

URGENCY ORDINANCE NO. 20-0005-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH  
EXTENDING AND AMENDING INTERIM ORDINANCE NO. 19-  
0022-U AMENDING THE CITY'S LOCAL COASTAL PROGRAM 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. Ordinance No. 19-0022-U, adopted on December 17, 2019, amends Manhattan Beach Local Coastal Program Chapter A.74 to allow accessory dwelling units and junior accessory dwelling units consistent with state law. Ordinance No. 19-0022-U is hereby extended in full force and effect, as amended herein, for 10 months and 15 days to and including December 15, 2020.

SECTION 2. Manhattan Beach Local Coastal Program Chapter A.74 is hereby amended to read as follows:

“Chapter A.74 - Accessory Dwelling Units

Section A.74.010 – Purpose and Applicability

Section A.74.020 – Definitions

Section A.74.030 – General Requirements and Application Procedure

Section A.74.040 – JADU Standards

Section A.74.050 – Fees and Utility Connections

**Section A.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 A.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 Local Coastal Program Section A.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 A.74.030 - ADUs and JADUs Permitted.**

- A. An ADU or JADU is permitted in the Coastal Zone, provided it satisfies the requirements of:
  - 1. Government Code Section 65852.2(e)(1), as the same may be amended from time to time;
  - 2. California Building Standards Code, as amended by the City;
  - 3. City building permit requirements; and
  - 4. Any other applicable laws.
- B. An applicant may apply for a Minor Exception, pursuant to Section A.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 A.74.040 - JADU Standards.**

JADUs shall comply with the following requirements:

- A. A JADU shall be 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 Local Coastal Program 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 A.74.050 - 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. Prior to receiving a building permit, the owner of an ADU or JADU must submit letters of service availability for water and sewer disposal to the Building Official."

SECTION 3. 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. 19-0022-U.

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 15, 2020, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

SECTION 5. Legislative Findings. In adopting Urgency Ordinance No. 19-0022-U, the City Council made a number of legislative findings to support to adoption on an urgency basis. The Council hereby extends Ordinance No. 19-0022-U based upon those findings, and the following findings.

The City continues to study 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. The City is also studying the safety risks, including the risk of fire, posed by an increase in the construction of ADUs and JADUs on lots in various areas of Manhattan Beach.

Staff continues to study, revise, and draft 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 Coastal Zone and other areas of the City, 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 section 21000, et seq., ("CEQA") and the CEQA Guidelines (14 California Code of Regulations section 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 Local Coastal Program, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Local Coastal Program 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.

ADOPTED on January 21, 2020.

ATTEST:

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NANCY HERSMAN  
Mayor

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LIZA TAMURA  
City Clerk

APPROVED AS TO FORM

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QUINN M. BARROW  
City Attorney