

ORDINANCE NO. 16-0009-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH REQUIRING A USE PERMIT FOR THE FOLLOWING USES IN THE DOWNTOWN COMMERCIAL ZONE: (1) ANY OFFICE, BUSINESS OR PROFESSIONAL; BANKS AND SAVINGS & LOANS; CATERING SERVICES, OR COMMUNICATION FACILITIES, PROPOSED TO BE LOCATED ON THE GROUND FLOOR STREETFRONT; AND (2) ANY RETAIL USE PROPOSED TO HAVE MORE THAN 1,600 SQUARE FEET OF BUILDABLE FLOOR AREA; AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES ORDAIN AS FOLLOWS:

SECTION 1. Notwithstanding any other ordinance or provision of the Manhattan Beach Municipal Code, no application for a building permit, site plan review, or any land use entitlement shall be accepted for processing or approved, for the uses listed in Section 3 below, proposed to be located in the area zoned CD Downtown Commercial District unless the City has issued a use permit for such use. The CD Downtown Commercial District is depicted on Exhibit A, which is incorporated by this reference.

SECTION 2. This Ordinance shall expire, and the use permit requirement required hereby shall terminate, 45 days after the date of adoption of this Ordinance, unless extended by the City Council at a regularly noticed public hearing, pursuant to California Government Code Section 65858.

SECTION 3. A use permit is required prior to the establishment of the following uses, as those uses are defined in the Zoning Code: (1) Any business or professional office, bank and savings & loan, catering service, or communication facility, proposed to be located on the ground floor streetfront; and (2) Any retail sales use proposed to have more than 1,600 square feet of buildable floor area.

SECTION 4. In addition to the findings required by state law and the Manhattan Beach Municipal Code and in conjunction with the approval of a use permit for the uses listed in Section 3 above, the City shall not approve a use permit unless it makes the following findings:

- A. The proposed use will maintain and enhance the residential quality of life for the Manhattan Beach community.
- B. The proposed use would preserve and enhance the safe, attractive, pedestrian-friendly small town atmosphere and a sound economy.
- C. The proposed use is consistent with the Downtown Design Guidelines.
- D. The proposed use will contribute to a balanced mix of uses, which

serves the needs of both local and nonlocal populations.

- E. The proposed use would not impact parking availability, traffic, noise, pollution, and public health, safety and welfare.

SECTION 5. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance would have a significant effect on the environment, because the Ordinance will impose greater limitations on development in the City by requiring a use permit prior to the establishment of any of the uses listed in Section 3 above, and will thereby serve to reduce potential significant adverse environmental impacts. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

SECTION 6. 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 7. Legislative Findings. The City is currently studying land uses in the Downtown Commercial District, which may require amendments to the City's General Plan, Zoning Ordinance and Local Coastal Program. Staff has drafted a specific plan for the area, which will be considered by the City's Planning Commission and City Council at duly noticed public hearings in the near future. Any amendments would also require an amendment to the City's Local Coastal Plan. The City Council finds that property owners are likely to submit applications for land use entitlements for the uses listed in Section 3 above. Due to the proliferation of the uses listed in Section 3 above, the City needs to adopt this Ordinance to give the City time to establish permanent regulations for uses that may conflict with future General Plan, Zoning Code, Local Coastal Program provisions, and, if adopted, a future Specific Plan.

The City intends to consider the adoption of permanent regulations within a reasonable time. The Planning Commission, the City Council and the people of Manhattan Beach require a reasonable, limited, yet sufficient period of time to establish permanent regulations for such uses in the Downtown Commercial Zone. Given the time required to schedule and conduct duly noticed public hearings before the Planning Commission and the City Council, the City Council finds that this Ordinance is necessary to prevent the establishment of any uses without the discretionary review of such uses afforded by a use permit application process. 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.

The Council previously adopted an interim ordinance for the area that prohibited the conversion of uses from one use to another use. Since the adoption of the prior interim ordinance, there are a number of changed circumstances that are different from the circumstances that led to the adoption of the prior interim ordinance. The following circumstances led to the adoption of the prior interim ordinance: uses were being converted to other uses in the downtown area, such that the City was at risk of losing the integration and balance of different uses that is needed for the economic success of a downtown area such as Manhattan Beach's. Now, based upon the Urban Land Institute study commissioned by the City and the City's study of the area, the City has learned that the continued unprecedented increase in land values and market trends in the area threaten preservation of small-town Downtown retailers. A proliferation of the uses listed in Section 3, without the review afforded by a use permit, could have the effect of eliminating the smaller retail shops that are crucial to the economic viability of a small town downtown. Further, establishing those uses without a use permit could decrease the number of visitor serving uses that are paramount to the goals and objectives of the California Coastal Act. Allowing such uses without a use permit could conflict with future General Plan, Zoning or Local Coastal Program provisions. Thus, the City Council finds that there is a current and immediate threat to the public health, safety and welfare presented by the establishment of the uses listed in Section 3 above in the CD Downtown Commercial District. In the absence of immediate effectiveness, the approval of a business license, building or related permit, plan review application, or any other land use entitlement for property within the Downtown Commercial Zone, which allows the uses listed in Section 3 above a use permit, will result in a threat to the public health, safety and welfare. Accordingly, to protect the public safety, health, and welfare from such events, occurrences, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance, 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.

PASSED, APPROVED AND ADOPTED by the Manhattan Beach City Council on July 5, 2016.

Ayes: Howorth, Powell, Burton and Lesser.
Noes: None.
Abstain: Mayor D'Errico.
Absent: None.

/s/David J. Lesser
David J. Lesser
Mayor Pro Tem, City of Manhattan Beach

ATTEST:

/s/Liza Tamura
Liza Tamura
CITY CLERK

EXHIBIT A
ORD 16-0009 U
JULY 5, 2016

