

**ORDINANCE NO. MC-1604**

**URGENCY ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, APPROVING DEVELOPMENT CODE AMENDMENT 22-07 AMENDING CHAPTER 19.04 (RESIDENTIAL ZONES); SECTION 19.04.030(2)(P) (ACCESSORY DWELLING UNITS) OF TITLE 19 (DEVELOPMENT CODE) OF THE CITY OF SAN BERNARDINO MUNICIPAL CODE); AND FINDING THE SUCH ACTION 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**, state law authorizes cities to act by ordinance 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, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

**WHEREAS**, 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; and

**WHEREAS**, SB 897 takes effect January 1, 2023, and if the City’s ADU ordinance does not comply with the requirements imposed by SB 897 by that date, the City’s entire existing ADU ordinance becomes null and void as a matter of law; and

**WHEREAS**, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

**WHEREAS**, there is a current and immediate threat to the public health, safety, or welfare based on the passage of SB 897 because if the City’s ordinance does not comply with the amended laws as of January 1, 2023, 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 Government Code sections 65852.2 and 65852.22 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.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** 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 also 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.

**SECTION 3. Finding of Facts – Development Code Amendment 21-09**

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

**Finding of Fact:** Development Code Amendment 21-09 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 adoption of the Urgency Ordinance and implementation of Development Code Amendment 22-07 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 (SB 897). Additionally, as regulated by Development Code Amendment 22-07, new Accessory Dwelling Units will serve the City’s housing needs in compliance with California Government Code Section 65852.2

**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 22-07 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 (ADU) has an important housing option for renters and homeowners, given the undersupply of housing that exists in the State. Development Code Amendment 22-07 will bring the City's Development Code into compliance with the aforementioned statute.

**SECTION 4.** Chapter 19.04 (Residential Zones), Section 19.04.030(2)(P) (Accessory Dwelling Units) of Title 19 (Development Code) of the City of San Bernardino Municipal Code 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 Determination:** The Planning Division of the Community and Economic Development Department is hereby directed to file a Notice of Determination with the County Clerk of the County of San Bernardino within five (5) working days of final project approval certifying the City's compliance with the California Environmental Quality Act in approving the Project.

**SECTION 6. Severability:** If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

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

**SECTION 8. Notice of Adoption.** The City Clerk 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.

**SECTION 9.** The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

**APPROVED** and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this \_\_\_\_ day of \_\_\_\_\_, 2022.

---

John Valdivia, 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 ) ss  
CITY OF SAN BERNARDINO )

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Urgency Ordinance No. MC-1604, introduced \_\_\_\_\_ and adopted by the City Council of the City of San Bernardino, California, at a regular meeting held at the \_\_\_\_ day of \_\_\_\_\_, 2022 by the following vote:

<u><b>Council Members:</b></u>	<u><b>AYES</b></u>	<u><b>NAYS</b></u>	<u><b>ABSTAIN</b></u>	<u><b>ABSENT</b></u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Genoveva Rocha, CMC, City Clerk