

ORDINANCE NO. 21-0001

AN ORDINANCE OF THE CITY OF MANHATTAN  
BEACH AMENDING MANHATTAN BEACH  
MUNICIPAL CODE CHAPTER 10.74, SECTION  
10.12.030 AND SECTION 10.68.030 TO  
REGULATE ACCESSORY DWELLING UNITS,  
AND MAKING A DETERMINATION OF  
EXEMPTION UNDER CEQA

**THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS  
FOLLOWS:**

Section 1. On October 28, 2020, the Planning Commission conducted a duly noticed public hearing and adopted Resolution No. 20-08 recommending that the City Council adopt the proposed revised regulations regarding accessory dwelling units and proposed text amendments to Section 10.12.030, Section 10.68.030 and Chapter 10.74 of the Municipal Code regulating Accessory Dwelling Units (ADUs).

Section 2. On January 5, 2021, 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 - General Requirements and Application Procedure

Section 10.74.040 - Local ADU Standards

Section 10.74.050 - JADU Standards

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 Sections 65852.2 and 65852.22 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units consistent with state law.

**Section 10.74.020 - Definitions.**

"Accessory Dwelling Unit" or "ADU" has the meaning ascribed in Government Code Section 65852.2, as the same may be amended from time to time. 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.

"Attached ADU" means an ADU that is constructed as a physical expansion (i.e. addition) of a Primary Dwelling, or the remodeling of a Primary Dwelling, and shares a common wall with a Primary Dwelling.

"Detached ADU" means an ADU that is constructed as a separate structure from any Primary Dwelling, and does not share any walls with a Primary Dwelling.

"Existing Structure" means an existing single-family dwelling, multi-family dwelling, or other accessory structure that can be safely converted into habitable space under the California Building Standards Code, as amended by the City, and any other applicable laws.

“Junior Accessory Dwelling Unit” or “JADU” has the meaning ascribed in Government Code Section 65852.22, as the same may be amended from time to time.

“Primary Dwelling”, for purposes of this chapter, means an existing or proposed single-family dwelling, or multi-family dwelling, on the lot where an ADU would be located.

“Public Transit”, for purposes of this chapter, has the meaning ascribed in Government Code Section 65852.2(j), as the same may be amended from time to time.

**Section 10.74.030 - General Requirements and Application Procedure.**

- A. Before constructing an ADU or a JADU or converting an Existing Structure or portion of a structure to an ADU or JADU, the applicant shall obtain permits in accordance with the requirements of this section.
- B. All ADUs and JADUs shall satisfy the requirements of the California Building Standards Code, as amended by the City, and any other applicable laws.
- C. Projects Exempt from Obtaining an ADU Permit. An applicant shall not be required to submit an application for an ADU permit under subsection D of this section, and may instead seek building permit approval for an ADU or JADU, or both, where the proposal satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, the California Building Standards Code, as amended by the City, and any other applicable laws. An ADU or JADU approved pursuant to this subsection shall be rented only for terms of 30 days or longer.
- D. Projects Subject to ADU Permit Review and Timelines.
  - 1. The Director of Community Development or his/her designee shall ministerially review and approve an ADU permit application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the ADU complies with the requirements contained in this chapter and any other applicable law.
  - 2. ADU permit applications subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2.
  - 3. Where an ADU permit application is submitted with an application for a Primary Dwelling that is subject to

discretionary review under this Code, the ADU permit application will be considered separately without discretionary review or a public hearing, following action on the portion of the project subject to discretionary review.

4. In addition to obtaining an ADU permit, the applicant shall be required to obtain a building permit and any other applicable construction or related permits prior to the construction of the ADU.
- E. Minor Exception: An applicant may apply for a Minor Exception, pursuant to Section 10.84.120, for the establishment of an ADU or JADU in an existing legal structure that does not comply with the ADU or JADU standards provided in this chapter. A Minor Exception may not be requested for site or lot conditions.
- F. An applicant may apply for ADUs and JADUs meeting the requirements of Government Code Section 65852.2(e)(1), or ADUs meeting the requirements of Section 10.74.040, but in no case shall the combined number of ADUs and JADUs be greater than two on a property with a single-family residence.

#### **Section 10.74.040 – Local ADU Standards.**

Excepting those ADUs that satisfy the requirements of Government Code Section 65852.2(e)(1), ADUs shall comply with the following standards:

- A. Location Restrictions/Number Permitted:
  1. ADUs on Lots with a Single-Family Residence. A maximum of two total ADUs shall be allowed on a lot with a proposed or existing single-family dwelling within all Area Districts; however, only one ADU shall be allowed on a property that also has a JADU. Only one detached ADU is allowed on a property.
  2. ADUs on Lots with New Multi-Family Developments. In all Area Districts, one ADU shall be allowed on a lot with a newly constructed multi-family development.
    - a. Multi-Family Redevelopments. Notwithstanding the limitation in paragraph 2 above, more than one ADU, up to 25 percent of the number of pre-existing multi-family dwelling units on the property, shall be allowed where the applicant proposes to demolish an existing multi-family development to build a new multi-family development. For any property that is considered a nonconforming use pursuant to 10.68.020.A because it does not meet the current site area per dwelling unit requirement,

the total resulting number of units on the property, including ADUs, shall not be greater than the number of pre-existing units on the property.

B. Development Standards:

1. Size, General: Studio and one bedroom ADUs shall not exceed 850 square feet of gross floor area. ADUs with two or more bedrooms shall not exceed 1,200 square feet of gross floor area. The minimum size of an ADU shall be 220 square feet, or an alternate minimum area for an “efficiency unit” that is adopted by the City.
  - a. Additional Size Limitations for Attached ADUs: If there is an existing single-family residence, a newly constructed Attached ADU shall not exceed fifty percent of the gross floor area of the existing single-family residence.
2. Height for Detached ADUs shall be measured from the weighted average of the local grades around the perimeter of the detached structure, and:
  - a. A Detached ADU shall not exceed 16 feet in height; or
  - b. A Detached ADU located above a detached garage or below a detached garage that does not qualify as a basement shall not exceed a total height of 26 feet.
3. Setbacks: No setback shall be required for an ADU that is within an Existing Structure or within a structure constructed in the same location and dimensions as an Existing Structure. For all other ADUs, the required setback from side and rear lot lines shall be four feet, and the front setback shall be as required for the primary structure.
4. Separation: A Detached ADU shall have a minimum five-foot building separation from other buildings on the lot.
5. Standards: An ADU shall conform to all open space, buildable floor area, building site (lot) coverage, and minimum lot size regulations applicable to the zoning district in which the property is located, as well as the building separation requirement stated in Section 4 above, except in the following cases:

- a. ADUs that are not required to obtain an ADU permit as provided in Section 10.74.030(C).
  - b. Where the application of such standards would not permit construction of an 800 square-foot ADU that is 16 feet in height with four-foot side and rear yard setbacks, in which case the regulation(s) at issue shall be waived to permit such an ADU.
6. Except as provided in subsection 5.b, an ADU shall count toward the maximum total buildable floor area applicable to the lot.
- C. 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.
- D. Design and Features:
  1. An 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's required yards.
  2. If the property abuts an alley, any new driveway access for an ADU must be provided through the alley.
  3. If an automatic fire sprinkler system is required for the Primary Dwelling, the ADU must also have an automatic fire sprinkler system.
  4. An ADU shall have a separate exterior access.
  5. For any second-story Detached ADU, all exterior openings, including windows and doors, that are within 15 feet of 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. A kitchen, in conformance with applicable health and safety requirements, including at least one permanently installed cooking appliance, shall be required for all ADUs.
  7. A permanent foundation shall be required for all ADUs.
  8. Refuse containers shall comply with Municipal Code Section 5.24.030.

- E. **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 ADU is to be rented only for terms of 30 days or longer; (ii) the ADU is not to be sold or conveyed separately from the Primary Dwelling; (iii) 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 (iv) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04 and 1.06. Proof of recordation of the covenant shall be provided to the City prior to final building inspection.
- F. **Parking Requirements (ADU):**
1. In addition to the off-street parking space(s) required for the Primary Dwelling, one off-street parking space shall be provided for each ADU, except when:
    - 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 existing Primary Dwelling or all or part of an existing accessory structure or building;
    - d. The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant; or
    - e. The ADU is located within one block of a city-approved and dedicated parking space for a car share vehicle.
  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; and
    - 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.
  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.

4. When the ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU. Existing driveways that formerly served parking spaces that have been converted to an ADU may remain for parking.

#### **Section 10.74.050 - JADU Standards.**

JADUs shall comply with the following requirements:

1. A JADU shall be a maximum of 500 square feet of buildable floor area and a minimum of 220 square feet, or an alternate minimum area for an “efficiency unit” that is adopted by the City. The buildable floor area of a shared sanitation facility shall not be included in the maximum buildable floor area of a JADU.
2. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.
3. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
4. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing or proposed single-family dwelling.
5. A JADU shall include an efficiency kitchen meeting the requirements of Government Code Section 65852.22.
6. 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 of either the Primary Dwelling or the JADU, unless the owner is a government agency, land trust, or housing organization; (ii) the JADU is to be rented only for terms of 30 days or longer; (iii) the JADU is not to be sold or conveyed separately from the single-family dwelling; (iv) the property owner and all successors in interest shall maintain the JADU and the property in accordance with all applicable JADU requirements and standards, including the restrictions on the size and attributes of the JADU provided in Government Code Section 65852.22; and (v) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04

and 1.06. Proof of recordation of the covenant shall be provided prior to final building inspection.

7. No additional parking is required for a JADU.

**Section 10.74.060 - Fees and Utility Connections.**

- A. The owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees except as specifically provided in California Government Code Sections 65852.2 and 65852.22.
- B. With the submittal of the ADU Permit or prior to receiving a building permit if no ADU Permit is required, the owner of the subject property must submit letters of service availability for water and sewer disposal to the Building Official.”

Section 6. The City Council hereby amends Manhattan Beach Municipal Code Section 10.12.030 “Property Development Standards for All Area Districts” table to add a row referring to “Accessory Development Units” as follows:

Accessory Structures	See <u>Section 10.52.050</u>
<u>Accessory Dwelling Units</u>	<u>See Chapter 10.74</u>
Exterior Materials	See <u>Section 10.52.020</u>

Section 7. The City Council hereby amends building separation regulations in the Manhattan Beach Municipal Code to provide an exception for ADUs so that Section 10.12.030(R) reads as follows:

“R. **Building Separation.** The minimum distance between buildings (building separation yard) containing one (1) or more dwelling units on a site shall be ten feet (10’). For permitted projections within said building separation yards, see Section 10.60.040, Building projections into yards.

**Exception:** A detached Accessory Dwelling Unit shall have a minimum separation from other buildings on the lot as specified by Section 10.74.040(B).”

Section 8. The City Council hereby amends nonconforming use regulations in the Manhattan Beach Municipal Code to provide exceptions for ADUs so that Sections 10.68.030(A)-(C), read as follows:

- “A. No structure, the use of which is nonconforming, shall be moved, altered, or enlarged unless required by law, or unless the moving, alteration, or enlargement will result in the elimination of the nonconformity.

**Exceptions.**

1. Minor enlargement of a structure, the use of which is nonconforming with respect to a use permit approval, is permitted, provided said enlargement, accomplished cumulatively in one (1) or more projects, does not exceed ten percent (10%) of the total pre-existing buildable square feet occupied by said use that is legally established as of the effective date of the ordinance codified in this title.
  2. During the period that the dwelling unit replacement requirement of State Government Code Section 66300(d) is in effect, existing dwelling units occupying a site that do not conform with the current site area per dwelling unit regulations for the district in which the use is located may be altered by remodeling if the proposed work does not enlarge the structure.
- B. No structure partially occupied by a nonconforming use shall be moved, altered, or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use.

**Exceptions.**

1. Minor enlargement of a structure, the use of which is nonconforming with respect to a use permit approval, is permitted, provided said enlargement, accomplished cumulatively in one (1) or more projects, does not exceed ten percent (10%) of the total pre-existing buildable square feet occupied by said use that is legally established as of the effective date of the ordinance codified in this title.
  2. During the period that the dwelling unit replacement requirement of State Government Code Section 66300(d) is in effect, existing dwelling units occupying a site that do not conform with site area per dwelling unit regulations for the district in which the use is located may be altered by remodeling if the proposed work does not enlarge the structure.
- C. No nonconforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site, or another structure or site which it did not occupy on January 1, 1991, or on the effective date of any amendment to this Chapter 10.68 that caused the use to become nonconforming, or in such a way as to displace any conforming use occupying a structure or site, except as permitted in this section.”

Section 9. 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 Sections 65852.2 and 65852.22 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 10. 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 11. 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 12. 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 13. 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 14. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31<sup>st</sup> day after its passage.

ADOPTED on January 19, 2021.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

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SUZANNE HADLEY  
Mayor

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LIZA TAMURA  
City Clerk