



## Legislation Details (With Text)

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**Title:** RESOLUTION ESTABLISHING FINES FOR VIOLATION OF  
PROPERTY OWNER OCCUPANCY REQUIREMENTS OF THE  
STATE-MANDATED ACCESSORY DWELLING UNIT ORDINANCE  
(Planning Manager Kim Chafin)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 1. DRAFT Resolution Establishing ADU fines, 2. 2. Link to City Council Meeting of 8-28-18, 3. 3. Link to City Council Meeting of 7-24-18, 4. 4. Link to Planning Commission Meeting of 6-25-18

Date	Ver.	Action By	Action	Result
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### Honorable Mayor and Members of the Hermosa Beach City Council Adjourned Regular Meeting of September 17, 2018

#### RESOLUTION ESTABLISHING FINES FOR VIOLATION OF PROPERTY OWNER OCCUPANCY REQUIREMENTS OF THE STATE-MANDATED ACCESSORY DWELLING UNIT ORDINANCE

(Planning Manager Kim Chafin)

#### **Recommended Action:**

It is recommended that City Council adopt the attached resolution establishing fines for violation of property owner occupancy requirements of the State-mandated Accessory Dwelling Unit ordinance.

On August 28, 2018, pursuant to recent State mandates that local jurisdictions allow Accessory Dwelling Units and Junior Accessory Dwelling Units (ADUs), and in consideration of a unanimous recommendation of the Planning Commission, the City Council adopted Ordinance 18-1385, allowing and regulating ADUs. On July 24, 2018, the Council considered the Planning Commission's recommendation that increased fines be assessed for violations of the owner occupancy requirements of the ordinance and directed staff to prepare a resolution establishing increased fines, specifically assessing a \$1,000 fine for the first violation in a 12-month period, a \$2,500 fine for the second violation in a 12-month period, and a \$5,000 for the third and subsequent violations in a 12-month period.

#### **Analysis:**

The City's ADU ordinance requires that the property owner reside on the premises, either in the ADU or in the primary residence. Prior to City approval of an ADU, a deed restriction regarding the property owner occupancy requirements must be recorded with the property. Due to the lucrative nature of renting out residential units in a beach community, the key to deterring illegal rental activity is a substantial fine. Otherwise, insufficient fines could simply be absorbed as part of the cost of doing business.

Unless otherwise specified, violations of the Hermosa Beach Municipal Code (HBMC) result in an administrative citation, and the associated penalty for administrative citations is \$100 as established by the penalty schedule for administrative fines. However, certain administrative fines are subject to higher penalties, such as citations for violations of the Social Host Ordinance and violations or Short Term Vacation Rental (STVR) ordinance. At its July 24, 2018 meeting, the Council considered the penalty schedules for violations of those ordinances and directed staff to prepare a resolution establishing the following fines for violation of the ADU ordinance property owner occupancy requirements:

- \$1,000 fine for the first violation in a 12-month period;
- \$2,500 fine for the second violation in a 12-month period; and
- \$5,000 for the third and subsequent violations in a 12-month period.

The required deed restrictions and penalties outlined above are expected to deter violations. The number one goal is compliance, and if issues arise, the City's normal protocol for violations of the HBMC will be followed.

### **General Plan Consistency**

PLAN Hermosa (the City's combined General Plan and Local Coastal Program) was adopted in August 2017. In developing policies for the PLAN, community feedback was strong regarding the need to maintain control of density due to the small sizes of residential lots and high population density. Land Use (LU) policies that reflect this need include:

- LU 2.2 Variety of types of neighborhoods. Encourage preservation of existing single density neighborhoods within the city and ensure that neighborhood types are dispersed throughout the city.
- LU 2.4 Single density neighborhoods. Preserve and maintain the Hermosa Hills, Eastside, Valley, North End, and Hermosa View Neighborhoods as predominantly single-family residential neighborhoods.

The General Plan also contains policies which encourage balanced neighborhoods and a diversity of building types, including:

- LU 2.6 Diversity of building types and styles. Encourage a diversity of building types and styles in areas designed for multi-family housing ranging from duplex/triplex/fourplex to courtyard housing to multi-family housing projects.
- LU 2.3 Balanced neighborhoods. Promote a diverse range of housing unit types and sizes, within the allowed densities.

The City's General Plan Housing Element, updated in 2012, is effective from 2013-2021 and identifies strategies and programs that focus on: 1) providing diverse housing sites and opportunities; 2) conserving and improving the existing affordable housing stock; 3) removing governmental and other constraints to housing development; and 4) promoting equal housing opportunities. The Housing Element contains a specific policy to encourage removal of governmental and other constraints:

- Policy 4.4 The City will continue to evaluate its Zoning Ordinance and General Plan and remove governmental constraints related to development standards. These may include, but not be limited to, parking requirements, allowing affordable housing on commercial sites, new standards for mixed-use development, lot consolidation incentives, and senior housing requirements.

Given the mandates of the new State law and the community's desire to maintain control of density due to small lot sizes and high population density, the recently adopted ordinance strives to create a balanced approach to meet the State requirements and remove governmental restraints related to development standards, while recognizing the unique attributes of the community. This approach includes design standards that address both state requirements and community needs by implementing regulations such as minimum lot sizes, maximum ADU/JADU size, and maximum number of ADU/JADU per lot. Further, the state law expressly states that:

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and 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 that is consistent with the existing general plan and zoning designations for the lot. Cal. Gov't Code § 65852.2.

The recently adopted ordinance is consistent with the General Plan. The proposed fines for violations of the ordinance help ensure the ordinance is implemented properly throughout the community, and as such, the proposed fines are also consistent with the General Plan.

### **Environmental Analysis:**

Under California Public Resources Code section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is the State Accessory Dwelling Unit law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State accessory dwelling unit law.

### **Fiscal Implications:**

The fiscal impact is unknown at this time.

### **Attachments:**

1. Draft Resolution Establishing ADU Fines
2. Link to City Council Meeting of 8-28-18
3. Link to City Council Meeting of 7-24-18
4. Link to Planning Commission Meeting of 6-25-18

**Respectfully Submitted by:** Kim Chafin, Planning Manager

**Noted for Fiscal Impact:** Viki Copeland, Finance Director

**Legal Review:** Mike Jenkins, City Attorney

**Approved:** John Jalili, Interim City Manager