

ORDINANCE NO. MC-1644U

**ORDINANCE OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF SAN BERNARDINO, CALIFORNIA,
APPROVING DEVELOPMENT CODE AMENDMENT 24-04
AMENDING CHAPTER 19.04 (RESIDENTIAL ZONES);
SECTION 19.04.030(2)(P) (ACCESSORY DWELLING
UNITS) OF THE CITY OF SAN BERNARDINO
DEVELOPMENT CODE (SBMC TITLE 19) IN ORDER TO
UPDATE THE DEVELOPMENT STANDARDS FOR
ACCESSORY DWELLING UNITS IN COMPLIANCE WITH
RECENT CHANGES IN STATE LAW; AND FINDING THAT
DEVELOPMENT CODE AMENDMENT 24-04 IS
STATUTORILY EXEMPT UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

WHEREAS, the City of San Bernardino, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the state law authorizes cities to act to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amend various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend state ADU law; and

WHEREAS, AB 2533 and SB 1211 take effect on January 1, 2025, and for the City’s ADU ordinance to remain valid, it must be amended to reflect the requirements of AB 2533 and SB 1211; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to reflect AB 2533’s and SB 1211’s changes to state law; and

WHEREAS, Development Code Amendment 24-04 is a City-initiated amendment to Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and

WHEREAS, the Planning Division of the Community Development Department of the City of San Bernardino has prepared Development Code Amendment 24-04 in compliance with the California Government Code, consistent with the City of San Bernardino General Plan, and in compliance with the City of San Bernardino Development Code; and

WHEREAS, pursuant to requirements of the California Environmental Quality Act (“CEQA”), the Planning Division of the Community Development and Housing Department evaluated Development Code Amendment 24-04 and determined that it is exempt from CEQA under California Public Resources Code Section 21080.17; and

WHEREAS, on November 12, 2024, pursuant to the requirements of Section 19.52.040 (Hearings and Appeals - Hearing Procedure) of the City of San Bernardino Development Code, the Planning Commission held a duly-noticed public hearing and adopted Resolution No. 2024-047 recommending the adoption of the Development Code Amendment 24-04 to the Mayor and City Council; and

WHEREAS, notice of the December 18, 2024 public hearing for the Mayor and City Council's consideration of Development Code Amendment 24-04 was published in The Sun newspaper on December 7, 2024, in accordance with Development Code Chapter 19.52 (Hearing and Appeals); and

WHEREAS, pursuant to the requirements of Chapters 19.52 (Hearing and Appeals) and Chapter 19.42 (Development Code Amendments) of the City of San Bernardino Development Code, the Mayor and City Council have the authority to take action on Development Code Amendment 24-04; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare based on the passage of AB 2533 and SB1211 because if the City’s ordinance does not comply with the amended laws as of January 1, 2025, and the City’s ADU ordinance becomes null and void, the City would thereafter be limited to applying the few default standards that are provided in Article 2 of Chapter 13 of Division 1 of Title 7 of the Government Code for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the 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 to be effective immediately upon adoption by a four-fifths vote of the City Council; and

WHEREAS, to protect the public safety, health, and welfare, the City Council may adopt this Ordinance as an urgency measure in accordance with Government Code Section 36937, Subdivision (b).

NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein.

SECTION 2. Compliance with the California Environmental Quality Act. The Mayor and City Council having independently reviewed and analyzed the record before it, including written and oral testimony, and having exercised their independent judgment, Development Code Amendment 24-04 and this Ordinance No. MC-1644U is exempt from the requirements of the California Environmental Quality Act (“CEQA”) under California Public Resources Code Section 21080.17, as the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California’s ADU law and which also regulates JADUs, as defined by Section 66313. Therefore, adoption of the proposed ordinance is statutorily exempt from CEQA.

SECTION 3. Finding of Facts – Development Code Amendment 24-04

Finding No. 1: The proposed amendment is consistent with the General Plan.

Finding of Fact: Development Code Amendment 24-04 is consistent with the General Plan, as follows:

Land Use Goal 2.1: Preserve and enhance San Bernardino’s unique Neighborhoods. Land Use

Element Policy 2.1.1: Actively enforce development standards, design guidelines, and policies to preserve and enhance the character of San Bernardino’s neighborhoods.

The implementation of Development Code Amendment 24-04 is consistent with the City’s General Plan by allowing for the development of Accessory Dwelling Units within the single-family residential and multi-family residential zones in a manner that will prevent negative impacts to the existing residential neighborhoods and the community at-large, while maintaining consistency with state law (AB 2533 and SB 1211). Additionally, as regulated by Development Code Amendment 24-04, new Accessory Dwelling Units (ADUs) will serve the City’s housing needs in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

Finding No. 2: The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding of Fact: The adoption and implementation of Development Code Amendment 24-04 is necessary and desirable for the development of the community and is in the interests or furtherance of the public health, safety, convenience, and general welfare. In enacting the aforementioned legislation the State Legislature identified Accessory Dwelling Units (ADUs) as an important housing option for renters and homeowners, given the undersupply of housing that exists in the State. Development Code Amendment 24-04 will

bring the City's Development Code into compliance with the aforementioned statute.

SECTION 4. Adoption of Ordinance. Development Code Amendment 24-04 to amend Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) to update the development standards for Accessory Dwelling Units in compliance with state law is hereby amended and restated to read in its entirety as provided in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 5. Notice of Exemption: The Planning Division of the Community Development and Housing Department is hereby directed to file a Notice of Exemption with the County Clerk of the County of San Bernardino within five (5) working days of final approval certifying the City's compliance with the California Environmental Quality Act in approving Development Code Amendment 24-04.

SECTION 6. Severability: If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 7. Effective Date. This Urgency Ordinance takes effect immediately upon its adoption.

SECTION 8. Notice of Adoption. The City Clerk of the City of San Bernardino shall either: (a) have this ordinance published in a newspaper of general circulation within 15 days after its adoption or (b) have a summary of this ordinance published twice in a newspaper of general circulation, within 15 days after its adoption.

APPROVED and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this 18th day of December 2024.

Helen Tran, Mayor
City of San Bernardino

Attest:

Genoveva Rocha, CMC, City Clerk

Approved as to form:

Sonia Carvalho, City Attorney

CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
CITY OF SAN BERNARDINO

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1644U, adopted by the City Council of the City of San Bernardino, California, at a regular meeting held on the 18th day of December 2024 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
KNAUS	_____	_____	_____	_____
FLORES	_____	_____	_____	_____
ORTIZ	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this ____ day of _____ 2024.

Genoveva Rocha, CMC, City Clerk