

**ORDINANCE NO. 13-0012**

**AN ORDINANCE OF THE CITY OF MANHATTAN BEACH  
AMENDING THE MANHATTAN BEACH LOCAL COASTAL  
PROGRAM TO IMPLEMENT 2008-2014 HOUSING ELEMENT  
PROGRAMS, GOALS, AND POLICIES**

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA,  
DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. CEQA Findings.** Pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, a Negative Declaration was prepared and adopted by the City Council for the 2008-2014 Housing Element. The Negative Declaration evaluated the potential environmental impacts of the Housing Element and its implementation programs, which included the proposed Code amendments, and concluded that no significant impacts would occur. Based on the initial study, the previously adopted Negative Declaration, and the record before the City Council, the City Council hereby finds that there have been no substantial changes to the project or the environment that would require the preparation of a subsequent negative declaration or a supplement to the previously adopted Negative Declaration because the requested approval will merely implement the Housing Element and will not introduce significant environmental effects or substantially increase the severity of effects previously identified and analyzed in the adopted Negative Declaration. Furthermore, there are no changed circumstances or new information, which was not known at the time the Negative Declaration was adopted that would require the preparation of a subsequent Negative Declaration or major revisions to the previously adopted Negative Declaration pursuant to CEQA Guidelines Section 15162. Therefore, the original Negative Declaration represents the independent judgment of the City and there is no substantial evidence that the approval of the project may have any significant environmental impact. Copies of the documents are available for public review and inspection in the City's Community Development Department, City Hall, located at 1400 Highland Avenue, Manhattan Beach, California 90266.

**SECTION 2.** The City Council hereby amends Section A.08.030 ("Residential use classifications") of the Manhattan Beach Local Coastal Program by adding the following definitions in alphabetical order, with all other provisions of Section A.08.030 to remain unchanged:

**"A.08.030—Residential Use Classifications**

**Emergency Shelter:** Housing with minimal supportive services for homeless persons that limits occupancy by homeless persons to six months or less and that does not deny emergency shelter due to a person's inability to pay.

**Supportive Housing:** Housing occupied by a specified target population defined in Section 50675.14 of the California Health and Safety Code that has no limit on length of stay, and that is linked to onsite or offsite services that assist the resident in retaining the housing, improving his or her health status, maximizing his or her ability to live, and – when possible – work in the community. Supportive housing is a residential use subject to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

**Transitional Housing:** Rental housing operated under program requirements that terminate assistance to residents and recirculate the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from the initial occupancy date of the recipient. Transitional housing is a residential use subject to the same regulations and procedures that apply to other residential uses of the same type in the same zone."

**SECTION 3.** The City Council hereby amends the title row and the rows related to "Multi-Family Residential" in the table included in Section A.12.020 ("Land Use Regulations: RM and RH districts") of the Manhattan Beach Local Coastal Program and adds Additional

Use Regulation “(O)” regarding permitting for multi-family residential uses to read as follows, with all other provisions of Section A.12.020 to remain unchanged:

<b>RM and RH DISTRICTS</b>			<b>P – Permitted</b> <b>PDP – Precise Development Plan</b> <b>SDP – Site Development Permit</b> <b>U – Use Permit</b> <b>L – Limited (see additional use regulations)</b> <b>- Not permitted</b>
<b>LAND USE REGULATIONS</b>			
	<b>RM</b>	<b>RH</b>	<b>Additional Regulations</b>
Multi-Family Residential			
5 or fewer units	P	P	(B)(C)(L)
6 or more units	PDP/SDP	PDP/SDP	(B)(C)(L)(O)

“(O) Residential developments of 6 or more units that qualify for a density bonus pursuant to Chapter A.94 of this Code shall apply for a Precise Development Plan. Residential developments of 6 or more units that do not receive a density bonus shall apply for a Site Development Permit.”

**SECTION 4.** The City Council hereby amends the tables in Section A.12.030 (“Property Development Regulations: RM and RH districts”) of the Manhattan Beach Local Coastal Program to add “Additional Regulation” “T” to the “Additional Development Regulations” column in the “Property Development Standards” tables for “Area Districts III and IV” in the rows for “Minimum Lot Area per Dwelling Unit (sq. ft.)” and to add “Additional Regulation” “U” to the “Additional Development Regulations” column in the “Property Development Standards” tables in the rows for “Lot Area (sq. ft.),” with all other provisions in Section A.12.030 to remain unchanged.

**SECTION 5.** The City Council hereby amends Section A.12.030 (“Property Development Regulations: RM and RH districts”) of the Manhattan Beach Local Coastal Program to add the following language, with all other provisions of Section A.12.030 to remain unchanged:

T. Multi-family residential developments meeting the minimum requirements for a density bonus pursuant to Chapter A.94 shall be granted a lot consolidation bonus incentive when two or more parcels are consolidated into a single building site according to the following formula:

<u>Combined Parcel Size</u>	<u>Base Density Increase</u>
<u>Less than 0.50 acre</u>	<u>No increase</u>
<u>0.50 acre to 0.99 acre</u>	<u>5% increase</u>
<u>1.00 acre or more</u>	<u>10% increase</u>

This lot consolidation bonus incentive shall be calculated prior to determining any density bonus pursuant to Chapter A.94.

U. Multi-family residential developments meeting the minimum requirements for a density bonus pursuant to Chapter A.94 shall be exempt from these maximum lot size limitations.”

**SECTION 6.** The City Council hereby amends Section A.28.030 (“Land Use Regulations”) of the Manhattan Beach Local Coastal Program to add “emergency shelters” as a permitted use in the Public and Semipublic (PS) district and to add “Additional Regulation” “C” to read as follows, with all other provisions in Section A.28.030 to remain unchanged:

Emergency shelters	P	(C)
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“(C) Emergency shelters shall be permitted subject to the provisions of the Manhattan Beach Local Coastal Program Section A.56.060.”

**SECTION 7.** The City Council hereby adds a new Section A.56.060 (“Emergency Shelters”) to the Manhattan Beach Local Coastal Program regarding development standards for emergency shelters to read as follows:

**“A.56.060 Emergency Shelters.**

**A. Specific Purposes.** This section sets forth the requirements for the establishment and operation of emergency shelters.

**B. Permit and Operational Requirements.** The approval and operation of an emergency shelter shall be subject to the following requirements:

1. **Zoning Conformance Required.** Emergency shelters may be established and operated in the Public/Semi-Public (PS) District subject to non-discretionary approval of a Zoning Clearance in compliance with Manhattan Beach Municipal Code Chapter 10.80;

2. **Management and Operations Plan.** An application for a permit to establish and operate an emergency shelter shall be accompanied by a Management and Operations Plan, which should incorporate the following: hours of operation, staffing levels and training procedures, maximum length of stay, size and location of exterior and interior onsite waiting and intake areas, admittance and discharge procedures, provisions for on-site or off-site supportive services, house rules regarding use of alcohol and drugs, on-site and off-site security procedures, and protocols for communications with local law enforcement agencies and surrounding property owners.

**C. Development Standards.** In addition to other standards set forth in the Municipal Code, emergency shelters shall conform to the following standards.

1. Maximum of 25 Beds.
2. Minimum separation of 300 feet between emergency shelters.
3. One parking space per 4 beds, plus one space for each staff member on duty.”

**SECTION 8.** The City Council hereby adds a new Section A.64.240 (“Off-Street Parking and Loading Regulations for Affordable Housing Developments”) to the Manhattan Beach Local Coastal Program to establish parking standards for affordable housing developments that receive a density bonus to read as follows:

**“A.64.240. Off-Street Parking and Loading Regulations for Affordable Housing Developments.**

When requested by the applicant, multi-family residential developments meeting the minimum

requirements for a density bonus pursuant to Chapter A.94 shall provide off-street parking according to the following formula:

<u>Unit Size</u>	<u>Parking Spaces</u>
Studio or 1-bedroom	One space
2 or 3 bedrooms	Two spaces
4 or more bedrooms	Two and one-half spaces

The number of required parking shall be inclusive of guest parking. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.”

SECTION 9. The City Council hereby amends Chapter A.84 of the Manhattan Beach Local Coastal Program, with the exception of Sections A.84.050, A.84.105, A.84.110, and A.84.120, to add provisions regarding precise development plans and site development plans to read as follows, with all other sections of Chapter A.84 to remain unchanged:

**“Chapter A.84 –USE PERMITS, VARIANCES, MINOR EXCEPTIONS, PRECISE DEVELOPMENT PLANS AND SITE DEVELOPMENT PERMITS**

**A.84.010. Purposes.**

This chapter provides the flexibility in application of land-use and development regulations necessary to achieve the purposes of the ordinance codified in this title by establishing procedures for approval, conditional approval, or disapproval of applications for use permits, variances, minor exceptions, precise development plans and site development permits.

Use permits are required for use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area.

Variations are intended to resolve practical difficulties or unnecessary physical hardships that may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity of the site.

Variations may be granted with respect to fences, walls, landscaping, screening, site area, site dimensions, yards, height of structures, distances between structures, open space, off-street parking and off-street loading, and performance standards.

Authorization to grant variations does not extend to use regulations because sufficient flexibility is provided by the use permit process for specified uses and by the authority of the Planning Commission to determine whether a specific use belongs within one (1) or more of the use classifications listed in Chapter A.08. Further, Chapter A.96 provides procedures for amendments to the zoning map or zoning regulations.

These will ensure that any changes are consistent with the General Plan and the land use objectives of the ordinance codified in this title.

Minor exceptions are generally intended to allow certain alterations and additions to certain nonconforming pre-existing structures. Minor Exceptions are also intended to encourage home remodeling and additions to existing smaller older legal non-conforming homes. The provisions strive to balance the Community's desire to maintain smaller older homes while still allowing some flexibility to encourage these homes to be maintained and upgraded, as well as enlarged below the maximum allowed square footage instead of being replaced with larger new homes.

Precise development plans are intended to encourage the development of affordable housing through a streamlined permitting process. Projects that qualify for a density bonus pursuant to Chapter A.94 shall be eligible for an administrative non-discretionary precise development plan.

Site development permits are intended to streamline the permitting process for multi-family housing developments of 6 or more units.

**A.84.020. Decision making Authority.**

A. The Community Development Director shall approve, conditionally approve, or disapprove applications for minor exceptions and precise development plans.

B. The Planning Commission shall approve, conditionally approve, or disapprove applications for use permits, variances and site development permits.

C. Such decisions may be appealed pursuant to Chapter 10.100 of the Manhattan Beach Municipal Code.

**A.84.030. Initiation.**

Applications for use permits, variances, precise development plans and site development permits shall be initiated by submitting the following materials to the Community Development Department:

A. A completed application form, signed by the property owner or authorized agent, accompanied by the required fee, copies of deeds, any required powers of attorney, plans and mapping documentation in the form prescribed by the Community Development Director;

B. A vicinity map showing the location and street address of the development site;

The following additional items shall also be required for use permits, variances and site development permits:

C. A map showing the location and street address of the property that is the subject of the amendment and of all lots of record within five hundred feet (500') of the boundaries of the property; and

D. A list, drawn from the last equalized property tax assessment roll or the records of the County Assessor, Tax Collector, or the City's contractor for such

records showing the names and addresses of the owner of record of each lot within five hundred feet (500') of the boundaries of the property. This list shall be keyed to the map required by subsection (C) of this section and shall be accompanied by mailing labels.

**A.84.040. Notice and public hearing.**

A. **Public Hearing Required.** The Planning Commission shall hold a public hearing on an application for a use permit, variance or site development permit.

B. **Notice.** Upon receipt of a complete application, notice of the hearing shall be given in the following manner:

1. **Mailed or Delivered Notice.** At least ten (10) days prior to the hearing, notice shall be: (1) mailed to the applicant; (2) all owners of property within five hundred feet (500') of the boundaries of the site, as shown on the last equalized property tax assessment role or the records of the County Assessor, Tax Collector, or the City's contractor for such records and (3) any agency as required by Government Code Section 65091.

2. **Posted Notice.** Notwithstanding the requirements of Section 1.08.140 of this Code, notice shall be posted at City Hall.

3. **Published Notice.** Notice shall be published in a newspaper of general circulation in accordance with Section 65090 and 65091 of the California Government Code.

C. **Contents of Notice.** The notice of public hearing shall contain:

1. A description of the location of the development site and the purpose of the application;
2. A statement of the time, place, and purpose of the public hearing;
3. A reference to application materials on file for detailed information; and
4. A statement that any interested person or an authorized agent may appear and be heard.

D. **Multiple Applications.** When applications for multiple use permits, variances or site development permits on a single site are filed at the same time, the Community Development Director shall schedule a combined public hearing.

**A.84.060. Required findings.**

An application for a use permit, variance, precise development plan or site development permit shall be approved if, on the basis of the application, plans, materials, and testimony submitted, the decision making authority finds that:

A. **For All Use Permits.**

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located;

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located; and

4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

**B. For Variances.**

1. Because of special circumstances or conditions applicable to the subject property—including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions—strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property;

2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare; and

3. Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.

4. OS District Only. Granting the application is consistent with the requirements of Section 65911 of the Government Code and will not conflict with General Plan policy governing orderly growth and development and the preservation and conservation of open-space laws.

**C. For Precise Development Plans and Site Development Permits.**

1. The proposed project is consistent with the General Plan and Local Coastal Program;

2. The physical design and configuration of the proposed project are in compliance with all applicable zoning and building ordinances, including physical development standards.

**D. Mandatory Denial.** Failure to make all the required findings under (A), (B), (C) or (D) shall require denial of the application for a use permit, variance, precise development plan or site development permit.

**A.84.070. Conditions of approval.**

A. In approving a precise development plan or site development permit, reasonable conditions may be imposed as necessary to make the required findings.

B. In approving a use permit or variance, reasonable conditions may be imposed as necessary to:

1. Achieve the general purposes of this ordinance or the specific purposes of the zoning district in which the site is located, or to make it consistent with the General Plan;
2. Protect the public health, safety, and general welfare; or
3. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.
4. Provide for periodic review of the use to determine compliance with conditions imposed, and Municipal Code requirements.

**A.84.080. Effective date—Appeals.**

Unless appealed in accordance with Chapter 10.100 of the Manhattan Beach Municipal Code, a use permit, variance, minor exception, precise development plan or site development permit shall become effective after expiration of the time limits for appeal set forth in Chapter 10.100.

**A.84.090. Lapse of approval—Transferability—Discontinuance—Revocation.**

**A. Lapse of Approval.** A use permit, variance, minor exception, precise development plan or site development permit shall lapse two (2) years or at an alternative time specified as a condition of approval after its date of approval unless:

1. A building permit has been issued and substantial expenditures have been made in reliance on that permit; or
2. A certificate of occupancy has been issued; or
3. The use is established; or
4. The use permit, variance, minor exception, precise development plan or site development permit is renewed.

A use permit, variance, minor exception, precise development plan or site development permit also shall lapse upon termination of a project or expiration of a building permit.

**B. Transferability.** The validity of a use permit, variance, minor exception, precise development plan or site development permit shall not be affected by changes in ownership or proprietorship provided that the new owner or proprietor applies to the Community Development Director for a transfer which may be comprised of a business license. No notice or public hearing on a transfer shall be required.

**C. Discontinuance.** An implemented use permit, variance, minor exception, precise development plan or site development permit shall lapse if the exercise of rights granted by it



is discontinued for twelve (12) consecutive months provided that time for plan check, construction or reconstruction activities shall not be counted toward the twelve (12) months.

**D. Revocation.** A use permit, variance, minor exception, precise development plan or site development permit that is exercised in violation of a condition of approval or a provision of this title may be revoked, or modified, as provided in Section 10.104.030

**E. Renewal.** A use permit, variance, minor exception, precise development plan or site development permit may be renewed by the Community Development Director for periods of time up to one (1) year without notice or public hearing, if the findings required by Section A.84.060 remain valid. Such requests for renewal are subject to the review and approval of the original reviewing body.

**A.84.100. Changed plans—New application.**

**A. Changed Plans.** A request for changes in conditions of approval of a use permit, variance, minor exception, precise development plan or site development permit or a change to development plans that would affect a condition of approval, shall be treated as a new application.

**B. New Application.** If an application for a use permit, variance, minor exception, precise development plan or site development permit, is disapproved, no new application for the same, or substantially the same project, shall be filed within one (1) year of the date of denial of the initial application, unless the denial is made without prejudice.

SECTION 10. The City Council hereby adds a new Chapter A.85 (“Reasonable Accommodation”) to the Manhattan Beach Local Coastal Program, to allow disabled persons to request a reasonable accommodation from the City’s regulations in order to use and enjoy housing, to read as follows:

**“Chapter A.85. Reasonable Accommodation**

**A.85.010 - Specific Purposes.**

In conformance with state and federal fair housing laws, this chapter establishes the City’s procedures related to requests for reasonable accommodations from the strict application of the City’s land use and zoning regulations to allow disabled persons an equal opportunity to use and enjoy a dwelling.

**A.85.020 – Definitions.**

“DISABLED; DISABLED PERSON.” A person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment, or anyone who has a record of such impairment, as those terms are defined in the fair housing laws.

“ELIGIBLE PERSON.” A disable person, a disabled person’s representative, or a real estate developer building housing for disabled persons.

“FAIR HOUSING LAWS.” The “Fair Housing Act” (42 U.S.C § 3601 et seq.), the “Americans with Disabilities Act” (42 U.S.C. § 12101 et seq.), and the “California Fair

Employment and Housing Act” (California Government Code § 12900 et seq.), as these statutes now exist or may be amended from time to time, and the implementing regulations for each of these statutes.

“MAJOR LIFE ACTIVITY.” Physical, mental, and social activities, such as the operation of major bodily functions, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

“PHYSICAL OR MENTAL IMPAIRMENT.” Any physiological disorder or condition and any mental or psychological disorder, including, but not limited to, orthopedic, visual, speech and hearing impairments, cosmetic disfigurement, anatomical loss, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disabilities (formerly termed “mental retardation”), emotional or mental illness, learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, and alcoholism and drug addiction (but not including current use of illegal drugs). A temporary condition, such as a broken leg, pregnancy, use of crutches, etc. does not qualify as a physical or mental impairment.

“REASONABLE ACCOMMODATION.” Any deviation requested and/or granted from the City’s zoning and land use laws, rules, regulations, policies, procedures, practices, or any combination thereof, that may be reasonable and necessary for a disabled person to have an equal opportunity to use and enjoy a dwelling.

**A.85.030 - Requesting Reasonable Accommodations.**

A. In order to make housing available to disabled persons, any eligible person may request a reasonable accommodation from the strict application of land use, zoning and building regulations, policies, practices and procedures.

B. Requests for a reasonable accommodation shall be submitted on an application form established by the Community Development Director.

C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection, unless required by state or federal law.

D. A request for a reasonable accommodation from the strict application of the City’s regulations, policies, practices or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect a person’s obligations to comply with other applicable regulations not at issue in the requested accommodation.

**A.85.040 - Reviewing Authority.**

A. Requests for a reasonable accommodation shall be reviewed by the Community Development Director using the criteria set forth in Section A.85.050. The Community Development Director may, in his discretion, refer applications to the Planning Commission for consideration.

B. The Community Development Director may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings

set forth in Section A.85.050.

C. If necessary to reach a determination on the request for reasonable accommodation and consistent with fair housing laws, the Community Development Director may request additional information from the applicant.

**A.85.050 - Required Findings.**

The request for a reasonable accommodation shall be approved, or approved with conditions, if the reviewing authority finds that all of the following findings can be made:

A. The dwelling, which is the subject of the request for reasonable accommodation, will be used by a disabled person;

B. The requested accommodation is necessary to make housing available to a disabled person;

C. The requested accommodation will not impose an undue financial or administrative burden on the City; and

D. The requested accommodation will not require a fundamental alteration in the nature of the City's zoning ordinance.

**A.85.060 - Written Decision.**

A. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the findings required by Section 10.85.050. All written decisions shall give notice of the applicant's right to appeal and to request a reasonable accommodation in the appeals process. The notice of decision shall be sent to the applicant by certified mail.

B. The written decision shall be final, unless the applicant appeals the decision pursuant to Chapter 10.100 of the Manhattan Beach Municipal Code.

C. While a request for a reasonable accommodation is pending, all laws and regulations otherwise applicable to the property shall remain in full force and effect.

**A.85.070 – Expiration.**

A. A reasonable accommodation shall lapse if the exercise of rights does not occur within 180 days after the issuance of the final decision.

B. The rights conferred by an approved accommodation shall expire when the disabled person for whom the accommodation was granted no longer resides at the property, unless the Director makes either of the following findings: (1) that such accommodation is physically integrated with the property and cannot feasibly be removed or altered or (2) the property is now occupied by another disabled person who requires the accommodation to have an equal opportunity to use and enjoy the dwelling. The Community Development Director may request documentation that subsequent occupants are disabled persons. Failure to provide such documentation within 30 days of the date of a request by the City shall constitute grounds for discontinuance by the City of a previously approved reasonable accommodations.”

**SECTION 11.** The City Council hereby amends Section A.88.090 (Bonus for including low-and moderate-income housing) of this Code so all references to “Section A.52.080” to read “Chapter A.94” – with all other provisions in Section A.88.090 to remain unchanged.

**SECTION 12.** The City Council hereby deletes Section A.52.080 (“Affordable Housing Incentive Program”) of the Manhattan Beach Local Coastal Program in its entirety and adds a new Chapter A.94 (“Affordable Housing Density Bonus and Incentive Program”) to comply with state law regarding density bonuses for affordable housing developments to read as follows:

**“Chapter A.94 AFFORDABLE HOUSING DENSITY BONUS AND INCENTIVE PROGRAM.**

**A.94.010. General Affordable Housing Provisions**

A. **State Law Governs.** The provisions of this chapter shall be governed by the requirements of Government Code Section 65915, as that statute is amended from time-to-time. Where conflict occurs between the provisions of this chapter and State law, the State law provisions shall govern, unless otherwise specified.

B. **Compatibility.** All affordable housing units shall be dispersed within market-rate projects whenever feasible. Affordable housing units within market-rate projects shall be comparable with the design and use of market-rate units in appearance, use of materials, and finished quality. The design and appearance of the affordable housing units shall be compatible with the design of the total housing project and consistent with the surrounding neighborhood. Forms, materials and proportions that are compatible with the character of the surroundings shall be used.

C. **Availability.** All affordable housing units shall be constructed concurrently with, and made available for qualified occupants at the same time as, the market-rate housing units within the same project unless both the City and the developer agree in the Affordable Housing Agreement to an alternative schedule for development.

D. **Affordable Housing Agreement.** An Affordable Housing Agreement shall be made a condition of the planning permits for all projects granted a density bonus, pursuant to this Chapter. The Agreement shall be recorded as a restriction on the parcel or parcels on which the affordable housing units will be constructed. The Agreement shall be consistent with Section A.94.050.D., Affordable Housing Agreement Required.

E. **Median Income Levels.** For the purpose of determining the income levels for Households under this Chapter, the City shall use the Los Angeles County income limits found in Title 25, Section 6932 of the California Code of Regulations, and regularly updated and published by the State Department of Housing and Community Development, or other income limits adopted by the City Council if the State Department of Housing and Community Development fails to provide regular updates.

F. **Effect of Granting Density Bonus.** The granting of a density bonus shall not, in and of itself, be interpreted to require a general plan amendment, zoning change, or other discretionary approval.

**A.94.020. State Affordable Housing Density Bonus.**

A. **Density Bonus.** Pursuant to Government Code Section 65915, the City shall grant a density bonus in the following amounts over the otherwise allowable maximum residential density permitted by this Chapter and the General Plan, and at least 1 or more of the Affordable Housing Incentives, as set forth in Section A.94.040 (“Affordable Housing Concessions and Incentives”), if the applicant agrees or proposes to construct any one of the following:

1. Lower Income Units. A density bonus of 20% if 10% of the total units of a housing development are Target Units affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

2. Very Low Income Units. A density bonus of 20%, if 5% of the total units of a housing development are Target Units affordable to very low income households, as defined in Section 50105 of the Health and Safety Code.

3. Senior Citizen Housing Development. A density bonus of 20%, if a housing development qualifies as a Senior Citizen Housing Development, as defined in Section 51.3 of the Civil Code.

4. Moderate Income Units in Condominium and Planned Unit Developments. A density bonus of 5% if 10% of the total dwelling units in a condominium project, as defined in subdivision (f) of, or in a Planned Development, as defined in subdivision (k) of Section 1351 of the Civil Code, are Target Units affordable to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

5. Housing Accompanied by Land Donation. A density bonus of 15% if a housing developer agrees to donate land to the City, subject to the requirements of Section 10.94.060 ("Density Bonuses for Housing Developments Accompanied by Land Donation").

**B. Applicability.** The provisions of subsection A shall be applicable to residential projects of 5 or more units, and senior citizen housing developments of at least 35 units.

**C. Calculation of Density Bonuses.**

1. Density Bonus Units. When calculating the number of permitted density bonus units, all fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the number of target affordable or senior housing units to be provided in a development project;

2. Sliding Scale for Greater Density Bonus. An applicant is entitled to receive a bonus larger than the percentages specified in subsection A if the percentage of affordable housing exceeds the percentages specified in subsection A, subject to the following provisions:

a. Lower Income Dwellings. For each additional 1% increase above 10% in the proportion of units affordable to lower income households, the density bonus shall be increased by 1.5% up to a maximum of 35% of the maximum allowable residential density for the site.

b. Very Low Income Dwellings. For each additional 1% increase above 5% in the proportion of units affordable to very low income households, the density bonus shall be increased by 2.5% up to a maximum of 35% of the maximum allowable residential density for the site.

c. Condominium and Planned Unit Developments. For each additional 1% increase above 10% in the proportion of units affordable to moderate income households in condominium and planned unit developments, the density bonus shall be increased by 1% up to a maximum of 35% of the maximum allowable residential density for the site.

d. Housing Accompanied by Land Donation. For each additional 1% increase above the minimum 10% land donation described in Section A.94.060 ("Density Bonuses for Housing Developments Accompanied by Land Donation"), the density bonus shall be increased by 1%, up to a maximum of 35% of the maximum allowable residential density for the site.

D. **Applicant May Request Smaller Density Bonus.** Notwithstanding the foregoing, the City may award a smaller density bonus than specified in this section if the applicant so requests.

**A.94.030. State Childcare Facility Density Bonus.**

A. **Density Bonus.** When an applicant proposes to construct a housing development that conforms to the requirements of Section A.94.020.A (“Density Bonus”), and includes a childcare facility other than a family day care home that will be located on the premises of, as part of, or adjacent to, the project, the City shall grant either of the following:

1. **Additional Density Bonus.** A density bonus of additional residential units equal in square footage to the amount of square feet of the childcare facility, or

2. **Additional Concession or Incentive.** An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

B. **Conditions of Approval.** The City shall require as a condition of approving the housing development that the following occur:

1. **Length of Operation.** The childcare facility remains in operation for a period of time that is as long as, or longer than, the length of time during which Section A.94.050.B (“Duration of Affordability of Rental Units”) requires that the affordable housing units remain affordable.

2. **Attending Children.** The percentage of children of very low, low or moderate income households who attend the childcare facility shall be the same or greater than the percentage of dwelling units in the project that are required for households at each income level, pursuant to Section A.94.030.A (“Density Bonus”).

C. **Exceptions.** The City shall not be required to provide a density bonus or concession for a childcare facility if it finds that, based upon substantial evidence, the community has adequate childcare facilities.

**A.94.040. Affordable Housing Concessions and Incentives.**

A. **Number of Incentives or Concessions.** In addition to a density bonus, an applicant is entitled to receive incentives or concessions as follows:

1. One incentive or concession for projects that include at least 10% of the total units for lower income households, at least 5% for very low income households, or at least 10% for persons and families of moderate income in a condominium or planned development, or

2. One incentive or concession for senior citizen housing developments, or

3. Two incentives or concessions for projects that include at least 20% of the total units for lower income households, at least 10% for very low income households, or at least 20% for persons and families of moderate income in a condominium or planned development, or

4. Three incentives or concessions for projects that include at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons and families of moderate income in a condominium or planned development.

B. **Proposal of Incentives and Findings.** An applicant may propose specific incentives or concessions that would contribute significantly to the economic feasibility of

providing affordable units pursuant to this chapter and State law. In addition to any increase in density to which an applicant is entitled, the City shall grant one or more incentives or concessions that an applicant requests, up to the maximum number of incentives and concessions required pursuant to subsection A, unless the City makes a written finding that either:

1. The concession or incentive is not necessary in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c), or

2. The concession or incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households, or

3. The concession or incentive would be contrary to state or federal law.

**C. Types of Incentives.** Incentives provided pursuant to this chapter may consist of any combination of the items listed below. In addition to the incentives listed, the City may allow for fast track and priority processing for a project with affordable housing.

1. **Modification of Development Standards.** Up to 20% in modification of site development standards or zoning code requirements that exceeds minimum building code standards and fire code standards, including, but not limited to:

- a. Reduced minimum lot sizes and/or dimensions.
- b. Reduced minimum building setbacks and building separation requirements.
- c. Reduced minimum outdoor and/or private outdoor living area requirements.
- d. Increased maximum lot coverage.
- e. Increased building height.

2. **Reduced Parking.**

a. Upon the applicant's request, the City shall allow a reduction in required parking, excluding handicapped parking. For a development that receives a density bonus pursuant to this chapter, the City shall not require a parking ratio that exceeds the following:

- i. One on-site space for 0 to 1 bedroom units;
- ii. Two on-site spaces for 2 to 3 bedroom units;
- iii. Two and a half spaces for 4 or more bedroom units.

b. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

c. At the applicant's request, tandem parking may be counted toward meeting these parking requirements.

3. **Mixed Use Zoning.** Approval of mixed use zoning in conjunction with the

housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development and such uses are compatible with the housing project and the surrounding area.

4. Other Incentives. Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable cost reductions or avoidance.

D. **Additional Incentives.** The City may allow for additional affordable housing incentives to be granted on a case-by-case basis, when requested by an applicant when more than 50% of the affordable housing units provided contain 3 or more bedrooms to meet the needs of large families.

#### **A.94.050. Administration.**

A. **Application and Review Process.** A preliminary review of development projects proposed pursuant to this Chapter is encouraged to identify potential application issues, including proposed modifications to development standards. The applicant shall request in the application the incentives the applicant wishes to obtain. The application shall include financial data showing how the incentives are necessary to make the affordable units feasible. Applications shall be reviewed and processed according to the provisions of the Manhattan Beach Local Coastal Program Chapter A.12 (“Residential Districts”).

B. **Duration of Affordability of Rental Units.** All lower income and very low income housing units shall be kept affordable for a minimum period of 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program, consistent with State law.

C. **Definition of Affordability.** Those units targeted for lower income households as defined in Section A.94.020 (“State Affordable Housing Density Bonus”), shall be affordable at a rent that does not exceed 30% of 60% of the area median income. Units targeted for very low income households shall be affordable at a rent that does not exceed 30% of 50% of area median income. Units targeted for moderate income households shall be affordable at a rent that does not exceed 35% of 110% of area median income. Median income levels shall be the income limits for Los Angeles County households as provided for in Section A.94.010.E (“Median Income Levels”).

D. **Affordable Housing Agreement Required.** All affordable housing projects shall be subject to the approval of an affordable housing agreement conforming to the provisions of Title 7, Division 1, Chapter 4, Article 2.5 of the Government Code, which shall be recorded as a covenant on the title to the Property. The terms of the Agreement shall be reviewed and revised as appropriate by the Director and/or City Attorney, who shall formulate a recommendation to the Planning Commission for final approval. This Agreement shall include, but is not limited to, the following:

1. Number of Units. The total number of units approved for the projects, including the number of affordable housing units.

2. Target Units. The location, unit sizes (in square feet) and number of bedrooms of the affordable housing units.

3. Target Group. A description of the household income groups to be accommodated by the project and a calculation of the Affordable Rent or Sales Price, or a commitment to provide a Senior Citizen Housing Development.

4. Certification Procedures. The party responsible for certifying rents or sales prices of inclusionary units, and the process that will be used to certify renters or purchasers of such units.

5. Schedule. A schedule for the completion and occupancy of the affordable



housing units.

6. Remedies for Breach. A description of the remedies for breach of the Agreement by either party.

7. Required Term of Affordability. For lower income and very low income units, duration of affordability of the housing units, pursuant to Section A.94.050.B (“Duration of Affordability of Rental Units”). Provisions should also cover resale control and deed restrictions on targeted housing units that are binding on property upon sale or transfer, in accordance with the requirements of Government Code Section 65915.

8. Expiration of Agreement. Provisions covering the expiration of the agreement, including notice prior to conversion to market rate units and right of first refusal option for the City and/or the distribution of accrued equity for for-sale units.

9. Other Provisions. Other provisions to ensure implementation and compliance with this Chapter and State law.

10. Condominium and Planned Unit Developments. In the case of condominium and planned unit developments, the Affordable Housing Agreement shall provide for the following conditions governing the initial sale and initial resale and use of affordable housing units:

a. Target Units shall, upon initial sale, be sold to eligible Very Low, Lower, or Moderate Income Households at an Affordable Sales Price and Housing Cost, or to Qualified Residents as defined by this chapter.

b. Target Units shall be initially owner-occupied by eligible Very Low, Lower, or Moderate Income Households.

c. Upon resale, the seller of a Target Unit shall retain the value of any improvements, the down payment, and the seller’s proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall be used to promote home ownership opportunities as provided for in Health and Safety Code Section 33334.2. The City’s proportionate share shall be equal to the percentage by which the initial sale price to the targeted household was less than the fair market value of the dwelling unit at the time of initial sale.

11. Rental Housing Developments. In the case of rental housing developments, the Affordable Housing Agreement shall provide for the following conditions governing the use of Target Units during the use restriction period:

a. The rules and procedures for qualifying tenants, establishing affordable rent rates, filling vacancies, and maintaining Target Units for qualified tenants.

b. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter.

c. Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying Target Units, and which identifies the bedroom size and monthly rent or cost of each Target Unit.

**E. Notice of Conversions.** Notice of conversions of affordable units to market-rate units shall be provided pursuant to the following requirements:

1. General. At least a one year notice shall be required prior to the conversion of any rental units for affordable households to market-rate.

2. Required Notice. Notice shall be given to the following:

- a. The City;
- b. The State Housing and Community Development Department (HCD);
- c. The Los Angeles County Housing Authority;
- d. The residents of the affordable housing units proposed to be converted; and
- e. Any other person deemed appropriate by the City.

**F. Conversion of Affordable Rental Units.** If an owner of a housing development issues a notice-of-intent to convert affordable housing rental units to market-rate housing, the City shall consider taking one or more of the following actions:

- 1. Meet with the owner to determine the owner's financial objectives;
- 2. Determine whether financial assistance to the current owner will maintain the affordability of the rental housing development or whether acquisition by another owner dedicated to maintaining the affordability of the development would be feasible; and
- 3. If necessary to maintain the affordability of the housing unit or facilitate sale of the rental development, consider the use of assistance in accessing state or federal funding.

**A.94.060. Density Bonuses for Housing Developments Accompanied by Land Donation.**

The City shall grant a density bonus pursuant to Section A.94.020 ("State Affordable Housing Density Bonus") to a housing development if the applicant agrees to donate land to the City and the applicant satisfies all of the following requirements:

A. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application;

B. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 % of the number of residential units of the proposed development;

C. The transferred land is at least 1 acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure, as determined by the Director;

D. The transferred land has appropriate zoning and development standards to make the development of the affordable units feasible, as determined by the Director;

E. Prior to the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land has all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review if the design is not reviewed by the City prior to the time of transfer;

F. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units meeting the requirements of an affordable housing agreement as set forth in Section A.94.050.D ("Affordable Housing Agreement Required");

G. The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer; and

H. The transferred land is within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

SECTION 14. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 15. The City Council hereby directs staff to submit this LCP amendment to the California Coastal Commission for certification, in conformance with the submittal requirements specified in the California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2. The LCP amendment approved in this ordinance shall become effective only upon certification by the California Coastal Commission.

SECTION 16. Any provisions of the Manhattan Beach Local Coastal Program, or appendices thereto, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance, and no further, are hereby repealed.

SECTION 17. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code.

PASSED, APPROVED AND ADOPTED this 25<sup>th</sup> day of June, 2013.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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DAVID LESSER  
Mayor of the City of Manhattan Beach,  
California

ATTEST:

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LIZA TAMURA  
City Clerk

APPROVED AS TO FORM:

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QUINN M. BARROW  
City Attorney