

ORDINANCE NO. 18-0024

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING THE MANHATTAN BEACH MUNICIPAL CODE TO
REGULATE ACCESSORY DWELLING UNITS AND OTHER
ACCESSORY STRUCTURES, AND MAKING A DETERMINATION
OF EXEMPTION UNDER CEQA

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS
FOLLOWS:

Section 1. On November 14, 2018, the Planning Commission conducted a duly noticed public hearing and adopted Resolution No. 18-17 recommending that the City Council adopt the proposed new regulations regarding accessory dwelling units and proposed text amendments to Section 10.52.050, Section 10.04.030, Section 10.84.010, and Section 10.84.120 of the Municipal Code regulating Accessory Dwelling Units (ADUs).

Section 2. On December 4, 2018, the City Council held a duly noticed public hearing regarding the proposed Zoning Code Amendments.

Section 3. The City Council hereby finds that the zone text amendments are consistent with the Manhattan Beach General Plan's goals and objectives 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 4. The proposed text amendments have been prepared in accordance with the provisions of California Government Code Sections 65853, et seq.

Section 5. The City Council hereby amends Title 10 of the Manhattan Beach Municipal Code by adding Chapter 10.74 thereto to read 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 minimize 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 3 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 3 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 3 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, 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 6. The City Council hereby amends Section 10.52.050 to add language explaining that ADUs are not subject to site regulations for accessory structures, by adding a new paragraph to read as follows:

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

Section 7. The City Council hereby amends Subsection C (Exceptions to Maximum Height of Accessory Structures) of Section 10.52.050 to clarify that exception 2 applies only to sites which have, among other features, vehicle access from a rear alley. With that amendment, subsection C2 of Section 10.52.050 shall read as follows:

- "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 8. The City Council hereby amends Section 10.04.030 to revise the definition of "Kitchen" to read as follows:

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

Section 9. The City Council hereby amends Section 10.84.010 to add language addressing ADUs in the Minor Exceptions paragraph, to read as follows, with no other changes to Section 10.84.010:

"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 (ADUs) 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."

Section 10. The City Council hereby amends Section 10.84.120 (Minor Exceptions) to allow an additional exception for ADUs, to read as follows:

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 11. California Environmental Quality Act Exemption. The City Council determines that this ordinance is 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.

Section 12. Internal Consistency. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

Section 13. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 14. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall constitute a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.

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

Section 16. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

ADOPTED on _____, 2018.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

STEVEN A. NAPOLITANO
Mayor

LIZA TAMURA
City Clerk

APPROVED AS TO FORM

Quinn M. Barrow
City Attorney