



## Legislation Text

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**File #:** 21-0020, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Carrie Tai, AICP, Community Development Director  
Talyn Mirzakhanian, Planning Manager  
Angelica Ochoa, Associate Planner

**SUBJECT:**

Conduct Public Hearing to Consider Ordinances Nos. 21-0001 and 21-0002, Amending Citywide Regulations for Accessory Dwelling Units (ADUs) in Title 10 of the Manhattan Beach Municipal Code and the Local Coastal Program, Respectively, Consistent with State Law, and Making a Determination of Exemption Under CEQA (Community Development Director Tai).

- a) **CONDUCT PUBLIC HEARING**
- b) **MAKE A DETERMINATION OF EXEMPTION UNDER CEQA**
- c) **INTRODUCE ORDINANCE NOS. 21-0001 AND 21-0002**
- d) **ADOPT RESOLUTION NO. 21-0006**

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**RECOMMENDATION:**

Staff recommends that the City Council conduct a public hearing, make a determination of exemption under the California Environmental Quality Act (CEQA), introduce Ordinance No. 21-0001 amending Title 10 of the Manhattan Beach Municipal Code (MBMC), specifically the regulations governing accessory dwelling units (ADUs), and Ordinance No. 21-0002, amending the Local Coastal Program accordingly, and adopt Resolution No. 21-0006 authorizing staff to transmit the Local Coastal Program Amendments to the Coastal Commission.

**EXECUTIVE SUMMARY:**

Due to the statewide housing crisis, the State Legislature has declared that housing is a matter of statewide concern and has adopted a series of statutes intended to facilitate the production of housing, including requiring cities to approve additional dwelling units on lots in single-family residential zones.

The proposed amendments being considered are land use regulations pertaining to accessory dwelling units (ADUs), which include, but are not limited to location, size, building separation, kitchen features, height, and non-conforming use regulations for multi-family developments. Specifically, the recommended amendments include: 1) allowing two total ADUs on a lot with a proposed or existing single-family dwelling in all area districts of the City and at least one attached ADU on lots with multiple dwelling units; 2) establishing a 220 square-foot minimum size requirement for ADUs and

changing the maximum size for two-bedroom ADUs to 1,200 square feet; 3) establishing a separation requirement of five feet between detached ADUs and the primary dwelling; 4) allowing an ADU above or below a detached garage within the 25-foot height limit; 5) allowing existing driveways to converted garages to remain; 6) requiring that kitchens for ADUs have at least one permanent installed cooking appliance; and 7) allowing alterations to non-conforming residential developments that exceed the number of dwelling units permitted on a lot while Senate Bill 330 (the State's "no net loss" requirement) is in effect. Associated amendments to the City's Local Coastal Program (LCP) must be certified by the California Coastal Commission before they take effect.

On October 28, 2020, the Planning Commission held a public hearing, discussed the proposed regulations and provided the recommendations contained herein to the City Council.

### **FISCAL IMPLICATIONS:**

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

### **BACKGROUND:**

California law related to ADUs was amended by a series of legislative bills in 2019 (Assembly Bill (AB) 881, AB 68, AB 587, AB 670 and Senate Bill (SB) 13), effective January 1, 2020. An ADU is an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a primary residence. Amended regulations also address Junior Accessory Dwelling Units (JADUs). A JADU is a housing unit limited to 500 square feet in size that is contained within the walls of an existing or proposed single-family residence. As such, a JADU is inherently "attached" to the primary single-family residence. In accordance with Government Code Section 65852.22, a JADU must have an efficiency kitchen, with cooking appliances and a small food preparation and storage area. However, a JADU may share a bathroom with the main house; it does not need to have separate bathroom facilities.

As revised, Government Code Section 65852.2 further limits local jurisdictions' ability to regulate or limit ADUs in continuation of the State's efforts to facilitate the production of housing. Effective January 1, 2020, cities were required to adopt an ordinance that complies with the new State restrictions and includes specific standards. The City Council adopted Urgency Ordinance Nos. 20-0024-U (non-Coastal zone) and 20-0025-U (Coastal zone) to amend regulations for ADUs and junior accessory dwelling units (JADUs) to incorporate the new State regulations. The interim Urgency Ordinances are set to expire on December 15, 2021, and permanent ordinances must be adopted by the City Council to continue the City's local adaptations of the State laws. The lack of local ordinances would take away the City's ability to customize regulations specific to the City's character and development patterns. Coastal Commission approval would also be required for associated amendments to the Local Coastal Program.

Furthermore, effective January 1, 2020, and up through January 1, 2025, unless otherwise amended, Government Code Section 66300(d) requires that "[a]n affected city . . . shall not approve a housing development project that will require the demolition of residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished." This new provision in State law, enacted by Senate Bill 330, effectively prohibits property owners from demolishing existing housing units unless the proposed replacement housing project includes at least as many units as

were there previously. This regulation was also taken into consideration while formulating the proposed ADU regulations to allow owners of non-conforming properties to remodel to an extent beyond minimal repair and maintenance.

While the interim Ordinances have been in effect, staff has been studying ADU regulations and working with the public through Planning Commission public meetings on developing local long-term regulations for State-mandated Citywide ADUs. The Planning Commission conducted three study sessions and one public hearing to consider the amendments and formulate a recommendation to the City Council regarding long-term regulations for accessory dwelling units. The Planning Commission's recommended amendments to the Municipal Code and Local Coastal program are discussed in detail in the following section of this report.

The attached draft Ordinances provide proposed permanent development standards for ADUs related to number allowed, minimum and maximum sizes, building separation, remaining driveways, kitchen requirements and remodeling of non-conforming multi-family development. The proposed amendments will replace the existing interim Urgency Ordinances.

## **DISCUSSION:**

On October 28, 2020, the Planning Commission held a public hearing, discussed the proposed regulations and provided recommendations to the City Council on code amendments to regulate ADUs Citywide, including the Coastal Zone. The Planning Commission unanimously voted in favor of the proposed development regulations outlined herein. Their recommendation included an additional change to the maximum square footage of two-bedroom ADUs from 1,000 square feet to 1,200 square feet.

The proposed amendments to ADU standards and requirements involve the following topics:

1. Number of ADU and/or JADUs that can be placed on a property
2. Areas of the City where ADU/JADUs can be located
3. Minimum and maximum sizes for ADUs
4. Building separation requirements applicable to detached ADUs
5. Height for detached ADU buildings
6. Use of remaining driveways when garages have been converted to ADUs
7. Kitchen standards for ADU/JADUs
8. City non-conforming use regulations affecting the ability to remodel existing development that exceeds permitted density

## **Code Amendments**

The proposed code amendments, and associated Local Coastal Program amendments as discussed below. Each topic describes the following: a) the current regulations; b) the Planning Commission recommendation on proposed changes; and c) proposed code amendments for the City Council's consideration. The proposed code amendments are also included in the attached draft ordinances for the Municipal Code and Local Coastal Program. It should be noted that the draft ordinances reflect minor refinements to the draft ordinances for purposes of clarification and consistency with provisions in State law.

### **1. Number of ADU and/or JADUs that can be placed on a property**

## **Current Regulations**

Single-Family Properties. Current regulations allow one attached ADU or JADU, and one detached ADU, per lot with a proposed or existing single-family dwelling. Importantly, a detached ADU may be combined with a JADU that complies with the requirements described above, such that two additional units (one detached ADU and one attached JADU) are allowed per lot. Given the size limitations for JADUs and ADUs, this means that a property could have a 500-square-foot JADU attached to the house and an up to 800-square-foot detached ADU on the lot. While a single-family dwelling can have one attached JADU or ADU and one detached ADU, it cannot currently have two attached ADUs. In order to create more flexible regulations, the proposed amendment would allow two attached JADU or ADUs at single-family properties. No more than a total of two JADU or ADUs would be allowed on a lot.

Multi-Family Properties (Existing). Current regulations allow ADUs to be added at existing multi-family properties by converting spaces not used as livable space, such as common areas or storage spaces. The total number of attached ADUs can be up to 25% of the existing units. For example, a 4-unit property can add one ADU. Regulations also allow up to two detached ADUs to be added to existing multi-family properties.

Multi-Family Properties (New/Proposed). There are currently no allowances for ADUs for new multi-family development. This means that new multi-family development (any development with more than 1 unit) cannot currently include ADUs within their projects.

## **Planning Commission Recommendation**

- The Planning Commission recommends allowing an attached ADU, in addition to an already permitted ADU or JADU, at an existing or proposed single-family residence in all Area Districts if there are no more than two total ADU/JADUs; and
- In the spirit of providing more flexible options for multi-family developments, and in consideration that current regulations would allow any new multi-family development to apply to construct ADUs once the development is completed, the Planning Commission recommends a provision to allow at least one attached ADU when a new multi-family project is proposed as a property redevelopment. Larger multi-family projects would be allowed ADUs at the same 25% ratio permitted for existing multi-family development. For properties that are currently nonconforming because there are more units than what current regulations allow, the proposed resulting total number of dwelling units would not be allowed to exceed the existing number of legal dwelling units prior to demolition. This would enable new multi-family projects to include at least one attached ADU as part of their projects.

## **Proposed Code Amendments**

- Section 10.74.030(F) and A.74.030(F) would be revised to specify that the JADU and ADU allowances of Government Code Section 65852.2(e)(1) (State-mandated regulations) and Section 10.74.040 (local regulations) may not be combined to total more than two ADUs on single-family properties.
- Sections 10.74.040(A) and A.74.040(A) (Location Restrictions/Number Permitted) would be revised to allow a maximum of two total ADUs on a lot with a proposed or existing single family dwelling in all area districts of the City. Further, only one detached

ADU may be allowed on a property.

- Sections 10.74.040(A) and A.74.040(A): (Location Restrictions/Number Permitted) would be revised to allow an exception to allow at least one attached ADU on lots with multiple dwelling units as long as the number of ADUs does not exceed 25% of the number of existing dwelling units. For nonconforming uses, the resulting total number of dwellings units does not exceed the number pre-existing dwelling units.

## **2. Areas of the City where ADU/JADUs can be located**

### **Current Regulations**

Current City regulations incorporate State law provisions that allow ADUs and JADUs on existing or proposed single-family properties and existing multi-family properties in all residential zones throughout the City, regardless of Area District. However, there are no current regulations allowing ADUs in new multi-family developments in the City.

### **Planning Commission Recommendation**

- Given that JADUs and ADUs are already allowed in all Area Districts in the City in specified circumstances, the Planning Commission recommended extending ADU regulations consistently across all Area Districts to ease implementation.

### **Proposed Code Amendments**

- The proposed Code amendments in the Item #1 above achieve this objective by allowing ADUs to be part of new multi-family developments in all Area Districts.

## **3. Minimum and maximum sizes for ADUs**

### **Current Regulations**

Current City regulations do not include any minimum sizes for ADUs and JADUs, but identify the following allowable maximum sizes for attached and detached ADUs:

- All ADUs (maximum two bedrooms)
- Studio or one-bedroom ADU - 850 square feet
- Two-bedroom ADU - 1,000 square feet
- Additionally, attached ADUs shall not exceed fifty percent of the total floor area of the existing primary dwelling.
- State law allows local jurisdictions to permit detached ADUs up to 1,200 square feet.

State law indicates that a minimum size for an ADU must allow for an efficiency unit per the Health and Safety Code Section 17958.1 and Building Code Section 1207.4. These sections define an efficiency unit as having not less than 220 square feet and require an additional 100 square feet of floor area for more than two persons.

### **Planning Commission Recommendation**

At the Planning Commission meeting of September 9, 2020, there was discussion regarding allowing a minimum size of 150 square feet, rather than the current specification of 220 square feet. State law allows a minimum size for an ADU to be 150 square feet, if the City currently has an adopted ordinance allowing that. The City does not have any adopted ordinance that allows efficiency units less than 220 square feet. Therefore, at this time, the 150-square foot minimum size threshold is not

an available option. Also, the Planning Commission expressed a concern for ADUs not being fully independent units, namely having independent cooking and bathroom facilities. Goal II of the City's Housing Element encourages housing opportunities for special needs groups, with an emphasis on senior residents, which are promoted by the availability of ADUs, as well as providing safe and healthy living environments. Ensuring that an ADU has the ability to maintain independence from a separate household would contribute toward those Housing Element Goals. At the October 28, 2020, public hearing, the Planning Commission once again expressed concern regarding the 220 square-foot minimum size of an efficiency unit, ultimately opting to recommend the following:

- Establish minimum size for JADUs, and attached and detached ADUs to be 220 square feet to allow for at least an efficiency unit per the definition in the California Building Code Section 1207.4.
- Revise maximum size of two-bedroom ADUs from 1,000 square feet to 1,200 square feet to mimic the State allowance.

### **Code Amendments**

- Sections 10.74.050(A), A.74.040(A), 10.74.040(B)(1), and A.74.040(B)(1) would be revised to add a provision to allow a minimum size for an ADU to be no less than 220 square feet.
- Sections 10.74.040(B)(1) and A.74.040(B)(1) would be revised to add a provisions to allow a maximum size of a two bedroom ADU to be 1,200 square feet.

## **4. Building separation requirements applicable to detached ADUs**

### **Current Regulations**

Current regulations define a detached ADU as a separate structure that does not share any walls with the primary dwelling. Furthermore, existing Municipal Code Section 10.12.030(R) requires a minimum distance between buildings containing one or more dwelling units on a site to be 10 feet apart. However, detached ADUs under certain criteria (65852.2(e)(1)(B) only have to comply with 4-foot side and rear setbacks, 16-foot height limit, and 800 square-foot maximum. Detached units not meeting that criteria currently require a 10-foot separation. Therefore, staff has identified an internal inconsistency that affects where property owners can place detached ADUs.

### **Planning Commission Recommendation**

To provide more options for flexibility in design and open space, the Planning Commission recommends amending local ADU permit regulations to state a minimum separation of five feet (5') for detached ADUs to the primary dwelling. This would not apply to detached ADUs permitted by Government Code Section 65852.2(e)(1)(B). This would allow space for walkways and other outdoor uses, but provide additional flexibility for placement of detached ADUs. Staff determined that the California Building Code or California Residential Code does not require a building separation distance. Also, many South Bay cities require only a five or six-foot separation between a detached ADU and the primary residence

### **Code Amendments**

- Sections 10.74.040(B)(4) and A.74.040(B)(4) would be revised to add a five-foot (5') separation requirement.
- Sections 10.74.040(B)(5) and A.74.040(B)(5) (Development Standards) would be revised to refer to the "building separation" standard in Section 10.74.040(B)(4) and A.74.040(B)(4).

- A cross reference provision was added to Sections 10.12.030(R) and A.12.030(R) (Residential Development Standards) regarding building separation that states minimum building separation for accessory dwelling units is regulated by Sections 10.74.040(B) and A.74.040(B).

## **5. Height of Detached Garages**

### **Current Regulations**

The interim regulations currently in effect allow a two-story building height for an ADU, only if the ADU is located directly above a detached garage. Specifically, the provision states, "A Detached ADU shall not exceed 16 feet in height; or, when located above a garage, shall not exceed 25 feet in height...". During review of project proposals, staff identified that given that ADUs are allowed above a detached garage, it may also be appropriate to allow an ADU underneath a detached garage on a substantial sloped lot.

Additionally, while Section 10.52.050 of the Code provides specification of a method for measuring accessory structure height, specifically that height shall be determined by a weighted averaging of the local grades taken around the perimeter of the accessory structure, staff recognized that the proposed Ordinance can benefit from a similar provision regarding height measurement for detached ADUs.

Accordingly, at the October 28, 2020 Planning Commission hearing, staff proposed to clarify and modify the following:

1. Method of measuring height for detached ADU buildings from the average local grade around the perimeter of the building as stated in current regulations; and
2. Provide for two story garage ADU buildings on substantially sloped lots by permitting a non-basement ADU to be below the garage. Opportunities for this type of design occur on steeply sloping lots where a detached garage would be based at a higher elevation than the main building, and a semi-subterranean ADU could be placed below the garage at a level consistent with the main building. A detached ADU located above a detached garage or below a detached garage that does not qualify as a basement shall not exceed 25 feet in height.

### **Planning Commission Recommendation**

- The Planning Commission recommended adding a provision to clarify the method of measurement of height and to allow a detached ADU to be built above or below a detached garage at a 25-foot height limit.

### **Code Amendments**

- Sections 10.74.040(B)(2) and A.74.040(B)(2) would be revised to add a provision to clarify that height will be measured from a weighted average of the local grades around the perimeter of the detached structure.
- Sections 10.74.040(B)(2) and A.74.040(B)(2) would be revised to add a provision to allow a detached ADU to be above or below a detached garage while conforming to the 25-foot total height limit.

## **6. Use of remaining driveways when garages have been converted to ADUs**

### **Current Regulations**

Current regulations allow existing garages, carports or covered parking structures to be converted to ADUs with no additional setbacks or no replacement parking to be constructed. However, Municipal Code Section 10.64.020(F)(2) requires curb cuts of driveways to be abandoned and restored if there is no existing garage or legal parking space. This means that all converted ADUs with driveways would have to restore the existing curb cut since parking is not allowed in required setbacks. This would prevent the ability of the property owner or tenant to have on-site parking if they so desired, in that the lack of a curb cut would result in lack of vehicular access from the street.

### **Planning Commission Recommendation**

- Regulations were amended to add language that the curb cut to the existing driveway will not have to be restored for garages converted to ADUs (attached and detached). Accommodating the option for on-site parking is helpful for areas in the City that experience parking challenges on-street. Also, per staff research of other South Bay Cities, driveways and curb cuts have remained to allow on-site parking. The Planning Commission supported maintaining driveways on site to give the homeowner the option of having on-site parking.

### **Code Amendments**

- Sections 10.74.040(F)(4) and A.74.040(F)(4) (Parking Requirements) would be revised to add a provision to allow existing driveways to remain that formerly served parking spaces that have been converted to and are currently serving as an ADU.

## **7. Kitchen standards for ADU/JADUs**

### **Current Regulations**

Current regulations indicate that a JADU must include an efficiency kitchen, but does not otherwise specify kitchen requirements for ADUs. Efficiency kitchens must have cooking appliances and a preparation and storage area. Since JADUs are typically smaller units, minimal kitchen fixtures include a small preparation area, a single sink and portable appliances. For ADUs, a full kitchen includes permanent cooking appliances, a double sink and a larger preparation area. In researching other cities, full kitchens were required for ADUs and efficiency kitchens for JADUs. Per the Building Codes, kitchens must include permanent provisions for food preparation and cooking and the use of portable appliances does not satisfy code requirements for kitchen facilities.

### **Planning Commission Recommendation**

- The Planning Commission recommends clarifying language that requires a permanent cooking appliance for ADUs, and that ADUs must identify kitchens on their plans to be reviewed by the City.

### **Code Amendments**

- Sections 10.74.040(D) and A.74.040(D) (Design and Features) would be revised pertaining to features in ADUs to clarify that kitchens for ADUs must have at least one permanent installed cooking appliance.

## **8. Nonconforming Use Restrictions** **Current Regulations**



Residential development that exceeds permitted density is a “nonconforming use”, which cannot be moved, altered, or enlarged. For example, a multi-family development property owner may wish to modify their existing floor plan to convert a primary dwelling to an ADU, but this may not be permitted due to these restrictions. Previously, nonconforming residential developments would reduce the number of dwelling units to a conforming quantity, in order to complete any significant remodeling.

### **Planning Commission Recommendation**

The Planning Commission conducted discussion on the ramifications of the State’s “no-net-loss” requirements that prevent decrease in the number of units, and therefore limits remodeling options for many existing multi-family developments. The Planning Commission acknowledged that existing multi-family development that exceeds permitted density, but cannot be brought into conformance by decreasing the number of units due to the “no-net loss” State requirement, should be allowed to remodel to an extent beyond minimal repair and maintenance. Since that is not possible until January 2025, property owners have little ability to make improvements beyond those that are somewhat temporary or superficial. This allowance would provide more flexibility for the conversion of existing space to ADUs for multi-family development, and incentive reinvestment into existing multi-family developments that are nonconforming as to use.

### **Code Amendments**

- Sections 10.68.020(A) and (B), and Sections A.68.020(A) and (B) would be revised pertaining to nonconforming use regulations to add an exception allowing alterations (structural remodeling) to residential developments that exceed the number of dwelling units permitted on a lot while the State’s “no net loss” requirement is in effect.

In addition to the above mentioned code amendment topics, staff included a general cross reference amendment to Sections 10.12.030 and A.12.030, “Property Development Standards for all Area Districts” table referring to the Accessory Dwelling Unit, Chapter 10.74 for the applicable regulations.

### **POLICY ALTERNATIVES:**

**ALTERNATIVE #1:** Introduce the draft ordinance as recommended by the Planning Commission.

**ALTERNATIVE #2:** Do not adopt the attached ordinance.

Not adopting a local ordinance would default to the State regulations upon expiration of the existing Urgency Ordinances and could lead to conflicts with the community goals identified through the General Plan.

**ALTERNATIVE #3:** Adopt the attached ordinance with revisions.

Depending on the nature of the revisions, staff would ensure that revisions are consistent with the community goals identified through the General Plan or State Law. If the revisions considered were directly recommended by the Planning Commission, staff will present the revisions to the Commission for its consideration before returning to City Council.

### **CONCLUSION:**

The proposed ordinances will allow the development of ADUs, as required by State Law, while recognizing the unique development patterns of Manhattan Beach and protecting the City’s unique residential neighborhoods to the extent State law permits.

Staff recommends that the City Council conduct a public hearing and introduce Ordinance Nos. 21-0001 and 21-0002 amending the Manhattan Beach Municipal Code (MBMC) and Local Coastal Program to regulate accessory dwelling units (ADUs). The recommendation also includes a finding of exemption under CEQA and adoption of the attached resolution authorizing staff to transmit the Local Coastal Program amendments to the Coastal Commission.

#### **PUBLIC OUTREACH:**

The Planning Commission conducted three study sessions and one public hearing on this matter. A 1/4-page advertisement for the Planning Commission hearing was published in the Beach Reporter on October 15, 2020, for the October 28, 2020, public hearing. A 1/4-page advertisement for the January 5, 2021, City Council public hearing was published in the Beach Reporter on December 17, 2020. Notification via email was sent to all interested parties on December 23, 2020. As of the date of this report, staff has not received any comments.

#### **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 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. 21-0001
2. Draft Ordinance No. 21-0002
2. Resolution No. 21-0006
3. PC Resolution Nos. 20-08 (MBMC) and 20-09 (Coastal)
4. Planning Commission Staff Report and Attachments - October 28, 2020
5. Planning Commission Minutes - October 28, 2020