



## AGENDA REPORT

**Meeting Date:** July 16, 2013  
**Item Number:** F-5  
**To:** Honorable Mayor & City Council  
**From:** City Attorney  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTION 10-3-3107 OF THE MUNICIPAL CODE REGARDING DEVELOPMENT STANDARDS FOR ROOFTOP USES  
**Attachments:** 1. Ordinance

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### RECOMMENDATION

Staff recommends that the City Council waive full reading and adopt the ordinance entitled, "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTION 10-3-3107 OF THE MUNICIPAL CODE REGARDING DEVELOPMENT STANDARDS FOR ROOFTOP USES".

### INTRODUCTION

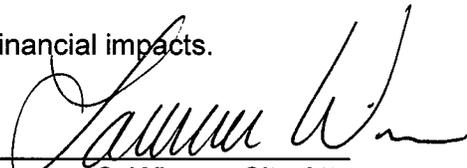
This ordinance will allow certain unoccupied rooftop architectural features on commercial buildings with a Development Plan Review by the Planning Commission.

### DISCUSSION

At its meeting of July 2, 2013, the City Council introduced this ordinance.

### FISCAL IMPACT

The proposed Zone Text Amendment will result in no financial impacts.

  
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Laurence S. Wiener, City Attorney

# **Attachment 1**

ORDINANCE NO. 13-O-

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING SECTION 10-3-3107 OF THE MUNICIPAL CODE  
REGARDING DEVELOPMENT STANDARDS FOR ROOFTOP  
USES.

WHEREAS, on March 14, 2013 the Planning Commission conducted a duly noticed public hearing to consider a proposed amendment to the development standards for rooftop uses approved pursuant to a Development Plan Review as set forth in the Beverly Hills Municipal Code and recommended that the City Council approve the proposed amendment.

WHEREAS, on July 2, 2013, the City Council conducted a duly noticed public hearing to consider proposed amendments to the development standards for rooftop uses approved pursuant to a Development Plan Review and introduced the Ordinance.

WHEREAS, the City Council hereby finds and concludes that the Amendment has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines (hereafter the "Guidelines"), and that the project is exempt from CEQA pursuant to the Class 5 Categorical Exemption (Section 15305 of the Guidelines) which exempts minor alterations in land use limitations from CEQA's requirements. The Class 5 exemption is applicable because the ordinance would not result in any changes in land use, density, or building height. Further, any approval of a Development Plan Review for rooftop uses is subject to discretionary review and analysis on a case-by-case basis by the Planning Commission.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF BEVERLY HILLS  
DOES ORDAIN AS FOLLOWS:

Section 1. Subsection A of Section 10-3-3107 (Rooftop Uses) of Article 31 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is amended to read as follows with all other portions of Section 10-3-3107 remaining in effect without amendment:

“10-3-3107: ROOFTOP USES:

A. Notwithstanding any provisions to the contrary contained in this title, the planning commission may permit, pursuant to the development plan review procedure contained in this article and subject to the restrictions set forth in this subsection, development in the C-3, C-R, C-3A, and C-3B zones to exceed height, story and density limitations otherwise applicable to the development in order to permit the establishment of rooftop (i) gymnasiums, (ii) lunchrooms and structures or uses ancillary to such lunchrooms, and (iii) unenclosed architectural features that are not otherwise excluded from the definition of “height of building” in section 10-3-100 of this chapter, provided that as to any such rooftop structures or uses:

1. The planning commission makes the findings set forth in section 10-3-3104 of this chapter regarding the rooftop use.
2. The additional height above the maximum height limit otherwise applicable to the development will not exceed fifteen feet (15').

Furthermore, in no event shall the distance between the floor and ceiling of the gymnasium or lunchroom and structures or uses ancillary to such lunchroom exceed fifteen feet (15').

3. The total floor area of the development shall not exceed the maximum allowable floor area otherwise applicable to the development by more than three thousand five hundred (3,500) square feet or fifty percent (50%) of the total area of the story immediately below the rooftop use, whichever is less.
4. No food service, other than vending machines, shall be provided in connection with the rooftop use.
5. The subject structure provides not less than the minimum number of parking spaces required by this section as of the date when building permits for the structure were issued. In addition, two (2) parking spaces shall be provided for any rooftop gymnasium.
6. Unless authorized by the Planning Commission as part of the Development Plan Review, only persons who work in the building or are registered hotel guests will be permitted to use the rooftop facilities.
7. No admittance or use fees shall be charged for the use of the rooftop facilities.
8. The additional structure permitted pursuant to this article shall be set back from the property line or from the required setback line immediately

adjacent thereto, whichever is the more restrictive, so that a forty five degree (45°) angle to such line is not intersected.

9. Notwithstanding the provisions of subsection A8 of this section, unenclosed architectural features approved pursuant to this section may intersect a forty five degree (45°) angle to the vertical plane of the nearest outside wall if the Planning Commission finds that such features are architecturally compatible with the building and will not adversely impact the building's scale and massing. In addition, any other additional structure approved pursuant to this section may intersect a forty five degree (45°) angle to the vertical plane of the nearest outside wall provided that the exterior wall of the additional structure permitted is constructed in the same plane as the exterior wall of the floor below and the additional structure will not exceed the applicable maximum allowable height otherwise permitted by more than forty five inches (45").
10. Notwithstanding the provisions in the definition of "height of building" in section 10-3-100 of this chapter permitting certain elements to be located above maximum height limits, only those elements required by law to project above the roof deck shall be permitted to exceed the fifteen foot (15') height limit of the structure enclosing the rooftop use permitted hereby.

Section 2. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 3. 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 4. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

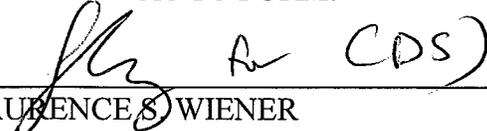
Adopted:  
Effective:

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JOHN A. MIRISCH  
Mayor of the City of Beverly Hills,  
California

ATTEST:

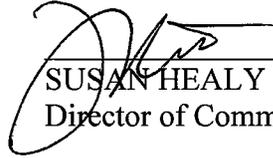
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BYRON POPE (SEAL)  
City Clerk

APPROVED AS TO FORM:

  
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LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager

  
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SUSAN HEALY KEENE  
Director of Community Development