ORDINANCE NO. 13-O-2639

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE 2010 EDITIONS OF THE CALIFORNIA BUILDING CODE AND THE CALIFORNIA RESIDENTIAL CODE, AS AMENDED AND ADOPTED BY REFERENCE INTO THE BEVERLY HILLS MUNICIPAL CODE, REGARDING WOOD ROOF COVERINGS, AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

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

Section 1. Section 1505.1 of the 2010 edition of the California Building Code as set forth in Section 9-1-202 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Building Code is hereby amended as follows:

"**1505.1 General.** Except as otherwise provided in this section, roof coverings or roof assemblies on any structure regulated by this code shall be a fire-retardant roof covering or roof assembly that is listed as a Class A assembly in accordance with ASTM E 108 or UL 790. In addition, no wood shall be used as a roof covering material. Noncombustible non-wood roof coverings may be applied in accordance with the manufacturer's requirements in lieu of a fire-retardant roofing assembly.

Exception: Roof repairs of less than 10 percent of the total roof area on existing structures in any one year period may be repaired with a roof covering that meets the same fire retardant standard as the existing roof."

Section 2. Sections 1505.1.1, 1505.1.2 and 1505.1.3 in the 2010 edition of the California Building Code and as set forth in Section 9-1-202 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Building Code are hereby deleted in their entirety.

Section 3. Section 1505.1.5 of the 2010 edition of the California Building Code as set forth in Section 9-1-202 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Building Code is hereby amended as follows:

"**1505.1.5 Class A Roof Covering Requirement.** Notwithstanding any other requirement of the Beverly Hills municipal code, no later than July 1, 2014, all wood roof coverings in the City of Beverly Hills shall be either: (1) fire retardant Class A; or (2) treated with a fire retardant spray in accordance with Section 1505.1.6 and Section 1505.1.7.

Exceptions:

1. **Demolition or Renovation Permit.** Property owners with a non-Class A wood roof that, as of July 1, 2014, have applied for or possess a demolition permit or renovation permit involving a reroofing or an alteration or addition to the roof, shall have until December 31, 2014 to commence such demolition or renovation and remove the non-Class A wood roof; provided however, that such property owner shall submit a signed affidavit, on a form provided by the City, representing that the non-Class A wood roof will be removed by December 31, 2014.

2. **Qualified Historical Building or Property.** A Qualified Historical Building or Property, as defined in the California Historical Building Code adopted by reference into the Beverly Hills Municipal Code, shall comply with the requirements set forth in the California Historical Building Code, as adopted and amended by the City of Beverly Hills."

Section 4. Section 1505.1.6 is hereby added to the 2010 edition of the California Building Code as set forth in Section 9-1-202 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Building Code to read as follows:

"**1505.1.6 Fire Retardant Spray for Non-Class A Wood Roofs.** If a fire retardant spray is applied on a non-Class A wood roof pursuant to Section 1505.1.5 above, such fire retardant spray shall comply with the current standards of the California State Fire Marshall, including but not limited to ASTM E-84, NFPA 255 and UL 723, and shall be applied by a certified applicator holding a general applicator license as evidenced by a Certificate of Registration from the California State Fire Marshall. The property owner and certified applicator shall submit a signed affidavit on a form provided by the City indicating the manufacturer's recommended effectiveness period and the certified applicator's warranty period. The fire retardant spray shall be repeated before the end of the manufacturer's recommended effectiveness period or the certified applicator's certification warranty, whichever is shorter; provided, however, that the fire retardant spray need not be repeated if, before the end of the manufacturer's recommended effectiveness period or certified applicator's warranty period, whichever is earlier, a property owner has applied for or possesses a demolition permit or renovation permit involving a reroofing or an alteration or addition to the roof, and commences such demolition or renovation and removes the non-Class A wood roof within 180 days from the expiration of such effectiveness or warranty period; provided further however, that the property owner shall submit a signed affidavit, on a form provided by the City, representing that such property owner is not repeating the fire retardant spray because the non-Class A wood roof will be removed within 180 days from the expiration of the manufacturer's recommended effectiveness period or certified applicator's warranty period, whichever is earlier, of the existing spray."

Section 5. Section 1505.1.7 is hereby added to the 2010 edition of the California Building Code as set forth in Section 9-1-202 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Building Code to read as follows:

> **"1505.1.7 Permits Required.** No fire retardant spray shall be applied on a non-Class A wood roof within the City without first obtaining a permit from the City. There will be no charge for such permit, which shall remain valid for the term of the manufacturer's recommended effectiveness period or the certified applicator's certification warranty, whichever is shorter. The permit shall state the name of the certified applicator, the approved fire retardant spray material and the permit expiration date. Before a property owner repeats the fire retardant spray in accordance with Section 1505.1.6, such property owner shall renew the permit obtained pursuant to this section."

Section 6. Section 1505.1.8 is hereby added to the 2010 edition of the California Building Code as set forth in Section 9-1-202 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Building Code to read as follows:

> **"1505.1.8 Replacement of Non-Class A Wood Roofs upon Sale or Transfer.** Notwithstanding Section 1505.1.5 of the Beverly Hills municipal code, effective after July 1, 2014, all existing non-Class A wood roofs shall be replaced with a fire retardant Class A non-wood roof before the sale or transfer of such property for monetary consideration.
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> **Exceptions:**
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> 1. **Buyer Assumes Responsibility.** If the Seller and the Buyer agree that the Buyer shall assume responsibility to replace the wood roof and an application for a demolition permit or renovation permit involving a reroofing or an alteration or addition to the roof will be submitted, and such demolition or renovation will commence, and such non-Class A wood roof will be removed, within 180 days from the date of title transfer, then the non-Class A wood roof need not be replaced before the sale or transfer of such property, but shall be removed by the Buyer within the 180 day period from the date of title transfer; provided further, that the Seller and Buyer of such property shall submit a signed affidavit, on a form provided by the City, representing that the Buyer will remove the non-Class A wood roof within 180 days from the date of title transfer.
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> 2. **Qualified Historical Building or Property.** A Qualified Historical Building or Property, as defined in the California Historical Building Code adopted by reference into the Beverly Hills Municipal Code, shall comply with the requirements set forth in the California Historical Building Code, as adopted and amended by the City of Beverly Hills."

Section 7. Section R902.1 of the 2010 edition of the California Residential Code as set forth in Section 9-1-2A02 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the California Residential Code is hereby amended as follows:

"**R902.1 General.** Except as otherwise provided in this section, roof coverings or roof assemblies on any structure regulated by this code shall be a fire-retardant roof covering or roof assembly that is listed as a Class A assembly in accordance with ASTM E 108 or UL 790. In addition, no wood shall be used as a roof covering material. Noncombustible non-wood roof coverings may be applied in accordance with the manufacturer's requirements in lieu of a fire-retardant roofing assembly.

Exception: Roof repairs of less than 10 percent of the total roof area on existing structures in any one year period may be repaired with a roof covering that meets the same fire retardant standard as the existing roof."

Section 8. Sections R902.1.1, R902.1.2 and R902.1.3 in the 2010 edition of the California Residential Code and as set forth in Section 9-1-2A02 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Residential Code are hereby deleted in their entirety.

Section 9. Section R902.1.5 of the 2010 edition of the California Residential Code as set forth in Section 9-1-2A02 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Residential Code is hereby amended as follows:

"**R902.1.5 Class A Roof Covering Requirement**. Notwithstanding any other requirement of the Beverly Hills municipal code, no later than July 1, 2014, all wood roof coverings in the City of Beverly Hills shall be either: (1) fire retardant Class A; or (2) treated with a fire retardant spray in accordance with Section R902.1.6 and Section R902.1.7.

Exceptions:

1. **Demolition or Renovation Permit.** Property owners with a non-Class A wood roof that, as of July 1, 2014, have applied for or possess a demolition permit or renovation permit involving a reroofing or an alteration or addition to the roof, shall have until December 31, 2014 to commence such demolition or renovation and remove the non-Class A wood roof; provided however, that such property owner shall submit a signed affidavit, on a form provided by the City, representing that the non-Class A wood roof will be removed by December 31, 2014.

2. **Qualified Historical Building or Property.** A Qualified Historical Building or Property, as defined in the California Historical Building Code adopted by reference into the Beverly Hills Municipal Code,

shall comply with the requirements set forth in the California Historical Building Code, as adopted and amended by the City of Beverly Hills."

Section 10. Section R902.1.6 is hereby added to the 2010 edition of the California Residential Code as set forth in Section 9-1-2A02 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Residential Code to read as follows:

"**R902.1.6 Fire Retardant Spray for Non-Class A Wood Roofs.** If a fire retardant spray is applied on a non-Class A wood roof pursuant to Section R902.1.5 above, such fire retardant spray shall comply with the current standards of the California State Fire Marshall, including but not limited to ASTM E-84, NFPA 255 and UL 723, and shall be applied by a certified applicator holding a general applicator license as evidenced by a Certificate of Registration from the California State Fire Marshall. The property owner and certified applicator shall submit a signed affidavit on a form provided by the City indicating the manufacturer's recommended effectiveness period and the certified applicator's warranty period. The fire retardant spray shall be repeated before the end of the manufacturer's recommended effectiveness period or the certified applicator's certification warranty, whichever is shorter; provided, however, that the fire retardant spray need not be repeated if, before the end of the manufacturer's recommended effectiveness period or certified applicator's warranty period, a property owner has applied for or possesses a demolition permit or renovation permit involving a reroofing or an alteration or addition to the roof, and commences such demolition or renovation and removes the non-Class A wood roof within 180 days from the expiration of such effectiveness or warranty period; provided further however, that the property owner shall submit a signed affidavit, on a form provided by the City, representing that such property owner is not repeating the fire retardant spray because the non-Class A wood roof will be removed within 180 days from the expiration of the manufacturer's recommended effectiveness period or certified applicator's warranty period, whichever is earlier, of the existing spray."

Section 11. Section R902.1.7 is hereby added to the 2010 edition of the California Residential Code as set forth in Section 9-1-2A02 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Residential Code to read as follows:

"**R902.1.7 Permits Required.** No fire retardant spray shall be applied on a non-Class A wood roof within the City without first obtaining a permit from the City. There will be no charge for such permit, which shall remain valid for the term of the manufacturer's recommended effectiveness period or the certified applicator's certification warranty, whichever is shorter. The permit shall state the name of the certified applicator, the approved fire retardant spray material and the permit expiration date. Before a property owner repeats the fire retardant spray in

accordance with Section R902.1.6, such property owner shall renew the permit obtained pursuant to this section."

Section 12. Section R902.1.8 is hereby added to the 2010 edition of the California Residential Code as set forth in Section 9-1-2A02 of Article 2 of Chapter 1 of Title 9 of the Beverly Hills Municipal Code regarding amendments and additions to the 2010 edition of the California Residential Code to read as follows:

"R902.1.8 Replacement of Non-Class A Wood Roofs upon Sale or Transfer. Notwithstanding Section R902.1.5 of the Beverly Hills municipal code, effective after July 1, 2014, all existing non-Class A wood roofs shall be replaced with a fire retardant Class A non-wood roof before the sale or transfer of such property for monetary consideration.

Exceptions:

1. **Buyer Assumes Responsibility.** If the Seller and the Buyer agree that the Buyer shall assume responsibility to replace the wood roof and an application for a demolition permit or renovation permit involving a reroofing or an alteration or addition to the roof will be submitted, and such demolition or renovation will commence, and such non-Class A wood roof will be removed, within 180 days from the date of title transfer, then the non-Class A wood roof need not be replaced before the sale or transfer of such property, but shall be removed by the Buyer within the 180 day period from the date of title transfer; provided further, that the Seller and Buyer of such property shall submit a signed affidavit, on a form provided by the City, representing that the Buyer will remove the non-Class A wood roof within 180 days from the date of title transfer.

2. **Qualified Historical Building or Property.** A Qualified Historical Building or Property, as defined in the California Historical Building Code adopted by reference into the Beverly Hills Municipal Code, shall comply with the requirements set forth in the California Historical Building Code, as adopted and amended by the City of Beverly Hills."

Section 13. Health and Safety Code Findings. Pursuant to Health & Safety Code Section 17958.5, the City may make modifications to the California Building Code that are reasonably necessary because of local climatic, geological and topographical conditions. In particular, the modifications to the Building Code as set forth herein are reasonably necessary because of the local climate which is characterized by hot dry summers, followed by strong Santa Ana winds which make structures particularly vulnerable to rapidly spreading, wind-driven fires. Geographically, the City is located in Southern California in Los Angeles County. Much of the City is located among steeply sloping, hilly areas, which can create hazardous building and fire conditions. Furthermore, the City is located near and over historic and active earthquake faults,

which require that special safety precautions be taken against earth movement and resulting fire hazards. Finally, the city's zoning ordinances promote the preservation of natural canyon shrubbery in addition to a great deal of landscaping. Canyon fires and other brush fires are a frequent and natural part of the Southern California ecosystem. Thus structures located in the City require additional protection against ignition from flying embers.

These local climatic, geological and topographical conditions affect the acceleration, intensity and size of fires in the community. Times of little or no rainfall, of low humidity, and high temperatures create extremely hazardous conditions, particularly as they relate to wood shake and shingle roof fires and conflagrations. The winds experienced in this area can have a tremendous impact upon structure fires of buildings in close proximity to one other. During wood shake and shingle roof fires, or exposure fires, winds can carry sparks and burning brands to other structures, thus spreading the fire and causing conflagrations. In building fires, winds can literally force fires back into the building and create a blowtorch effect in addition to preventing "natural" ventilation and cross-ventilation efforts.

The fire danger of wood shake and shingle roofs has been well documented. Specifically, on April 12, 2007, a two-acre brush fire began in neighboring City of Los Angeles in the Franklin Canyon area. High wind, in excess of 50 miles per hour, drove the fire through the dry brush with lightning speed. The wind driven embers spread throughout the community and ignited the roofs of three large homes in the City of Beverly Hills near Beverly Drive and Hillcrest Drive causing extensive damage to two of them and moderate damage to the other. Although none of the burned homes were threatened directly by the fire that began in Franklin Canyon, the three homes were clad with wood shake roofs allowing the wind driven embers to embed and ignite the homes causing extensive damage. The fire ultimately expanded to 15 acres and the cause of the fire was determined to be wires downed in the wind that ignited the brush. As stated above, the local climactic, geological and topographical conditions exacerbate this fire danger. Therefore, because the City Council wishes to reduce the potential threat of fire damage within the City, the City Council finds that it is reasonably necessary to change and modify the International Building Code, as amended by the California Building Code, and the International Residential Code, as amended by the California Residential Code, in order to mitigate the effects of the above conditions.

Section 14. CEQA Findings. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. The Ordinance does not authorize new construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 15. 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 decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 16. 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 17. 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: April 2, 2013
Effective: May 3, 2013

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

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager

SUSAN HEALY-KEENE
Director of Community Development

FOR TJS
TIMOTHY J. SCRANTON
Fire Chief