



# LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

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## \*CORRECTED\* LETTER OF DETERMINATION

MAILING DATE: MAY 19 2019

Case No. CPC-2016-4345-CA

CEQA: ENV-2016-4346-CE

Plan Area: All

Council District: All

Project Site: Citywide

Applicant: City of Los Angeles

At its meeting of **November 29, 2018**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following:


\*An ordinance amending Sections 12.03, 12.22 and 12.33 and repealing portions of Section 12.24 of Chapter 1 of the Los Angeles Municipal Code (LAMC) for the purpose of regulating Accessory Dwelling Units in accordance with State law.

1. **Recommended** that the City Council **determine**, based on the whole of the administrative record, that the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code 21080.17 and CEQA Guidelines Sections 15061(b)(3), 15301, 15302 and 15303, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Approved and recommended** that the City Council **adopt**, pursuant to Section 12.32 of the Los Angeles Municipal Code, the proposed ordinance, provided the City Attorney reviews the ordinance for form and legality;
3. **Adopted** the staff report as the Commission's report on the subject; and
4. **Adopted** the attached findings.

The vote proceeded as follows:

Moved: Dake Wilson  
Second: Khorsand  
Ayes: Mack, Mitchell, Millman, Perlman, Padilla-Campos  
Absent: Ambroz, Choe

**Vote: 7 - 0**

  
\_\_\_\_\_  
James K. Williams  
Commission Executive Assistant II

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

**Effective Date/Appeals:** The decision of the City Planning Commission is not appealable.

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable and the decision is final.**

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Ordinance, Findings

c: Arthi L. Varma, Principal City Planner  
Matthew Glesne, City Planner  
Cally Hardy, City Planning Associate

ORDINANCE NO. \_\_\_\_\_

An ordinance amending Sections 12.03, 12.22 and 12.33 and repealing portions of Section 12.24 of Chapter 1 of the Los Angeles Municipal Code (LAMC) for the purpose of regulating Accessory Dwelling Units in accordance with State law.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

**Sec. 1.** Section 12.03 of the Los Angeles Municipal Code is amended by adding definitions in proper alphabetical order to read:

**ACCESSORY DWELLING UNIT (ADU).** An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ADUs include efficiency units, as defined in Section 17958.1 of the Health and Safety Code, and manufactured homes, as defined in Section 18007 of the Health and Safety Code and Movable Tiny Houses.

**MOVABLE TINY HOUSE.** A structure intended for the separate, independent living quarters of one household for year-round residence that meets all of the following:

- (a) Is licensed and registered with the California Department of Motor Vehicles;
- (b) Meets the American National Standards Institute (ANSI) 119.5 requirements, and certified by a qualified third party inspector for ANSI compliance;
- (c) Cannot move under its own power;
- (d) Is no larger than allowed by California State Law for movement on public highways;  
and
- (e) Has not less than 150 and no more than 430 square feet of habitable living space, including bathrooms and fixed counters.

**Sec. 2.** Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended by adding a new Subdivision 32 to read:

**32. Accessory Dwelling Units (ADU).**

**(a) Purpose.** The purpose of this Subdivision is to provide for the creation of ADUs in a manner consistent with California Government Code Sections 65852.2, as amended from time to time.

**(b) General Provisions.** An ADU shall be approved if in compliance with all of the following provisions:

- (1) All applicable objective provisions required pursuant to Chapter 1 of this Code, including such provisions stated in the underlying applicable zoning and height

district, Specific Plan, Historic Preservation Overlay Zone, Community Planning Implementation Overlay and other applicable zoning ordinances, policies or other documents established pursuant to Chapter 1, Article 3 of this Code. In instances where there is conflict, this section shall govern. An ADU that complies with this subdivision shall not require a discretionary planning approval. The project shall be reviewed in a ministerial and administrative manner limited in scope only considering the project's compliance with the applicable objective standards.

- (2) Except where otherwise prohibited by this section, an ADU is permitted in all zones where residential uses are permitted by right.
- (3) Except for conversions meeting the requirements of subdivision (e), below, no ADU is permitted on any lot located in a Hillside Construction Regulation (HCR) Supplemental Use District per Section 13.20 of this Code.
- (4) Only one ADU is permitted per lot.
- (5) An ADU is permitted only on a lot that contains an existing single-family dwelling unit or where a new single-family dwelling unit is proposed.
- (6) In multiple family zones, an ADU will be counted towards the overall number of dwelling units as permitted by the zone.
- (7) ADUs may be rented but shall not be sold separate from the existing or proposed single-family dwelling unit on the same lot. Movable Tiny Houses may be sold when removed from the lot.
- (8) No passageway for the ADU, nor space between buildings, as per LAMC 12.21.C.2, is required in conjunction with the construction of an ADU. Building Code separation requirements still apply.
- (9) No additional setbacks shall be required for a lawfully existing garage or lawfully existing space above or abutting a garage, converted to an ADU or portion of an ADU.
- (10) For newly constructed ADUs attached to or located above any lawfully existing garage, setbacks from the side and rear lot lines shall be the lesser of such setbacks as required by the Zoning Code, or five feet.
- (11) ADUs, except for Movable Tiny Houses, are required to follow the same Building Code and Residential Code requirements as the existing or proposed single-family dwelling unit.
- (12) ADUs are not required to provide fire sprinklers if they are not required for the existing single-family dwelling unit.
- (13) Parking Requirements:
  - (i) One parking space is required per ADU, except that no parking is required for an ADU:
    - a. Located within one-half mile of a public transportation stop along a prescribed route according to a fixed schedule; or
    - b. Located within one block of a car share parking spot; or
    - c. Located in an architecturally and historically significant district listed in or formally determined eligible for listing in the National Register of

- Historic Places or California Register of Historical Resources or located in any City Historic Preservation Overlay Zone; or
- d. Which is part of the proposed or existing primary residence or an existing accessory structure.
- (ii) Parking is allowed in setback areas, except in required front yards when parking must be located on an existing driveway. Parking may be provided through tandem parking where two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another. Driveway access areas located in the required front yard shall not be expanded to provide required parking. Other objective parking and driveway standards in the LAMC apply, including those found in 12.21 A.5 and 12.21 G.
  - (iii) When a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, any lost off street parking spaces shall be replaced. Replacement parking spaces may be located in any configuration on the same parcel as the ADU, including but not limited to covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts.
  - (iv) Section 12.21 A.6(d) of this Code shall not apply to parking required for an ADU, or to replacement parking spaces provided pursuant to Sub-subparagraph (iii).

**(c) Detached Accessory Dwelling Unit Requirements.** Detached ADUs must comply with the Section 12.21 C.5 where applicable, and all provisions in paragraph (b), and all of the following:

- (1) Detached ADUs are allowed up to a maximum of 1,200 square feet.
- (2) Detached ADUs shall not be greater than two stories.
- (3) Limits on total Floor Area (including Residential Floor Area) on a lot apply separately and may further limit allowable Detached ADU square footage.
- (4) Detached ADUs shall not be located between the proposed or existing single-family dwelling unit and the street adjoining the front yard, except in the following cases:
  - (i) Where the building is on a Through Lot and complies with LAMC 12.22 C.19 and 12.21 C.5(k); or
  - (ii) Where the ADU is being added to a lawfully existing garage or accessory structure building.
- (5) In parcels where equine keeping is allowed, as well as parcels abutting or adjacent to such parcels, in addition to existing separation requirements in the LAMC, all of the following provisions apply:
  - (i) No part of the ADU shall be located at a distance measured from the rear lot line that is less than the distance measured between the closest part of the ADU to the rear wall of the existing or proposed single-family dwelling unit;

- (ii) No part of the ADU shall be more than 50 feet from the furthest point on the rear wall of the existing single-family dwelling unit; and
- (iii) For lots greater than 60 feet in width, side yard setbacks shall be at least 10 feet.

**(d) Attached Accessory Dwelling Unit Requirements.** Attached ADUs can be either attached to or completely contained within an existing or proposed single-family dwelling unit and must comply with all provisions in paragraph (b) and all of the following:

- (1) Attached ADUs may not result in an increase in total floor area exceeding 50% of existing or proposed living area of the primary structure up to a maximum of 1,200 square feet. For this purpose, living area means interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
- (2) Limits on total Floor Area (including Residential Floor Area) on a lot apply separately and may further limit allowable Attached ADU square footage.
- (3) Attached ADUs must comply with the Section 12.21 C.5 where applicable.

**(e) Conversions of Lawfully Pre-Existing Space** Notwithstanding any of the above provisions of this subdivision to the contrary, one ADU per property will be approved if the unit complies with all of the following:

- (1) The ADU is fully contained within a lawfully existing single-family residence or a lawfully existing accessory structure. ADUs not meeting this criteria may still be eligible as an attached or detached ADU.
- (2) The ADU has independent exterior access from the existing residence, is located on a parcel zoned for one-family dwellings and the side and rear setbacks are sufficient for fire safety.
- (3) The ADU complies with or is upgraded to meet all applicable Building and Residential Codes for the proposed use.
- (4) The ADU does not involve any addition or expansion of new floor area to the structure. Existing floor space for any previously occupied use, which as a result of the conversion becomes new Residential Floor Area, is exempt from the Residential Floor Area requirements provided the pre-existing space is solely located within lawfully existing walls.

**(f) Requirements for Movable Tiny Houses as Accessory Dwelling Units.** Movable Tiny Houses must comply with all requirements for Detached ADUs and all of the following provisions:

- (1) Only one Movable Tiny House is allowed to be located on a parcel and no parcel may be approved for more than one moveable tiny house in a twelve month period.
- (2) Movable Tiny Houses shall be located behind the primary dwelling unit and shall not be located in any required front yard.

- (3) When sited on a parcel, the undercarriage (wheels, axles, tongue and hitch) shall be hidden from view.
- (4) If the wheels are removed so the unit may sit on a foundation, the foundation requirements for a Movable Tiny House shall follow the State approved requirements for foundation systems for manufactured housing. If the wheels are not removed, the wheels and leveling or support jacks must sit on a paving surface compliant with LAMC 12.21 A.6(c), and the wheels and undercarriage must be hidden.
- (5) Mechanical equipment shall be incorporated into the structure and not located on the roof.
- (6) Movable Tiny Houses shall be connected to water, sewer and electric utilities.
- (7) Moveable Tiny Houses are not required to have separate street addresses from the primary unit.
- (8) Movable Tiny Houses are not required to have sprinklers, but shall follow the ANSI 119.5 standards relating to health, fire and life-safety.
- (9) Movable Tiny Houses shall have the following design elements:
  - (i) Cladding and Trim - Materials used on the exterior of a moveable tiny house shall exclude single piece composite, laminates, or interlocked metal sheathing;
  - (ii) Windows - Windows shall be at least double pane glass and labelled for building use, shall include exterior trim, and excludes windows and doors that have radius corners for windows and doors;
  - (iii) Roofing - Roofs shall have a minimum of a 12:2 pitch for greater than 50% of the roof area, and shall be in compliance with building code roofing material; and
  - (iv) Living Area Extensions – all exterior walls and roof of a moveable tiny houses used as ADUs shall be fixed with no slide-outs, tip-outs, nor other forms of mechanically articulating room area extensions.

**(g) Dwelling Units Built Behind a Converted ADU.** A dwelling unit constructed between a legally established ADU that was created as a result of a conversion of an entire main home and the rear lot line shall not exceed 1,200 square feet.

**(h) Zoning Administrator Authority.** It is the intent of the City to retain all portions of this Subdivision regarding ADUs not in conflict with state law. The Zoning Administrator shall have authority to clarify, amend or revoke any provision of this Subdivision as may be necessary to comply with any future amendment to state law regarding ADUs.

**Sec. 3.** Subdivisions 43 and 44 of Subsection W of Section 12.24 of the Los Angeles Municipal Code are hereby repealed.

**Sec. 4.** Section 12.33 C.3(e) of the Los Angeles Municipal Code is amended to read:

**SEC. 12.33. PARK FEES AND LAND DEDICATION**

**C. Subject Properties.** All new residential dwelling units and joint living and work quarters shall be required to dedicate land, pay a fee or provide a combination of land dedication and fee payment for the purpose of acquiring, expanding and improving park and recreational facilities for new residents. For the purposes of this Section, dwelling units, ~~second dwelling units in a single family zone,~~ Accessory Dwelling Units, and joint living and work quarters shall be referred to as "dwelling units" or "residential dwelling units".

3. **Exemptions.** The following types of development shall not be required to pay a park fee:

- (e) ~~Second dwelling units in single family zones.~~ Accessory Dwelling Units.

**Sec. 5. SEVERABILITY.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.



# FINDINGS

## I. GENERAL PLAN/CHARTER FINDINGS

### City Charter Section 556

In accordance with Charter Section 556, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan in that it would further accomplish the following goals, objectives and policies of the General Plan outlined below.

#### General Plan Framework Element

The proposed ordinance will meet the intent and purposes of the General Plan Framework Element to encourage the creation of housing opportunities for households of all types and income levels, while at the same time preserving the existing residential neighborhood stability of single-family zoned neighborhoods and promoting livable neighborhoods. Accessory Dwelling Units, as a housing typology, furthers those goals as they increase capacity and availability of housing without significantly changing neighborhood character. In particular, the ordinance would further the intent and purpose of the Framework Element of the following relevant Goals and Objectives:

*Goal 3B - Preservation of the City's stable single-family residential neighborhoods.*

*Objective 3.5 - Ensure that the character and scale of stable single-family residential neighborhoods is maintained, allowing for infill development provided that it is compatible with and maintains the scale and character of existing development.*

The proposed ordinance is in substantial conformance with the intent to preserve the City's stable single-family neighborhoods as it would result in relatively minor alterations to a small fraction of single-family properties each year and those alterations would be compatible with existing regulations governing accessory buildings. In other words, the ordinance would not allow an accessory building to be built that was not already allowed in the same location with the same size and scale. The use inside the building may be different, but the scale and architectural character will not be altered.

The standards set forth in the proposed ordinance require that the lot be zoned for residential use and contain an existing or proposed single-family dwelling. No more than one ADU would be permitted per lot. Furthermore, the ordinance would require that any detached ADU or ADU addition to existing space be limited in size and not be located between the front of the primary residence and the street. Therefore, these units would either be built behind the main home, or attached to the rear of the existing or proposed home. In either case, the ADUs are unlikely to be significantly different in character from existing or proposed typical rear yard structures such as garages or carriage houses. They are also unlikely, in the majority of circumstances, to be significantly visible from the public way. In addition, the proposed ordinance would require that the increased floor area of an attached second unit not exceed fifty percent of the existing or proposed floor area, up to a maximum of 1,200 square feet. This limitation helps differentiate an attached ADU from a traditional duplex where the two units are of similar size, which is not permitted in single-family zones. Any new ADU must further comply with City's objective zoning

requirements relating to height, setback, lot coverage, floor area, architectural review, and other applicable zoning requirements. Additional standards to protect the unique character of areas that allow for equine (horse) keeping have also been included. In total, these standards ensure that the character and scale of stable single-family residential neighborhoods is maintained and offer significant protections against out-of-scale new development in single-family neighborhoods.

The State Legislature has determined it is appropriate to provide for accessory dwelling units within single-family and multifamily zoned areas absent specific adverse impacts on the public health, safety, and welfare that could result from allowing accessory units within single-family and multifamily zoned areas (Gov. Code §65852.2(c)). The City's Housing Element also provides for second units within single-family and multifamily zoned areas, as a matter of citywide policy. The proposed ordinance will increase housing production and capacity in single-family and multifamily neighborhoods on lots designed to accommodate more than one independent residence within the existing home or as a separate structure, as part of the City's overall goal to increase housing production and capacity in the City overall to accommodate the existing and expected increases in population.

*Goal 4A - An equitable distribution of housing opportunities by type and cost accessible to all residents of the City.*

The ordinance would also further a more equitable distribution of housing opportunities as it would permit a greater diversity of dwelling units in areas of the City that would otherwise receive little additional housing. This creates additional opportunities for homeowners to purchase and stay in their homes, as well as for renters to live in areas they might otherwise be excluded from. ADUs are generally smaller than the primary home on the property, adding to the diversity and type of housing available in the City. The ordinance would facilitate the construction and preservation of a range of different housing types that address the particular needs of the city's households, including the elderly, disabled family members, in-home health care providers, and young adults. The proposed ordinance thereby expands rental and homeownership accessibility in single-family and multifamily neighborhoods for all residents of the City.

*Objective 4.4 - Reduce regulatory and procedural barriers to increase housing production and capacity in appropriate locations.*

The ordinance would reduce the regulatory and procedural barriers to the operation and placement of accessory dwelling units by providing for implementation of the ministerial development standards in Government Code Section 65852.2(b)(1) in approving accessory dwelling units on a City wide basis. The ordinance clarifies regulations regarding accessory dwelling units by incorporating state law requirements into the City's zoning requirements. It would also expressly permit ADUs on multifamily lots and allow for a greater variety of ADUs to be built.

*Policy 6.1.2.c. - Coordinate City operations and development policies for the protection and conservation of open space resources, by preserving natural viewsheds, whenever possible, in hillside and coastal areas.*

The ordinance would restrict the construction of ADUs in targeted Hillside areas covered by the City's Baseline Hillside Ordinance (BHO), thereby contributing to the preservation of natural viewsheds in these areas.

### Housing Element

The ADU housing typology is specifically called out by the Housing Element as a way to facilitate the provision of additional rental housing types and help make homeownership more affordable. The Housing Element includes a specific Program (or implementation action) to alleviate barriers to increased construction of ADUs (Program 68 in the current 2014-2021 Housing Element). In addition, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan in that it would further accomplish the goals, objectives and policies of the Housing Element outlined below.

*Objective 1.4 - Reduce regulatory and procedural barriers to the production and preservation of housing at all income levels and needs.*

*Policy 1.4.1 - Streamline the land use entitlement, environmental review, and building permit processes, while maintaining incentives to create and preserve affordable housing.*

The proposed ordinance would streamline the land use entitlement, environmental review, and building permit processes for the operation and placement of accessory dwelling units as it: (1) expressly permits ADUs on multi-family lots; and (2) allows for a greater variety of ADUs to be built. The ordinance would also further a more equitable distribution of housing opportunities as it would permit a greater diversity of dwelling units in areas of the City that would otherwise receive little additional housing.

*Policy 1.2.2 - Encourage and incentivize the preservation of affordable housing, including non-subsidized affordable units, to ensure that demolitions and conversions do not result in the net loss of the City's stock of decent, safe, healthy or affordable housing.*

The proposed ordinance encourages and incentivizes the preservation of non-subsidized affordable units by making it more likely they are able to be legalized in the future and therefore will not have to be demolished.

*Objective 1.1 - Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.*

*Policy 1.1.1 - Expand affordable homeownership opportunities and support current homeowners in retaining their homeowner status.*

The proposed ordinance expands the potential for affordable homeownership opportunities and may support current homeowners as the supplemental rental income from an ADU may allow households to afford homeownership who otherwise may be unable.

*Policy 1.1.2 - Expand affordable rental housing for all income groups that need assistance.*

The proposed ordinance expands the creation of additional rental housing options by supporting the creation of additional ADU units, which adds to the overall rental housing supply, which has the potential to result in lower rents by increasing the overall vacancy rate in the City. The proposed ordinance further accomplishes this policy, in that ADUs may be more affordable to rent than other types of housing.

*Policy 1.1.3 - Facilitate new construction and preservation of a range of different housing types that address the particular needs of the city's households.*

The proposed ordinance facilitates the construction and preservation of a range of different housing types that address the particular needs of the city's households, including but not limited to the elderly, disabled family members, in-home health care providers, and young adults.

*Policy 1.1.6 - Facilitate innovative models that reduce the costs of housing production.*

By allowing for Accessory Dwelling Units and Movable Tiny Houses, the proposed ordinance also facilitates innovative housing types that could reduce the typical cost of new construction, because the cost of land does not have to be factored into the development costs.

Finally, the ordinance would support the intent and purposes of the Housing Element of the General Plan regarding ADUs in that it affirms that the City should follow, as a matter of policy, state law standards for approving second units (2013 Housing Element, pages 2-11 through 2-12).

#### **City Charter Section 558(b)(2)**

In accordance with Charter Section 558(b)(2), the adoption of the proposed ordinance would be in conformity with public necessity, convenience, general welfare and good zoning practice for the following reasons:

The proposed ordinance is in conformity with public necessity because it: (1) brings the City's regulations into compliance with state law; (2) brings the City's regulations into compliance with the Housing Element of the General Plan; and, (3) allows the continued processing of permit applications for ADUs.

The proposed ordinance is in conformity with public convenience and general welfare for the same reasons as stated above. The proposed ordinance is additionally in conformity with public convenience and general welfare because it provides a locally-tailored ADU policy that is in conformance with the intent of State law.

The proposed ordinance is in conformity with good zoning practice for reasons (1), (2) and (3) as stated above.

## II. STATE ACCESSORY DWELLING UNIT LAW FINDINGS

### Hillside Restriction

The proposed ordinance would restrict the new construction of ADUs in targeted Hillside Areas that are subject to the Hillside Construction Regulation Supplemental Use District (HCR SUD). Conversion of most existing structures to ADUs will still be permitted.

State law permits local jurisdictions, by ordinance, to designate areas within the jurisdiction of the local agency where accessory dwelling units may or may not be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the impact of accessory dwelling units on traffic flow and public safety.

Los Angeles is a unique city for the amount of mountain terrain and hillside areas located within its boundaries. Given their unique characteristics and development challenges, these areas have long had distinct zoning and land use policies, including the development regulations contained in the Baseline Hillside Ordinance (BHO) and the HCR SUD. City policies aim to preserve natural viewsheds, whenever possible, in hillside and coastal areas (General Plan Framework 6.1.2).

The City's current second unit ordinance in LAMC §12.24 W.43 precludes second unit development within defined Hillside Area boundaries. The proposed ordinance would continue this policy by providing that second units that add any new square footage not be allowed in Hillside areas covered by the HCR SUD. The HCR SUD applies to approximately 614 single-family lots (6.5% of the City's total single-family properties). State law requires that, regardless of regulations that apply broadly to ADUs, the conversion of existing space of a single-family residence or existing accessory structure to ADU shall be approved if two conditions are met (PCR 65852.2(e)).

Hillside areas are often characterized by larger amounts of natural vegetation and substandard streets. They are typically not located near public transit, services or jobs. Impacts of new construction can be multiplied in hillside neighborhoods, with pronounced impacts on water and sewer services, congestion, parking availability and roadway degradation. Based on the above, the impacts of additional development, in Hillside Areas, beyond what is already planned or allowed through existing zoning and vested property interests, needs to be carefully managed. ADUs, which do not require discretionary review and environmental analysis unless requiring a discretionary permit (like a haul route permit), present particular issues relating to the likelihood of close proximate hillside development projects that have the potential to create public safety impacts due to construction vehicles and machinery that park on and traverse often substandard hillside streets.

Hillside Areas correspond, in large part, with Very High Fire Hazard Severity Zones (VHFHSZ), which means there has been determined to be a significantly higher fire and natural disaster risk in those areas. Dry brush, which is prevalent in Southern California, is acutely prone to fires. Brush fires continue to be a major threat to life and property in VHFHSZ areas due to unique fuel, terrain, and climatic conditions. The hazard is especially great when dry "Santa Ana" winds arrive, usually in the fall and winter seasons, as evidenced by the recent 2017 wildfires referred to as the "Skirball Fire" in the Bel Air neighborhood of the City of Los Angeles and the "Creek Fire" in the Sylmar neighborhood of the City of Los Angeles. The "Skirball Fire" affected approximately 422

acres in the Bel Air neighborhood, destroying six structures and damaging twelve structures.<sup>1</sup> The “Creek Fire” affected the area four miles east of Sylmar in the San Gabriel Mountains, burning 15,619 acres, destroying 123 structures, and damaging 81 structures.<sup>2</sup>

The HCR SUD applies to some of the City’s most sensitive Hillside Area neighborhoods. It was established in order to provide a more context-sensitive set of development regulations for Hillside Area neighborhoods that were experiencing particularly acute construction-related impacts of hillside development. The HCR SUD places further restrictions on home size, maximum grading allowances, and hauling operations standards and conditions in order to lessen the impact of construction of large-scale and small-scale hillside developments on narrow, substandard streets and windy, hillside standard streets.

The HCR SUD was applied in these areas to address impacts to communities experiencing frequent construction activity. The HCR SUD is intended to provide further regulation to address portions of the Hillside Area that are experiencing the highest intensity of development. The development of ADUs poses particular public safety and quality of life concerns in hillside neighborhoods such as these, particularly related to intensity of development, provision of parking, roadway access and emergency response.

For these reasons the draft ordinance places a restriction on ADUs in targeted Hillside Areas that are subject to the Hillside Construction Regulation Supplemental Use District (HCR SUD).

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<sup>1</sup>Los Angeles Fire Department, *Skirball Fire Update*, <http://www.lafd.org/news/skirball-fire-update>, accessed February 22, 2018.

<sup>2</sup> National Wildfire Coordinating Group, InciWeb Incident Information System, *Creek Fire*, <https://inciweb.nwcg.gov/incident/5669/>, accessed February 22, 2018.

### III. CEQA FINDINGS

#### **Statutory Exemption – PRC Section 21080.17**

Pursuant to Section 21080.17 of the California Public Resources Code, the adoption of the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA).

Under PRC Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (the state ADU law). The proposed ordinance, if adopted, implements Government Code Section 65852.2 within the City of Los Angeles in a manner that is consistent with the requirements of state law. As such, the adoption of the proposed ordinance is exempt from CEQA.

As proposed, the City's ordinance would adopt the state's ADU mandates, as well as place additional restrictions on ADUs consistent with the provisions in the state ADU law. The state ADU unit law expressly authorizes local agencies to adopt additional restrictions so long as the additional restrictions do not conflict with or invalidate the regulations established in the state law. The proposed ordinance includes the following additional provisions to implement state ADU law in the City:

- A restriction on construction of new ADUs in Hillside areas covered by the City's Hillside Construction Regulation Supplemental Use District (HCR SUD) per LAMC Section 13.20 (this restriction does not apply to conversions of legally existing floor area to ADUs)
- A prohibition on siting ADUs between the front of the primary residence and the street
- Mandate that parking for an ADU may only be located in required front yard setback if located on an existing driveway.
- Distancing requirements on ADUs that are either, (1) located on lots where equine keeping uses are allowed by the underlying zone, or (2) on a lot that is adjacent to another lot where equine keeping uses are allowed, to ensure that equine keeping is not precluded by an ADU. This includes the following distancing requirements:
  - ADU must be located closer to the main home than the rear lot line
  - ADU must always be within 50 feet of the main home
  - For lots wider than 60 feet, ADUs must adhere to 10 foot side yard setbacks
- An allowance for movable tiny homes of no more than 430 square feet in size to be considered an ADU, provided they comply with certain residential design standards

#### **Categorical Exemptions – CEQA Guidelines Sections 15301, 15302, 15303**

In addition to the statutory exemption, this Project is categorically exempt from CEQA as discussed below.

##### Class 1 Exemption

To the extent that the proposed ordinance allows the conversion of existing accessory structures to ADUs, the ordinance additionally qualifies for the Class 1 Categorical Exemption. A project qualifies for a Class 1 Categorical Exemption if it involves negligible or no expansion of an existing use, including small additions to existing structures. Any conversion or legalization of an existing

ADU which may occur as a result of this ordinance would be subject to this exemption. Legalization of an existing dwelling unit would also be subject to a common sense exemption as it would not change the baseline conditions. CEQA Guidelines Section 15061(b)(3).

### Class 2 Exemption

To the extent that the proposed ordinance would also allow for the replacement or reconstruction of existing structures that would not otherwise occur, the ordinance additionally qualifies for the Class 2 Categorical Exemption. A project qualifies for a Class 2 Categorical Exemption if it involves the replacement or reconstruction of existing structures and facilities where the new structure would be located on the same site and have substantially the same purpose and capacity as the preexisting structure.

### Class 3 Exemption

Class 3 exempts the development of accessory dwelling units. CEQA Guidelines Section 15303(a).

### Exceptions

There is no evidence in the record which demonstrates that any of the six (6) Exceptions from CEQA Guidelines Section 15300.2 apply to the proposed ordinance: (a) Location; (b) Cumulative Impacts; (c) Significant Effect; (d) Scenic Highways; (e) Hazardous Waste Sites; and (f) Historical Resources.

(a) Location.

While it is possible that an ADU may be located within a "sensitive" environment (such as a Liquefaction Zone, Fault Zone, Methane Zone) as a result of the proposed ordinance, specific Regulatory Compliance Measures (RCMs) in the City of Los Angeles regulate the grading and construction of projects in these particular types of locations and will reduce and potential impacts to less than significant. These RCMs have historically proven to work to the satisfaction of the City Engineer and State Building Code standards to reduce any impacts from the specific environment a project may be located in. Thus, the proposed ordinance will not result in a significant impact based on the potential location of an ADU.

(b) Cumulative; and

(c) Unusual Circumstance-Significant Impact

ADUs are limited to one per lot. Based on historical ADU development, it is not foreseeable that the proposed ordinance would result in a succession of projects of the same type and in the same place. As discussed, the ordinance restricts ADUs to areas zoned and designated for such development, and places further restrictions on the allowable size and scale to ensure that any ADU is consistent with surrounding development. ADUs in the City are not unusual and the proposed regulations will ensure that future development of ADUs will not be built in location, size or scope that will result in unusual circumstances. The City's standards are intended to offer



significant protections against out-of-scale new development in equine keeping districts and the City's environmentally-sensitive HCR SUD areas. As such, the effect of the proposed provisions would be to provide further environmental protections and would not have a significant effect on the environment.

Generally, a University of California, Berkeley study suggests that ADUs would have a lower environmental impact than other residential typologies. ADU residents may have fewer cars and utilize public transportation more often than the general population. In communities already served by transit, ADUs can provide new homes without the potential of adding significant new traffic. Any potential for new ADU construction that would result from the passage of the proposed ordinance would have insignificant impact.

Additionally, the City's analysis shows that these additional provisions are not anticipated to significantly alter the number or location of new ADUs.

#### Hillside Construction Regulation Supplemental Use District (HCR SUD) Restriction

The provisions that impose a restriction on construction of new ADUs in targeted Hillside Areas that are subject to the Hillside Construction Regulation Supplemental Use District (HCR SUD) are not anticipated to have a significant effect on the environment.

The proposed ordinance would provide that accessory dwelling units, unless contained within the existing space of a single-family residence or existing accessory structure, not be allowed in Hillside areas covered by the HCR SUD. The HCR SUD applies to approximately 614 single-family lots (6.5% of the City's total).

Based on prior history of ADU development, there is no evidence to conclude that a restriction on ADUs in the HCR SUD would result in an increase in ADU development in other locations. ADUs are generally constructed by individual homeowners, are limited to one per lot. If a homeowner was prevented from constructing a new ADU as a result of the regulation, they would have the option of creating an ADU from existing space or not create an ADU. In either event, this would not be expected to result in an increase in development elsewhere.

In the time since the City has begun implementing the new State standards provided in Government Code Section 65852.2 on January 1, 2017, a small fraction of new ADUs have been permitted in areas covered by the HCR SUD, despite a marked increase in the total number of ADU permits issued under the State laws. A total of 2,342 permits were issued for ADUs in 2017, of which approximately 22 were located in the HCR SUD. This represents less than one percent of the total ADU permits issued in the City, despite the fact that 6.5 percent of all single-family parcels are located in the HCR SUD. The lower amount of ADU construction in the HCR SUD likely reflects the difficult topography and unique construction regulations that already exist in these areas (including the Baseline Hillside Ordinance, in addition to the HCR SUD restrictions). The vast majority of 2017 ADUs permitted in the HCR SUD (68 percent) were conversions of existing space which, consistent with state law, would not be prohibited under the HCR SUD provision that is under consideration. Approximately 2 ADUs in the HCR SUD were new construction, while approximately 5 were additions. This is a significantly lower percentage of new construction and additions than the City as a whole, indicating that ADUs in the HCR SUD are

much less likely to involve new construction of a standalone structure. For these reasons, further restricting the construction of ADUs in the HCR SUD is therefore not expected to result in substantial development of other housing elsewhere.

#### Movable Tiny Homes

The provisions that allow for movable tiny homes of no more than 430 square feet in size to be considered an ADU are not anticipated to have a significant effect on the environment.

Movable tiny homes are an alternate type of housing structure that fall under the State definition of an accessory dwelling unit, defined as “an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated” (Gov. Code Section 65852.2 (i)(4)). The inclusion of movable tiny homes into the proposed ordinance would not foreseeably result in new development that would result in potential cumulative impacts. While movable tiny homes provide a lower-cost option when building an ADU, there is no evidence to suggest that there would be a significant increase in the number of ADUs in the City as a result of this provision, and therefore it is not anticipated that it would result in any potential impacts.

The City of Fresno was the first city in the Country to adopt similar provisions allowing movable tiny homes to be used as accessory dwelling units. In the time since the City began implementing the new regulations on January 1, 2018, zero movable tiny homes have been approved in the City of Fresno.

#### Siting Requirements in Equine Keeping Areas

The provisions that establish siting requirements for ADUs located in equine keeping areas are not anticipated to have a significant effect on the environment. As described, the proposed ordinance would place siting requirements for ADUs located on lots where equine keeping is a permitted use, in order to locate the ADU in closer proximity to the main home on a lot and ensure that the ADU does not preclude future equine keeping on neighboring lots. Current regulations in LAMC 12.21 C.5(a) require that new equine enclosures are located at least 75 feet from the habitable rooms of a neighbor’s dwelling unit in order to protect the health and safety of the residents.

There is no evidence to conclude that additional restrictions on the siting of ADUs on lots in equine keeping areas would result in an increase in ADU development in other locations. The primary effect of this provision would be to influence the siting location of an ADU on an individual lot, which would not meaningfully have any impact on the ability to construct an ADU or influence individual decisions to build an ADU. ADUs are constructed by individual homeowners, and are limited to one per lot.

#### (d) State Scenic Highway.

According to Appendix B of the City of Los Angeles Mobility Plan, there are no designated state scenic highways located within the City of Los Angeles.

(e) Hazardous Waste.

It is not foreseeable that an ADU would be located in a Hazardous Waste Site, as the ordinance requires that the site already contain a single-family residence or would allow a new single-family residence to be constructed simultaneously and this condition would have been verified upon construction of the home.

(f) Historical Resources.

Any ADU constructed on a project site identified as a historic resource or eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register would be further subject to historic review and approval by the Los Angeles Office of Historic Resources pursuant City requirements on cultural monuments and HPOZs.