

ORDINANCE NO. _____

An ordinance adding Subdivision 10 to Section 14.00.A of Chapter 1 of the Los Angeles Municipal Code to preserve and create affordable housing units by establishing a process for granting legal status to certain existing unpermitted dwelling units in multiple-family buildings, in conformance with the State Density Bonus provisions in California Government Code Section 65915, and amending Subsections (a) and (e) of Section 19.14 of Chapter 1 to clarify the applicability of previously approved fees to the administration of the program.

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

Section. 1. Subdivision 10 is added to Subsection A of Section 14.00 of the Los Angeles Municipal Code to read as follows:

10. Existing non-permitted dwelling units where affordable housing is provided.

(a) **Purpose.** The purpose of this subdivision is to further health and safety standards in multifamily buildings and preserve and create affordable housing units by establishing procedures to legalize certain pre-existing unpermitted dwelling units in conformance with the State Density Bonus provisions in California Government Code Section 65915. The grant of permitted status to pre-existing unpermitted units under this subdivision shall not be considered an increase in density or other change which requires any corresponding zone change, general plan amendment, specific plan exception or discretionary action.

(b) **Application and Approval.** The applicant shall submit an application on a form developed by the Department of City Planning that contains basic information about the project, the owner and/or applicant and conformance with this section. The Director of Planning shall review all applications for compliance with the eligibility criteria in Paragraph (c), zoning compliance in Paragraph (d) and adherence to the performance standards in Paragraph (f). The application shall be approved by the Director of Planning if the eligibility criteria and performance standards of this subsection are met.

(c) **Eligibility Criteria.** A structure with an unpermitted dwelling unit or guest room located in a multiple-family zone (R2 or above) is eligible for the provisions of this section when the following criteria are met:

(1) **Pre-Existing Unit.** The unit(s) to be legalized have been occupied as a residential unit at any time between December

11, 2010, and December 10, 2015. Examples of the types of evidence to establish occupancy include, but are not limited to: an apartment lease; utility bill; Rent Stabilization Ordinance (RSO) Rent Registration Certificate; code enforcement case documentation (e.g., Orders to Comply); or other evidence identified on the application form and made available for public inspection in the case file.

(2) **Restricted Affordable Units.** At least one additional Restricted Affordable Unit is being provided on the project site. A Restricted Affordable Unit is defined for this section as a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by Very Low, Low or Moderate Income households, as those income ranges are defined by the California Department of Housing and Community Development (HCD) or any successor agency. Affordable means that rents or housing expenses cannot exceed 30 percent of the maximum gross income of each respective household income group. Moderate Income units may be utilized, provided the project is not located in a Low-Moderate Census Tract pursuant to the Community Reinvestment Act. A covenant acceptable to the Housing and Community Investment Department shall be recorded with the Los Angeles County Recorder, guaranteeing that each required Restricted Affordable Unit shall be reserved and maintained for at least 55 years from the issuance of the Certificate of Occupancy.

(d) **Zoning Compliance.** A property meeting the eligibility criteria above must comply with all applicable zoning codes, except:

(1) The number of allowable dwelling units or guest rooms can be increased up to 35 percent over the otherwise maximum allowable residential density under any applicable zoning ordinance and/or specific plan, depending on the percentage of Restricted Affordable Units provided in the building, pursuant to the density bonus charts in California Government Code Section 65915(f). These charts can be extended proportionally to permit both a density increase and an affordable set-aside less than what is shown on the charts.

(2) For properties which have more permitted units than are allowed under current maximum allowable residential density, an increase in current maximum allowable density beyond 35 percent may be authorized as long as the project offers sufficient Restricted Affordable Units to achieve at least a 35 percent density bonus pursuant to the density bonus charts in California Government Code Section 65915(f) and the increase in number of

units does not exceed 35 percent of the number of permitted units on the property. Notwithstanding the actual number of permitted units on the property, the base number of units for calculating the percentage of Restricted Affordable Units shall be the units allowed by the current maximum residential density.

(3) A property containing one structure with two permitted dwelling units in a multiple family zone may legalize a third unit as long as one of the units is a Restricted Affordable Unit, even if the third unit increases the density by more than 35 percent.

(4) An applicant may choose any one of the following methods of calculating required parking, if applicable, in conjunction with the bicycle parking provisions in LAMC Section 12.21.A.4:

(i) Parking may be recalculated for all units in the project (not just the restricted units) using Parking Option 1 in LAMC Section 12.22.A.25(d);

(ii) Parking may be calculated by maintaining all existing parking and providing additional parking just for the newly legalized unit(s) in accordance with Parking Option 2 in LAMC Section 12.22.A.25(d) as long as one Restricted Affordable Unit or dwelling unit for Low Income individuals who are 62 years of age or more, or who has a physical or mental impairment that limits one or more major life activities is provided for each legalized unit; or

(iii) Parking may be calculated by maintaining all existing parking and providing additional parking at a ratio of .5 parking spaces per bedroom for the newly legalized units for a project located within one half mile of a Major Transit Stop, which is a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute period or a major transit stop included in the applicable Regional Transportation Plan/Sustainable Community Strategy (RTP/STS).

If the net new number of required parking spaces is other than a whole number, it shall be rounded up to the next whole number.

(5) The passageway provisions of LAMC Sections 12.21.C.2(b) through (e) shall not apply to projects meeting the requirements of this section.

(6) The applicant shall be eligible for up to three concessions or incentives in accordance with Government Code Section 65915(d)(2), depending on the percentage of Restricted Affordable Units provided. For the purposes of this subdivision, a concession or incentive means a reduction in a site development standard or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission, including, but not limited to, a reduction in open space requirements and in the ratio of vehicular parking spaces that would otherwise be required.

(7) The City may not apply a development standard that will physically preclude the legalization of a project which meets the eligibility criteria of Paragraph (c) at the densities or with the concessions or incentives permitted by this section. Development standards, include, but are not limited to: a site condition; a height limitation; a setback requirement; a floor area ratio; an onsite open-space requirement; or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation. Development standards do not include conditions imposed through discretionary approvals. Incentives shall not be used to exempt compliance with performance standards.

(8) The street dedication provisions of LAMC Section 12.37 shall not apply when units are legalized under this subdivision.

(e) **Relationship to the Affordable Housing Incentive Guidelines.** The City's Affordable Housing Incentive Guidelines shall not apply to projects under this subsection.

(f) **Performance Standards.** The property shall meet the following performance standards:

(1) **Front Yard Landscaping.** All portions of the required front yard not used for necessary driveways and walkways, including decorative walkways, are landscaped and maintained, and not otherwise paved;

(2) **Lighting.** Security night lighting is shielded so that the light source cannot be seen from adjacent residential properties;

(3) **Parking Area.** Any surface parking areas are landscaped pursuant to the requirements of LAMC Section 12.21.A.6(i);

(4) **Signage.** Any illegal signage shall have been removed;

(5) **Code Violations.** The project site must not have any outstanding code violations other than those being addressed by the application under this section; and

(6) **Unpermitted Building Area Expansion.** The units to be legalized shall not result or have resulted in an unpermitted expansion of the building footprint or height, except that additions of less than 250 square feet, not resulting in any additional height, may be permitted, provided it is not located on the building frontage adjoining the front yard. The purpose of this standard is to limit exterior alterations to those that are minor and do not have a significant impact on the visual character of the building or neighborhood.

(g) **Alternative Compliance.** If compliance with the Performance Standards is not met, the applicant may apply for approval of alternative compliance measures pursuant to the procedures in Subsection B of this section, except that appeals are to the Area Planning Commission. The eligibility criteria in Paragraph (c) and the zoning compliance standards in Paragraph (d) must be met in order to qualify for an alternative compliance review.

Sec. 2. Subsections (a) and (e) of Section 19.14 of the Los Angeles Municipal Code are amended to read as follows:

(a) Unless a fee Exemption pursuant to Section 19.14(b) applies, the following fees shall be charged and collected by the Los Angeles Housing and Community Investment Department (Department) for the preparation, enforcement, monitoring, and associated work relating to the affordable housing covenants described in Sections 12.22.A.25(h)(1) through (3), 12.22.A.29(d)(1) through (2), and 14.00.A.10(c)(2) of this Code.

Type of Service:	Fee:
Housing Replacement Determinations pursuant to AB 2222	\$1,027.00 per unit
Affordable Housing Covenant Preparation	\$5,770.00* per project
Affordable Housing Covenant Amendments	\$5,770.00 per amendment
Affordable Housing Covenant Assumptions and Terminations	\$1,214.00 per assumption or termination
Affordable Housing Covenant Monitoring	\$173.00* per restricted unit, per year
Filing Fee	\$43.00* per project

(e) The affordable housing covenant monitoring fees may be pre-paid in full at or before the time of the recording of an underlying affordable housing covenant or billed annually to an owner or landlord upon the issuance of the Certificate of Occupancy for the project subject to an underlying affordable housing covenant.

Sec. 3. **URGENCY CLAUSE.** The City finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: The process proposed in the ordinance is designed to protect those 400-500 unpermitted units that have been used as housing units, but which would effectively be lost as a result of code enforcement proceedings each year, because currently there is no process to legalize these units. In addition, the provision of affordable housing is of the utmost importance since the City of Los Angeles has become the most unaffordable housing market (as a function of the City's median income) in the nation. In order to address the threat of lost housing units, there must be a process to legalize these units. For all of these reasons, the Unpermitted Dwelling Unit Ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.

Sec. 4. **SEVERABILITY.** If any portion, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each portion or subsection, sentence, clause and phrase herein, irrespective of the fact that any one or more portions, subsections, sentences, clauses or phrases be declared invalid.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

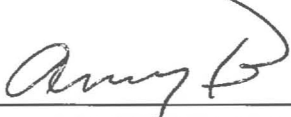
By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
AMY BROTHERS
Deputy City Attorney

Date April 17, 2017

File No(s). CF 14-1150-S1

Pursuant to Charter Section 559, I **approve** this ordinance on behalf of the City Planning Commission and recommend that it be adopted

April 6, 2017

See attached report


Vincent P. Bertoni, AICP
Director of Planning