



Staff Report

File #: REPORT 22-0725, Version: 1

Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of November 29, 2022

URGENCY ORDINANCE TO AMEND THE HERMOSA BEACH MUNICIPAL CODE SECTION 17.04.040 AND CHAPTER 17.21 REGARDING ADUs AND JADUs (Interim Community Development Director Corrie Kates)

Recommended Action:

Adopt Ordinance No. 22-XX to approve an urgency ordinance thereby amending section 17.04.040 and Chapter 17.21 of the Hermosa Beach Municipal Code regarding ADUs and JADUs.

Executive Summary:

At their regular meeting of November 15, 2022, Planning Commission approved the attached Resolution 22-18 recommending that the City Council approve an urgency ordinance amending section 17.04.040 and Chapter 17.21 of the Hermosa Beach Municipal Code regarding ADUs and JADUs.

The proposed ordinance amends the City's local regulatory scheme for the construction of ADUs and JADUs to comply with recently amended provisions of Government Code sections 65852.2 and 65852.22.

Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) by January 1, 2023, renders the City's ADU ordinance null and void, thereby limiting the City to the application of the few default state standards provided in Government Code sections 65852.2 and 65852.22. The approval of ADUs and JADUs based solely on these default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

The attached proposed Ordinance and urgency Ordinance includes changes to the Hermosa Beach Municipal Code substantially in the form attached.

Background and Discussion:

In recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs. In 2022, the California Legislature approved, and the Governor signed into law, a new bill (SB 897) that further amends

Government Code sections 65852.2 and 65852.22 (“New Amendments”). Among other things, the New Amendments

- Require the City to allow certain ADUs to be higher - up to 18 or 25 feet, depending on the situation,
- Require the City’s front setback to yield for certain ADUs,
- Require the City to justify a denial with a full set of detailed comments describing the deficiencies in the application and explaining how to remedy them, and
- Remove the automatic repeal in 2025 (now the ADU statute is permanent).

SB 897 takes effect January 1, 2023. If the City’s ADU ordinance does not comply with requirements of SB 897 by that date, the City’s entire existing ADU ordinance becomes null and void as a matter of law, and the City will have to allow ADUs with no local regulation except for the few requirements in the state ADU law itself.

The proposed ordinance amends the City’s local regulatory scheme for the construction of ADUs and JADUs to comply with recently amended provisions of Government Code sections 65852.2 and 65852.22.

Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) by January 1, 2023, renders the City’s ADU ordinance null and void, thereby limiting the City to the application of the few default state standards provided in Government Code sections 65852.2 and 65852.22. The approval of ADUs and JADUs based solely on these default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance in accordance with Government Code section 36937, subdivision (b). Due to the timing necessary for Planning Commission review and then City Council review, possible adoption and effective date, adoption by regular ordinance cannot be accomplished prior to January 1, 2023.

The City’s existing ADU and JADU regulations were found in multiple areas of the City’s zoning code which could have led to confusion. Further, due to the multitude of housing issues and continued State involvement in these arenas, it is advisable to be clear that these State required ADU, and JADU regulations are applicable to just ADUs and JADUs. Thus, the proposed amendments delete substantive provisions (definitions) related to ADUs and JADUs in other parts of the code and place them all in Chapter 17.21 of the Hermosa Beach Municipal Code.

Environmental Determination:

Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law, and which regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law.

General Plan Consistency:

The proposed text amendment has been evaluated for consistency with the City's General Plan. Relevant Goals and Policies are listed below:

- Policy 2.1 The City will continue to promote the development of a variety of housing types and styles to meet the existing and projected housing needs of all segments of the community.
- Policy 2.2 The City will continue to encourage the development of safe, sound, and decent housing to meet the needs of varying income groups.
- Policy 4.4 The City will continue to evaluate its Zoning Ordinance and General Plan and remove governmental constraints related to development standards. These may include, but not be limited to, parking requirements, allowing affordable housing on commercial sites, new standards for mixed-use development, lot consolidation incentives, and senior housing requirements.

Attachments:

1. Planning Commission Resolution 22-18

Respectfully Submitted by: Corrie Kates, Interim Community Development Director **Legal Review:**

Patrick Donegan, Assistant City Attorney

Approved: Suja Lowenthal, City Manager