approval of this Ordinance is exempt from the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq.) pursuant to CEQA Guidelines section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city to implement the provisions of Section 65852.2 of the Government Code, is statutorily exempt from the guidelines for implementation of CEQA.

Section 9. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance of the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declared that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence,
clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 10. The City Council finds and declares that the adoption of this urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety. The City Council finds it necessary to create a mechanism by which a property owners may employ an accessory dwelling unit and/or a junior accessory dwelling unit in accordance with State, County, and local regulations. Therefore, the City Council finds and determines that the immediate preservation of the public peace, health, and safety requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption.

Section 11. This Ordinance shall take effect immediately upon its adoption by at least a four-fifths of the City Council. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

APPROVED, ADOPTED AND ADOPTED this 14th day of April, 2020.

/s/ DAVID A. MCGOWAN, MAYOR

ATTEST: /s/ CAROL COWLEY, CITY CLERK (Seal)

APPROVED AS TO FORM: /s/ CHRISTI HOGIN, CITY ATTORNEY

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) SS:
CITY OF PALOS VERDES ESTATES )

I, Carol Cowley, City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Ordinance O20-744U was adopted and passed by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 14th day of April, 2020, with a four-fifths vote by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

/s/ Carol Cowley, City Clerk
# Fire-Vulnerable Single-Family Lots

*April 3, 2020*

<table>
<thead>
<tr>
<th>STREET NAME</th>
<th>BLOCKS*</th>
<th>NUMBER OF LOTS AFFECTED</th>
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<tr>
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<tr>
<td>El Portal Road</td>
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<tr>
<td>Elevado Lane</td>
<td>2725-2733 Via Campesina &amp; 2777 Via Campesina</td>
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<tr>
<td>Gatos Place</td>
<td>all</td>
<td>5</td>
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<tr>
<td>Horcada Place</td>
<td>all</td>
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</tr>
<tr>
<td>La Costa Place</td>
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<td>Mexico Place</td>
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<td>Muros Place</td>
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<tr>
<td>Navajo Place</td>
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<tr>
<td>Noya Place</td>
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<tr>
<td>Pablo Place</td>
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<tr>
<td>Paseo Del Mar</td>
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<td>Pedro Place</td>
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<tr>
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<tr>
<td>Via Descanso</td>
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<tr>
<td>Via Elevado</td>
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<td>Street Name</td>
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<td>Via Estudillo</td>
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<tr>
<td>Via Fortuna</td>
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<tr>
<td>Via Galicia</td>
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<tr>
<td>Via Goleta</td>
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<tr>
<td>Via Horcada</td>
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<td>5</td>
</tr>
<tr>
<td>Via Horquilla</td>
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<tr>
<td>Via La Cuesta</td>
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<td>Via La Selva</td>
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<td>Via Leon</td>
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<td>Via Miguel</td>
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<td>Via Mirada</td>
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<tr>
<td>Via Oleadas</td>
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<tr>
<td>Via Palestra</td>
<td>1008 ≤</td>
<td>11</td>
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<td>Via Pavion</td>
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<td>Via Pinzon</td>
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<td>Via Rincon</td>
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<td>Via Rivera</td>
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<td>Via Tejon</td>
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<td>Via Victoria</td>
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<td>Zorillo Place</td>
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</table>

**Total** 695

*Key:*
- “[address] ≤” means the shown address and above
- “≤ [address]” means the shown address and below
- “[address] - [address]” means every address within that range, inclusive of the shown addresses
- “all” means every address of the street
- a number on its own means only that address
Lots requiring Conditional Use Permit for ADU or JADU

City outline

- Single-Family Lot in Very High Fire Severity Zone – CUP Required
- Single-Family Lot in Very High Fire Severity Zone – CUP Not Required

City of Palos Verdes Estates
April 3, 2020
   Planning Commission Staff Report (view here)

2. June 12, 2018: City Council held a public hearing to consider an ordinance amending the Municipal Code regarding ADUs and JADUs. Staff provided an overview of the State requirements and the proposed changes to the ordinance recommended by Planning Commission. City Council expressed concerns with reducing the minimum lot size to be eligible for an ADU, the maximum allowable size for an ADU, the potential impacts of allowing ADUs above a garage, and the potential loopholes around the Neighborhood Compatibility ordinance, and continued the public hearing.
   City Council Staff Report (view here)

3. July 24, 2018: City Council held a public hearing and expressed concerns with reducing the minimum lot size to be eligible for an ADU, the amount of parking required for large and medium sized lots, and clarification of where the height of an ADU should be measured, and continued the public hearing.
   City Council Staff Report (view here)

4. September 25, 2018: City Council held a public hearing and expressed concerns to be incorporated into an ordinance to be introduced at the next hearing.
   City Council Staff Report (view here)

5. November 27, 2018: City Council introduced Ordinance 18-734 and set the Ordinance for adoption on Second Reading at the December 11, 2018 hearing with minor edits.
   City Council Staff Report (view here)

6. December 11, 2018: City Council held the Second Reading but did not adopt Ordinance 18-734 due to concerns on whether a JADU ordinance is beneficial, whether the proposed ordinance is indeed more restrictive, fire safety, and the effect of the Palos Verdes Homes Association’s Covenants, Conditions, and Restrictions (CC&Rs).
   City Council Staff Report (view here)

7. June 11, 2019: City Council requested to start from scratch and asked that staff present a menu of options from which they may choose to create the City’s ordinance.
   City Council Staff Report (view here)

8. October 15, 2019: Planning Commission hearing continued in the wake of several new ADU-related bills signed into law having massive effect on the proposed ordinance.

   Planning Commission Staff Report (view here)

10. December 17, 2019: Planning Commission recommended to City Council an ADU & JADU ordinance.
    Planning Commission Staff Report (view here)

    City Council Staff Report (view here)

    Planning Commission Staff Report (view here)

13. March 10, 2020: City Council held a public hearing and expressed concerns to be incorporated into an ordinance to be heard at the next hearing.
    City Council Staff Report (view here)