



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 1 6 - 0 3 4 8

NOV 0 8 2016

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTION 85.02 OF THE  
LOS ANGELES MUNICIPAL CODE TO ESTABLISH REGULATIONS  
GOVERNING THE USE OF VEHICLES FOR DWELLING ON PUBLIC STREETS  
AND TO PROVIDE A SUNSET OF THE REGULATIONS IN 18 MONTHS**

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. 14-1057-S1

Honorable Members:

As requested by City Council, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance repeals the existing language of Section 85.02 of the Los Angeles Municipal Code (LAMC) and amends the section to establish new regulations restricting the use of vehicles for dwelling on public streets.

At its meeting on October 25, 2016, City Council adopted the Homelessness and Poverty Committee (Committee) recommendations to repeal and amend LAMC Section 85.02 with two amending motions. Motion 23B amended the Committee's recommendations pertaining to distancing requirements from schools, preschools, day care facilities and parks, as well seeking to ensure that existing laws, such as parking restrictions including prohibitions on overnight parking, will not be preempted. Motion 23C deleted the Committee's recommendation to repeal immediately the existing Section 85.02 and, instead, directed that the repeal take effect at the same time as the new Section 85.02.

### Summary of Ordinance Provisions

The draft ordinance repeals the existing LAMC Section 85.02, which two years ago the Ninth Circuit Court of Appeal ruled as unconstitutional. The draft ordinance replaces the existing law with new restrictions as requested by City Council. The draft ordinance defines vehicle dwelling and prohibits it on any street adjoining a single family or multi-family residentially zoned parcel between 9:00 p.m. and 6:00 a.m. It also prohibits dwelling in vehicles at any time within a one-block radius of certain sensitive uses, specifically parks or licensed schools, preschools or daycare facilities. The draft ordinance defines a “block” as 500 feet, which is the approximate average length of a block in the City.

The draft ordinance also expressly states that no existing law is preempted by this ordinance. This will protect existing and future laws that regulate the use of City streets, such as laws restricting parking including those that prohibit overnight parking.

City Council sought to enforce the draft ordinance through the City’s Administrative Citation Enforcement (ACE) program. However, the ACE program relies on the violator having a current and valid mailing address. Based on information provided by the Los Angeles Homeless Services Authority (LAHSA) and others, people who use their vehicles to dwell often do not have reliable mailing addresses. Therefore, the ACE program is not suitable as a tool to enforce the draft ordinance.

In order to establish enforcement that meets the goals of City Council, the draft ordinance provides for the issuance of infraction citations with a penalty structure requested by City Council: \$25 for first violation, \$50 for the second violation and \$75 for third and subsequent violations. A violator can pay the fine or appear in court to challenge the issuance of the citation. Alternatively, a violator may seek eligibility for dismissal of the citation through participation in the Homeless Engagement and Response Team (HEART) program or similar prosecutorial led diversion program.

The City will provide public outreach concerning information about where people can vehicle dwell on City streets. Public outreach will be coordinated with LAHSA and homeless service providers through the creation and distribution of maps developed by the City denoting the streets on which vehicle dwelling is allowed. The maps will be made available on the City’s website and updated regularly.

The ordinance includes a sunset provision of July 1, 2018. The adoption of this draft ordinance will allow the City to collect data for an environmental analysis of permanent regulation of vehicles used for dwelling on public streets.

### California Environmental Quality Act (CEQA) Standard of Review

City staff has determined that the regulations contained in the draft ordinance are exempt from CEQA pursuant to the Class 6 Categorical Exemption set forth in Section

15306 of the state's CEQA Guidelines (CAO's Report 020-05285-000). Staff recommends that City Council determine that this project is exempt from CEQA based upon the Class 6 Categorical Exemption, which states:

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded. CEQA Guidelines Section 15306.

Adoption of this categorical exemption is appropriate when City Council, exercising its independent judgment, determines that the project meets all of the requirements set forth in the above-referenced section of the CEQA Guidelines and that none of the exceptions to the use of a categorical exemption set forth in CEQA Guidelines Section 15300.2 apply to this draft ordinance, based upon substantial evidence contained in the entire administrative record.

If City Council determines that this project is exempt from CEQA based upon the Class 6 Categorical Exemption, then staff should also be instructed to file a Notice of Exemption with the County Clerk for this project.

#### Council Rule 38 Referral

Copies of the draft ordinance were sent, pursuant to Council Rule 38, to the CAO, CLA, LAPD, DOT and the Planning Department. Departments were requested to report their comments, if any, directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie Flores or Chief Assistant City Attorney David Michaelson. They or another member of this Office will be present when you consider this matter to answer questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON  
Chief Assistant City Attorney

DM:VF:pj  
Transmittal