



## AGENDA REPORT

**Meeting Date:** February 16, 2016  
**Item Number:** E-6  
**To:** Honorable Mayor & City Council  
**From:** David M. Snow, Interim City Attorney  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING BEVERLY HILLS MUNICIPAL CODE SECTIONS  
10-3-2804(B) AND 10-3-2850 REGARDING THE HEIGHT LIMITS  
FOR ADDITIONS TO LEGALLY NONCONFORMING  
BUILDINGS IN MULTIPLE-FAMILY RESIDENTIAL ZONES

**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

It is recommended that the City Council move to waive the full reading and adopt the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING BEVERLY HILLS MUNICIPAL CODE SECTIONS 10-3-2804(B) AND 10-3-2850 REGARDING THE HEIGHT LIMITS FOR ADDITIONS TO LEGALLY NONCONFORMING BUILDINGS IN MULTIPLE-FAMILY RESIDENTIAL ZONES".

### **INTRODUCTION**

At its meeting of February 2, 2016, the City Council conducted a first reading of this ordinance and introduced it.

### **DISCUSSION**

This is an applicant-initiated ordinance that would amend the Municipal Code to allow additions to multi-family buildings with legally nonconforming heights to match the existing heights of those buildings through the issuance of an R-4 Permit.

### **FISCAL IMPACT**

The recommendation in this report does not have significant budget or fiscal impacts for the City.

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David M. Snow, Interim City Attorney

# **Attachment 1**

ORDINANCE NO. 16-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING BEVERLY HILLS MUNICIPAL CODE  
SECTIONS 10-3-2804(B) AND 10-3-2850 REGARDING THE  
HEIGHT LIMITS FOR ADDITIONS TO LEGALLY  
NONCONFORMING BUILDINGS IN MULTIPLE-FAMILY  
RESIDENTIAL ZONES

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

**Section 1.** On December 10, 2015, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. 1762, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to allow the Planning Commission to issue an R-4 Permit that would allow an extension of a legally nonconforming height on a multiple-family residential development (collectively, the “Amendments”). On February 2, 2016, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

**Section 2.** This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations. The City Council finds that a Class 5 exemption is applicable to the amendment because the amendment results in minor changes in land use limitations pertaining to building height limitations in areas with an average slope of less than 20%, which do not result in any changes to land use or density. In addition, the Planning Commission adopted a Class 1 Categorical

Exemption for the multi-family residential project associated with the amendment. Thus, the amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15305.

**Section 3.** The Amendments are consistent with the objectives, principles, and standards of the General Plan. Specifically, the Amendments are consistent with or advance the following General Plan Policies: LU 2.1 City Places: Neighborhoods, Districts, and Corridors. Maintain and enhance the character, distribution, built form, scale, and aesthetic qualities of the City’s distinctive residential neighborhoods, business districts, corridors, and open spaces; Policy LU 2.4 Architectural and Site Design. Require that new construction and renovation of existing buildings and properties exhibit a high level of excellence in site planning, architectural design, building materials, use of sustainable design and construction practices, landscaping, and amenities that contribute to the City’s distinctive image and complement existing development; Policy LU 5.1 Neighborhood Conservation. Maintain the uses, densities, character, amenities, and quality of the City’s residential neighborhoods, recognizing their contribution to the City’s identity, economic value, and quality of life; Policy LU 5.2 Infill and Replacement Housing. Accommodate new and renovated housing within existing neighborhoods that is consistent with contextual parcel sizes, densities, built form and scale.

**Section 4.** The City Council hereby amends Section 10-3-2804 of Article 28 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in 10-3-2804 remaining in effect without amendment:

“No building or structure located on a site that is less than or equal to sixty feet (60’) in width shall exceed three (3) stories or thirty three feet (33’) in height.

In addition, no building or structure shall exceed the relevant height limitation imposed by districts A through C as identified on the height district maps adopted by the city

council and on file in the office of the city clerk and in the department of planning and community development.

A. Height Limits of Districts: The following height limitation districts are hereby established in the multiple-family residential zones of the city:

1. Height district A: Structures shall not exceed three (3) stories nor thirty three feet (33') in height.
2. Height district B: Structures shall not exceed four (4) stories nor forty five feet (45') in height.
3. Height district C: Structures shall not exceed five (5) stories nor fifty five feet (55') in height.

B. Exceptions

1. Rooftop Bathrooms: A maximum of two (2) rooftop bathrooms associated with rooftop swimming pools or spas may exceed the height limit of a building in an R-3, R-4, R-4X1, or R-4X2 zone, provided that:

- a. The maximum total area of all rooftop bathrooms does not exceed two hundred (200) square feet;
- b. Such structures do not exceed ten feet (10') in height as measured from the adjacent roof deck;
- c. Such structures do not exceed thirty three percent (33%) of the roof area upon which they are located;
- d. Such structures do not exceed or intersect a line projecting from the perimeter of the roof upward at an angle of forty five degrees (45°) from the horizontal;
- e. Pursuant to the provisions of article 28.5 of this chapter, the reviewing authority issues an R-4 permit upon a finding that the subject structures will not adversely affect the privacy of neighboring properties or access of neighboring properties to light, nor will the subject structures significantly increase noise to adjacent properties.

2. Additions to Buildings with Legally Nonconforming Height: If a legally constructed building located adjacent to the business triangle in an R-4 zone does not conform to the height restrictions set forth in this section, additions to

existing dwelling units on the nonconforming story of such building may exceed the height restrictions set forth in this Article provided that:

- a. The additions do not exceed the maximum existing height of the legally nonconforming building as defined in Article 1 of this Chapter;
- b. The additions do not cause the nonconforming story of the building to occupy more than 40% of the floor area of the floor immediately below it;
- c. The additions are compatible with the building design, the nearby streetscape, and surrounding development. To ensure compliance with this requirement, any additions proposed pursuant to this section shall be subject to the provisions of Article 30 of this chapter concerning architectural review;
- d. The additions do not result in the creation of any new bedrooms;
- e. The additions are not located in the rear 33% of the existing building footprint if the building is located on a property where the rear property line is adjacent to a residential zone; and
- f. Pursuant to the provisions of Article 28.5 of this Chapter, the reviewing authority issues an R-4 permit upon finding that the additions will not adversely affect the privacy of neighboring properties, access of neighboring properties to light and air, or the integrity of the streetscape.
- g. A public benefit is offered to the City that offsets any long-term impacts to the affordability of the City's housing inventory that result from the additions.

For the purposes of this exception, the 'business triangle' shall be defined as the area bounded by the centerline of Wilshire Boulevard, the centerline of Santa Monica Boulevard, south roadway, and the centerline of North Crescent Drive."

**Section 5.** The City Council hereby amends Section 10-3-2850 of Article 28.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add a new Subsection J. as follows with all other provisions in 10-3-2850 remaining in effect without amendment:

"J. Section 10-3-2804 regarding extension of legally nonconforming height."

**Section 6.**     Severability. 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 and remain in full force and effect.

**Section 7.**     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 8.**     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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JULIAN A. GOLD, M.D.  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

*Debrah Halman for CL*

DAVID SNOW  
Interim City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI  
City Manager

*Susan Healy Keene for*  
SUSAN HEALY KEENE  
Director of Community Development