



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 19 - 0 4 0 8  
DEC 0 5 2019

**REPORT RE:**

**DRAFT 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  
TO REGULATE ACCESSORY DWELLING UNITS AND JUNIOR  
ACCESSORY DWELLING UNITS IN ACCORDANCE WITH STATE LAW**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 16-1468

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Sections 12.03, 12.22 and 12.33 of Chapter 1 of the Los Angeles Municipal Code (LAMC), and repeals Subdivisions 43 and 44 of Subsection W of Section 12.24 of Chapter 1 of the LAMC, to regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)<sup>1</sup> in a manner consistent with state law.

---

<sup>1</sup> A JADU is a dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

### Legislative Background

On November 14, 2016, the Planning Department initiated a new ADU Ordinance to update the City's ADU regulations and bring them into conformance with state law. On December 15, 2016, the City Planning Commission (CPC) considered the proposed ordinance and recommended its adoption to the City Council. On March 21, 2017, the City Council's Planning and Land Use Management Committee (PLUM) requested the addition of language to the proposed ordinance to qualify Movable Tiny Houses (MTHs) as ADUs and protect equine keeping. Council also sought additional information regarding the impact of ADUs on hillside areas.

On May 15, 2018, PLUM considered an updated proposed ordinance from the Planning Department that included the additional provisions requested at the Committee's March 21, 2017, meeting, as well as a report from the Planning Department that addressed the hillside issue. PLUM referred the matter back to the CPC for further consideration.

At its meetings on July 12, October 11, and November 29, 2018, CPC again considered the matter. On November 29, 2018, CPC recommended adoption of the proposed ordinance. On June 11, 2019, PLUM requested additional options regarding ADUs in hillside areas and very high severity hazard zones, and soon thereafter, the Planning Department transmitted a report in response to that request. On August 20, 2019, PLUM considered the options presented by the Planning Department. PLUM then requested that the City Attorney transmit a draft ordinance, approved as to form and legality, incorporating technical corrections and modifications to protect equine keeping and hillside area and very high severity hazard zones, and exempting certain ADUs from park fee and land dedication requirements.

While the final ordinance was being prepared, changes were made to the state law pertaining to ADUs and JADUs. The California Legislature amended state law on October 9, 2019, by enacting Assembly Bill (AB) 881 (governing ADUs), AB 68 (governing JADUs), and Senate Bill (SB) 13 (governing enforcement of ADU building standards), all effective January 1, 2020.

### Summary of Ordinance Provisions

The Planning Department staff reports dated December 15, 2016; May 10 and 11 and November 29, 2018; and August 14, 2019, provide a detailed description of the LAMC regulations effectuated by the draft ordinance. The draft ordinance incorporates the amendments approved by CPC and PLUM, but *excludes* the proposed provisions intended to protect equine keeping because these provisions are precluded by state law, as explained below. The draft ordinance further incorporates revisions that are required to comply with AB 881, AB 68, and SB 13.

Notably, the draft ordinance: designates areas where ADUs are permitted based upon traffic flow and public safety; imposes standards on size, parking, height, setbacks, and architectural review; requires ADU and JADU permits to be approved ministerially without discretionary review; requires the City to act on permit applications within 60 days from receipt of a completed application; allows ADUs and JADUs contained within existing or proposed space and subject to stated setback and size limits; qualifies MTHs as ADUs; and provides for delayed enforcement under stated circumstances, all as limited, required, or allowed by AB 881, AB 68, and SB 13. The draft ordinance thus:

- (1) Allows ADUs in all zones where residential uses are permitted by right;
- (2) Prohibits ADUs on a lot located in both a Very High Fire Hazard Severity Zone and Hillside Area (except those contained within the proposed space of a single family dwelling, or existing space of a single family dwelling or an accessory structure, including an expansion of an existing accessory structure of not more than 150 square feet to accommodate ingress and egress for an ADU), unless the ADU is: (i) located within the Northeast Los Angeles Community Plan or Silver Lake – Echo Park – Elysian Valley Community Plan Areas; or (ii) protected with automatic fire sprinklers, provides at least one off-street parking space, and is located on a lot fronting a street improved to a minimum width of 20 feet;
- (3) Allows JADUs as required by state law;
- (4) Limits detached ADUs to a maximum of 1,200 square feet and two stories;
- (5) Limits attached ADUs constructed where there is an existing primary dwelling to 50 percent of the existing primary dwelling;
- (6) Allows construction of a new ADU in the same location and to the dimensions as a demolished structure, as required by state law;
- (7) Requires ADUs (except those contained within the proposed space of a single-family dwelling, or existing space of a single-family dwelling or an accessory structure, including an expansion of an existing accessory structure of not more than 150 square feet to accommodate ingress and egress for an ADU) to comply with all applicable objective provisions of the Zoning Code (including any applicable Specific Plan, Historic Preservation Overlay Zone, Community Planning Implementation Overlay), but does not require compliance with any discretionary provisions of the Zoning Code, because such a requirement is prohibited by state law;

(8) Allows for attached and detached ADUs at least 800 square feet and 16 feet in height with four-foot side and rear yard setbacks in residential and multi-family zones as required by state law. This setback requirement effectively *prohibits* the provisions recommended by PLUM to help protect equine keeping;

(9) Provides for an expansion of an existing accessory structure of not more than 150 square feet to accommodate ingress and egress for an ADU;

(10) Provides for ADUs located on a lot that has an existing multifamily dwelling in residential or mixed-use zones, as required by state law;

(11) Requires one parking spot per ADU, except where the ADU is located within specified distances of public transportation or car share vehicles, or within specified architecturally and historically significant districts, or where otherwise prohibited by state law;

(12) Allows MTHs meeting stated standards to be used as ADUs;

(13) Exempts ADUs, including new ADUs under construction that have not yet obtained a Certificate of Occupancy, from park fee and land dedication requirements;

(14) Provides for delayed enforcement unless necessary to protect public health and safety, as required by SB 13; and

(15) Includes an urgency clause so that, upon adoption by Council and approval by the Mayor, the draft ordinance can become effective upon publication and before January 1, 2020. The urgency clause is for the immediate protection of the public peace, health, and safety, to help increase the supply of affordable options in the City; and ban ADUs on lots in both a Very High Fire Hazard Severity Zone and Hillside Area unless they meets requirements deemed necessary to protect the public peace, health, and safety.

#### Charter and State Law Findings Required

Charter Section 558(b)(3) requires the City Council to make the findings required in Subsection (b)(2) of the same section; namely, whether adoption of the proposed ordinance will be in conformity with public necessity, convenience, general welfare, and good zoning practice. Charter Section 556 similarly requires the City Council to make findings showing that the action is in substantial conformance with the purposes, intent, and provisions of the General Plan.

On December 5, 2019, the Planning Department transmitted revised findings, which address, among other issues, PLUM's recommendations regarding ADUs in

hillside area and very high severity hazard zones. The City Council can either adopt the revised findings stated in the Planning Department's transmittal report dated December 5, 2019, or make its own.

California Environmental Quality Act (CEQA) Standard of Review

The Planning Department recommends that the City Council, based on the whole of the administrative record, determine that the draft ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the California Public Resources Code (PRC) (CEQA not applicable to local ordinances regulating construction of dwelling units and second units). The Planning Department further recommends that the City Council, based on the whole of the administrative record, determine that the draft ordinance is exempt from CEQA under CEQA Guidelines Sections 15301 (categorical exemption for existing facilities), 15302 (categorical exemption for replacement or reconstruction of existing structures and facilities), 15303 (categorical exemption for new construction or conversion of small structures, including ADUs), and that none of the exceptions under 15300.2 apply. Reliance on these categorical exemptions is appropriate when substantial evidence in the record supports the use of the categorical exemptions and none of the exceptions in CEQA Guidelines Section 15300.2 applies.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety, Department of Water and Power, Housing and Community Investment Department, Fire Department, Department of Recreation and Parks, Department of Public Works, and Department of Transportation. The departments were requested to provide their comments, if any, directly to the City Council or its Committee when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Steven Blau at (213) 978-8235. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON  
Chief Assistant City Attorney

DM:TKM:SB:sm  
Transmittal

m:\real prop\_env\_land use\land use\steve blau\1aadu\council report (final draft 12.2.19).docx