

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Anne McIntosh, Director of Community Development

THROUGH Laurie B. Jester, Planning Manager

BY: Angelica Ochoa, Associate Planner
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DATE: November 14, 2018

SUBJECT: Consideration of Proposed Municipal Code Amendments for Citywide Regulations for Accessory Dwelling Units (ADU's) - Second Units on lots with Single Family Residences

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **ADOPT** a Resolution (Attachment A) recommending to the City Council adoption of the proposed Citywide regulations for accessory dwelling units (ADU's).

BACKGROUND

Recent State law amended California Government Code Section 65852.2 and limits the ability of local jurisdictions to regulate or limit accessory dwelling units ("ADUs"). An ADU is a second unit on a lot with a single family residence. The lot could be zoned single family or multi-family. Effective January 1, 2017 the State requires cities to adopt an ordinance that complies with the new regulations and includes specific standards or the State regulations will preempt all local regulations. These State laws were further refined through Amendments which became effective January 2018. 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 ADU's, increasing housing availability and affordability in the State.

On December 20, 2016, the City Council adopted Urgency Ordinance No. 16-0038-U prohibiting the establishment of new ADUs, except those that satisfy specified standards. The Urgency Ordinance was extended on January 17, 2017 with the adoption of Urgency Ordinance No. 17-0001-U and expired on December 19, 2017. As staff continued to study the implications of the State regulations for our City and the appropriate locations and standards for allowing ADU's, the Urgency Ordinance was extended another year. Urgency Ordinance No. 17-0032-U was adopted on December 5, 2017 and will expire on December 19, 2018.

Staff has been working with the City Attorney's office on developing a permanent ordinance that will establish local standards for State mandated ADU's on lots with single family residences in Area Districts I and II. Since the Interim Urgency Ordinance went into effect in 2016, the City has received approximately seven ADU applications and numerous telephone and/or walk-in

inquiries. There has been increased interest in the past 6 months. One of the seven applications has been approved and is currently under construction.

The attached draft Resolution provides development standards for ADU's related to location, lot and ADU size, setbacks, building separation, height, design, privacy, landscaping, owner-occupant and rental terms, and parking requirements. Staff is seeking a recommendation from the Planning Commission tonight on the attached Resolution that will be forwarded to the City Council next month for final adoption. Due to the time schedule, if the Planning Commission is not able to adopt a Resolution tonight, then the Commission's comments and recommendations, as well as any public comments, will be forwarded to the Council in its staff report and through the Commission minutes.

Staff feels it is important to balance between allowing the development of ADU's, 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.

DISCUSSION

Proposed Regulations and IZO

Staff has continued to research and study the use of ADU's throughout the City and the appropriate locations and standards for the long term benefits of the community. Staff has also researched action of ADU's of the surrounding cities of Torrance, Hermosa Beach and Redondo Beach, and El Segundo. Staff has also added some clarification language to the definition of "kitchen" to indicate that a kitchen does not have to be a separate room, as well as modifications to the section related to the height of accessory structures to clarify that only structures with access off of a "rear" alley, may have the 22-foot height limit instead of 12 or 15 feet.

The proposed permanent Ordinance includes similar ADU standards and requirements addressed in the Interim Urgency Ordinances with notable differences in the following areas:

- **Lot Area**- Provides that a property must have a lot size of at least 75% of the minimum size to have an ADU
- **Unit Size (Floor Area)**- Differing maximum square footage standards for attached and detached ADU's
- **Setbacks**- More specifics for one and two story, attached and detached ADU's
- **Building Separation**-Between the ADU and Primary Dwelling Unit
- **Height**- Differing standards for one and two story, attached and detached ADU's
- **Privacy and Appearance/Design Standards**- For attached and detached ADU's
- **Covenant**- One unit owner-occupied and 30-day minimum rental
- **Parking**- Enclosure and location standards

The ADU Ordinance Comparison chart below summarizes the City's existing interim ADU standards, and Staff's current proposal for permanent ADU standards, and highlights the items

with significant differences. Since ADU’s are similar in nature to Guest House/Accessory Living Quarters, that the City allows and has routinely permitted for single-family residences, a column summarizing the City’s existing guest quarters regulations is also provided for additional comparison. The Guest House regulations were used as a basis for drafting the ADU Ordinance as staff felt allowing people to easily convert their existing legal Guest Houses into ADU’s would be consistent with the spirit and intent of State Law.

ADU Ordinance Comparison

✓ = Significant Change

Standard	Existing Urgency ADU Ordinance	Proposed Permanent ADU Ordinance	(Comparable Guest Quarters Regs)
✓ Minimum Lot Area	No requirement	75% of base district minimum lot area	No requirement
Total Lot Buildable Floor Area	Per base district regulations	Per base district regulations	Per base district regulations
✓ ADU Floor Area	700 sf maximum	Attached: 700 sf maximum but not more than 50% of main house. Detached: 500 sf max.	500 sf maximum
Accessory Structure Gross Area	900 sf or 12% of site area maximum	900 sf or 12% of site area maximum	900 sf or 12% of site area maximum
✓ Setbacks for Attached ADU	5 ft setback for ADU portions, except no setback for converted garages	Per base district regulations, except: 5' rear yard reduction for one-story. No setback for converted garages. 5 ft setback for ADU's above existing garages	Per base district regulations (eg.): Side yard- 3' min. or 10% of lot width Rear yard- 12'min. or length x .3 - 20'
✓ Setbacks for Detached ADU	5 ft setback, except no setback for garages converted to ADU's	Per base district regulations, except: 3 ft setback for one-story within rear yard No setback for converted garages 5 ft setback for ADU's above existing garages	Per base district regulations, except: Zero/3 ft for one-story in rear yard 3 ft for 2nd-story at rear alley
✓ Building Separation Yards	10 ft (per accessory structure regulations) No parking permitted there	10 ft, with 5 ft reduction for attached one story ADU's No parking permitted there	10 ft (per accessory structure regulations) No parking permitted there
Height of Attached ADU	Per base district regulations	Per base district regulations	Per base district regulations
✓ Height of Detached ADU	12/15/22 ft (per accessory structure regulations)	12/15 ft for one story. (flat roof/pitched roof) 18 ft for flat roof two-story 22 ft for pitched roof two-story	12/15/22 ft (per accessory structure regulations)
✓ Privacy Standards	None	Window and door restrictions (high, fixed, obscured) for 2nd-story within 15 ft of property lines	None
✓ Appearance Standards	None	Attached ADU's must be similar to main house. ADU entries must not face front of lot	None

✓	Property Covenant	Specifying: Monthly rental at minimum. Not sellable. Code compliance to be maintained	Specifying: Owner to occupy one unit Monthly rental at minimum. Not sellable. Code compliance to be maintained	None required
	Parking for ADU	None required unless nearby transit eliminated	None required unless nearby transit eliminated	None required
	Parking Replacement	Replacement of main house required parking spaces required if displaced	Replacement of main house required parking spaces required if displaced	Replacement of main house required parking spaces required if displaced
✓	Parking Enclosure	Not required	Not required unless provided in car-lift structure	Enclosure required
✓	Parking Location	Not permitted in required yards unless in rear yard detached garage	Not permitted in required yards unless in rear yard detached garage, except: ADU parking in existing conforming driveways outside of front yard. Replacement parking in existing conforming driveways outside of front yard when ADU parking is provided. Half of 10 ft building separation yard	Not permitted in required yards unless in rear yard detached garage

State Law

The following are State ADU regulations in order to address housing options and encourage homeowners to add ADU’s to their existing residences.

State Law – Accessory Dwelling Unit (ADU) Requirements

Topic	SB 1069/SB 229/AB 2299/AB 494 (Government Code Section 65852.2)
Location	On same lot as an existing or newly constructed single-family residence.
Allowed Zones	The lot is zoned for single-family or multi-family use.
Floor Area	Total area of an ADU shall not exceed 1,200 square feet or 50% of the existing or proposed floor area of the primary residence.
Setbacks	• No setback shall be required for a legally permitted existing garage or other accessory building that is converted to an ADU. • If an ADU is constructed above a new or existing garage, a setback of no more than 5 feet is required from side or rear lot lines.
Fire Sprinklers	Not required for ADU if not required for primary residence.
Sale/Rental Restriction	May not be sold separately from primary residence. May require owner occupancy of the main residence or ADU.
Parking Exceptions	A local government cannot impose parking standards for an ADU if: • ADU is within ½ mile of public transit; • ADU is located within a historic or architecturally significant district; • ADU is contained entirely within the permitted floor area of the existing primary residential unit or an existing accessory building; • ADU is in a Permit Parking Area where on-street parking permits are required but not offered to the occupant(s) of the ADU; or • when there is a car share vehicle located within a walking distance (approximately 1 block) of the ADU.
Parking Location	• If there is no parking exception (above) and parking is required for the ADU, it shall not exceed one space per ADU or bedroom whichever is less. • Off-street parking may be permitted in setback areas in locations determined by the City or in a tandem configuration, unless specific findings are made that it is not feasible or permitted anywhere else in the City. • If existing parking is demolished in conjunction with the ADU and off-street parking is required by the City, the replacement parking may be configured as covered or uncovered, in a tandem configuration, or by a mechanical lift.
Utility Fee Requirement	ADUs within the existing space of a single-family residence or accessory structure shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service. Other ADUs may require new or separate utility connections and may be subject to a connection fee or capacity charge that shall be proportionate to the ADU size or number of plumbing fixtures.
Processing	Must be processed within 120 days of receiving application under a ministerial process or discretionary process if local standards are not met (Variance)

Proposed Regulations and Justification

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. The State Government Code limits the standards cities may impose on ADUs and requires city ordinances to incorporate State-mandated standards for certain types of ADUs. The State 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.

The new proposed Ordinance will designate the areas where ADU's are permitted and implement the new State requirements as stated in the chart above. Guest Houses, as allowed in Section 10.52.050 of the Municipal Code will not be impacted by the new ADU regulations, except that if a property has a Guest House and an ADU, one but not both, must be attached to the Primary Dwelling Unit, so that the Guest House and ADU will not be combined into a unit that exceeds the maximum allowed square footage. A Guest House is defined by the Code as having no kitchen facilities, not used as a separate dwelling unit, limited to 500 square feet, one habitable room and a maximum of three plumbing fixtures. ADU's do not have these limitations except for the square footage, and a legal Guest House could easily be converted to an ADU with the appropriate approvals and permits.

Areas of the City vary significantly in lot size, lot coverage, density, traffic, parking, and seasonal population fluctuations and these regulations are designed to reflect those variations, given that the City has high density, small lot sizes and is almost entirely built out. To comply with State law, the proposed Ordinance establishes the following standards:

- Location: ADU's will be allowed on the same lot as an existing or proposed single family residence in Area Districts I and II, zoned RS, RM, RH, or RPD and prohibited in Area Districts III and IV (Beach Area- Attachment B). Since the majority of lots in Area Districts III and IV are small (half lots, 30' x 45'), dense, non-conforming for parking, height, open space and setbacks, adding an additional unit would potentially create neighborhood impacts. Furthermore, there is pattern of many alleys and walkstreets in the Beach Area, so there is very limited street parking, and street parking is heavily impacted by beachgoers particularly in the summertime. Staff felt it would be difficult to accommodate additional parking and/or add another unit on already built out lots.

The Ordinance proposes that lot size would need to be at least 75% of the minimum lot area for the zoning district in order to develop an ADU. There are many substandard lots in the City, almost half of those in Area Districts I and II do not meet the minimum lot size. It is important to balance between allowing the development of ADU's while minimizing neighborhood impacts and addressing density issues. Staff feels that the 75% of minimum lot size criteria meets this balance.

- Size (Floor Area): Attached ADU's are proposed to be up to 700 square feet maximum, while detached ADU's are proposed at up to 500 square feet maximum. The City Council approved an increase from 500 square feet to 700 square feet for all ADU's on December 5, 2017 under the current Interim ADU ordinance. Since Guest Quarters are

already allowed up to 500 square feet in size, these could easily be converted to an ADU with the addition of a kitchen, which is consistent with the intent of State Law to provide for and allow the development of ADU's as a housing option.

Staff has concerns that detached ADU's could have potentially more impacts on surrounding neighborhood due to the decreased setbacks, so the larger 700 square foot size is only proposed for ADU's which are attached to the Primary Dwelling Unit as these have setbacks similar to the Primary Dwelling Unit. This allows an owner the opportunity to convert up to 700 square feet of an existing single family residence to an ADU or building a new attached ADU up to 700 square feet in size. The current Zoning Code requires all detached accessory structures (garages, poolhouses, covered patios, etc.) to not exceed a total of 900 square feet or 12% of the lot area, whichever is more, and these ADU regulations are consistent with those provisions.

- Setbacks: Attached ADU's must meet required side and rear setbacks the same as the Primary Dwelling Unit, except a 5 foot rear yard setback reduction will be allowed for one story ADU's. Detached ADU's located within rear yard setbacks, must be at least 3 feet from property lines, the same as Guest Quarters regulations. No additional setback is required for garages converted to ADU's and 5 feet is required for ADU's above existing garages. These regulations will provide flexibility to the homeowner, allow additions and/or conversions of existing structures or new construction, be consistent with existing Guest Quarters regulations, and minimize impacts to neighbors.
- Design and Features: Criteria related to design features, access, deck heights, window locations, and landscaping is provided within the ADU regulations. These are intended to protect neighbor's privacy, and ensure the design features of ADU's have the same look and feel as the single family residence.
- Parking: A minimum of one parking space is required for the ADU, in addition to the parking for the Primary Dwelling Unit, unless there is a parking exception as indicated in the State Law chart above. ADU parking is not required to be enclosed, may be located on a conforming driveway, outside of the front yard setback and may also encroach 5 feet into the building separation yard. Replacement parking for the Primary Dwelling Unit is required if an ADU is a garage conversion and eliminates required parking for the Primary Dwelling Unit. If parking is provided for the ADU, then Primary Dwelling Unit replacement parking may meet the same criteria as the ADU parking. This encourages minimal parking for ADU's while allowing flexibility for the parking to be uncovered, on existing driveways and partially in building separation yards. Current code does not allow uncovered required parking in required setbacks, so the ADU and replacement parking location is consistent with this criteria. One of the reasons parking is not allowed in setbacks is due to our small, tight lot sizes and small setbacks that limit fire-life safety access in these areas. Allowing required parking in these setbacks would further limit fire-life safety access and therefore is not proposed.

Parking in enclosed structures, including parking on mechanical lifts, is allowed in setbacks. These regulations will provide flexibility in parking options to accommodate

ADU's and also address sensitivity to surrounding neighbors for privacy reasons.

General Plan Consistency

The proposed text amendments are consistent with the General Plan Goals and Policies as follows:

- Land Use Element Goal LU-3: Achieve a strong, positive community aesthetic.
 - Policy LU-3.1: Continue to encourage quality design in all new construction.
- Land Use Element Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics.
- Housing Element Policy 1. Preserve the scale of development in existing residential neighborhoods.
- Housing Element GOAL II. 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 Policy 5. Encourage the development of additional low- and moderate-income housing.
 - Program 5e. Allow second units in residential areas.

PUBLIC OUTREACH/INTEREST

A display ¼ page ad was published in the Beach Reporter on November 1, 2018. The City Council public hearing will also be noticed.

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.

CONCLUSION

Staff is seeking a recommendation from the Planning Commission tonight to adopt the attached Resolution with any comments to be forwarded to the City Council. The City must adopt its own ADU Ordinance since the Interim Urgency Ordinance will expire December 19, 2018. Due to the time schedule, if the Planning Commission is not able to adopt a Resolution tonight, then the Commissions comments and recommendations, as well as any public comments, will be forwarded to the Council in its staff report and through the Commission minutes.

Staff believes that the proposed ADU regulations create a balance by meeting the State standards, allowing flexibility related to existing development and design standards and recognizing the different and unique neighborhoods of the City.

Attachments:

- A. Draft PC Resolution
- B. Zoning Map with Area Districts

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[DRAFT] RESOLUTION NO. PC 18-XX

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 as 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.

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 500 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 900 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 three 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 the lot'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 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 it 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 it 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. An attached ADU's color, materials, and architectural details, including but not limited to, windows and roof pitch, shall be substantially similar to the Primary Dwelling Unit to maintain the appearance of a single-family residence.
 2. 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.
 3. 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.
 4. If the property abuts an alley, any new driveway access for the ADU must be provided through the alley.

5. If an automatic fire sprinkler system is required for the Primary Dwelling Unit, the ADU must also have an automatic fire sprinkler system.
 6. Windows: For any detached second-story ADU, including any ADU proposed above a garage, 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.
 7. 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; (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 10.52.050B to add an exception to Accessory Structures:

“7. 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 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:

NOES:

ABSENT:

ABSTAIN:

Anne McIntosh
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

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Zoning Designations & Overlays

Residential Districts

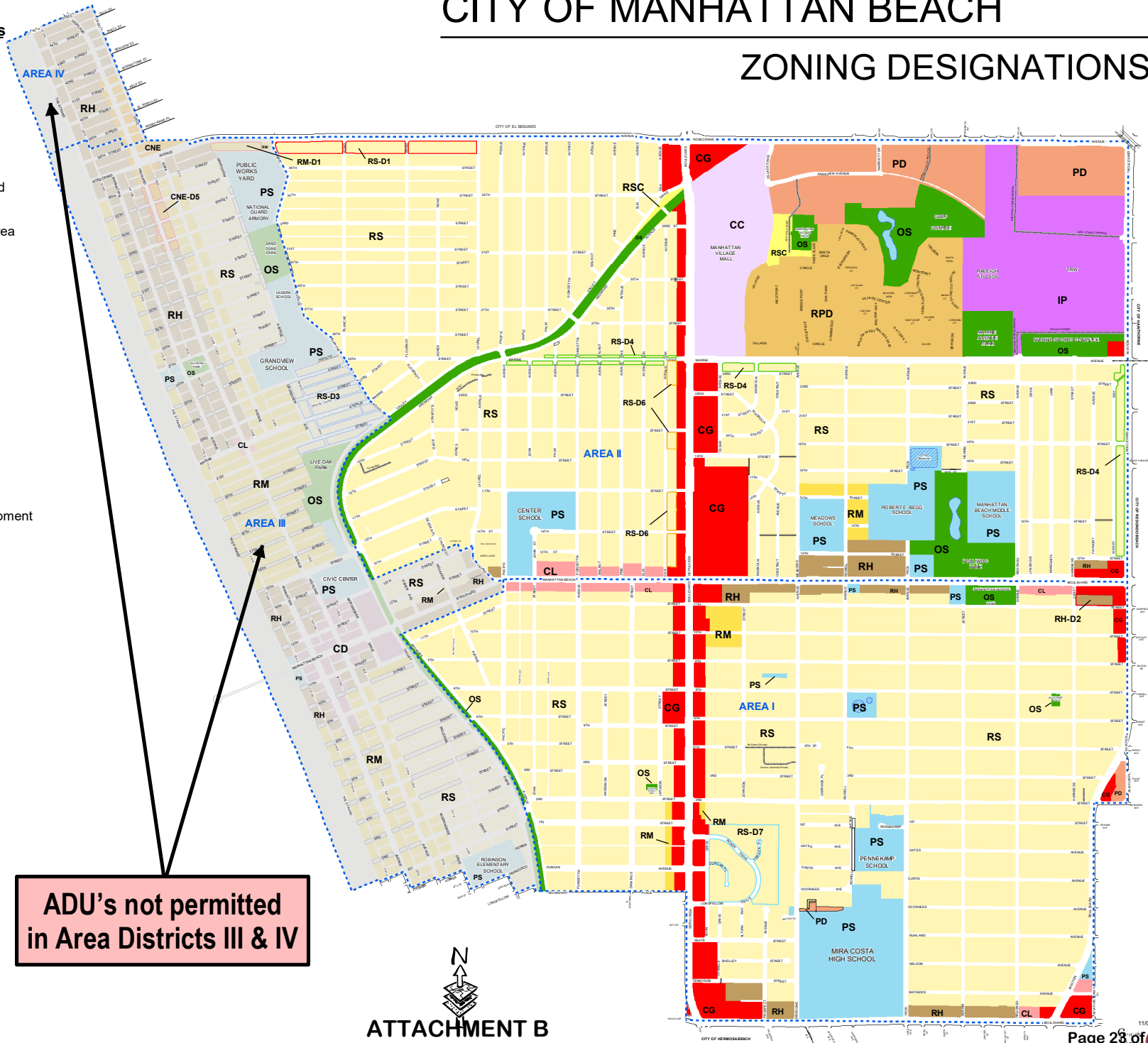
- RS Residential Single Family
- D1-Design Review
-Rosecrans Avenue
- D3-Design Review
-Gaslamp Neighborhood
- D4-Design Review
-Traffic Noise Impact Area
- D6- Design Review
-Oak Avenue
- D7- Design Review
-Longfellow Drive
- RM Residential Medium Density
- D1- Design Review
-Rosecrans Avenue
- RH Residential High Density
- D2- Design Review
-11th Street
- RPD Residential Planned Development
- RSC Residential Senior Citizen

Commercial Districts

- CL Local Commercial
- CC Community Commercial
- CG General Commercial
- CD Downtown Commercial
- CNE North End Commercial
- D5- Design Review
-North End Commercial

Other Districts

- PD Planned Development
- IP Industrial Park
- PS Public and Semi-Public
- OS Open Space



**ADU's not permitted
in Area Districts III & IV**