

**ORDINANCE NO. O20-747**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF PALOS VERDES ESTATES, CALIFORNIA  
AFFIRMING URGENCY ORDINANCE NO. O20-744U AND  
FURTHER AMENDING 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.**

The City of Palos Verdes Estates, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California.

The Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”).

In 2019, the California Legislature approved, and the Governor signed into law a number of bills (“New ADU Laws”) that, among other things, amended the state ADU law (Gov. Code § 65852.2) and state JADU law (Gov. Code § 65852.22) to impose new limits on local authority to regulate ADUs and JADUs.

The New ADU Laws took effect January 1, 2020, and because the City’s ADU ordinance at the time did not comply with the New ADU Laws, the City’s ordinance became null and void on that date as a matter of law.

The City amended its code on April 14, 2020, by Urgency Ordinance No. O20-744U, to bring its ADU ordinance into compliance with the New ADU Laws. The Urgency Ordinance repealed section 17.08.170 (Dwelling Unit, Second), amended chapters 18.04 (R-1 Zone) and 18.08 (R-M Zone), and added chapter 18.45 (Accessory Dwelling Units).

The City desires now to affirm the April 2020 amendments as to section 17.08.170 and chapters 18.04 and 18.08 and to further amend chapter 18.45, in accordance with the New ADU Laws. Specifically, the City’s purpose for this ordinance is to further refine the local regulatory scheme for development of ADUs to ensure that it fully complies with California Government Code sections 65852.2 and 65852.22, which authorize local jurisdictions to set standards for the development of ADUs to increase the supply of smaller and more affordable housing while maintaining compatibility with the existing neighborhood character.

Among other things, state law allows local agencies to identify where new ADUs should be disallowed based on a lack of utilities or adverse impacts to traffic flow and public safety. The

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California Department of Housing and Community Development has expressly recognized fire-safety as an important element of public safety and a valid basis for restricting ADUs in appropriate areas.

The City has 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 routes 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 contribute to 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 contribute to delay of emergency responses to homes in the area.

The City Council has determined that adoption of this ordinance will facilitate the implementation of appropriate standards for ADUs and JADUs 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.

The City Council has reviewed and considered the public testimony and agenda reports prepared in connection with this ordinance, including the policy considerations discussed therein, and the consideration and recommendation by the City's Planning Commission.

In accordance with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City has determined that the revisions to the Palos Verdes Estates Municipal Code are statutorily exempt from environmental review.

**Section 2.** The repeal of Section 17.08.107 (Dwelling Unit, Second) of Chapter 17.08 (Definitions) of Title 17 (Zoning Procedures) of the Palos Verdes Estates Municipal Code, that was effected by Urgency Ordinance No. O20-744U is hereby affirmed.

**Section 3.** The amendments to Chapters 18.04 (R-1 Zone) and 18.08 (R-M Zone), of Title 17 (Zoning Procedures) of the Palos Verdes Estates Municipal Code, that were effected by Urgency Ordinance No. O20-744U are hereby affirmed.

**Section 4.** Chapter 18.45 (Accessory Dwelling Units), which was added to Title 18 (Zoning Regulations) of the Palos Verdes Estates Municipal Code by Urgency Ordinance No. O20-744U (which addition is hereby affirmed), is amended to read in its entirety as follows:

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**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.

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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. "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:

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1. Converted on Single-Family Lot: One ADU and JADU on a lot with a proposed or existing single-family dwelling on it if all of the following apply:

- a. The ADU or JADU is either within the space of a proposed single-family dwelling or within the existing space of an existing single-family dwelling; or (in the case of an ADU), the ADU is 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. The ADU or JADU has exterior access that is independent of that for the single-family dwelling; and
- c. The ADU or JADU 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; and
- c. The peak height above the lower of natural, existing, or proposed grade is 16 feet or less.

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

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. The side and rear yard setbacks are at least 4 feet; and
- b. The peak height above the lower of natural, existing, or proposed grade is 16 feet or less.

B. ADU Permit.

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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 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. When an application to create an ADU or JADU 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 ADU or JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
3. The applicant shall provide a copy of the application to the Palos Verdes Homes Association within 5 days of submittal to the City.

**Section 18.45.050 General ADU and JADU Requirements.**

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

**A. Zoning.**

1. An ADU or JADU subject only to a building permit under Section 18.45.040 (A) may be created on a lot a residential or mixed-use zone.
2. An ADU or JADU subject to an ADU permit under Section 18.45.040 (B) may be created on a lot that is zoned to allow any single-family residential or multifamily residential use.

**B. Fire Safety.**

1. Under state law and this chapter, all ADUs and JADUs must comply with all applicable building and fire code requirements.

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

3. The lot upon which the ADU is proposed must have two separate means of vehicular access as measured from lot frontage to point of intersection with any of the following streets and there must be at least 24 feet of pavement width throughout the entirety of each access route:

- a. Palos Verdes Drive West;
- b. Palos Verdes Drive North; or
- c. Palos Verdes Boulevard.

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 wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

F. Owner Occupancy.

1. All ADUs permitted 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 permitted after that date but before January 1, 2025, is not subject to any owner occupancy requirement.

3. All ADUs that are permitted 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

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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 may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner must 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. No certificate of occupancy for an ADU or JADU may be issued before a certificate of occupancy is issued for the primary dwelling.

I. Income Reporting. In order to facilitate the city's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:

1. With the building-permit application, the applicant must provide the city with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
2. Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the city does not receive the report within the 90-day period, the owner is in violation of this Code, and the city may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner

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fails to submit the report within the 30-day period, the city may enforce this provision in accordance with applicable law

### **Section 18.45.060 Specific ADU Requirements.**

The following requirements apply only to ADUs that require an ADU permit under Section 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 or more.
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 the percent-based size limit in A.2 of this section or of an FAR or lot coverage limit or open-space requirement may require the ADU to be less than 800 square feet.

#### B. Setbacks.

1. No part of an ADU that is subject to this section may be closer to the front property line than the front plane of the primary dwelling or 20 feet, whichever is less.
2. In addition to other applicable requirements, an ADU that is subject to this section must conform to 4-foot side- and rear-yard setbacks.
3. No setback is required for an ADU that is subject to this section if the ADU is constructed in the same location and to the same dimensions as an existing structure.

C. 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.

D. 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.

E. 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.

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F. Height. No attached or detached ADU approved ministerially under this chapter may exceed a single story or exceed 16 feet in height above the lower of natural, existing, or proposed grade, measured to the peak of the structure.

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

H. Parking.

1. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

2. Exceptions. No parking under (H)(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; or

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.

I. 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.

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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 or privacy glass may be used to provide screening and prevent a direct line of sight.

7. 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.

8. 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.

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

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

11. Notice of Construction.

a. At least 10 business days before starting any construction of an ADU or JADU, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must 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.

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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.

J. Grading. Construction for a proposed ADU or JADU subject to this section must not yield more than 100 cubic yards of fill plus cut in volume, nor may it yield more than 5 feet fill or cut in height.

### **Section 18.45.070 Fees.**

#### A. Impact Fees.

1. No impact fee is required for an ADU or JADU that is less than 750 square feet in size. For purposes of this subsection (g)(1), “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.

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 ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)

#### B. Utility Fees.

1. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.

2. Except as described by B.2 of this section, converted ADUs and JADUs created under A.1 of Section 18.45.040 are not required have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required.

3. Except as described in B.1, all ADUs and JADUs that are not covered by B.2 of this section require a new, separate utility connection directly between the ADU or JADU and the utility.

a. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.

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b. The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

### **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 the other sections of this chapter may be allowed by the City with a conditional use permit, in accordance with Chapter 17.20, and a Grading Permit in accordance with Chapter 18.24.

**Section 5.** Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA because the proposed ordinance implements the State’s ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot. Moreover, the City Council finds that none of the “exceptions” to the use of the Class 3 exemption, set forth in State CEQA Guidelines section 15300.2, apply here.

**Section 6.** 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 7.** This ordinance takes effect 30 days after the date of its passage. The City Clerk is hereby directed to cause a copy of this ordinance to be published, in accordance with all legal requirements, within 15 days after its passage.

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PASSED, APPROVED, AND ADOPTED this 13<sup>TH</sup> DAY OF OCTOBER, 2020.

*David McGowan*

DAVID MCGOWAN, MAYOR

ATTEST:

*Kylynn Chaney*

KYLYNN CHANEY, CITY CLERK  
(Seal)

APPROVED AS TO FORM:

*Christi Hugin*

CHRISTI HOGIN, CITY ATTORNEY

STATE OF CALIFORNIA )

COUNTY OF LOS ANGELES ) SS:

CITY OF PALOS VERDES ESTATES )

I, Kylynn Chaney, City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Ordinance 20-747 was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 22<sup>nd</sup> of September, 2020, and that thereafter, said Ordinance was duly and regularly adopted and passed by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 13<sup>th</sup> day of October, 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS: McGowan, Kemps, Lozzi, Davidson, Kao

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

*Kylynn Chaney*

Kylynn Chaney, City Clerk