

ORDINANCE NO. U15-0017

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH EXTENDING INTERIM ORDINANCE NO. U14-0016 PROHIBITING THE CONVERSION OF ANY COMMERCIAL USE TO A DIFFERENT COMMERCIAL USE CLASSIFICATION IN THE DOWNTOWN AREA AND DECLARING THE URGENCY THEREOF

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section 1. Extension of Interim Ordinance. Ordinance No. U14-0016 adopted on August 19, 2014, and set to expire on July 15, 2015, is hereby extended in full force and effect for one year to and including July 15, 2016.

Section 2. Alleviation Measures Report. In accordance with California Government Code Section 65858(d), the City Council has issued a written report describing the measures taken to alleviate the condition which led to the adoption of Ordinance No. U14-0016.

Section 3. Findings. The City Council finds and determines as follows:

- A. The City is currently studying land uses in the Downtown Area, which may require amendments to the City's General Plan and Zoning Ordinance. The City Council finds that property owners are likely to submit applications for land use entitlements for property within the Downtown Area. Due to the recent proliferation of changed commercial use classifications in the Downtown Area, the City needs to adopt this Ordinance extending Ordinance No. U14-0016 to give the City time to study whether changed uses may conflict with contemplated General Plan or Specific Plan provisions or Zoning Code proposals.
- B. The City intends to study, within a reasonable time, the adequacy of its existing General Plan provisions and Zoning Ordinance as they apply to property within the Downtown Area, and has completed an Urban Land Institute (ULI) 5-day national Advisory Panel, has entered into a contract with a consultant to prepare a Downtown Specific Plan, has established a Downtown Advisory Committee, and has held several stakeholder and internal meetings as well as a Downtown Tour to discuss community concerns and goals. The Planning Commission, the City Council and the people of Manhattan Beach require a reasonable, limited, yet sufficient period of time to consider and study legally appropriate and reasonable policies regulating commercial uses in the Downtown Area. Given the time required to undertake adequate study and planning, the City Council finds that this Ordinance is necessary to prevent the conversion of existing commercial uses to any other commercial use classifications that might conflict with the City's contemplated new policies, General Plan, Specific Plan or zoning proposals. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Section 65858 in order to protect the public health, safety, or welfare.
- C. Accordingly, the City Council finds that there is a current and immediate threat to the public health, safety and welfare presented by the conversion of existing commercial uses on property within the Downtown Area to other commercial use classifications. In the absence of immediate effectiveness, the approval of a business license, building or related permit, use permit, plan review application, subdivision map or any other land use entitlement use which is required in order to comply with the City's zoning ordinance for property within the Downtown Area, which allows a

change to any other commercial use classification, would result in a threat to the public health, safety and welfare. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety and welfare that this Ordinance take effect immediately. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

- D. The City Council finds that additional planning and research are urgently necessary to develop appropriate standards to regulate the subject uses. The City intends to undertake such a study within a reasonable time. During the course of the study and planning process, the City Council finds that retailers and others are likely to submit applications for such uses and the development of such facilities before appropriate regulations and safeguards are in place may be incompatible with the result of this planning process. Given the time required to undertake the study and planning required by this situation, the City Council finds that it is necessary to enact an interim moratorium to ensure that operation of businesses or establishment of any uses that may conflict with the contemplated new development policies, general plan, specific plan, or zoning proposals, are not permitted in the interim. The City Council has the authority to adopt an interim ordinance pursuant to Government Code Section 65858 in order to protect the public health, safety, or welfare.
- E. There is therefore an urgent necessity for the City to extend the interim ordinance prohibiting the issuance of any business license, building or related permit, use permit, plan review, subdivision map or any other land use entitlement that allows the conversion of any commercial use to a different commercial use classification in the area zoned CD Downtown Commercial District depicted on Exhibit A, which is hereby incorporated by this reference. Notwithstanding the foregoing, this Ordinance does not apply to uses that have received use permit approvals as of July 15, 2014.

Section 4. Term. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Sections 65858 and 36937(b) and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption. This Ordinance shall expire on July 15, 2016.

Section 5. Hardship Exemption. An application for a business license, building or related permit, use permit, plan review, subdivision map or any other land use entitlement for a change in commercial use classification may be approved if the applicant has obtained a hardship exemption from the City Council. Hardship exemption applications shall be filed in writing with the Director of Community Development and shall contain all documentation relied upon to support the hardship claim. A hardship exemption application must be filed no later than 30 days in advance of a regular meeting of the City Council in order to be considered at such meeting; otherwise the application shall be considered at the following regular meeting. The City Council shall grant a hardship exemption upon making a finding that denial of the exemption and enforcement of this Ordinance against the applicant's property would result in the applicant being deprived of all economically viable use of the property. The City Council may consider other factors in order to determine hardship.

Section 6. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment. It is therefore exempt from

California Environmental Quality Act review pursuant to Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 *et seq.*). The City Council further finds, in the exercise of its independent judgment and analysis, that the adoption of this Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15060(c)(2) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment. These findings are premised on the fact that the adoption of the extension of the interim ordinance will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration.

Section 7. Penalty. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

Section 8. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 9. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this _____ of _____, 2015.

AYES:
NOES:
ABSENT:
ABSTAIN:

MARK BURTON
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

Ordinance Number U15-0017

QUINN M. BARROW
City Attorney

EXHIBIT A
ORD-U 15-0017
July 7, 2015

