

ORDINANCE NO. 16-0013-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH EXTENDING INTERIM ORDINANCE NO. 16-0009-U REQUIRING A USE PERMIT FOR THE FOLLOWING USES IN THE DOWNTOWN COMMERCIAL ZONE: (1) ANY BUSINESS OR PROFESSIONAL OFFICE, BANK AND SAVINGS & LOAN, CATERING SERVICE, OR COMMUNICATION FACILITY PROPOSED TO BE LOCATED ON THE GROUND FLOOR STREETFRONT; AND (2) ANY RETAIL USE PROPOSED TO HAVE MORE THAN 1,600 SQUARE FEET OF BUILDABLE FLOOR AREA; AND DECLARING THE URGENCY THEREOF

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

SECTION 1. Extension of Interim Ordinance. Ordinance No. 16-0009-U, adopted on July 5, 2016, requires a use permit for the following uses, as those uses are defined in the Zoning Code: (1) Any business or professional office, bank and savings & loan, catering service, or communication facility, proposed to be located on the ground floor streetfront; and (2) Any retail sales use proposed to have more than 1,600 square feet of buildable floor area, in the Downtown Commercial Area ("subject uses"). Ordinance No. 16-0009-U is hereby extended in full force and effect for 10 months and 15 days to and including July 5, 2017.

SECTION 2. Use Permit Findings. In addition to the findings required by state law and the Manhattan Beach Municipal Code, the City shall not approve a use permit for any of the subject uses unless it makes the following findings:

- A. The proposed use will maintain and enhance the residential quality of life for the Manhattan Beach community.
- B. The proposed use would preserve and enhance the safe, attractive, pedestrian-friendly small town atmosphere and a sound economy.
- C. The proposed use is consistent with the Downtown Design Guidelines.
- D. The proposed use will contribute to a balanced mix of uses which serves the needs of both local and nonlocal populations.
- E. The proposed use would not adversely impact parking availability, traffic, noise, pollution, and public health, safety and welfare.

SECTION 3. Alleviation Measures Report. In accordance with California Government Code Section 65858(d), the City Council issued a written report

describing the measures taken to alleviate the condition that led to the adoption of Ordinance No. 16-0009-U on July 5, 2016.

SECTION 4. Findings. In adopting Ordinance No. 16-0009-U on July 5, 2016, the City Council made a number of legislative findings to support the adoption of that ordinance on an urgency basis. As of the date of this ordinance, such findings are still applicable. Accordingly, the findings contained in Section 7 of Ordinance No. 16-0009-U are hereby incorporated by reference. In addition, the City Council finds and determines as follows:

- A. Additional study and planning are necessary to develop appropriate regulations for the subject uses in the Downtown Commercial Zone. These regulations must be designed to ensure consistency with the City's land use policies for the Downtown Commercial Zone and the State's policies for the Coastal Zone. The City is examining a draft specific plan for the area, which may require amendments to the City's General Plan and Zoning Ordinance. These amendments would also require an amendment to the City's Local Coastal Plan. Given the market pressures and planning complexities in this Zone, extension of Ordinance No. 16-0009-U is necessary to ensure reasonable but sufficient time to study, consider and adopt permanent regulations for the preservation and viability of the Downtown Commercial Zone. The City Council has the authority to adopt and extend an interim ordinance pursuant to Government Code Section 65858 in order to protect the public health, safety, or welfare.
- B. There is therefore an urgent necessity for the City to extend Ordinance No. 16-0009-U. Notwithstanding any other ordinance or provision of the Manhattan Beach Municipal Code, no application for a building permit, site plan review, or any land use entitlement shall be accepted for processing or approved, for the subject uses, proposed to be located in the area zoned Downtown Commercial District unless the City has issued a use permit for such use. The Downtown Commercial District is depicted on Exhibit A, which is incorporated by this reference.

SECTION 5. 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, and the use permit requirement required hereby shall terminate, on July 5, 2017, unless extended by the City Council at a regularly noticed public hearing, pursuant to California Government Code Section 65858.

SECTION 6. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance would

have a significant effect on the environment, because the Ordinance will impose greater limitations on development in the City by requiring a use permit prior to the establishment of any of the uses listed in Section 3 above, and will thereby serve to reduce potential significant adverse environmental impacts. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.


SECTION 7. 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 8. 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 9. 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 16<sup>th</sup> day of August, 2016.

Ayes: Burton, Powell, Howorth and Lesser.  
Noes: None.  
Absent: None.  
Abstain: Mayor D'Errico.

  
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Tony D'Errico  
MAYOR

ATTEST:

  
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Liza Tamura  
CITY CLERK