

RESOLUTION NO. PC 18-17

**A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL ADOPT REGULATIONS GOVERNING
ACCESSORY DWELLING UNITS, AMEND SECTION 10.52.050 REGARDING
ACCESSORY STRUCTURES, AND AMEND THE DEFINITION OF KITCHEN IN
SECTION 10.04.030**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY FIND
AND RESOLVE AS FOLLOWS:**

Section 1. The Planning Commission hereby makes the following findings:

- A. Ordinance No. 16-0038-U, was adopted on December 20, 2016 as an Urgency Ordinance to regulate new accessory dwelling units ("ADUs") and Ordinance No. 17-0001-U was adopted on January 17, 2017 to modify and extend the regulations until December 19, 2017. Ordinance No. 17-0032U was then adopted on December 5, 2017 and extended the regulations until December 19, 2018. In adopting Ordinance No's. 16-0038-U, 17-0001-U and 17-0032U, the City Council made a number of legislative findings to support the adoption and extension on an urgency basis.
- B. The City studied the potential land use, public services, parking, traffic, and infrastructure effects of allowing ADUs to be built on lots in various areas of the City. Effective January 1, 2017, Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069") amended Government Code Section 65852.2 to further limit the standards cities may impose on ADUs and require city ordinances to incorporate State-mandated standards for certain types of ADUs. As amended, Government Code Section 65852.2 allows the City to designate areas where ADUs may be permitted and to establish objective standards related to parking, height, setback, lot coverage, landscaping, and architectural review, which must be applied ministerially except where a property owner is seeking an exception to the adopted standards. Areas of the City vary significantly in lot size, lot coverage, density, traffic, parking, and seasonal population fluctuations and these regulations reflect those variations, given that the City has high density, small lot sizes and is almost entirely built out.
- C. On November 14, 2018 the Planning Commission conducted a duly noticed public hearing on ADU standards, and reviewed proposed text amendments to the Zoning Ordinance of the City's Municipal Code.
- D. The Planning Commission public hearing notice for November 14, 2018 included a ¼ page display ad public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.
- E. The proposed text amendments have been prepared in accordance with Government Code Sections 65853, *et seq.*
- F. The proposed text amendments are exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, *et seq.*, ("CEQA")) and the CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
- G. The proposed text amendments are consistent with the General Plan Goals and Policies because the amendments:

Achieve a strong, positive community aesthetic (Land Use Element Goal LU-3).

Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics (Land Use Element Goal LU-4).

Preserve the scale of development in existing residential neighborhoods (Housing Element Policy 1).

Provide a variety of housing opportunities for all segments of the community commensurate with the City's needs, including various economic segments and special needs groups (Housing Element GOAL II).

Encourage the development of additional low and moderate-income housing (Housing Element Policy 5).

Allow second units in residential areas (Housing Element Program 5e).

Section 2. Based upon the foregoing, the Planning Commission hereby recommends that the City Council amend Title 10 of the Manhattan Beach Municipal Code by adding Chapter 10.74 thereto to read substantially as follows:

"Chapter 10.74 - Accessory Dwelling Units"

Section 10.74.010 – Purpose and Applicability
Section 10.74.020 - Definitions
Section 10.74.030 - Application Procedure
Section 10.74.040 - Standards
Section 10.74.050 - Parking
Section 10.74.060 - Fees and Utility Connections

Section 10.74.010 Purpose and Applicability.

The purpose of this Chapter is to implement the requirements of Government Code Section 65852.2, to: allow accessory dwelling units in a manner that takes into consideration the City's unique land use characteristics (including high density and small lot size); and minimizes impacts on traffic, parking, density, the school system, infrastructure, sewer, increased impervious surfaces, seasonal population fluctuations and increased solid waste generation. In accordance with state law, accessory dwelling units are an accessory use or an accessory structure to the primary use or primary dwelling unit on the lot that not exceed the allowable density for the lot.

Section 10.74.020 - Definitions

"Accessory Dwelling Unit" or "ADU" means a residential dwelling unit, either attached or detached from a Primary Dwelling Unit, which provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot that a Primary Dwelling Unit is situated. The term ADU also includes an "Efficiency Unit", as defined in Health and Safety Code Section 17958.1 and a "Manufactured Home", as defined in Health and Safety Code Section 18007. Notwithstanding the foregoing, the term "ADU" does not include a Guest House (or Accessory Living Quarters), as defined in Municipal Code Section 10.04.030.

"Primary Dwelling Unit," for purposes of this chapter, means the existing or proposed single-family residence on the lot where an ADU would be located.

Section 10.74.030 - Application Procedure

Before constructing an ADU or converting an existing structure to an ADU, an applicant must apply for a building and other related permits. Any ADU that satisfies the requirements of this chapter shall be approved ministerially by the Director of Community Development.

An applicant may apply for a Minor Exception, pursuant to Section 10.84.120, for the establishment of an ADU in an existing legal structure that does not comply with the ADU development standards. A Minor Exception may not be requested for site or lot conditions.

Section 10.74.040 - Standards

An ADU shall only be approved if it complies with all of the following:

- A. Location: ADUs are only permitted on lots zoned RS, RM, RH, or RPD within Area District I or Area District II, provided the lot contains at least 75% of the minimum lot area for the zoning district. The ADU shall be located on the same lot as the Primary Dwelling Unit.
- B. Number of ADUs: No more than one ADU is permitted on any lot.
- C. Buildable Floor Area: The ADU shall count toward the maximum total buildable floor area applicable to the lot.
- D. Size:
 - 1. Attached ADUs: The total floor area of an attached ADU shall be no greater than 700 square feet or 50% of the Primary Dwelling Unit's living area, whichever is less.
 - 2. Detached ADU: The total floor area of a detached ADU shall not exceed 700 square feet. In an RS district, the total gross floor area of all detached accessory structures of more than four feet in height, plus the ADU floor area, and excluding any covered or enclosed parking for the ADU, shall not exceed 1100 square feet or 12 percent of lot area, whichever is greater.
- E. Setbacks:
 - 1. Attached ADUs:
 - a. An attached ADU that is no greater than 12 feet in height shall comply with the setback requirements applicable to the Primary Dwelling Unit minus five feet for the rear setback.
 - b. An attached ADU that is no greater than 15 feet in height with a minimum 3 in 12 roof slope and a single roof ridge-line located at approximately the center of the structure shall comply with the setback requirements applicable to the Primary Dwelling Unit minus five feet for the rear setback. The height shall be measured from the weighted average of the local grades around the perimeter of the ADU.
 - c. Above a Pre-Existing Garage: Portions of an ADU that are constructed above a garage, legally existing as of January 1, 2019, shall be at least five feet from all property lines if those portions are entirely within the footprint of the existing garage.
 - d. Garage Conversion: For an ADU or a portion of an ADU that is converted from a garage, legally existing as of January 1, 2019, no additional setbacks beyond the existing garage setback are required other than those required by applicable state and local building and fire codes.
 - 2. Detached ADUs: A detached ADU shall comply with the setback requirements applicable to the lot's Primary Dwelling Unit, except as follows:
 - a. An ADU located within any portion of the Primary Dwelling Unit's required rear yard shall be at least three feet from the rear and interior side property lines.

- b. Above a Pre-Existing Garage: Portions of an ADU that are constructed above a garage, legally existing prior as of January 1, 2019, shall be at least five feet from all property lines if those portions are entirely within the footprint of the existing garage.
- c. Garage Conversion: For an ADU or a portion of an ADU that is converted from a garage, legally existing prior as of January 1, 2019, no additional setbacks beyond the existing garage setback are required other than those required by applicable state and local building and fire codes.

F. Building Separation:

- 1. Attached ADUs: An ADU that is attached to the Primary Dwelling Unit shall comply with the separation requirements applicable to the Primary Dwelling Unit, except as follows:
 - a. A minimum separation of five feet applies if the ADU is attached to the Primary Dwelling Unit with a height no greater than 12 feet.
 - b. A minimum separation of five feet applies if the ADU is 15 feet with a minimum three in 12 roof slope and a single roof ridge-line located at approximately the center of the structure.

The height shall be measured from the weighted average of the local grades around the perimeter of the ADU.

- 2. Detached ADUs: An ADU that is detached from the Primary Dwelling Unit shall provide a minimum ten-foot separation between the ADU and the Primary Dwelling Unit and any other accessory building.

G. Height:

- 1. Attached ADUs: An ADU that is attached to the Primary Dwelling Unit shall comply with the height requirements applicable to the Primary Dwelling Unit.
- 2. Detached ADUs: The height of an ADU that is detached from the Primary Dwelling Unit shall not exceed 12 feet measured from the weighted average of the local grades around the perimeter of the ADU, except as follows:
 - a. A detached ADU may be up to 15 feet if it has (i) a minimum three in 12 roof slope and (ii) a single roof ridge-line located at approximately the center of the structure.
 - b. The structure containing a detached ADU may be up to 18 feet in total height if the ADU is constructed directly above a garage and is either (i) not located within the Primary Dwelling Unit's required yards or (ii) located at least partially within the Primary Dwelling Unit's required rear yard, and vehicle access to the garage is from a rear alley adjacent to the garage and the ADU.
 - c. The structure containing a detached ADU may be up to 22 feet in total height if the ADU is constructed directly above a garage, has a minimum three in 12 roof slope and a single roof ridge-line located at approximately the center of the structure, and is either (i) not located within the Primary Dwelling Unit's required yards or (ii) located at least partially within the Primary Dwelling Unit's required rear yard, and vehicle access to the garage is from a rear alley adjacent to the garage and the ADU.

- H. Guest Houses: If an ADU is located on a lot with a Guest House, either, but not both, the Guest House or the ADU shall be attached to the Primary Dwelling Unit.
- I. Design and Features:
 - 1. Exterior access to an attached ADU shall not face the front yard and shall be located on the side or rear of the primary residence on the lot.
 - 2. The ADU shall not have any outdoor deck at a height greater than 30 inches above local grade if the deck is located in the Primary Dwelling Unit's required yards.
 - 3. If the property abuts an alley, any new driveway access for the ADU must be provided through the alley.
 - 4. If an automatic fire sprinkler system is required for the Primary Dwelling Unit, the ADU must also have an automatic fire sprinkler system.
 - 5. Windows: For any detached second-story ADU, all exterior openings, including windows and doors, that face less than 15 feet away from a rear non-alley or side interior property line shall be fitted with translucent glazing and satisfy one of the following: (i) be fixed (i.e., inoperable) or (ii) be located at least five feet above the finished floor level at the window's lowest point.
 - 6. Refuse: Refuse containers shall comply with Municipal Code Section 5.24.030.
- J. Landscaping: The applicant shall submit a landscape plan and design, subject to the Director's review, to ensure that the landscaping around the ADU is consistent with the landscaping on the remainder of the lot to maintain the appearance of a single-family residential lot.
- K. Conversion of Existing Space: Conversion of existing space within a single-family residence or within an accessory structure to an ADU shall be permitted by right, provided that the proposed ADU has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire life and building safety. If the accessory structure was constructed within the last year prior to application submittal for the ADU, the Director may deny conversion of the structure to an ADU that does not satisfy the requirements applicable to a newly constructed ADU.
- L. Covenant Required: The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the property owner shall be an owner-occupant; with limited exceptions of not more than two years duration for extended travel, temporary work assignments or similar extenuating circumstances (ii) the ADU is to be rented only for terms of 30 days or longer, (iii) the ADU is not to be sold or conveyed separately from the Primary Dwelling Unit, (iv) the property owner and all successors in interest shall maintain the ADU and the property in accordance with all applicable ADU requirements and standards, and (v) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.

Section 10.74.050 - Parking

- A. Parking Requirements (ADU):
 - 1. A minimum of one off-street parking space is required for the ADU in addition to the parking required for the Primary Dwelling Unit.
 - 2. Required setbacks, yards and open space shall not be used for parking except that:

- a. Parking may be located within an enclosed accessory building as permitted by Municipal Code Section 10.52.050.
 - b. Parking may be located outside of the front yard setback on existing driveways existing prior to January 1, 2019, that are conforming in width and clearance; and
 - c. Parking may encroach five feet into the 10 foot building separation yard.
3. The dimensions of all parking spaces, driveways, vehicular access, turning radius and similar parking standards shall comply with the requirements set forth in Municipal Code Chapter 10.64.

B. Exceptions:

1. Notwithstanding subsection A. above, no additional parking space is required for an ADU if the ADU is:
 - a. Located within one-half mile of public transit;
 - b. Located within an architecturally and historically significant historic district;
 - c. Part of the existing Primary Dwelling Unit or an existing accessory structure or building;
 - d. Located in an area where on-street parking permits are required but not offered to an ADU occupant; or
 - e. Located within one block of a city-approved and dedicated parking space for a car share vehicle.
2. Replacement Parking (Primary dwelling unit): If an existing garage or other parking is converted to, or displaced for an ADU, the conversion or displacement shall not eliminate any required off-street parking for the Primary Dwelling Unit or, if eliminated, the off-street parking shall be replaced in accordance with all off-street parking requirements applicable to the Primary Dwelling Unit. If parking is provided for the ADU pursuant to subsection A above, then the replacement parking spaces for the Primary Dwelling Unit may be covered spaces, uncovered spaces, tandem spaces, or spaces created by mechanical automobile parking lifts. Use of a mechanical automobile lift must not create noise impacts and must be properly maintained for the life of the ADU. A mechanical automobile lift must be located within an enclosed structure, except as otherwise indicated. The location of replacement parking shall meet the following requirements:
 - a. Required setbacks, yards and open space shall not be used for parking except that (i) parking may be located within an enclosed accessory building as permitted by Municipal Code Section 10.52.050, (ii) parking may be located outside of the front yard setback on a driveway existing prior to January 1, 2019 that is conforming in width and clearance, and (iii) parking may encroach 5 feet into the 10 foot building separation yard.
 - b. The dimensions of all parking spaces, driveways, vehicular access, turning radius and similar parking standards shall comply with the requirements set forth in Municipal Code Chapter 10.64.

Section 10.74.060 - Fees and Utility Connections

- A. The property owner shall pay all sewer, water, school district, and other applicable fees, including development impact fees.
- B. The property owner shall install a new or separate utility connection between the ADU and the utility, and pay all applicable connection fees or capacity charges, except if the ADU is specifically exempted under Government Code Section 65852.2(f).
- C. An ADU is not considered a new residential use for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
- D. If an ADU will use a private sewage disposal system, the property owner shall obtain approval by the local health officer."

Section 3. The Planning Commission hereby recommends that the City Council amend Municipal Code Title 10 (Planning and Zoning), Chapter 10.52 (Site Regulations – Residential Districts), Section 10.52.050 relating to Accessory Living Quarters, Subsection C to read as follows:

"C. **Maximum Height.** The maximum height of an accessory structure shall be 12 feet, subject to the provisions of this subsection. Additional height shall be permitted, as provided in Section 10.60.060; Exceptions to height limits. For the purpose of this Section, height shall be determined by a weighted averaging of the local grades taken around the perimeter of the accessory structure.

Exceptions.

- 1. The maximum height of any portion of an accessory structure which has a minimum three in 12 roof slope, and has a single roof ridge-line located at approximately the center of the structure, may be 15 feet.
- 2. The maximum height of any portion of an accessory structure containing a guest house or accessory living quarters, as defined in this title, constructed directly above a garage, may be 22 feet, when that portion is not located within a required yard, or when it takes vehicle access from a rear alley and is located at least three feet from all property lines."

Section 4. The Planning Commission hereby recommends that the City Council amend Municipal Code Section 10.52.050 - Accessory Structures to add:

"K. Accessory Dwelling Units constructed in compliance with Chapter 10.74 are not subject to the provisions of this Section 10.52.050."

Section 5. The Planning Commission hereby recommends that the City Council revise the definition of "Kitchen" in Section 10.04.030 to read as follows:

"**Kitchen:** A room or other interior space designed, intended or used for the preparation of food."

Section 6. The Planning Commission hereby recommends that the City Council amend Municipal Code Section 10.84.010- Purposes to add language related to Minor Exceptions for ADU's to read as follows:

"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.

Variances 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.

Variances 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 variances 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 10.08. Further, Chapter 10.96 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 and to allow the establishment of new Accessory Dwelling Units (ADU's) within legal pre-existing structures that do not comply with the ADU development standards. 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 10.94 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 six (6) or more units."

Section 7. The Planning Commission hereby recommends that the City Council amend Municipal Code Section 10.84.120- Minor Exceptions to add an additional Applicable Section and Exception Allowed, with no other changes, to read as follows:

"10.84.120 - Minor Exceptions.

The Community Development Director may grant minor exceptions from certain regulations contained in the ordinance codified in this chapter for projects as follows:

Valuation No Limitation. Projects that involve new structures or remodels without limits of project valuation [i.e., may exceed fifty percent (50%) valuation provisions of Section 10.68.030(E)], as provided below. Notice may be required for exceptions to Sections 10.68.030(D) and (E), see subsection A and B of this section for noticing requirements.

Applicable Section	Exception Allowed
10.12.030	Attachment of existing structures on a site in Area District III or IV which result in the larger existing structure becoming nonconforming to residential development regulations.
10.12.030	Site enlargements (e.g., mergers, lot line adjustments), not exceeding the maximum lot area, which result in existing structures becoming nonconforming to residential development regulations.
10.12.030(M)	Reduction in the 15% open space requirement for dwelling units that are largely 1-story in 2-story zones and for dwelling units that are largely 2-story in 3-story zones.
10.12.030(P)	Construction of retaining walls beyond the permitted height where existing topography includes extreme slopes.
10.12.030(T), 10.12.030(M), and 10.12.030(E)	Reduction in percentage of additional 6% front yard setback, or 8% front/streetside yard setback on corner lots, required in the RS Zone—Area Districts I and II, 15% open space requirement, side yard setbacks, and/or rear yard setback. This may be applied to small, wide, shallow, multiple front yard, and/or other unusually shaped lots or other unique conditions.
10.12.030(T)	Reduction in percentage of additional 6% front yard setback required in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12.030(T)	Reduction in percentage of additional 8% front/street side yard setback required on corner lots in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12—10.68	Non-compliant construction due to Community Development staff review or inspection errors.
10.68.030(D) and (E), 10.12.030 and 10.12.030(R)	Construction of a first, second or third story residential addition that would project into required setbacks or required building separation yard, matching the existing legal non-conforming setback(s).
10.68.030(D) and (E)	Alterations, remodeling and additions (enlargements) to existing smaller legal non-conforming structures.
10.68.030(E)	Alterations and remodeling to existing legal non-conforming structures.

10.74.040 and 10.74.050	Alterations and remodeling to existing legal structures that do not comply with the ADU development standards to allow conversion to an Accessory Dwelling Unit (ADU) - (structure standards only, not lot or site conditions).
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Section 8. The Secretary of the Planning Commission shall certify to the adoption of this Resolution and shall make this resolution readily available for public inspection.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting of **November 14, 2018** and that said Resolution was adopted by the following vote:

AYES: Burkhalter, Fournier, Seville-Jones

NOES: Thompson

ABSENT: Morton

ABSTAIN:

Anne McIntosh
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary