



Office of the City Manager

January 7, 2020

To: Honorable Mayor and Members of the City Council

From:  Dee Williams-Ridley, City Manager

Re: **Report on ADU regulations as required by State law**

At its January 21, 2020 meeting the City Council will consider extending an Urgency Ordinance (Ord. Number 7,683-N.S.), which it first adopted on December 10, 2019 and that has a duration of 45 days unless extended. The Urgency Ordinance was required to bring Berkeley's regulations governing Accessory Dwelling Units (ADUs) into compliance with Assembly Bill 881, which is a State law designed to streamline approval of ADUs. In the absence of an Urgency Ordinance, permit approval for ADUs in all districts in the City, including high fire risk areas such as the Hillside Overlay District, would be determined based on state law. Among other implications, this would mean that Berkeley's current prohibition on ADUs in certain areas of the city, due to health and safety concerns, would no longer be in effect.

Under California Government Code § 65858(d), once an Urgency Ordinance is adopted, the City Council is required to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the interim ordinance. The written report must be issued ten days prior to the expiration date of the Urgency Ordinance--in this case, by January 10, 2020. The attached report satisfies this State requirement and provides a brief summary of the steps the City is taking to analyze and implement AB 881.

The City Council is scheduled to consider an extension of Ordinance Number 7,683-N.S.on January 21, 2020.

Please contact Timothy Burroughs, Director of the Department of Planning & Development, if you have any questions.

Attachment 1: Report on steps to alleviate urgency conditions pursuant to California Government Code § 65858(d)

cc: Paul Buddenhagen, Deputy City Manager  
David White, Deputy City Manager  
Timothy Burroughs, Director, Planning and Development Department  
Jenny Wong, City Auditor  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager



**REPORT ISSUED PURSUANT TO  
GOVERNMENT CODE SECTION 65858(d)**

**DATE:** JANUARY 10, 2020

**SUBJECT:** REPORT ON MEASURES TAKEN FOLLOWING THE ADOPTION OF INTERIM URGENCY ORDINANCE NUMBER 7,683-N.S. ESTABLISHING LIMITATION ON DEVELOPMENT OF ACCESSORY DWELLING UNITS IN FIRE ZONES 2 AND 3

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**BACKGROUND**

On December 10, 2019, the City Council adopted Urgency Ordinance Number 7,683-N.S., which imposed an interim 45-day Urgency Ordinance for Accessory Dwelling Units (ADUs) that limits ADU development in certain areas of the City. Specifically, the interim Urgency Ordinance prohibits ADUs in Fire Zone 3 and prohibits ADUs in Fire Zone 2 on roads that are less than 26 feet in width.

Pursuant to California Government Code § 65858(b), interim ordinances remain in effect for 45 days from the date of adoption, but may be extended for ten months and 15 days following notice and a public hearing. Under California Government Code § 65858 (d), the City Council is required to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the interim ordinance ten days prior to the expiration of an interim ordinance. Ordinance Number 7,683-N.S. is set to expire on January 24, 2020. The City Council is scheduled to consider an extension of Ordinance Number 7,683-N.S. on January 21, 2020. Issuance of this report satisfies the requirements of California Government Code § 65858(d).

**DISCUSSION**

The Planning Department and the Fire Department are actively analyzing new regulations in order to draft a permanent ADU ordinance that complies with State law and preserves public safety protections in Fire Zones 2 and 3. The following specific activities are currently being undertaken:

- Analyzing AB 881 to understand new development standards for single family and multifamily homes, associated fees, expedited timelines, and opportunities for local ordinances to address public safety impacts;
- Conducting technical analysis with staff from departments involved in the development review process to explain AB 881 and develop procedures to

ministerially process building permit applications while maintaining public safety protections;

- Collaborating with other jurisdictions and state and regional agencies to share knowledge and develop "best practice" standards that will inform development of a permanent ADU ordinance in Berkeley;
- Responding to numerous public inquiries regarding the interim Urgency Ordinance, the future permanent ordinance and site-specific ADU development concepts; and
- Developing public information materials (e.g. FAQs, application forms, check lists) that explain new ADU regulations to the public and to staff in a clear and concise manner.

The above reflects the actions taken during this short period necessary to extend the interim urgency ordinance currently in effect. An opportunity for full public comment on the draft extension of the Urgency Ordinance will be provided at the City Council's Public Hearing to be held on January 21, 2020 at 6:00 PM at the School District Board Room, 1231 Addison Street, Berkeley, California. The City will publish notice for this meeting pursuant to Government Code § 65090.