



## Legislation Details (With Text)

**File #:** 18-0472 **Version:** 1  
**Type:** \*Public Hearing - Staff Report **Status:** Agenda Ready  
**In control:** City Council Regular Meeting  
**On agenda:** 12/4/2018 **Final action:**  
**Title:** Ordinance No. 18-0024 (1) Amending the Manhattan Beach Municipal Code to Regulate Accessory Dwelling Units (ADUs) - Second Units on Lots with Single Family Residences, Amend Current Code Provisions regarding Accessory Structures, and Revise the Definition of "Kitchen; and (2) Making a Determination of Exemption under CEQA (Community Development Director McIntosh).  
a) CONDUCT PUBLIC HEARING  
b) INTRODUCE ORDINANCE NO. 18-0024

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Draft Ordinance No. 18-0024, 2. Legislative Digest, 3. Planning Commission Resolution No. 18-17, 4. Planning Commission Staff Report and Attachments- November 14, 2018, 5. Planning Commission Draft Minutes- November 14, 2018

| Date      | Ver. | Action By                    | Action               | Result |
|-----------|------|------------------------------|----------------------|--------|
| 12/4/2018 | 1    | City Council Regular Meeting | introduced ordinance | Pass   |

**TO:**  
Honorable Mayor and Members of the City Council

**THROUGH:**  
Bruce Moe, City Manager

**FROM:**  
Anne McIntosh, Community Development Director  
Laurie B. Jester, Planning Manager  
Angelica Ochoa, Associate Planner

**SUBJECT:**  
Ordinance No. 18-0024 (1) Amending the Manhattan Beach Municipal Code to Regulate Accessory Dwelling Units (ADUs) - Second Units on Lots with Single Family Residences, Amend Current Code Provisions regarding Accessory Structures, and Revise the Definition of "Kitchen; and (2) Making a Determination of Exemption under CEQA (Community Development Director McIntosh).  
a) **CONDUCT PUBLIC HEARING**  
b) **INTRODUCE ORDINANCE NO. 18-0024**

**RECOMMENDATION:**  
Staff recommends that after conducting the public hearing, the City Council introduce Ordinance No. 18-0024, amending the Manhattan Beach Municipal Code (MBMC) to regulate accessory dwelling units (ADUs) and accessory structures.

**FISCAL IMPLICATIONS:**

The adoption of this ordinance has no fiscal impact. There will be costs in staff resources for the processing of applications for accessory dwelling units, however these will be offset with application and plan check fees.

### **BACKGROUND:**

Recent State law amended California Government Code Section 65852.2 and limits the ability of local jurisdictions to regulate or limit ADUs. An ADU is a second unit on a lot with a single family residence. Effective January 1, 2017, and amended January 1, 2018, the State requires cities to adopt standards or the State regulations will preempt all local regulations. The goal of these new regulations is to make local zoning codes more permissive in order to make it easier for owners of single-family residences to add ADUs, increasing housing availability and affordability in the State.

In response to state law, the City Council adopted a series of interim ordinances (IZOs) to regulate ADUs during the period needed for City staff to undertake planning and land use studies. During the tenure of the interim ordinances, Staff has worked closely with the City Attorney's office to develop a permanent ordinance that will establish local standards for State-mandated ADUs on lots with single family residences in Area Districts I and II.

### **DISCUSSION:**

On November 14, 2018, the Planning Commission held a public hearing, discussed and provided a recommendation to the City Council on Code Amendments to regulate ADUs (The Planning Commission staff report is attached). Staff has drafted a proposed ordinance that reflects the Planning Commission recommendation.

Overall, the Planning Commission was in support of the proposed development regulations with a few changes to allow larger square footage, no architectural design compatibility standards, flexibility for the owner occupancy requirement and greater flexibility for the conversion of existing structures through the Minor Exception process. The public also addressed the Commission and commented that some of the ADU regulations may be too restrictive and not provide flexibility for existing older structures (Planning Commission minutes attached). Accordingly, the Commission revised some of staff's proposed standards, as follows:

- 1) **Size of detached ADU-(floor area)** The floor area for a detached ADU was proposed to be at 500 square feet maximum and 900 total gross floor area for all detached accessory structures. The 500 and 900 square feet standard was recommended as they are consistent with the current Guest House regulations and would easily allow these existing structures to be converted to ADUs. The Planning Commission felt that 500 square feet would be too small to accommodate a family or an elderly or disabled person that may need someone else living with them to provide extra help in their daily activities. The Planning Commission recommended to keep the detached ADU size at 700 square feet as is allowed under the current Interim Ordinance 17-0032U. The total gross floor area was increased to 1100 square feet for all detached accessory structures, including ADUs, garages, pool houses, and covered patios, etc. as a 400 square foot garage is typically required (700 + 400= 1,100 SF)
- 2) **Design feature for attached ADUs** The design feature reference was proposed for an attached ADU to have substantially similar exterior details (color, materials, and architectural details) as the primary unit to maintain the look of a single family residence. The Planning Commission felt that the homeowner should have the flexibility to design the ADU according to their architectural needs and this design feature requirement was removed.
- 3) **Owner occupant covenant** The owner occupant covenant is to ensure the homeowner

remains on the property to maintain the property and be on-site to oversee the tenants on the site, particularly in light of concerns with short-term rentals which would not be allowed in an ADU. The homeowner can occupy either the primary dwelling unit or the ADU. The Planning Commission discussed the possibility of homeowners being absent for an extended time due to a temporary job change, extended travel or other circumstances and still being in compliance with the required covenant. A provision was added to allow the homeowner to be away from the property for up to two years without occupying the ADU or the primary dwelling unit.

- 4) **Existing structure conversion- Minor Exception provision** The Planning Commission discussed the complications of existing structures having conditions that may not allow them to be converted to an ADU since they do not meet the ADU development standards. The minor exception process will allow existing structures to remain with minor non-conformities relative to ADU development standards, such as setbacks, heights, and square footage.

The Planning Commission also discussed the location of ADUs and why they were not proposed to be allowed in Area Districts III and IV. Staff explained that areas of the City vary significantly in lot size, especially in those districts and are non-conforming relative to lot coverage, density, traffic and parking. Also, the proposed regulations are designed to reflect those variations, given that the City has high density, small lot sizes and is almost entirely built out.

Staff has continued to research and study the use of ADUs throughout the City and the appropriate locations and standards for the long term benefits of the community. ADU standards in the surrounding cities of Torrance, Hermosa Beach, Redondo Beach and El Segundo have been researched, evaluated and incorporated as appropriate. Staff feels it is important to balance between allowing the development of ADUs, as required by State law, while recognizing the unique development patterns of Manhattan Beach and protecting our residential neighborhoods. Staff has spent numerous hours reviewing other City's regulations, attending workshops and training, and working with our City Attorney's Office to draft regulations that strive to create this balance.

Since ADUs are similar in nature to Guest House/Accessory Living Quarters that the City allows for single-family residences, and hundreds are permitted in the City, these Guest House regulations were used as a basis for drafting the ADU Ordinance.

#### The Proposed Ordinance.

The following is a summary of the major elements of the proposed Ordinance. (Attachment). The attached Legislative Digest provides a comprehensive description of all the proposed changes. In addition, the Planning Commission staff report provides a detailed discussion of the ADU standards. (Attachment)

The Ordinance adds a new Chapter 10.74 (Section 5 of the Attached Ordinance) to the Zoning Code, with the following provisions:

- **Location and Lot Area** - Provides that a property must have a lot size of at least 75% of the minimum required lot size to have an ADU. The property must be located in an RS, RM, RH or RPD zone in Area Districts I or Area District II of the City with an existing or proposed single family residence, not allowed in the beach area. Only one ADU per lot.
- **Unit Size (Floor Area)** - Attached or detached ADUs are proposed to be a maximum of 700 square feet.
- **Setbacks**- More specific for one and two story, attached and detached ADUs. The side and

rear yard setbacks for attached ADUs are proposed to be the same as primary unit. A five foot reduction is proposed for the rear yard for one story attached ADUs. A detached ADU is proposed at 3 feet for rear and side yards. No additional setbacks are proposed for garages converted to ADUs. For second story ADUs, 5 feet is required for side and rear yards above an existing garage.

- **Height-** Differing standards for one and two story, attached and detached ADUs. For attached ADUs, the height allowed is the same as the primary residence. For detached ADUs, one story, 12 feet for flat roof, and 15 feet with a minimum 3 in 12 roof slope. For second story ADUs, above an existing or proposed garage, 18 feet for flat roof and 22 feet for 3 in 12 roof slope.
- **Design and Features-** For attached and detached ADUs to maintain single-family residence appearance. Attached ADU exterior access must not face the front yard and shall be located on the side or rear of the primary dwelling unit, no deck greater than 30 inches if located in required yard, new driveway access for ADU must be taken from alley. A detached second story ADU, all exterior openings, including windows and doors, less than 15 feet from rear non-alley or side property line shall be fixed, or located at least five feet above finished floor.
- **Covenant-** One unit owner-occupied and 30-day minimum rental. Owner can occupy either the ADU or the primary dwelling unit. Maximum length is 2 years for property owner to be away from property as part of required covenant.
- **Parking-** A minimum of one parking space for ADU is required unless meeting State exceptions. If an existing garage is converted to an ADU, required parking for the primary dwelling unit must be replaced. Replacement parking must be enclosed, 2 or 3 vehicles required depending on total square footage. If a parking space is provided for the ADU, the replacement parking for the ADU and the primary dwelling unit, 3 or 4 parking spaces can be open, unenclosed, located in a conforming driveway, outside of the front yard setback and can encroach 5 feet in to the 10' separation yard. Enclosed parking spaces can be in mechanical lift configuration.

In addition, the Ordinance contains proposed changes to current Code provisions:

- Amending Section 10.52.050 (Accessory Structures) to explain that ADUs will now have its own Chapter and thus are no longer subject to the existing Code regulations for accessory structures (Ord. Section 6)
- Amending Section 10.52.050 (Accessory Structures) to cross reference ADU requirements (Ord. Section 7)
- Revising the definition of “kitchen” (MBMC Section 10.04.030) (Ord. Section 8)
- Adding ADUs to the Minor Exceptions Provisions contained in MBMC Section 10.84.010 (Ord. Sections 9 and 10).

As stated above, the attached legislative digest shows all of the proposed revisions to the Municipal Code.

Staff feels the proposed ordinance balances between allowing the development of ADUs, as required by State Law, while recognizing the unique development patterns of Manhattan Beach and protecting our residential neighborhoods.

Staff recommends that the City Council conduct a public hearing and introduce Ordinance No. 18-0024 amending the Manhattan Beach Municipal Code (MBMC) to regulate accessory dwelling units

(ADUs).

## **POLICY ALTERNATIVES:**

### **ALTERNATIVE #1: Do not adopt the attached ordinance.**

This alternative would result in the State regulations preempting local regulations and could lead to conflicts with the community goals identified through the General Plan.

### **ALTERNATIVE #2: Adopt the attached ordinance with revisions.**

Depending on the nature of the revisions, this alternative may lead to conflicts with the community goals identified through the General Plan, and will create a larger gap in local regulations as the introduction of the Ordinance may be delayed. If the revisions have not been considered by the Planning Commission, they may have to go back to the Commission for its consideration. State regulations will preempt local regulations during the gap.

## **PUBLIC OUTREACH/INTEREST:**

A ¼ page advertisement for the Planning Commission hearing was published in the Beach Reporter on November 1, 2018. Additionally, a ¼ page advertisement for the City Council public hearing was published in the Beach Reporter on November 22, 2018.

## **ENVIRONMENTAL REVIEW:**

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.

## **LEGAL REVIEW:**

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

## **Attachments:**

1. Draft Ordinance No. 18-0024
2. Legislative Digest
3. Planning Commission Resolution No. 18-17
4. Planning Commission Draft Minutes- November 14, 2018
5. Planning Commission Staff Report and Attachments- November 14, 2018