



PUBLIC HEARING

City of San Bernardino Request for Council Action

Date: December 7, 2022

To: Honorable Mayor and City Council Members

From: Robert D. Field, City Manager;
Nathan Freeman, Agency Director of Community, Housing,
and Economic Development

Department: Community, Housing, & Economic Development (CED)

Subject: **Urgency Ordinance – Development Code Amendment
22-07 (SB 897)**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California, adopt Urgency Ordinance No. MC-1604 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 such action statutorily exempt under the California Environmental Quality Act (Attachment 1).

Background

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 Accessory Dwelling Units (“ADU’s”) and Junior Accessory Dwelling Units (“JADU’s”). In September 2022, the California Legislature approved, and the Governor signed into law, Senate Bill No. 897 (“SB 897”) (Attachment 3), which among other things:

- Requires the City to allow certain ADU’s to be higher — up to 18 or 25 feet, depending on the situation.
- Requires the City’s front setback to yield for certain ADU’s.
- Requires 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.
- Removes 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 ADU's with no local regulation except for the few requirements in the state ADU law itself.

Discussion

The proposed ordinance amends the City's local regulatory scheme for the construction of ADU's and JADU's 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 ADU's and JADU's 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 Urgency Ordinance includes changes to 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).

The ADU code amendments are proposed for adoption by urgency ordinance, in accordance with Government Code section 36937, subdivision (b), and will be followed at the earliest possible time by a non-urgency ordinance that will be considered for approval by the Planning Commission before returning to the City Council for ultimate adoption.

General Plan Goals and Policies

The City of San Bernardino General Plan includes goals and policies to guide future development, as follow:

- ✓ 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 ADU's 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 ADU's will serve the City's housing needs in compliance with California Government Code Section 65852.2

California Environmental Quality Act

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 JADU’s, 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.

2021-2025 Strategic Targets and Goals

The Urgency Ordinance (Development Code Amendment 21-07) with Key Target No. 4: Economic Growth & Development, specifically 4(b): Update the General Plan and Development Code. The specific amendments to the Development Code standards for Accessory Dwelling Units proposed under Development Code Amendment 21-07 will ensure that the Development Code is consistent with state law.

Fiscal Impact

There is no fiscal impact to the City’s General Fund associated with this report.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino, California, adopt Urgency Ordinance No. MC-1604 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 such action statutorily exempt under the California Environmental Quality Act

Attachments

Attachment 1	Urgency Ordinance No. MC-1604 (Approving Development Code Amendment 22-07)
Attachment 2	Urgency Ordinance No. MC-1604 (Approving Development Code Amendment 22-07) – Exhibit A
Attachment 3	California Legislative Information – Senate Bill No. 897
Attachment 4	Urgency Ordinance No. MC-1604 Presentation

Ward:

All Wards

Synopsis of Previous Council Actions:

None