

ORDINANCE NO. 16-0038-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH 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. No application for a building permit or other land use entitlement shall be accepted for processing or approved for an accessory dwelling unit (“ADU”) proposed to be located in Area District III or Area District IV of the City Zoning Map. An ADU proposed to be located in Area District I or Area District II of the City Zoning Map shall be permitted if it satisfies all the requirements in Section 4 of this Ordinance.

SECTION 2. This Ordinance shall expire, and its standards and requirement 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 Government Code Section 65858.

SECTION 3. The term “ADU” shall mean an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. The term “ADU” also includes an “Efficiency Unit” as defined in Health and Safety Code Section 17958.1 and a “Manufactured Home” as defined in Health and Safety Code Section 18007. 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.

SECTION 4. The City shall not approve an application for an ADU unless the ADU satisfies all of the standards below. An application for an ADU in Area District I or Area District II that satisfies each of the below standards shall be approved by the Director of Community Development following a ministerial review for compliance.

- A. The ADU is located on the same lot as an existing single-family residence and the lot is zoned RS, RM, RH, or RPD.
- B. The ADU is the only ADU located, or proposed to be located, on the residential lot.
- C. The property owner records a declaration of restrictions placing the following restrictions on the property, the property owner, and all successors in interest: (i) the property owner to be an owner-occupant, (ii)

the ADU to be rented only for terms longer than 30 days, (iii) the ADU not to be sold or conveyed separately from the primary residence, (iv) 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 (v) that any violation will be subject to penalties as provided in Chapter 1.04 of the Municipal Code.

- D. The ADU has setbacks of at least five feet from all lot lines, except as follows: For an ADU that is converted from an existing garage, no additional setbacks beyond the existing garage setback shall be required, except as may be required by the local building and fire codes.
- E. The ADU's color, materials, and architectural details, including windows and roof pitch, match the primary residence.
- F. The total floorspace area of the ADU is no more than 1,200 square feet and, if attached to the primary residence, no more than 50% of primary residence's living area.
- G. A minimum of one offstreet parking space is provided for each bedroom of the ADU or studio ADU, in addition to the parking required for the primary residence. The parking spaces shall satisfy all of the following:
 - 1. Required yards and open space shall not be used for parking except that parking may be located within an enclosed accessory building as permitted by Municipal Code Section 10.52.050.
 - 2. The dimensions of all parking spaces or driveways comply with the requirements set forth in Municipal Code Section 10.64.090.
 - 3. If a garage, carport, or covered parking structure is demolished in conjunction with construction of the ADU, the offstreet parking spaces lost as a result of the demolition shall be replaced on-site. The replacement parking spaces may be covered spaces, uncovered spaces, tandem spaces, or spaces created by mechanical automobile parking lifts.
 - 4. If an existing garage or other parking is converted to or displaced for an ADU, the conversion or displacement shall not eliminate any off-street parking that is required for the primary residence.
- H. Notwithstanding subdivision G above, no additional parking space is required for an ADU that satisfies any of the following:
 - 1. The ADU is located within one-half mile of public transit;
 - 2. The ADU is located within an architecturally and historically significant historic district;

3. The ADU is part of the existing primary residence or an existing accessory structure;
 4. The ADU is located in an area where on-street parking permits are required but not offered to the ADU occupant; or
 5. The ADU is located within one block of a car share vehicle.
- I. The property owner pays all sewer, water, school district, and other applicable fees, including development impact fees.
 - J. The property owner installs a new or separate utility connection between the ADU and the utility, and pays all applicable connection fees or capacity charges, except for ADUs specifically exempted under Government Code Section 65852.2(e) and (f).
 - K. The height of the ADU structure shall not exceed 12 feet measured from a weighted average of the local grades around the perimeter of the ADU, except as follows:
 1. An ADU may be up to 15 feet if it has (i) a minimum 3 in 12 roof slope and (ii) a single roof ridge-line located at approximately the center of the structure.
 2. An ADU constructed directly above a garage may be up to 22 feet if it is (i) not located within a required yard or (ii) located at least 3 feet from all property lines and vehicle access to the garage is from an alley.
 - L. The distance between the ADU and the primary residence or other accessory building shall be at least ten feet.

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. 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 the potential land use, public services, parking, traffic, and infrastructure effects of

allowing ADUs to be built on lots in various areas of Manhattan Beach. Effective January 1, 2017, Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069") amend 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. In the absence of a State-compliant ordinance on January 1, 2017, 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 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 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 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 Manhattan Beach. 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.

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 in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinances.

PASSED, APPROVED AND ADOPTED by the Manhattan Beach City Council on December 20, 2016.

Tony D'Errico
MAYOR

ATTEST:

Liza Tamura
CITY CLERK

APPROVED AS TO FORM:

Quinn M. Barrow
CITY ATTORNEY