



## AGENDA REPORT

**Meeting Date:** January 22, 2009  
**Item Number:** F-4  
**To:** Honorable Mayor & City Council  
**From:** City Attorney  
**Subject:** ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610 OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING PERMISSIBLE ENCROACHMENTS INTO SIDE YARDS, STREET SIDE YARDS, AND REAR YARDS IN SINGLE-FAMILY RESIDENTIAL ZONES, AND AMENDING SECTION 10-3-3600 REGARDING MINOR ACCOMMODATIONS THAT MAY BE GRANTED  
**Attachments:** 1. Ordinance

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### RECOMMENDATION

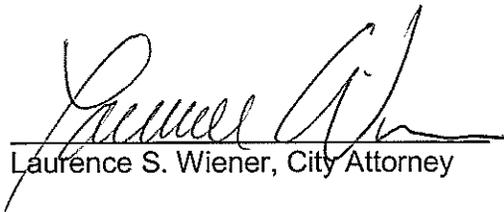
It is recommended that the proposed ordinance be adopted.

### INTRODUCTION

This ordinance amends the Zoning Code to allow encroachments of home elevators into single-family residential side and rear yard setbacks.

### DISCUSSION

At the City Council meeting of January 2, 2009, the City Council conducted a first reading of this ordinance.

  
Laurence S. Wiener, City Attorney

ORDINANCE NO. 09-O-\_\_\_\_\_

ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING SECTIONS 10-3-2409, 10-3-2509, AND 10-3-2610  
OF THE BEVERLY HILLS MUNICIPAL CODE REGARDING  
PERMISSIBLE ENCROACHMENTS INTO SIDE YARDS,  
STREET SIDE YARDS, AND REAR YARDS IN SINGLE-  
FAMILY RESIDENTIAL ZONES, AND AMENDING SECTION  
10-3-3600 REGARDING MINOR ACCOMMODATIONS THAT  
MAY BE GRANTED

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY  
ORDAINS AS FOLLOWS:

Section 1. It has come to the attention of the City that in various households there is a need to provide assisted vertical accessibility in single-family homes. Occasionally this need comes in conflict with the setback standards in single-family residential areas. This ordinance accommodates this need by allowing elevator and elevator enclosures to encroach into required side yards, street side yards, and rear yards of existing residences. It is the goal and objective of this ordinance to preserve the quality of life of the community's residents by providing greater flexibility for adding elevators to existing single-family residences, thus providing aging and other residents with the opportunity to enhance accessibility and continue residing in their homes while balancing these accessibility needs with neighbors' interests with respect to light, air, tranquility, and privacy.

Section 2. The Planning Commission considered the zone text amendment set forth in this Ordinance at a duly-noticed public hearing on December 11, 2008. Evidence, both written and oral was presented during the hearing. After considering the evidence, discussing the ordinance, and providing direction to staff regarding revisions to same, the Planning Commission recommended that the City Council adopt an Ordinance substantially similar to this Ordinance.

Section 3. The City Council considered this Ordinance at a duly noticed public hearing on January 6, 2009. Evidence, both written and oral, was presented during the hearing.

Section 4. This Ordinance institutes minor alterations in land use limitations which do not result in changes in land use or density. It would only allow minor encroachments into side and rear yards. This Ordinance therefore qualifies as a Class 5 exemption pursuant to Section 15305 of Title 14 of the California Code of Regulations and is thus exempt from further environmental review requirements of the California Environmental Quality Act.

Section 5. City Council hereby adds a new Paragraph K to Section 10-3-2409 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Central Area of Beverly Hills to read as follows:

- "K. Elevators and elevator enclosures, provided the following criteria are met:
1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
  2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7'), except that for lots located north of Santa Monica Boulevard a minor accommodation permit may be issued to allow a greater length. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment will not have an adverse impact on:

- (1) The scale and massing of the streetscape,
  - (2) Neighbors' access to light and air,
  - (3) Neighbors' privacy, and
  - (4) The garden quality of the City.
3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13'), except pursuant to a minor accommodation permit issued pursuant to Paragraph K.2.;
4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
  - a. Thirty inches (30"), or
  - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment will not have an adverse impact on:

- (1) The scale and massing of the streetscape,
- (2) Neighbors' access to light and air,
- (3) Neighbors' privacy, and
- (4) The garden quality of the City."

Section 6. City Council hereby adds a new Paragraph K to Section 10-3-2509 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding permissible encroachments in side yards, street side yards, and rear yards in the Hillside Area of Beverly Hills to read as follows:

"K. Elevators and elevator enclosures, provided the following criteria are met:

1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7'), except that a minor accommodation permit may be issued to allow a greater length. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment will not have an adverse impact on:
  - (1) The scale and massing of the streetscape,
  - (2) Neighbors' access to light and air,
  - (3) Neighbors' privacy, and
  - (4) The garden quality of the City.

3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13'), except pursuant to a minor accommodation permit issued pursuant to Paragraph K.2.;
4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
  - a. Thirty inches (30"), or
  - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment will not have an adverse impact on:
    - (1) The scale and massing of the streetscape,
    - (2) Neighbors' access to light and air,
    - (3) Neighbors' privacy, and
    - (4) The garden quality of the City."

Section 7. City Council hereby adds a new Paragraph K to Section 10-3-2610 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code immediately following paragraph J, and preceding the concluding paragraph of Section 10-3-2610 which shall remain in place with no amendment. The new Paragraph K relates to permissible encroachments in side yards, street side yards, and rear yards in the Trousdale Area of Beverly Hills, and shall read as follows:

"K. Elevators and elevator enclosures, provided the following criteria are met:

1. The subject residence is not a newly-constructed building. "Newly-constructed building" shall mean a building that has been constructed within the past five (5) years or remodeled more than fifty percent (50%) during the past five (5) years as described in Section 10-3-4100 of this Chapter.
2. The length of the encroachment measured parallel to the property line does not exceed seven feet (7'), except that a minor accommodation permit may be issued for a greater length. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment will not have an adverse impact on:
  - (1) The scale and massing of the streetscape,
  - (2) Neighbors' access to light and air,
  - (3) Neighbors' privacy, and
  - (4) The garden quality of the City.
3. The aggregate length of the encroachment of the elevator and elevator enclosure together with a fireplace encroaching into the same setback, pursuant to Paragraph E above, does not exceed thirteen feet (13'), except

pursuant to a minor accommodation permit issued pursuant to Paragraph K.2.;

4. The encroachment is not closer than three feet (3') from the front of the building;
5. The elevator and elevator enclosure does not have any windows;
6. Noise generated by the elevator complies with City noise regulations set forth in Article 2 of Chapter 1 of Title 5 of this Municipal Code;
7. The elevator and enclosure is designed to be compatible with the existing residence in color, material and design.
8. The encroachment into the setback does not exceed the following, provided that a minimum setback of three feet (3') shall be maintained in all cases:
  - a. Thirty inches (30"), or
  - b. Sixty inches (60") if a minor accommodation permit pursuant to Article 36 of this chapter is issued. In order to approve the minor accommodation permit, the reviewing authority must find that the encroachment will not have an adverse impact on:
    - (1) The scale and massing of the streetscape,
    - (2) Neighbors' access to light and air,
    - (3) Neighbors' privacy, and
    - (4) The garden quality of the City.”

Section 8. City Council hereby adds Paragraph T to Section 10-3-3600 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code regarding minor accommodations that may be granted to read as follows:

"T. Subsections 10-3-2409K, 10-3-2509K, and 10-3-2610K regarding elevator encroachments into a side or rear setback in R-1 zones."

Section 9. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be remain in full force and effect.

Section 10. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 11. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31<sup>st</sup>) day after its passage.

Adopted:  
Effective:

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BARRY BRUCKER  
Mayor of the City of Beverly Hills,  
California

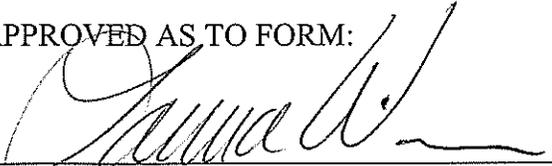
[Signatures continue]

ATTEST:

\_\_\_\_\_(SEAL)

BYRON POPE  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
RODERICK J. WOOD, CCM  
City Manager



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ANNE BROWNING MACINTOSH, AICP  
Interim Director of Community  
Development