

URGENCY ORDINANCE NO. 19-0021-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING THE MANHATTAN BEACH MUNICIPAL CODE TO
REGULATE ACCESSORY DWELLING UNITS AND OTHER
ACCESSORY STRUCTURES, AND MAKING A DETERMINATION
OF EXEMPTION UNDER CEQA

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council hereby amends Chapter 10.74 of Title 10 of the Manhattan Beach Municipal Code to read as follows:

“Chapter 10.74 - Accessory Dwelling Units

Section 10.74.010 – Purpose and Applicability

Section 10.74.020 – Definitions

Section 10.74.030 – General Requirements and Application Procedure

Section 10.74.040 – ADU Standards

Section 10.74.050 – JADU Standards

Section 10.74.060 – Fees and Utility Connections

Section 10.74.070 – Appeals

Section 10.74.010 - Purpose and Applicability.

The purpose of this Chapter is to implement the requirements of Government Code Sections 65852.2 and 65852.22 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units consistent with state law.

Section 10.74.020 - Definitions.

“Accessory Dwelling Unit” or “ADU” has the meaning ascribed in Government Code Section 65852.2, as the same may be amended from time to time. Notwithstanding the foregoing, the term “ADU” does not include a Guest House (or Accessory Living Quarters), as defined in Municipal Code Section 10.04.030.

“Attached ADU” means an ADU that is constructed as a physical expansion (i.e. addition) of the Primary Dwelling, or the remodeling of the Primary Dwelling, and shares a common wall with the Primary Dwelling.

“Detached ADU” means an ADU that is constructed as a separate structure from the Primary Dwelling, which does not share any walls with the Primary Dwelling.

“Existing Structure” means an existing single-family dwelling, multi-family dwelling, or other accessory structure that can be safely converted into habitable space under the California Building Standards Code, as amended by the City, and any other applicable laws.

“Junior Accessory Dwelling Unit” or “JADU” has the meaning ascribed in Government Code Section 65852.22, as the same may be amended from time to time.

“Primary Dwelling”, for purposes of this chapter, means the existing or proposed single-family dwelling on the lot where an ADU would be located.

“Public Transit”, for purposes of this chapter, has the meaning ascribed in Government Code Section 65852.2(j), as the same may be amended from time to time.

Section 10.74.030 - General Requirements and Application Procedure.

- A. Before constructing an ADU or a JADU or converting an Existing Structure or portion of a structure to an ADU or JADU, the applicant shall obtain permits in accordance with the requirements of this section.
- B. All ADUs and JADUs shall satisfy the requirements of the California Building Standards Code, as amended by the City, and any other applicable laws.
- C. Projects Exempt from Obtaining an ADU Permit. An applicant shall not be required to submit an application for an ADU permit under subsection D of this section, and may instead seek building permit approval for an ADU or JADU that satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, and the California Building Standards Code, as amended by the City, and any other applicable laws. An ADU or JADU approved pursuant to this subsection shall be rented only for terms of 30 days or longer.
- D. Projects Subject to ADU Permit Review and Timelines.
 - 1. The Director of Community Development or his/her designee shall ministerially review and approve an ADU permit application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the ADU or JADU complies with the requirements contained in this chapter and any other applicable law.

2. ADU permit applications subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2.
 3. Where an ADU permit application is submitted with an application for a single-family dwelling or multi-family dwelling that is subject to discretionary review under this Code, the ADU permit application will be considered separately without discretionary review or a public hearing, following action on the portion of the project subject to discretionary review.
 4. In addition to obtaining an ADU permit, the applicant shall be required to obtain a building permit and any other applicable construction or related permits prior to the construction of the ADU or JADU.
- E. Minor Exception: An applicant may apply for a Minor Exception, pursuant to Section 10.84.120, for the establishment of an ADU or JADU in an existing legal structure that does not comply with the ADU or JADU standards provided in this chapter. A Minor Exception may not be requested for site or lot conditions.

Section 10.74.040 - ADU Standards.

Excepting those ADUs approved pursuant to Subsection 10.74.030(C), ADUs shall comply with the following standards:

- A. Location Restrictions: One ADU shall be allowed on a lot with a proposed or existing single-family dwelling that is zoned RS, RM, RH, or RPD within Area District I and Area District II. For fire safety purposes, no ADUs shall be permitted in Area District III or Area District IV.
- B. Development Standards:
1. Size, General: An ADU is limited to a maximum of two bedrooms. Studio and one bedroom ADUs shall not exceed 850 square feet of gross floor area. Two bedroom ADUs shall not exceed 1,000 square feet of gross floor area.
 2. Additional Size Limitations for Attached ADUs: If there is an existing or proposed Primary Dwelling, an Attached ADU shall not exceed fifty percent (50%) of the gross floor area for the Primary Dwelling, but in no case shall the ADU be less than 220 square feet, nor more than 1,000 square feet in floor area.
 3. Height for Detached ADUs: A Detached ADU shall not exceed 16 feet in height; or, when located above a garage, shall not

exceed 25 feet in height subject to applicable standards provided in this chapter.

4. Setbacks: No setback shall be required for an ADU that is within an Existing Structure or within a structure constructed in the same location and dimensions as an Existing Structure. For all other ADUs, the required setback from side and rear lot lines shall be four feet.
 5. Standards: An ADU shall conform to all, buildable floor area, and front and corner side yard setback regulations applicable to the zoning district in which the property is located, except in the following cases:
 - a. ADUs that are not required to obtain an ADU permit as provided in Section 10.74.030(C).
 - b. Where the application of buildable floor area, and setback regulations would not permit construction of an 800 square foot ADU that is 16 feet in height with four-foot side and rear yard setbacks, the regulation(s) at issue shall be waived to permit such an ADU.
 6. Except as provided in subsection 5.b, an ADU shall count toward the maximum total buildable floor area applicable to the lot.
- C. Guest Houses: If an ADU is located on a lot with a Guest House, either, but not both, the Guest House or the ADU shall be attached to the Primary Dwelling.
- D. Design and Features:
1. An ADU shall not have any outdoor deck at a height greater than 30 inches above local grade if the deck is located in the Primary Dwelling's required yards.
 2. If the property abuts an alley, any new driveway access for an ADU must be provided through the alley.
 3. If an automatic fire sprinkler system is required for the Primary Dwelling, the ADU must also have an automatic fire sprinkler system.
 4. An ADU shall have a separate exterior access.
 5. For any second-story Detached ADU, all exterior openings, including windows and doors, that face less than 15 feet away

from a rear non-alley or side interior property line shall be fitted with translucent glazing and satisfy one of the following: (i) be fixed (i.e., inoperable) or (ii) be located at least five feet above the finished floor level at the window's lowest point.

6. A permanent foundation shall be required for all ADUs.
 7. Refuse containers shall comply with Municipal Code Section 5.24.030.
- E. Covenant Required: The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the ADU is to be rented only for terms of 30 days or longer; (ii) the ADU is not to be sold or conveyed separately from the Primary Dwelling; (iii) the property owner and all successors in interest shall maintain the ADU and the property in accordance with all applicable ADU requirements and standards; and (iv) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.
- E. Parking Requirements (ADU):
1. In addition to the off-street parking space(s) required for the Primary Dwelling, one off-street parking space shall be provided for each ADU, except when:
 - a. The ADU is located within one-half mile walking distance of Public Transit;
 - b. The ADU is located within an architecturally and historically significant historic district;
 - c. The ADU is part of the existing Primary Dwelling or all or part of an existing accessory structure or building;
 - d. The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant; or
 - e. The ADU is located within one block of a city-approved and dedicated parking space for a car share vehicle.
 2. Required setbacks, yards and open space shall not be used for parking except that:

- a. Parking may be located within an enclosed accessory building as permitted by Municipal Code Section 10.52.050; and
 - b. Parking may be located outside of the front yard setback on existing driveways existing prior to January 1, 2019, that are conforming in width and clearance.
3. The dimensions of all parking spaces, driveways, vehicular access, turning radius and similar parking standards shall comply with the requirements set forth in Municipal Code Chapter 10.64.
4. When the ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU.

Section 10.74.050 - JADU Standards.

JADUs shall comply with the following requirements:

- A. A JADU shall be a minimum of 220 square feet and a maximum of 500 square feet of buildable floor area. The buildable floor area of a shared sanitation facility shall not be included in the maximum buildable floor area of a JADU.
- B. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.
- C. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
- D. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing or proposed single-family dwelling.
- E. A JADU shall include an efficiency kitchen meeting the requirements of Government Code Section 65852.22.
- F. Covenant Required: The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the property owner shall be an owner-occupant of either the Primary Dwelling or the JADU, unless the owner is a government agency, land trust, or housing organization; (ii) the JADU is to be rented only for terms of 30 days or longer;

(iii) the JADU is not to be sold or conveyed separately from the single-family dwelling; (iv) the property owner and all successors in interest shall maintain the JADU and the property in accordance with all applicable JADU requirements and standards, including the restrictions on the size and attributes of the JADU provided in Government Code Section 65852.22; and (v) that any violation will be subject to penalties as provided in Municipal Code Chapter 1.04. Proof of recordation of the covenant shall be provided to the City at a time deemed appropriate by the Director of Community Development.

G. No additional parking is required for a JADU.

Section 10.74.060 - Fees and Utility Connections.

A. The owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees except as specifically provided in California Government Code Sections 65852.2 and 65852.22.

B. With the submittal of the ADU Permit or prior to receiving a building permit if no ADU Permit is required, the owner of an ADU or JADU must submit letters of service availability for water and sewer disposal to the Building Official.

Section 10.74.070 - Appeals.

The applicant may appeal City decisions pursuant to Municipal Code Chapter 10.100.”

Section 2. The City Council hereby amends Section 10.52.050 (Accessory Structures) of Title 10 of the Manhattan Beach Municipal Code to add language explaining that JADUs are not subject to site regulations for accessory structures, by amending paragraph K to read as follows:

“K. Accessory Dwelling Units and Junior Accessory Dwelling Units constructed in compliance with Chapter 10.74 are not subject to the provisions of this Section 10.52.050.”

Section 3. The City Council hereby amends Section 10.84.120 (Minor Exceptions) of Title 10 of the Manhattan Beach Municipal Code to add an additional exception for JADUs and to update the reference to the applicable sections of the Municipal Code, by amending the final row of the table to read as follows:

10.74.040 and 10.74.050	Alterations and remodeling to existing legal structures that do not comply with the ADU and JADU standards to allow conversion to an Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU) - (structure standards only, not lot or site conditions).
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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 January 31, 2020, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

Section 5. Legislative Findings. The City is currently studying the potential land use, public services, parking, traffic, and infrastructure effects of allowing ADUs and JADUs to be built on lots in various areas of Manhattan Beach. Effective January 1, 2020, Senate Bill 13 ("SB 13"), Assembly Bill 68 ("AB 68"), and Assembly Bill 881 ("AB 881") amend Government Code Sections 65852.2 and 65852.22 to further limit the standards cities may impose on ADUs and JADUs. In the absence of a State-compliant ordinance on January 1, 2020, the City's existing ADU regulations may be considered null and void pursuant to Government Code Section 65852.2(a)(4), and the City would then be required to approve any ADU that meets minimal State criteria. Areas of Manhattan Beach 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 and JADUs 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 residents at public hearings. The new ADU and JADU regulations will also require an amendment to the City's Local Coastal Plan. The City Council finds that property owners are likely to submit applications for ADUs and JADUs before 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 and JADU regulations, which will be adopted in compliance with Government Code Sections 65852.2 and 65852.22 after further study of the appropriate standards and locations for ADUs and JADUs in Manhattan Beach. Based upon the foregoing, the City Council hereby finds that there is a current and immediate threat to the public health, safety, or welfare if the City is 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 and JADUs in the City and in particular areas, and that the approval of ADUs and JADUs under existing standards would result in that threat to public health, safety, or welfare. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety, and welfare for this Ordinance to 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.

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 reasonably limited, yet sufficient period of time to establish permanent regulations for ADUs and JADUs. 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 and JADUs 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 Sections 65858 and 36937(b) in order to protect the public health, safety, or welfare.

Section 6. California Environmental Quality Act Exemption. The City Council determines that this ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, et seq., ("CEQA") and the CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Section 7. Internal Consistency. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

Section 8. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section,

subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 9. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall constitute a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.

PASSED, APPROVED and ADOPTED on December 17, 2019.

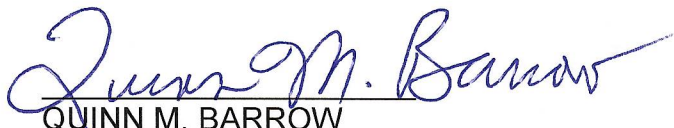
AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

NANCY HERSMAN
Mayor

LIZA TAMURA
City Clerk

APPROVED AS TO FORM



QUINN M. BARROW
City Attorney