



# CITY COUNCIL STAFF REPORT

DATE: May 20, 2015

CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 1875 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.

FROM: David H. Ready, City Manager

BY: Office of the Chief of Staff/City Clerk

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## SUMMARY

The City Council will consider adoption of Ordinance No. 1875.

## RECOMMENDATION:

Waive the reading of the ordinance text in its entirety and adopt Ordinance No. 1875, "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."

## STAFF ANALYSIS:

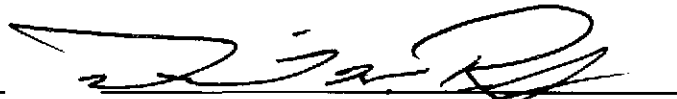
On May 6, 2015, Ordinance No. 1875 was introduced for first reading, as noted below:

**ACTION:** 1) Waive the reading of the ordinance text in its entirety and read by title only; and 2) Introduce on first reading Ordinance No. 1875, "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." **Motion Councilmember Hutcheson, seconded by Councilmember Foat and unanimously carried 4-0 on a roll call vote.**

ITEM NO. 2.D.

This report provides for the City Council to waive further reading and adopt the ordinance. The ordinance shall be effective 30-days from adoption.

  
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JAMES THOMPSON  
City Clerk

  
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DAVID H. READY, Esq., Ph.D.  
City Manager

/tm

Attachments:  
Ordinance No. 1875

ORDINANCE NO. 1875

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 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 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 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. 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.

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.

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 5.** 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 thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 20<sup>TH</sup> DAY OF MARY, 2015.

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STEPHEN P. POUQUET, MAYOR

ATTEST:

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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. 1875 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on the 6<sup>th</sup> day of May, 2015, and adopted at a regular meeting of the City Council held on the 20<sup>th</sup> day of May, 2015, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

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JAMES THOMPSON, CITY CLERK  
City of Palm Springs, California