



CITY COUNCIL STAFF REPORT

DATE: May 6, 2015

PUBLIC HEARING

SUBJECT: CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE SECTIONS 91.00.10 AND 93.23.14, AND REPEALING SECTIONS 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, AND 92.03.01.C.1 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO ACCESSORY SECOND DWELLING UNITS (REVISED).

FROM: Department of Planning Services

SUMMARY

California State law requires all local jurisdictions to allow accessory second units, and established minimum criteria for such units. The proposed ordinance will bring the City of Palm Springs' zoning requirements into conformance with State law.

The City Council held a public hearing on this item at their meeting on March 18, 2015, and recommended minor revisions to the proposed ordinance. This staff report details the proposed ordinance changes based on the City Council discussion and recommendations.

RECOMMENDATION:

1. Waive the reading of the ordinance text in its entirety and read by title only; and
2. Introduce on first reading Ordinance No. _____, " AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 91.00.10 AND 93.23.14, AND REPEALING SECTIONS 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, AND 92.03.01.C.1 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO ACCESSORY SECOND DWELLING UNITS.

ANALYSIS:

As noted in the previous staff report on this subject, the following existing zoning requirements need to be modified in order to conform to State law:

- Eliminate the CUP requirement for most types of accessory units;
- Eliminate the requirement that units be attached to the principal dwelling;

ITEM NO. 1.A.

- Modify the square footage limitations to match those permitted by the State; and
- Remove the restriction against kitchen facilities for certain types of accessory units.

At the City Council meeting of March 18, 2015, Council members discussed modifications to the proposed ordinance including revisions to parking requirements, architectural standards, height restrictions, and approval processes. The following section discusses potential revisions to the ordinance based on the Council discussion.

Conditional Use Permit

- Original Proposal: Conditional Use Permit required for any accessory second dwelling unit on lots between 7,500 and 15,000 square feet, and for any unit which exceeds 30% of the floor area of the principal dwelling. No Conditional Use Permit required for accessory second units on lots over 15,000 square feet in area.
- Revised Proposal: Land Use Permit required for any accessory second unit on lots between 7,500 and 15,000 square feet, and for any unit which exceeds 30% of the floor area of the principal dwelling. No Land Use Permit required for accessory second units on lots over 15,000 square feet in area. Please note that Land Use Permit applications are approved administratively by the Director of Planning Services, and require a \$696 application fee; Conditional Use Permit applications must be approved by Planning Commission, and require a \$5,554 application fee.

Height

- Original Proposal: The height of accessory second units is limited to the height of the principal dwelling or 15 feet, whichever is greater.
- Revised Proposal: The height of accessory second units is limited to the height of the district in which the unit is located (maximum of 18 feet for R-1 single-family zoning districts).

Parking Spaces

- Original Proposal: One parking space per bedroom; for two-bedroom units, the parking requirement could be reduced to one space maximum upon approval of a Conditional Use Permit. The parking space(s) for accessory units would be in addition to the two parking spaces currently required by code for single-family residences.
- Revised Proposal: One parking space required for studio or one bedroom units; two spaces required for two-bedroom units. The parking space(s) for accessory units would be in addition to the two parking spaces currently required by code for single-family residences.

Architectural Standards:

- Original Proposal: The entrance to the accessory second unit shall not be oriented to the street or otherwise alter the single-family appearance of the property from the street.

- **Revised Proposal:** In addition to the required that the entrance to the accessory second unit not be oriented to the street, language has been added to state that screen walls or other similar architectural features may be utilized to screen the entrance to the unit from the street. In addition, the requirement for pedestrian access to the unit has been clarified to require a hardscape path from the street to the unit.

The following table provides a comparison of the original ordinance proposal discussed at the March 18, 2015 City Council meeting with the revised proposal included as part of this staff report:

	Original Proposal (03/18/15)	Revised Proposal (04/15/15)
Approval Process	<ul style="list-style-type: none"> • Over 15,000 SF: By right • 7,500 SF – 15,000 SF: CUP 	<ul style="list-style-type: none"> • Over 15,000 SF: By right • 7,500 SF to 15,000 SF: LUP
Unit size	<ul style="list-style-type: none"> • ≤ 30% of existing residence, not to exceed 1,200 SF: By right • ≥ 30% of existing SF, up to 99% of existing residence: CUP 	<ul style="list-style-type: none"> • ≤ 30% of existing residence, not to exceed 1,200 SF: By right • ≥ 30% of existing SF, up to 99% of existing residence: LUP
Parking Spaces	<ul style="list-style-type: none"> • 1 space per bedroom • 1 space per unit via CUP approval 	<ul style="list-style-type: none"> • 1 space – studio/1 bedroom units • 2 spaces – 2 bedroom units
Parking Location	<ul style="list-style-type: none"> • Tandem or within setback 	<ul style="list-style-type: none"> • Tandem or within setback
Kitchen	<ul style="list-style-type: none"> • Allowed 	<ul style="list-style-type: none"> • Allowed
Lot coverage	<ul style="list-style-type: none"> • Max. 35% 	<ul style="list-style-type: none"> • Max. 35 %
Height	<ul style="list-style-type: none"> • 1 story, not to exceed 15' or height of principal dwelling 	<ul style="list-style-type: none"> • 1 story, not to exceed maximum permitted height of district
Setbacks	<ul style="list-style-type: none"> • Must conform to all setbacks 	<ul style="list-style-type: none"> • Must conform to all setbacks
Other Requirements	<ul style="list-style-type: none"> • May be rented • One unit must be owner occupied • May be detached • No separate utility meter • May not be sold separately 	<ul style="list-style-type: none"> • May be rented • One unit must be owner occupied • May be detached • No separate utility meter • May not be sold separately

SUMMARY AND RECOMMENDATION:

The revised proposal more closely adheres to the approval process identified in State law, while still allowing adequate scrutiny of the development of accessory second dwelling units. In addition, the revisions allow a greater degree of design flexibility while still protecting neighborhood character and reducing impacts to adjacent properties. Staff recommends approval of the proposed revisions.

ENVIRONMENTAL ASSESSMENT

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is a Class III exemption and is categorically exempt per Section 15303(a) (New Single-

Family Residence and Accessory Structure).

NOTIFICATION

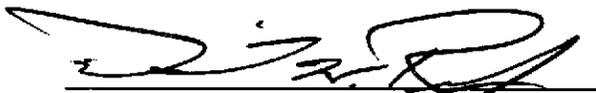
A public hearing notice was published. The Planning Department has not received correspondence regarding this issue.



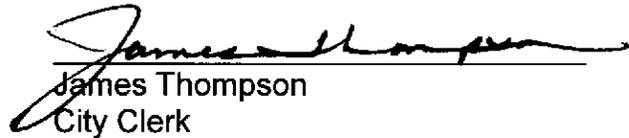
Flinn Fagg, AICP
Director of Planning Services



Marcus L. Fuller, MPA, PE, PLS
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
City Manager



James Thompson
City Clerk

Attachments:

1. Draft Ordinance
2. City Council Minutes – March 18, 2015
3. City Council Staff Report – March 18, 2015
4. PC Minutes – June 11, 2014
5. PC Minutes – November 19, 2014

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 91.00.10 AND 93.23.14, AND REPEALING SECTIONS 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, AND 92.03.01.C.1 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO ACCESSORY SECOND DWELLING UNITS.

City Attorney Summary

This Ordinance modifies existing accessory housing provisions of the City's Zoning Code to expressly provide for accessory second dwelling units in conformance with state law and the City's Housing Element. The Ordinance provides a process for the review of applications for accessory second dwelling units.

The City Council of the City of Palm Springs finds:

A. The proposed zone text amendment (Case 5.1341 ZTA) is Categorically Exempt from the provisions of CEQA under Section 15305 – Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendment proposes only insignificant changes to the land use or density.

B. The proposed zone text amendment establishes regulations for creation of accessory second dwelling units that comply with state law to primarily provide affordable housing for family, students and the elderly.

C. The City Council hereby finds that adoption of the proposed Zoning Text Amendment would:

1. Provide a means by which the City may create new opportunities for housing at below market prices within existing neighborhoods; and
2. Comply with state law regarding accessory second units.

D. The adoption of the proposed Zone Text Amendment would be consistent with the intent of the Zoning Ordinance and the City's General Plan and its Housing Element because it provides: housing for students, the elderly, in-home health providers, the disabled, and others.

Section 1. Section 91.00.10 of the Palm Springs Municipal Code is amended to include the following definitions:

"Living area" means the interior habitable area of a dwelling unit including basements, attics and mezzanines, but does not include a garage or accessory structure.

"Accessory Second Dwelling Unit" means any attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. Any room or series of rooms having separate exterior access and no interior access from the living area of the main use shall be considered a second unit. It may include permanent provisions for living, sleeping, eating, cooking and sanitation. A second unit also includes a manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 2. The term "accessory living quarters" in Section 91.00.10 of the Palm Springs Municipal Code is amended to read:

"Accessory living quarters" means a dwelling that is not provided with kitchen arrangements, nor other provisions for meal preparation.

Section 3. Sections 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, and 92.03.01.C.1 of the Palm Springs Municipal Code are repealed.

Section 4. Section 93.23.14 of the Palm Springs Municipal Code is amended to read:

Chapter 93.23.14 Accessory Second Units

A. Intent. The intent of this Section is to provide for the creation of accessory second dwelling units in the City's single-family and multiple-family residential districts, in accordance with Government Code Section 65852.2. Accessory second dwelling units are an important source of housing that contributes to the character and diversity of housing opportunities in the City. Accessory second dwelling units provide workforce housing, housing for family members, students, elderly, in-home health care providers, the disabled, and others. This Section prescribes standards for such second units to minimize adverse impacts on the public health, safety, and general welfare from the establishment of the second dwelling units. An accessory second dwelling unit which conforms to these requirements shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use consistent with the Palm Springs General Plan and zoning designation for the lot.

B. Applicability.

1. New Accessory Second Units

Any construction, establishment, alteration, enlargement, or modification of an accessory second unit shall comply with the requirements of this Chapter, other development standards in this Title applicable to the district in which the lot is located, and the City's Building Code.

2. Non-Conforming Second Units

All accessory second units which were legally constructed or initiated but which do not conform to this Chapter are deemed non-conforming and shall be subject to the provisions of Chapter 94.05.00-07, Non-conformance.

3. Existing Illegal Second Units

The provisions of this chapter shall in no way validate any existing illegal second unit. An application may be made pursuant to this Chapter to convert an illegal second unit to a legal conforming accessory second unit, and shall be subject to the same standards and requirements as for a newly proposed accessory second unit.

4. Designation of Existing Primary Unit to Accessory Second Unit

An existing residential structure may be designated as an accessory second unit at such a time as a new primary dwelling unit is constructed, provided the existing structure conforms to all the development standards of this Chapter.

5. Conflicting Provisions in Specific Plans and General Development Plans

In the event the provisions of this Section conflicts with any provision of an adopted specific plan or planned development district, the provisions of this Section shall prevail.

C. Permitted Sites

1. No more than one accessory second unit may be allowed on any residentially zoned lot. The residential lot must meet the following criteria:

a. On lots greater than 15,000 square feet an accessory second unit shall be allowed provided all other requirements of this Title applicable to the district in which the lot is located and the city's Building Code are met. On lots of at least 7,500 square feet and less than 15,000 square feet an accessory second unit is subject to a ~~Conditional Use Permit~~ Land Use Permit.

b. All lots must be conforming in size for the zone in which it is located.

c. The lot may contain no more than one existing single-family dwelling.

D. Accessory Second Dwelling Unit Requirements

1. An accessory second dwelling unit may include permanent provisions for living, sleeping, eating, cooking, and sanitation separate from the primary dwelling unit on the same lot. The accessory second dwelling unit shall not be intended or offered for sale separately from the primary dwelling unit.

2. The accessory second unit shall be either attached to the existing dwelling unit or detached from the existing dwelling and located on the same lot as the existing dwelling.

3. An accessory second dwelling unit shall be constructed on a permanent foundation and connected to the public sewer.
 4. The following additional requirements shall apply to accessory second units in all residential districts:
 - a. The owner of the accessory second unit shall live within the primary dwelling unit or the accessory second unit, and may rent the other unit. The two units shall not be concurrently rented, excepting upon request from the property owner, the Director may grant the owner a temporary exception to the occupancy requirement for a period not to exceed twenty four (24) months.
 - b. Rental of the accessory second unit, separate from the primary unit, must be for periods of 30 days or more; however, such minimum requirement shall not apply where the entire property, including the primary unit and the accessory second dwelling unit, is rented or leased to the same person under one lease or rental agreement.
 - c. Prior to issuance of a building permit for the accessory second unit, the property owner shall record with the county recorder's office an agreement with the city setting forth the property owner's acknowledgement and agreement with the requirements of this Chapter, in a form satisfactory to the City Attorney.
 - d. An accessory second unit shall not be metered separately from the primary dwelling unit for gas, electricity, and water.
- E. Setbacks, Lot Coverage, and Floor Area Restrictions
1. An accessory second unit shall conform to all required setback requirements of the district in which the lot is located.
 2. All development on the lot shall conform to lot coverage standards of the district in which the lot is located.
 3. The floor area of an accessory unit shall not exceed 1200 square feet, nor be less than 400 square feet pursuant to the definition of efficiency unit as set forth in the Building Code.
 4. The unit shall not include more than two (2) bedrooms.
 5. The unit shall not exceed 30% of the floor area of the existing single-family dwelling. Upon approval of a GUP Land Use Permit it may be up to 99% of the floor area of the primary dwelling.
 6. An accessory second unit shall not be eligible for an Administrative Minor Modification of development standards.
- F. Height Restriction. An accessory second unit shall be limited to one story and shall not exceed ~~15 feet in height or the height of primary unit, whichever is greater~~ the maximum permitted height of the district in which the lot is located.

G. Architectural Standards

1. All exterior surfaces, roofing, window, light fixtures, and other architectural details of the accessory second unit shall be of the same style, materials, colors, and quality as used for the primary dwelling unit, although a proposed higher quality material shall be allowed.
2. The accessory second unit shall be provided with an entrance separate from that of the primary dwelling and hardscape pedestrian access shall be provided to the entrance from a public street or alley.
3. The entrance to the accessory second unit shall not be oriented to the street or otherwise alter the single-family appearance of the property from the street. Screen walls or other similar features may be utilized to screen the entrance of the accessory second unit from the street.
4. All second unit proposals shall include landscaping plans, and the landscaping shall be installed prior to the final inspection of the second unit by the City's Building Department.

H. Parking and Driveway Provisions

1. No accessory second unit may be permitted on a lot where the required parking for the existing dwelling unit has not been met.
2. ~~One (1) off-street parking space shall be required for each bedroom of the accessory second unit.~~ Parking for accessory second dwelling units shall be provided as follows:
 - a. Studio/One (1) Bedroom Units: One (1) space.
 - b. Two (2) Bedroom Units: Two (2) spaces.

Such parking space shall be nine feet wide and 17 feet long, and be provided on the same lot as the second unit. A covered parking space is preferred but not required. The parking space for the second unit shall be in addition to the parking required for the primary residence.

3. No additional driveway approaches from public streets shall be permitted for the parking for accessory second units. Access to the parking can be provided from an alley.
4. The required parking space for the accessory second unit may be located in rear or non-street side setbacks or through tandem parking on existing driveways, but such space shall not interfere with access to the required parking for the primary residence.
5. ~~Upon approval of a CUP, one parking space for the accessory second unit may be allowed.~~

I. Permit Requirement

1. Filing
Any accessory second dwelling unit shall require approval of an Accessory Second Unit Permit. The application for such permit shall be

made on forms provided by the Department of Planning Services together with any applicable fees. The application shall include all information needed to determine compliance with this Chapter. The application fee shall include all information needed to determine compliance with this Section. The application fee shall be established by resolution of the City Council.

2. **Application Screening**
Upon receipt of an application for an accessory second unit, staff shall review the application; inform the applicant as to the completeness of the submittal and of any additional information materials required, if any.
3. **Noticing of Application**
Pursuant to Government Code Section 65852.2, notice of an application for an accessory second unit shall not be given to owners of surrounding properties.
4. **Notification of Application for Conditional Use Permit shall be pursuant to and processed to said section.**
5. **Action of Application**
 - a. Staff shall approve a completed application if the proposed accessory second unit complies with the requirements of this Chapter. As a condition of the permit, the applicant shall record a deed restriction on the property limiting the rental or lease of both units in compliance with this Chapter.
 - b. Staff shall deny an application for an accessory second unit if the proposed second unit is not in compliance with all requirements of this Chapter.
 - c. Within five days of its decision on the application, staff shall give notice of the decision to the applicant.
6. **Permit "Runs With the Land"**
An Accessory Second Unit Permit that was granted pursuant to this Section, and is valid and in effect, shall continue to be valid upon change of ownership of the property.
7. **Permit Revocation**
The Director of Planning Services shall have the right to revoke the permit granted under this Chapter if the accessory second unit for which the permit was granted violates one or more requirements of this Chapter. The Director shall give notice of permit revocation to the property owner. If a permit for an accessory second unit is revoked, the owner shall remove the kitchen facilities for the unit space, and shall not rent the unit space except together with the primary residence to a single household.
8. Any person aggrieved by a decision of the Director or staff on an application for revocation of an Accessory Second Unit Permit may appeal such action.

Section 7: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect (3) days after passage.

PASS, APPROVED, AND ADOPTED this _____ day of _____ 2015.

STEPHEN P. POUGET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on _____ and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:

011

NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California



City of Palm Springs

Office of the City Clerk

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EXCERPTS OF MINUTES

At the City Council meeting of the City of Palm Springs held March 18, 2015, the City Council took the following action:

1.E. AMENDMENT TO THE PALM SPRINGS ZONING CODE RELATING TO ACCESSORY SECOND DWELLING UNITS (CASE 5.1341 ZTA):

Flinn Fagg, Director of Planning Services, provided background information as outlined in the Staff Report dated March 18, 2015.

Mayor Pougnet opened the public hearing, and the following speakers addressed the City Council.

CURT WATTS, Palm Springs, commented on the requirements to require a CUP on the smaller lots, and stated a CUP should not be required on larger lots if they meet all the conditions.

No further speakers coming forward, the public hearing was closed.

Councilmember Mills questioned the requirement for a CUP based on lot size, if the retention of the 35% lot continues, commented on the word "Title" in Section 93.23.14(C)(1)(a), suggested the word "district" in Section 93.23.14(E)(1) be changed to "zone," recommended Section 93.23.14(F) be modified from 15 feet to 18 feet.

Mayor Pro Tem Lewin commented on the requirement for a CUP rather than administrative approval by Staff, and commented on the architectural standards and parking requirements.

ACTION: 1) Continue the public hearing to the April 1, 2015 regular meeting with no public testimony at this time; and 2) Direct the City Clerk to post a Notice a Continued Public Hearing as required by law. **Motion Councilmember Foat, seconded by Mayor Pro Tem Lewin and unanimously carried on a roll call vote.**

Excerpts of Minutes
City Council
March 18, 2015

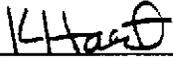
I, KATHIE HART, Chief Deputy City Clerk of the City of Palm Springs, hereby certify that the above action was taken by City Council of the City of Palm Springs on the 18th day of March, 2015, by the following vote:

AYES: Councilmember Foat, Councilmember Hutcheson, Councilmember Mills,
Mayor Pro Tem Lewin, and Mayor Pougnet.

NOES: None.

ABSENT: None.

ABSTAIN: None.



Kathie Hart, MMC
Chief Deputy City Clerk



CITY COUNCIL STAFF REPORT

DATE: March 18, 2015

PUBLIC HEARING

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 91.00.10 AND 93.23.14, AND REPEALLING SECTIONS 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, AND 92.03.01.C.1, OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO ACCESSORY SECOND DWELLING UNITS

FROM: Department of Planning Services

SUMMARY

California State law requires all local jurisdictions to allow accessory second units. There are minimum standards that are set by the State which must be met. Local jurisdictions may be more lenient in their requirements, but cannot be stricter. This amendment will bring the City of Palm Springs into compliance with state law, and will consolidate accessory second dwelling unit regulations into a single section of the zoning code.

RECOMMENDATION:

1. Open the public hearing and receive public testimony.
2. Waive the reading of the ordinance text in its entirety and read by title only; and
3. Introduce on first reading Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 91.00.10 AND 93.23.14, AND REPEALLING SECTIONS 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, AND 92.03.01.C.1, OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO ACCESSORY SECOND DWELLING UNITS"

BACKGROUND INFORMATION

Accessory second units are important in meeting the State-mandated housing requirements given to cities through the Regional Housing Needs Assessment (RHNA) numbers. State law declares:

015
ITEM NO. 16

*Second units provide housing for family members, students, the elderly in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.
Homeowners who create second units benefit from added income and an increased sense of security.*

The current City of Palm Springs zoning code has multiple differing sections and requirements for accessory second units. The purpose of this text amendment is to create a single code section in compliance with state law.

ANALYSIS:

There have been a significant number of amendments to state law in the past several decades regarding “granny flats,” second units and/or accessory apartments. Since 1982, state law has mandated that municipalities allow accessory second units, subject to the minimum standards established by state law. Local governments may still set height, setbacks, lot coverage, minimum unit sizes, and parking requirements; however, Conditional Use Permits (CUP) may not be required for units that meet state-imposed minimums.

State law establishes the following requirements:

- Ministerial approval for accessory second units;
- Rental allowed;
- Detached allowed;
- Units may be up to 30% of the primary dwelling living area, not to exceed 1,200 square feet;
- Parking may not exceed one space, which may be located in a required setback or tandem; and
- Kitchen facilities allowed.

The City’s existing requirements for accessory second units are listed in three different sections of the code and are summarized in the table below:

Requirements	Code Section		
	92.01.01(A)(2) Accessory Structures	93.23.14 Accessory Apartment Housing ¹	92.01.01(D)(3) Accessory Apartments
Zoning Districts	R-1-AH thru R-1-D	R-1-AH thru R-1-D G-R-5, R-G-A(6), R- G-A(8), R-2	R-1-AH thru R-1-D
Unit Size	<1/50 th of lot area	15% of SF of primary dwelling, ≤640 SF	15% of SF of primary dwelling, ≤640 SF
Attached or Detached	Detached	Attached	Attached
Kitchen	Not permitted	Permitted	Permitted
CUP	Not required	CUP required	CUP required

Requirements	Code Section		
	92.01.01(A)(2) Accessory Structures	93.23.14 Accessory Apartment Housing ¹	92.01.01(D)(3) Accessory Apartments
Lot Size	Per zoning district	Per zoning district	15,000 SF min.

¹In addition to the requirements listed in the table above, additional restrictions include the following: No separate ownership, no more than 2 persons/unit, no more than 1 unit per lot, and no separate water meter.

The following existing standards in the zoning code are in conflict with state law, and need to be updated:

- CUP requirement for most types of accessory units;
- The requirement that units be attached to the principal dwelling;
- Square footage limitations for the size of the accessory units are less than permitted by the State; and
- The restriction against kitchen facilities for certain types of accessory units.

As mentioned, the State has invalidated the CUP requirements for some accessory units. In order to create an ordinance that meets state law yet keeps components of existing code, the following proposal is made:

	By Right:	CUP Required:
Lot size	• Over 15,000 SF	• 7,500 SF to 15,000 SF
Unit size	• ≤ 30% of existing SF, not to exceed 1,200 SF	• Up to 99% of existing SF
Parking	• 1 space/bedroom (tandem or within setback)	• 1 space/unit
Kitchen	• Allowed	• Allowed
Lot coverage	• Max. 35%	• Max. 35 %
Height	• 1 story, ≤ height of principal dwelling	• 1 story, ≤ height of principal dwelling
Setbacks	• Must conform to all setbacks	• Must conform to all setbacks
Other Requirements	<ul style="list-style-type: none"> • May be rented • Single family or multi-family developed w/ single family • One unit must be owner occupied • May be detached • No separate utility meter • May not be sold separately 	<ul style="list-style-type: none"> • May be rented • Single family or multi-family developed w/ single family • One unit must be owner occupied • May be detached • No separate utility meter • May not be sold separately

As part of the proposed changes, the following definitions will need to be added:

Chapter 91.00.10 - Definitions

"Living area" means the interior habitable area of a dwelling unit including basements, attics and mezzanines, but does not include a garage or accessory structure."

"Accessory Second Dwelling Unit" means any attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. Any room or series of rooms having separate exterior access and no interior access from the living area of the main use shall be considered a second unit. It may include permanent provisions for living, sleeping, eating, cooking and sanitation. A second unit also includes an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

With the consolidation of all requirements for accessory second units into a single section of the code, the following sections are proposed for deletion:

- Section 92.00.01(C)(10)
- Section 92.01.01(D)(3)
- Section 92.02.01(C)(7)
- Section 92.03.01(C)(1)

Section 93.23.14 of the code will be amended in its entirety with the newly-proposed consolidated requirements. This new section will comply with the minimum standards for accessory second units as required by state law, and will improve the usability of the document by having all of the standards in a single section of the code.

SUMMARY:

The following table summarizes the requirements of state law, the existing code requirements, and the proposed code changes:

	State Law	Existing Code (Most Restrictive)	By Right	CUP
Minimum Lot Size	Per zoning district	15,000 SF	Over 15,000 SF	7,500 SF to 15,000 SF
Unit Size	≤ 30% of principal dwelling SF, not to exceed 1,200 SF	≤ 15% of principal dwelling SF, 640 SF max.	Same as state requirements	≤ 99% of principal dwelling SF
Lot Coverage	Per zoning district	Per zoning district, not to exceed 35%	Per zoning district	Per zoning district
Kitchen	Allowed	Allowed w/ CUP	Allowed	Allowed
Detached	Yes	No	Yes	Yes
Parking	1/bedroom, allowed in setback or tandem	1	1/bedroom, allowed in setback or tandem	1/unit, allowed in setback or tandem
Rental	Yes	N/A	Yes (more than 30 days)	Yes (more than 30 days)
Owner Occupancy Required	Allowed	N/A	Yes (principal or accessory)	Yes (principal or accessory)
Review	Ministerial	Discretionary	Ministerial	Discretionary

PLANNING COMMISSION ACTION

The Planning Commission held two public hearings on the proposed ordinance on June 11, 2014, and November 19, 2014. The Planning Commission supported the proposed ordinance, but recommended the following additions:

- Allow an increase in the size of accessory second units up to 99% of the principal dwelling, subject to the approval of a Conditional Use Permit; and
- Prohibit the use of accessory second units solely for short-term vacation rentals.

The attached ordinance reflects the increase in size as recommended by the Planning Commission. Relative to the concern regarding vacation rentals, staff recommends that the Planning Commission's restriction against short-term rentals clarify that such prohibition applies to situations where the property owner occupies the main house or second unit; it will not apply to situations where the entire property, including the main house and the accessory second dwelling unit, is rented to one person, consistent with the existing City policy. It is also recommended that staff monitor the implementation of the ordinance to ascertain that the state's housing goals are being met through the accessory second unit regulations.

ENVIRONMENTAL ASSESSMENT

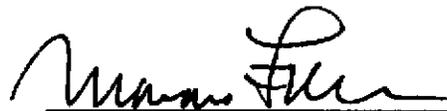
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is a Class III exemption and is categorically exempt per Section 15303(a) (New Single-Family Residence and Accessory Structure).

NOTIFICATION

A public hearing notice was published. The Planning Department has not received correspondence regarding this issue.



Flinn Fagg, AICP
Director of Planning Services



Marcus L. Fuller, MPA, PE, PLS
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
City Manager

Attachments: 1. Draft Ordinance

1. PC Minutes – June 11, 2014
2. PC Minutes – November 19, 2014

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 91.00.10 AND 93.23.14, AND REPEALLING SECTIONS 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, AND 92.03.01.C.1, OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO ACCESSORY SECOND DWELLING UNITS.

City Attorney Summary

This Ordinance modifies existing accessory housing provisions of the City's Zoning Code to expressly provide for accessory second dwelling units in conformance with state law and the City's Housing Element. The Ordinance provides a process for the review of applications for accessory second dwelling units.

The City Council of the City of Palm Springs finds:

- A. The proposed zone text amendment (Case 5.1341 ZTA) is Categorically Exempt from the provisions of CEQA under Section 15305 – Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendment proposes only insignificant changes to the land use or density.
- B. The proposed zone text amendment establishes regulations for creation of accessory second dwelling units that comply with state law to primarily provide affordable housing for family, students, and the elderly.
- C. The City Council hereby finds that adoption of the proposed Zoning Text Amendment would:
- a. Provide a means by which The City may create new opportunities for housing at below market prices within existing neighborhoods; and
 - b. Comply with state law regarding accessory second units.
- D. The adoption of the proposed Zone Text Amendment would be consistent with the intent of the Zoning Ordinance and the City's General Plan and its Housing Element because it provides housing for students, the elderly, in-home health providers, the disabled, and others.

Section 1. Section 91.00.10 of the Palm Springs Municipal Code is amended to include the following definitions:

"Living area" means the interior habitable area of a dwelling unit including basements, attics, and mezzanines, but does not include a garage or accessory structure."

"Accessory Second Dwelling Unit" means any attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. Any room or series of rooms having separate exterior access and no interior access from the living area of the main use shall be considered a second unit. It may include permanent provisions for living, sleeping, eating, cooking and sanitation. A second unit also includes a manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 2. The term "accessory living quarters" in Section 91.00.10 of the Palm Springs Municipal Code is amended to read:

"Accessory living quarters" means a dwelling that is not provided with kitchen arrangements, nor other provisions for meal preparation.

Section 3. Sections 92.00.01.C.10, 92.01.01.D.3, 92.02.01.C.7, and 92.03.01.C.1 of the Palm Springs Municipal Code are repealed.

Section 4. Section 93.23.14 of the Palm Springs Municipal Code is amended to read:

93.23.14 Accessory Second Units

A. Intent. The intent of this Section is to provide for the creation of accessory second dwelling units in the City's single-family and multiple-family residential districts, in accordance with Government Code Section 65852.2. Accessory second dwelling units are an important source of housing that contributes to the character and diversity of housing opportunities in the City. Accessory second dwelling units provide workforce housing, housing for family members, students, elderly, in-home health care providers, the disabled, and others. This Section prescribes standards for such second units to minimize adverse impacts on the public health, safety, and general welfare from the establishment of the second dwelling units. An accessory second dwelling unit which conforms to these requirements shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use consistent with the Palm Springs General Plan and zoning designation for the lot.

B. Applicability.

1. New Accessory Second Units

Any construction, establishment, alteration, enlargement, or modification of an accessory second unit shall comply with the requirements of this Chapter, other development standards in this Title applicable to the district in which the lot is located, and the City's Building Code.

2. Non-Conforming Second Units

All accessory second units which were legally constructed or initiated but which do not conform to this Chapter are deemed non-conforming and shall be subject to the provisions of Chapter 94.05.00-07, Non-conformance.

3. Existing Illegal Second Units

The provisions of this chapter shall in no way validate any existing illegal second unit. An application may be made pursuant to this Chapter to convert an illegal second unit to a legal conforming accessory second unit, and shall be subject to the same standards and requirements as for a newly proposed accessory second unit.

4. Designation of Existing Primary Unit to Accessory Second Unit

An existing residential structure may be designated as an accessory second unit at such a time as a new primary dwelling unit is constructed, provided the existing structure conforms to all the development of this Chapter.

5. Conflicting Provisions in Specific Plans and General Development Plans

In the event the provisions of this Section conflicts with any provision of an adopted specific plan or planned development district, the provisions of this Section shall prevail.

C. Permitted Sites

1. No more than one accessory second unit may be allowed on any residentially zoned lot. The residential lot must meet the following criteria:

a. On lots greater than 15,000 square feet an accessory second unit shall be allowed provided all other requirements of this Title applicable to the district in which the lot is located and the city's Building Code are met. On lots of at least 7,500 square feet and less than 15,000 square feet an accessory second unit is subject to a Conditional Use Permit.

b. All lots must be conforming in size for the zone in which it is located.

c. The lot may contain no more than one existing single-family dwelling.

D. Accessory Second Dwelling Unit Requirements

1. An accessory second dwelling unit may include permanent provisions for living, sleeping, eating, cooking, and sanitation separate from the primary dwelling unit on the same lot. The accessory second dwelling unit shall not be intended or offered for sale separately from the primary dwelling unit.

2. The accessory second unit shall be either attached to the existing dwelling unit or detached from the existing dwelling and located on the same lot as the existing dwelling.

3. An accessory second dwelling unit shall be constructed on a permanent foundation and connected to the public sewer.

4. The following additional requirements shall apply to accessory second units in all residential districts:

a. The owner of the accessory second unit shall live within the primary dwelling unit or the accessory second unit, and may rent the other unit. The two units shall not be concurrently rented, excepting upon request from the property owner, the Director may grant the owner a temporary

exception to the occupancy requirement for a period not to exceed twenty four (24) months.

b. Rental of the accessory second unit, separate from the primary unit, must be for periods of 30 days or more; however, such minimum requirement shall not apply where the entire property, including the primary unit and the accessory second dwelling unit, is rented or leased to the same person under one lease or rental agreement.

c. Prior to issuance of a building permit for the accessory second unit, the property owner shall record with the county recorder's office an agreement with the city setting forth the property owner's acknowledgement and agreement with the requirements of this Chapter, in a form satisfactory to the City Attorney.

d. An accessory second unit shall not be metered separately from the primary dwelling unit for gas, electricity, and water.

E. Setbacks, Lot Coverage, and Floor Area Restrictions

1. An accessory second unit shall conform to all required setback requirements of the district in which the lot is located.

2. All development on the lot shall conform to lot coverage standards of the district in which the lot is located.

3. The floor area of an accessory unit shall not exceed 1200 square feet, nor be less than 400 square feet pursuant to the definition of efficiency unit as set forth in the Building Code.

4. The unit shall not include more than two (2) bedrooms.

5. The unit shall not exceed 30% of the floor area of the existing single-family dwelling. Upon approval of a CUP it may be up to 99% of the floor area of the primary dwelling.

6. An accessory second unit shall not be eligible for an Administrative Minor Modification of development standards.

F. Height Restriction. An accessory second unit shall be limited to one story and shall not exceed 15 feet in height or the height of primary unit, whichever is greater.

G. Architectural Standards

1. All exterior surfaces, roofing, window, light fixtures, and other architectural details of the accessory second unit shall be of the same style, materials, colors, and quality as used for the primary dwelling unit, although a proposed higher quality material shall be allowed.

2. The accessory second unit shall be provided with an entrance separate from that of the primary dwelling and pedestrian access shall be provided to the entrance from a public street or alley.

3. The entrance to the accessory second unit shall not be oriented to the street or otherwise alter the single-family appearance of the property from the street.

4. All second unit proposals shall include landscaping plans, and the

landscaping shall be installed prior to the final inspection of the second unit by the City's Building Department.

H. Parking and Driveway Provisions

1. No accessory second unit may be permitted on a lot where the required parking for the existing dwelling unit has not been met.
2. One (1) off-street parking space shall be required for each bedroom of the accessory second unit. Such parking space shall be nine feet wide and 17 feet long, and be provided on the same lot as the second unit. A covered parking space is preferred but not required. The parking space for the second unit shall be in addition to the parking required for the primary residence.
3. No additional driveway approaches from public streets shall be permitted for the parking for accessory second units. Access to the parking can be provided from an alley.
4. The required parking space for the accessory second unit may be located in rear or non-street side setbacks or through tandem parking on existing driveways, but such space shall not interfere with access to the required parking for the primary residence.
5. Upon approval of a CUP, one parking space for the accessory second unit may be allowed.

I. Permit Requirement

1. **Filing**
Any accessory second dwelling unit shall require approval of an Accessory Second Unit Permit. The application for such permit shall be made on forms provided by the Department of Planning Services together with any applicable fees. The application shall include all information needed to determine compliance with this Section. The application fee shall include all information needed to determine compliance with this Section. The application fee shall be established by resolution of the City Council.
2. **Application Screening**
Upon receipt of an application for an accessory second unit, staff shall review the application; inform the applicant as to the completeness of the submittal and of any additional information materials required, if any.
3. **Noticing of Application**
Pursuant to Government Code Section 65852.2, notice of an application for an accessory second unit shall not be given to owners of surrounding properties.
4. **Notification of Application for Conditional Use Permit shall be processed pursuant to the provisions related to a conditional use permit.**
5. **Action of Application**

- a. Staff shall approve a completed application if the proposed accessory second unit complies with the requirements of this Chapter. As a condition of the permit, the applicant shall record a deed restriction on the property limiting the rental or lease of both units in compliance with this Chapter.
 - b. Staff shall deny an application for an accessory second unit if the proposed second unit is not in compliance with all requirements of this Chapter.
 - c. Within five days of its decision on the application, staff shall give notice of the decision to the applicant.
6. Permit "Runs With the Land"
An Accessory Second Unit Permit that was granted pursuant to this Section, and is valid and in effect, shall continue to be valid upon change of ownership of the property.
 7. Permit Revocation
The Director of Planning Services shall have the right to revoke the permit granted under this Chapter if the accessory second unit for which the permit was granted violates one or more requirements of this Chapter. The Director shall give notice of permit revocation to the property owner. If a permit for an accessory second unit is revoked, the owner shall remove the kitchen facilities for unit space, and shall not rent the unit space except together with the primary residence to a single household.
 8. Any person aggrieved by a decision of the Director or staff on an application for revocation of an Accessory Second Unit Permit may appeal such action.

Section 7: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect (3) days after passage.

PASS, APPROVED, AND ADOPTED this _____ day of _____ 2014.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on _____ and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

A recess was taken at 4:23 pm.

The meeting reconvened at 4:33 pm.

2G. CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE SECTION 91.00.10 - DEFINITIONS AND SECTIONS 92.00, 92.01, 92.02, 92.03 AND 92.04 -PERMITTED, ACCESSORY AND CONDITIONALLY PERMITTED USES AND TO REPLACE 93.23.14 - ACCESSORY APARTMENT HOUSING IN ITS ENTIRETY (CASE 5.1341 ZTA).

DIRECTOR WHEELER introduced the item and asked for input on specific issues.

COMMISSIONER WEREMIUK offered that rental should be allowed for 30 day periods or more to serve as housing not vacation rentals.

DIRECTOR WHEELER discussed that the proposal is for only one accessory second unit on any lot. State law requires up to 1200 square feet and 30% of primary unit size allowed ministerially. She indicated that staff's proposal was to allow up to 50% of primary unit with Conditional Use Permit.

CHAIR DONENFELD opened the public hearing and with no appearances coming forward the public hearing was closed.

COMMISSIONERS discussed the matter and recommended up to 99% of primary unit be allowed to be considered with Conditional Use Permit.

ENGINEERING ASSOCIATE MINJARES advised the Commission about this type of approval would trigger certain requirements.

ACTION: Recommend approval to City Council, as amended.

MOTION: Commissioner Weremiuk, seconded by Commissioner Lowe and unanimously carried on a 7-0 roll call vote.

AYES: Commissioner Calderine, Commissioner Klatchko, Commissioner Lowe, Commissioner Roberts, Commissioner Weremiuk, Vice- Chair Hudson and Chair Donenfeld

3. NEW BUSINESS:

3A. VIVANTE PALM SPRINGS, LLC, FOR ARCHITECTURAL REVIEW OF FINAL DEVELOPMENT PLANS FOR THE FIRST PHASE OF PD-341, INCLUDING AN ASSISTED LIVING FACILITY OF APPROXIMATELY 148,000 SQUARE FEET, SITE LANDSCAPING AND OFF-STREET PARKING ON A VACANT LOT

1A. CONT'D - CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE SECTION 91.00.10 - DEFINITIONS AND SECTIONS 92.00, 92.01, 92.02, 92.03 AND 92.04 - PERMITTED, ACCESSORY AND CONDITIONALLY PERMITTED USES AND TO REPLACE 92.23.14 - ACCESSORY APARTMENT HOUSING IN ITS ENTIRETY (CASE 5.1341 ZTA). (FF)

Director Fagg provided an overview of the proposed zone text amendment.

Commissioner Weremiuk provided a history of granny flats that are allowed as an accessory unit (cooking and bath) for aged parents, adult children or caretakers. This is affordable housing to accommodate the family rather than used as vacation rentals.

Commissioner Calderine noted the intention when this originally came up was not allow the secondary unit as a vacation rental (less than 30 days). Staff agreed. However, he does not necessarily oppose vacation rentals as low income housing.

Chair Hudson opened the public hearing and with no appearances coming forward the public hearing was closed.

Vice-Chair Klatchko questioned if the City Attorney reviewed this language and if he came up with alternate wording. Director Fagg responded yes he reviewed it but did he not provide alternate wording; however, he felt the wording Commissioner Middleton suggested clarifies the inherent conflict between the two sections of the code and the Planning Commission's recommendation, as well.

ACTION: To revise section as noted below have the City Attorney review approve wording or provide alternate language.

- Revise: Section D. Accessory Second Unit Requirements.
4b. The rental of the accessory second unit separate from the primary unit must be for periods of 30 days or more.

Motion: Commissioner Weremiuk, seconded by Commissioner Middleton and unanimously carried on a roll call vote.

AYES: Commissioner Calderine, Commissioner Lowe, Commissioner Middleton, Commissioner Roberts, Commissioner Weremiuk, Vice-Chair Klatchko, Chair Hudson

PLANNING COMMISSION REPORTS, REQUESTS AND COMMENTS:

The Commission and staff discussed the administrative process for an applicant filing an appeal for a project that was sent back for restudy.