

ORDINANCE NO. 17-0001-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH EXTENDING INTERIM ORDINANCE NO. 16-0038-U PROHIBITING NEW ACCESSORY DWELLING UNITS, EXCEPT THOSE THAT SATISFY SPECIFIED STANDARDS, AND DECLARING THE URGENCY THEREOF

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

SECTION 1. Extension and Modification.

A. Extension of Interim Ordinance No. 16-0038-U. Ordinance No. 16-0038-U, adopted on December 20, 2016 and set to expire on February 2, 2017, prohibiting new accessory dwelling units ("ADUs") except those that satisfy specified standards, is hereby extended in full force and effect for 10 months and 15 days to and including December 19, 2017.

B. Modification of Interim Ordinance No. 16-0038-U. Subsection F of Section 4 of Ordinance No. 16-0038-U, relating to maximum square footage of an ADU, is hereby amended to read:

"The total floorspace area of the ADU is no more than 500 square feet and, if attached to the primary residence, no more than 50% of primary residence's living area."

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 that led to the adoption of Ordinance No. 16-0038-U.

SECTION 3. Legislative Findings. In adopting Ordinance No. 16-0038-U on December 20, 2016, the City Council made a number of legislative findings to support the adoption of that ordinance on an urgency basis. The Council hereby extends Ordinance No. 16-0038-U on an urgency basis based upon those findings, and the following findings. Additional study and planning are necessary to develop appropriate regulations for ADUs in the City of Manhattan Beach ("City"). The City is currently studying the potential land use, public services, parking, traffic, and infrastructure effects of allowing ADUs to be built on lots in various areas of the City. Effective January 1, 2017, Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069") amended Government Code Section 65852.2 to further limit the standards cities may impose on ADUs and require city ordinances to incorporate State-mandated standards for certain types of ADUs. As amended, Government Code Section 65852.2 allows the City to designate areas where ADUs may be permitted and to establish objective standards related to parking, height, setback, lot coverage, landscaping, and architectural review, which must be applied ministerially except where a property owner is seeking an exception to the adopted standards. If the Council does not extend Ordinance

No. 16-0038-U, the City would be required to approve any ADU that meets minimal State criteria. Areas of the City vary significantly in lot size, lot coverage, density, traffic, parking, and seasonal population fluctuations. Unless the City adopts this interim urgency ordinance, the City would be required to either approve ADUs in locations and under standards that may have severe negative impacts on the surrounding community or adopt permanent standards without the benefit of an inquiry and study on the appropriate locations and standards for ADUs in the City and in particular areas.

Staff is studying, revising, and drafting proposed permanent regulations, which both the Planning Commission and City Council must then consider after receiving input from the public at public hearings. The City Council finds that property owners are likely to submit applications for ADUs before the new regulations become effective. These applications would cause confusion and ambiguity regarding the applicability of provisions in the City's current ADU regulations, at least some of which are compliant with the new legislation, and the State standards, with potentially inconsistent and unfair results for City residents. The establishment of these ADUs has the potential to conflict with the City's permanent ADU regulations, which will be adopted in compliance with Government Code Section 65852.2 after further study of the appropriate standards and locations for ADUs in the City. Therefore, this Ordinance is necessary to protect the public safety, health, and welfare and its urgency is hereby declared.

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 ADUs. 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 ADUs with a reasonable potential to conflict with the City's permanent regulations. 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.

Based upon the foregoing, there is a current and immediate threat to the public health, safety, or welfare, and the approval of additional ADUs without the regulations contained herein would result in that threat to public health, safety, or welfare.

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 effective immediately upon its adoption. This Ordinance shall expire on December 19, 2017, unless extended by the City Council at a regularly noticed public hearing, pursuant to California Government Code Section 65858.

SECTION 5. CEQA Finding. The City Council hereby finds that this

interim zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17 and California Code of Regulations, Title 14, Chapter 3, Section 15282(h).

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. Alternatively, the city may cite violations pursuant to Manhattan Beach Municipal Code Chapter 1.06. 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. 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 8. 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 17th day of January, 2017.

AYES: Burton, Powell, Howorth, Lesser and Mayor D’Errico.
NOES: None.
ABSENT: None.
ABSTAIN: None.



TONY D’ERRICO
Mayor

ATTEST:



LIZA TAMURA
City Clerk