

City Council Adjourned Regular Meeting

Monday, August 7, 2017

9:00 AM

City Council Chambers



Mayor David Lesser
Mayor Pro Tem Amy Howorth
Councilmember Steve Napolitano
Councilmember Nancy Hersman
Councilmember Richard Montgomery

Executive Team

Mark Danaj, City Manager
Quinn Barrow, City Attorney

Robert Espinosa, Fire Chief
Teresia Zadroga-Haase, Human Resources Director
Eve R. Irvine, Police Chief
Stephanie Katsouleas, Public Works Director
Mark Leyman, Parks & Recreation Director

Nadine Nader, Assistant City Manager
Anne McIntosh, Community Development Director
Bruce Moe, Finance Director
Liza Tamura, City Clerk
Sanford Taylor, Information Technology Director

MISSION STATEMENT:

The City of Manhattan Beach is recognized for providing exemplary municipal services and contributing to the exceptional quality of life afforded to residents, businesses and visitors who enjoy living in and visiting California's safest beach community

MANHATTAN BEACH'S CITY COUNCIL WELCOMES YOU!

Your presence and participation contribute to good city government.

By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, this agenda provides an early opportunity for public comments under "Public Comments," at which time speakers may comment on any matter within the subject matter jurisdiction of the City Council, including items on the agenda.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at www.citymb.info, the Police Department located at 420 15th Street, and are also on file in the Office of the City Clerk for public inspection. Any person who has any question concerning any agenda item may call the City Clerk's office at (310) 802-5056.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Office of the City Clerk at (310) 802-5056 (voice) or (310) 546-3501 (TDD). The City also provides closed captioning of all its Regular City Council Meetings for the hearing impaired.

CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, state under penalty of perjury that this notice/agenda was posted on Thursday, August 3, 2017, on the City's Website and on the bulletin boards of City Hall, Joslyn Community Center and Manhattan Heights.

BELOW ARE THE AGENDA ITEMS TO BE CONSIDERED.**A. CALL MEETING TO ORDER****B. PLEDGE TO THE FLAG****C. ROLL CALL****D. PUBLIC COMMENTS (3 MINUTES PER PERSON)**

Speakers may provide public comments on any matter that is within the subject matter jurisdiction of the City Council, including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City Council. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda. Each speaker may speak for up to 3 minutes.

Please complete the "Request to Address the City Council" card by filling out your name, city of residence, the item(s) you would like to offer public comment, and returning it to the City Clerk.

E. GENERAL BUSINESS

1. Interim Ordinance Prohibiting the Establishment of New Health Care Uses (Community Development Director McIntosh).

ADOPT URGENCY ORDINANCE NO. 17-0015-U

Attachments: [Draft Ordinance No. 17-0015-U](#)

[ORD
17-0015-U](#)

F. ANNOUNCEMENT IN OPEN SESSION OF ITEMS TO BE DISCUSSED IN CLOSED SESSION

**I. CONFERENCE WITH LEGAL COUNSEL (ANTICIPATED LITIGATION)
(Government Code Section 54956.9(d)(2),(e)(3))**

Singnificant exposure to litigation, based on receipt of a claim pursuant to the Government Claims Act.

**II. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code Section 54957)**

Titles: City Manager, City Attorney

G. RECESS INTO CLOSED SESSION

H. RECONVENE INTO OPEN SESSION

I. CLOSED SESSION ANNOUNCEMENT IN OPEN SESSION

J. ADJOURNMENT

Agenda Date: 8/7/2017

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Anne McIntosh, Community Development Director

SUBJECT:

Interim Ordinance Prohibiting the Establishment of New Health Care Uses (Community Development Director McIntosh).

ADOPT URGENCY ORDINANCE NO. 17-0015-U

RECOMMENDATION:

Staff recommends that the City Council adopt Urgency Ordinance 17-0015-U, an urgency ordinance prohibiting the establishment of new health care uses.

FISCAL IMPLICATIONS:

There may be a short-term impact to permit and plan check fees while additional research is conducted to determine if the urgency ordinance should be extended or new zoning standards developed.

BACKGROUND:

The City Council is concerned that a recent proliferation of new health care facilities, including medical office, urgent care facilities, clinics, treatment centers and the like, is having a detrimental impact to economic development goals, potential sales tax, the diversity of land uses, and the activation of pedestrian activity along streets in the commercial districts of the City.

DISCUSSION:

The Urgency Ordinance will be effective for 45 days, with the possibility of extension for up to a total of two years, during which health care uses will be studied in greater detail and permanent policy changes can be implemented.

POLICY ALTERNATIVES:

The Urgency Ordinance as drafted will prevent all new health care facilities throughout the City until such time the issue is studied and permanent regulations are adopted. The City

Council may wish to limit the types of health care uses covered under the urgency ordinance and/or restrict the moratorium to specific locations rather than the entire City.

ALTERNATIVE #: 1

Apply moratorium to new construction projects.

PROS:

Still allows smaller existing tenant spaces to be converted to health care and other uses.

CONS:

Does not meet all of the goals of the moratorium (e.g., preventing a proliferation of uses before they can be studied).

ALTERNATIVE #: 2

Apply moratorium to Sepulveda Boulevard only (or other limited areas as defined)

PROS:

New health care uses could be established in certain commercial districts in the City

CONS:

Does not meet all of the goals of the moratorium (e.g., preventing a proliferation of uses in other part of the City before they can be studied)..

ALTERNATIVE #: 3

Narrow the definition of health care facility to medical offices or medical clinics.

PROS:

Continues to allow clinics, laboratories, hospitals to apply for a use permit, but would prohibit medical offices (which are currently ministerial)

CONS:

Does not meet all of the goals of the moratorium (e.g., preventing a proliferation of other uses that can be studied).

PUBLIC OUTREACH/INTEREST:

Due to the urgency of this matter, the City Council has not yet conducted public outreach on this matter. Opportunities for public input will occur as policies are developed for long-term policy regarding medical uses.

ENVIRONMENTAL REVIEW

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 temporarily prohibiting medical and dental uses, 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.

LEGAL REVIEW

The City Attorney has reviewed and approved as to form the draft ordinance.

Attachment:

1. Draft Ordinance No. 17-0015-U

ORDINANCE NO. 17-0015-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH
PROHIBITING THE ESTABLISHMENT OF NEW HEALTH CARE
FACILITIES AND DECLARING THE URGENCY THEREOF

THE MANHATTAN BEACH CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. Moratorium. 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 conversion of any existing space to, or the construction of a new building for the establishment of any of the following uses anywhere in the City unless the City has issued a use permit for such use prior to adoption of this Ordinance. For purposes of this Ordinance, "Health Care Facilities" include but are not limited to:

- A. Medical or dental offices, including, but not limited to, licensed or certified physicians, psychologists, psychiatrists, dentists, and chiropractors;
- B. Medical or dental laboratories, either as a primary use or incidental to an office use;
- C. Emergency health care facilities, hospitals, medical clinics and urgent care facilities;
- D. Assisted care facilities;
- E. Any residential care facility or adult day health center; and
- F. Convalescent facilities.

SECTION 2. This Ordinance does not apply to residential care facilities that serve six or fewer persons.

SECTION 3. Term. This Ordinance shall expire, and the moratorium on new health care facilities imposed hereby shall terminate, 45 days after the adoption of this Ordinance, unless extended by the City Council at a regularly noticed public hearing pursuant to California Government Code Section 65858.

SECTION 4. Hardship Exemption. An application for a building permit, site plan review, or any other land use entitlement for the establishment of any Health Care Facility may be approved if the applicant has obtained a hardship exemption from the City Council. Hardship exemption applications shall be filed in writing with the Director of Community Development and shall contain all documentation relied upon to support the hardship claim. A hardship exemption application must be filed no later than 10 days in advance of a regular meeting of the City Council in order to be considered at such meeting; otherwise the application shall be considered at the following regular

meeting. The City Council shall grant a hardship exemption upon making a finding that denial of the exemption and enforcement of this Ordinance against the applicant's property would result in the applicant being deprived of all economically viable use of the property. The City Council may consider other factors in order to determine hardship.

SECTION 5. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility that 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 temporarily prohibiting new health care facilities, 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 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. Due to a recent proliferation of Health Care Facilities, including medical offices, urgent care facilities, clinics, and treatment centers, the City is currently studying new zoning code regulations for these uses. Many of these uses are treated as a type of professional office and approved ministerially due to the lack of specific use classifications for certain health care-related uses. The proliferation of new Health Care Facilities has a detrimental impact on economic development goals, potential sales tax revenues, the diversity of commercial land uses, and the activation of pedestrian activity along streets in commercial districts of the City. Further, the ministerial approval of some, but not all, health care uses adversely affects the variety of health care options in the City. This Ordinance is necessary to prevent the establishment of additional Health Care Facilities while the City studies the appropriate locations and consistent standards for these uses.

The City Council finds that property owners are likely to submit applications for land use entitlements to establish Health Care Facilities. Due to the proliferation of these uses, the City needs to adopt this Ordinance to give the City time to modernize its use classifications and definitions for health-related uses and to establish permanent regulations for these uses. The City intends to study and adopt permanent regulations within a reasonable time. The Department of Community Development, Planning Commission, the City Council, and the people of Manhattan Beach require a reasonable, limited, yet sufficient amount of time to consider and establish permanent regulations to allow needed Health Care Facilities without causing a detrimental effect to the general welfare in the City. Given the time required to study and prepare new regulations, 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 additional Health Care Facilities and continued proliferation of new Health Care Facilities.

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 new Health Care Facilities were established in the City, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for such uses which is required in order to comply with the City's Zoning Ordinance 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.

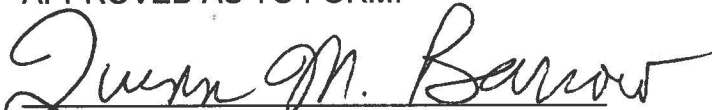
PASSED, APPROVED AND ADOPTED by the Manhattan Beach City Council on August 1, 2017.

David J. Lesser
MAYOR

ATTEST:

Liza Tamura
CITY CLERK

APPROVED AS TO FORM:


Quinn M. Barrow
CITY ATTORNEY

