



## Legislation Text

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**File #:** ORD 13-0015, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

David N. Carmany, City Manager

**FROM:**

Richard Thompson, Director of Community Development

Eric Haaland, Associate Planner

Esteban Danna, Associate Planner

**SUBJECT:**

Ordinance Amending Title 10 Planning and Zoning of the Manhattan Beach Municipal Code to Revise Residential Regulations Regarding Minor Exceptions, Setbacks, Open Space, Maximum Lot Size, Required Alley Access, and Alternative Fuel Vehicle Charger Locations.

**CONDUCT PUBLIC HEARING, INTRODUCE ORDINANCE NO. 13-0015**

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**RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing, discuss the proposed Zoning Code Amendments, and introduce Ordinance No. 13-0015.

The Public Hearing and final action for this item will be held at the same time as the Public Hearing for Ordinance No. 13-0016, Consideration of Local Coastal Program Amendments pertaining to Mansionization.

**FISCAL IMPLICATIONS:**

There are no direct fiscal impacts as a result of the adoption of the Zoning Code Amendments.

**BACKGROUND:**

At its regular meeting of January 23, 2013, the Planning Commission conducted a review of the effectiveness of the recently adopted Zoning Code Amendments addressing "Mansionization" and similar issues, as called for by the City Council's 2011/2012 Strategic Plan. It was determined that the majority of those amendments were effective, and did not require further changes. At its regular meetings of February 27, 2013, and May 8, 2013, the Planning Commission conducted public hearings for Amendments revising some of the Mansionization items including:

- **Minor Exceptions** - Increase the amount of minimum building retention required beyond the current 10% minimum, and allow for shallow-lot rear setback relief.
- **Open space**- Change small-unit minimum square-footage cap, and third-story square-footage cap; and address open space quality/coverage/enclosure.
- **Maximum site sizes**- Re-insert omitted Beach Area language.
- **Alley Access** - Require in the Residential Single-Family (RS) zone of Area District III.

**- Alternative Fuel Vehicle Charger Locations - Allow greater flexibility.**

The City's "Zoning Ordinance Revision Program" (ZORP), which established the current Zoning Code in 1991, had included comprehensive review of all zoning standards through an intensive public process extending from a comprehensive General Plan update. The ZORP project resulted in reduced maximum floor areas for the inland districts, and two-story limits for inland single-family residences. Reductions in residential floor area for the Beach Area were considered, but not approved, based on substantial community opposition. The residential 26 and 30-foot height limits remained constant Citywide, however, the method of calculating the height of buildings was changed to the current four-corner averaged grade method.

The City most recently adopted Zoning Code Amendments addressing "Mansionization" were approved in 2008. This followed "bulk/volume", "minor exception", and other amendments that had similar goals of easing visual mass of residential buildings in the City. The purpose of these projects, as directed by the City Council, was to implement measures that would reduce residential building bulk without decreasing allowable building heights or allowable buildable floor area (BFA).

The attached Planning Commission report (specifically the January 23, 2013 portion) provides detailed discussion of all items that had been addressed in the Mansionization process from 2002 to 2008, which is summarized in the Table 1- "Mansionization Process 2002-2008", attachment 1.

**DISCUSSION:**

The discussion below reviews the Planning Commission's comments and recommendations regarding the proposed amendment items. The recommended language provided is excerpted from the proposed Ordinance No. 13-0015.

**1. Minor Exceptions - Demolition**

The Planning Commission indicated a desire to specify a numerical minimum amount of building to be retained for Minor Exception eligibility. Section 10.84.120(G)(3) of the small home addition Minor Exception criteria indicates that a minimum of 10% of the existing structure must be maintained to qualify. This amount of retained structure can often consist of just the building foundations, which appears to the public as complete demolition. In response to this concern, it was recommended that the requirement be revised to exclude foundation and other surface/sub-surface structures (including basement) from this calculation. The Commission discussed raising the percentage factor to as much as 25%, however this may discourage the intended purpose of this section, therefore the recommendation was to keep the 10% factor, and specify that it would apply to above-ground structure elements only.

**Recommended Amendment:**

**Amend Section 10.84.120(G)(3) of the Manhattan Beach Municipal Code as follows:**

3. A minimum of ten percent (10%) of the existing structure, located above the ground-level floor surface, based on project valuation as defined in Section 10.68.030, shall be maintained.

**2. Useable Open Space - Minimum Square-footage & Upper Level Maximum Percentage**

The open space requirement cap of 350 square feet for dwellings larger than 2,333 square feet was eliminated in 2008 since it clearly favored larger units over smaller units. Many multi-family district

projects have subsequently proceeded with larger units providing the full 15% requirement without significant difficulty, however, staff has found that the 220 square feet minimum for small dwellings can discourage a developer from building a second unit on a site that allows two units. The Commission's recommendation is that the minimum open space be lowered to 100 square feet, which is a reasonably useable area, comparable to a small bedroom. As a result, a 667 square-foot (or smaller) unit would require a minimum of 100 square feet of open space.

A limit on how much required open space can be placed on the third story of a home is intended to integrate the open space with the living area rather than isolate it above the dwelling. The current requirement allows half of the required open space to be at the third story, which is usually less restrictive than the previous language. This method becomes awkward, however, with multiple units on a lot, when one unit's living area is located all or mostly at the third story. Therefore, allowing more open space on the third level in these situations would be appropriate.

Recommended Amendment:

Amend Section 10.12.030(M)(1)(2) of the Manhattan Beach Municipal as follows:

**M. Open Space Requirement.** The minimum usable open space (private and shared) in RS, RM and RH Districts shall be provided as follows:

1. For single-family dwellings in Area District III and IV and multifamily dwelling units in all districts, the minimum requirement is fifteen percent (15%) of the buildable floor area per unit, but not less than ~~two one hundred (100) twenty (220)~~ one hundred (100) square feet. For calculating required open space, basement areas shall be calculated as one hundred percent (100%) buildable floor area, and fifteen percent (15%) open space shall be required for the basement square footage.

2. The amount of a dwelling unit's required open space located above the second story (where permitted by height regulations) shall not be more than one-half ( $\frac{1}{2}$ ) of the total required open space, or an amount proportional to the unit's buildable floor area that is located at the same level or story, whichever is more.

**3. Useable Open Space - Enclosure/Coverage**

The Planning Commission had suggested that the useable open space requirement be amended to improve the quality of open space by not allowing it to be as covered or enclosed as currently allowed. It was discussed in detail in the attached Planning Commission material how this requirement will likely cause difficulties for designers to achieve maximum permitted floor area for many projects. During its discussion at the public hearing, the Commission determined that limiting coverage of up to 50%, and requiring a minimum of two sides to be open, are appropriate restrictions for required open space. In addition to establishing quantities of top and side areas to be open, language is also provided to define what will qualify as "open", "uncovered", and "unobstructed".

Recommended Amendment:

Amend the "Useable Open Space" definition in Section 10.04.030 of the Manhattan Beach Municipal as follows:

**Open Space, Usable:** Outdoor or unenclosed area on the ground, or on a balcony, deck, porch or terrace designed and accessible for outdoor living, recreation, pedestrian access or landscaping, that is ~~not more than seventy-five at least fifty percent (75 50%) uncovered, and with at least two open sides. by buildable floor area, and has~~ A qualifying area must have a minimum dimension of five feet (5') in any direction, and a minimum area of forty-eight (48) square feet; minus any parking facilities,

driveways, utility or service areas, or any required front or side yards.

For the purposes of useable open space, “uncovered” shall mean contiguously unobstructed at any point greater than 3.5 feet directly above the deck or grade surface except a maximum 1-foot roof eave; “open side” shall mean a primary perimeter segment of a contiguous useable open space area that is unobstructed at any point between 3.5 feet and 8 feet above the abutting useable open space surface; and “unobstructed” shall mean absent of fixed material, including, but not limited to awnings, curtains, shutters, shades, and screens. Trellis and post elements may be allowed to partially obstruct restricted tops and sides of useable open space if determined to be appropriate by the Community Development Director.

#### **4. Purpose Statement**

The Planning Commission had suggested that it would be helpful to have additional explanation within the zoning code regarding the City’s intentions for mass relief, bulk mitigation, etc. In response, Staff drafted an update of the bulk/volume purpose statement included in the residential Chapter of the Code in 2002.

#### **Recommended Amendment:**

Amend Section 10.12.010(H) of the Manhattan Beach Municipal Code as follows:

H. ~~Provide for a reduction in building bulk and volume for single family residential properties located in Area Districts I and II~~ Encourage reduced visual building bulk with effective setback, height, open space, site area, and similar standards, and provide incentives for retention of existing smaller homes. Include provision for an administrative Minor Exception procedure to balance the communities 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.

#### **5. Lot Merger Limits in Beach Area**

The newest concept incorporated in the Mansionization zoning amendments was to create maximum site sizes. This amendment item has proven appropriate, but requires a correction since amendment language for Area Districts III and IV was erroneously omitted from Ordinance No. 2111. Although this language was omitted, no mergers exceeding the intended maximum area have been approved.

#### **Recommended Amendment:**

Amend the “Lot Dimensions” portion of the “Property Development Standards for Area Districts III and IV” table in Section 10.12.030 of the Manhattan Beach Municipal Code as shown in Table 2- “Property Development Standards for Area Districts III & IV” attachment 1.

#### **6. Alley Access**

The goal of this amendment is to encourage driveway access from alleys for street-alley lots located in Single-Family Residential (RS) districts in Area District III (beach area). Currently, RS-zoned street-alley lots in Area Districts I and II (inland) require only alley-access. The purpose of this amendment is to extend the requirement to RS lots in Area District III.

The proposed language includes discretion for the Community Development Director, which would also be applicable in Area Districts I and II. Exceptions would be applicable to impacts on street parking, and physical characteristics of the lot (slope, topography, lot shape/size, and existing utility locations). Staff feels it is important to review each project on an individual basis, and would only apply the exception in limited cases where appropriate.

Recommended Amendment:

Amend Sections 10.12.030(Q) and 10.64.020(F)(4) of the Manhattan Beach Municipal as follows:

**Q. Parking/Garage Location, Street-Alley Lots.** When a street-alley lot in Area Districts I and II or a street-alley RS lot in Area District III adjoins an improved alley, all vehicle access to parking shall be provided from the alley.

**Exception:** The Community Development Director may consider allowing non-alley access. In making a determination, the Director shall consider the following:

1. Reduction in street parking inventory.
2. Physical characteristics of the subject property that create practical difficulties include but are not limited to: slope, topography, visibility, lot size and/or shape, and existing utility locations.

Non-Alley Lots: In Area District I and II, the aggregate total of garage door width within the front half of a lot shall be limited to eighteen feet (18') for lots fifty-five feet (55') or less in width. Lots wider than fifty-five feet (55') may have a maximum aggregate garage door width of twenty-seven feet (27') within the front half of a lot if at least one (1) garage door is recessed a minimum of five feet (5') beyond another garage door.

**F. Location and Ownership.**

**3. Alley Access. Parking/Garage Location, Street-Alley Lots.** When a street-alley lot in Area Districts I and II, or a street-alley RS lot in Area District III adjoins an improved alley, all vehicle access to parking shall be provided from the alley.

**Exception:** The Community Development Director may consider allowing non-alley access. In making a determination, the Director shall consider the following:

- a. Reduction in street parking inventory.
- b. Physical characteristics of the subject property that create practical difficulties include but are not limited to: slope, topography, visibility, lot size and/or shape, and existing utility locations.

**7. Alternative Fuel Vehicle Charger Locations in Garages**

As part of the 2011 Green Code Amendments approved by the Planning Commission and City Council, alternative-fuel vehicle charging systems were discussed and subsequently partially allowed to encroach into the required garage parking area. The code amendment has proven itself useful and many residents have taken advantage of the change. Current code requires such systems to have at least seven feet of vertical clearance between the garage floor and the equipment except within the front five feet of the garage (within the area where a car's hood would be located), where recharging units can be as low as four and one half feet above the garage floor. Storage is also allowed within this area of the garage.

Staff proposed allowing the recharging unit and related appurtenances to also be attached to or

adjacent to the inside wall of the garage immediately adjacent to the garage door (wing wall) provided a minimum 4.5 feet vertical clearance is maintained above the finished floor of the garage. The proposed changes were discussed with the Building and Safety Division to ensure consistency with their regulations. The location is shown in Figure 1- "Alternative Fuel Vehicle Charger", attachment 1.

Recommended Amendment:

Amend Section 10.64.100(C) of the Manhattan Beach Municipal Code as follows:

**C. Vertical Clearance.** Vertical clearance for parking spaces shall be an unobstructed headroom clearance of not less than seven feet (7') above the finish floor to any ceiling, beam, pipe, vent, mechanical equipment or similar construction, except that automatic garage door opening equipment and the garage door entrance may be 6.67 feet. ~~For storage (not including mechanical equipment) and vehicle recharging purposes for residential uses, non-structural improvements including wall-mounted shelves, storage surface racks, cabinets, or electricity based alternative fuel vehicle charging systems may encroach into the vertical clearance, provided a minimum 4.5 feet vertical clearance is maintained above the finished floor of the garage within the front five feet (5') of a parking space.~~

**Exceptions:**

1. For storage (not including mechanical equipment) for residential uses, non-structural improvements including wall-mounted shelves, storage surface racks or cabinets, may encroach into the vertical clearance within the front five feet (5') of a parking space (opposite to the garage door) provided a minimum of 4.5 feet vertical clearance is maintained above the garage finished floor.
2. For vehicle recharging purposes for residential uses, electricity based alternative-fuel vehicle charging systems may encroach into the vertical clearance, as follows:
  - a. Within the front five feet (5') of a parking space (opposite to the garage door), provided a minimum of 4.5 feet vertical clearance is maintained above the garage finished floor provided,  
or
  - b. Attached to or immediately adjacent to the wall of the garage adjacent to the garage door (wing wall) provided a minimum 4.5 feet vertical clearance is maintained above the garage finished floor.

**8. Improve Minor Exception Cross-Referencing**

**Recommended Amendment:**

Amend the "Applicable Section" column of the "Exception Allowed" table of Section 10.84.120 of the Manhattan Beach Municipal Code, for cross-reference purposes only as shown in Table 3- "Exception Allowed", attachment 1.

**9. Additional Comments Regarding Mansionization Topics**

Additional comments were raised at the Planning Commission hearings. If Council wants to consider such items, it can direct Staff to notice such items for a separate hearing.

***Supplemental Front/Corner-side Setback***

Staff had suggested that the corner side requirement of the original front yard second-story supplemental setback had not resulted in enough mass relief to warrant the complexity of the new

standards. Since the Planning Commission indicated it had concerns for reducing any relief requirements, the 8% corner lot supplemental setback requirement was not removed from the ordinance. Although there was discussion of revising the wording, it appears that continuing with the existing standards would be a simpler option for code-users and no amendment is currently proposed.

#### *Basements, storage, and crawl space areas*

Basements and similar garage, storage, and crawl space areas within residential buildings continue to be complex items with respect to counting floor area. Basement floor area is either partially or entirely exempt from being counted as buildable floor area. Semi-subterranean floor area that does not qualify as basement area has a minimum countable depth (horizontal) of 20 feet. Areas that have a floor surface with more than 5 feet of vertical clearance above are usually classified as story- or basement- floor area. Crawl spaces without any floor surface are typically not considered floor area. These interpretations/procedures are used by Staff in determining buildable floor area, parking, open space, and other Code criteria compliance, and are not recommended to be changed.

#### *Changing Buildable Floor Area and Height Limits*

The Planning Commission heard comments that reducing the allowable buildable floor area (BFA) ratios would be the most effective method of reducing visual building bulk. While this may seem to be the most direct way to reduce building bulk and volume, it has been understood that the floor area ratios, as well as height limits, established through extensive community review, are not intended to be changed by the Mansionization project as originally directed by City Council.

#### *Prohibiting Stepped Stories*

Councilman Burton recently suggested specific language to amend Section 10.12.030(H) of the Zoning Code intended to prohibit the stepping of stories within a building on sloped sites. Currently a single building level on a sloped site can be split into part story, and part basement, if the basement portion complies with all relevant criteria as shown in Figure 2- “Example of Current Permitted Story Stepping”, attachment 1. The suggested language is as follows:

**Maximum Height of Structures.** See Section 10.60.050, Measurement of height, and Section 10.60.060, Exceptions to height limits. The maximum number of stories permitted shall be three (3) where the height limit is thirty feet (30') and two (2) where the height limit is twenty-six feet (26'). A floor level may be divided between portions qualifying as a story and portions qualifying as a basement. Any portion of a floor level qualifying as a story shall be considered to have a minimum dimension of twenty feet (20') measured perpendicular from the outside face(s) of the exterior building wall(s) which defines that area as a story (See Graphic Illustration under "Basement" definition-Section 10.04.030). Notwithstanding anything to the contrary contained herein, or in the definition of “Basement” or “Story” under Section 10.04.030, for purposes of determining the number of stories under this Section 10.12.030H, in any building that contains floor levels that are not located over or below one another, each such floor level shall count as a separate or additional story, and every change in floor level is considered to be a separate or additional story, and every change in floor level is considered to be a separate or additional story.

During the Mansionization project the City has encouraged basements (BFA exemption) as an option for additional floor area that does not increase building bulk above grade. Many cases can actually decrease visual building bulk since the additional basement area requires additional open space above grade. The suggested language appears to conflict with the intention of encouraging

basements.

**CONCLUSION:**

Staff recommends that the City Council conduct the public hearing, accept public testimony, discuss the Mansionization Amendment items recommended by the Planning Commission, discuss the proposed Zoning Code Amendment ordinance, and introduce Ordinance No. 13-0015.

The introduced ordinance would return to the City Council on the consent calendar at its August 6, 2013, regular meeting for adoption. The ordinance would become effective 30 days later. Projects submitted prior to this date of effectiveness would be reviewed under current requirements, as has been the City's procedure for previous Zoning Code Amendments.

**Attachments:**

1. Tables 1-3 and Figures 1 and 2
2. Draft Ordinance No. 13-0015
3. Planning Commission Resolution No. PC 13-06
4. Planning Commission Minutes, dated 5/8/13
5. Planning Commission Staff Report, dated 5/8/13