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REPORT NO. R 18 - 0 3 6 5
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REPORT RE:

DRAFT ORDINANCES AMENDING SECTIONS 12.03, 12.12.2, 12.13, 12.13.5, 12.22, 12.24, 19.01, AND 21.7.2 OF THE LOS ANGELES MUNICIPAL CODE TO ESTABLISH REGULATIONS TO REGULATE HOME SHARING OF PRIMARY RESIDENCES, AND ADDING A NEW SECTION 5.576 TO THE LOS ANGELES ADMINISTRATIVE CODE TO CREATE A SHORT-TERM RENTAL ENFORCEMENT TRUST FUND

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. 14-1635-S2

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, 12.12.2, 12.13, 12.13.5, 12.22, 12.24, 19.01, and 21.7.2 to regulate the use of a primary residence for home sharing as an accessory use. This draft ordinance also establishes related fees and fines and adds Section 5.576 to the Los Angeles Administrative Code to create the Short-Term Rental Enforcement Trust Fund for the receipt, retention, and distribution of monies collected by the City to address the enforcement of short-term rental activity in the City of Los Angeles.

Background

On June 2, 2015, a motion (Bonin/Wesson-Koretz) was introduced directing the Department of City Planning to prepare an ordinance regulating short term rentals in Los Angeles. The motion specified that the ordinance authorize hosts to rent all or part of their primary residence to short term visitors and prohibit hosts from renting units that are not their primary residences or that are covered by the City's Rent Stabilization Ordinance (RSO).

On June 23, 2016, the City Planning Commission (CPC) considered a proposed ordinance presented by the Department of City Planning (DCP) and transmitted its recommendations to the City Council in its Letter of Determination dated October 26, 2016. On December 7, 2016, the Housing Committee of the City Council voted to amend the proposed ordinance to eliminate home-sharing in secondary residences. The Housing Committee also voted to clarify that the prohibition on home-sharing in units subject to the RSO applies to all units, not only those that are renter-occupied.

On January 25, 2017, the DCP submitted to the City Council's Planning and Land Use Management (PLUM) Committee a staff report and a proposed ordinance that incorporated the Housing Committee's recommendations. The materials from DCP also included DCP's recommendations on the enforcement tools, application fees and penalties for violations of the proposed ordinance. For the next several months, the PLUM Committee held meetings, during which it heard public comment and considered supplemental reports provided by DCP. (See CF 14-1635-S2.)

On April 10, 2018, PLUM recommended the following revisions to DCP's proposed ordinance, which were adopted by the Housing Committee on April 25, 2018, and approved by City Council on May 2, 2018:

- set a 120 day cap per year on home-sharing, but provide a vehicle by which hosts could engage in extended home sharing beyond the maximum number of 120 days per year;
- eliminate conversion of existing residential buildings into Transient Occupancy Residential Structures;
- establish a per night surcharge to offset costs of enforcement;
- require annual renewal for all home-sharing registrations;
- allow property owners to notify the City that their properties are not eligible for home-sharing by tenants;

- provide for “platform agreements” by which a home-sharing hosting platform maintains responsibility for removal of illegal listings and provides the City with information needed for enforcement.

At the May 2, 2018, meeting, the City Council referred the matter back to the CPC, and directed DCP to prepare additional reports for the CPC’s consideration in response to related motions introduced that day by various Councilmembers.

At its September 13, 2018, meeting, the CPC considered DCP’s proposed ordinance, which DCP revised to incorporate the City Council’s changes, as well as the reports DCP drafted pursuant to the Council’s instruction. The CPC voted to recommend a proposed ordinance that included most of the Council’s revisions, but that would allow home-sharing in RSO units and in alternative dwelling units that had been issued a building permit by January 1, 2017. The CPC also requested that DCP revise the environmental document to reflect the modified ordinance.

At the November 6, 2018, PLUM meeting, PLUM recommended reinstatement of the prohibition on home sharing in RSO units. At the conclusion of the public hearing on the matter, the PLUM Committee requested that the City Attorney transmit the draft ordinance for the City Council’s consideration. On November 14, 2018, the Housing Committee voted to adopt the PLUM Committee’s recommendations.

Summary of Ordinance Provisions

The many Planning Department staff reports pertaining to this matter, including those dated January 25, 2017; October 19, 2017; January 11, 2018; March 22, 2018; September 13, 2018; and October 10, 2018, provide a detailed description of the LAMC and LAAC regulations effectuated by the draft ordinance.

The draft ordinance incorporates the amendments approved by the PLUM and Housing Committees, as requested. Therefore, the draft ordinance prohibits home-sharing in RSO units.

This Office made additional revisions during its review of the ordinance for form and legality. The primary change was to add additional due process procedures to the section pertaining to the suspension and revocation of registrations and the revocations provision for discretionary extended home sharing approval. These procedures allow hosts to challenge a suspension or revocation of a Home Sharing registration.

This Office further revised the provisions concerning the proposed per-night fee to specify that the fee may be adopted by City Council resolution after DCP completes and presents a fee analysis of the cost of implementing, maintaining, and enforcing this draft ordinance.

Charter 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 558(b)(3)(A) allows the City Council to adopt an ordinance conforming to the CPC's recommendation of approval of the ordinance, if the CPC recommends such approval. Similarly, Charter Section 556 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. The City Council can either adopt the CPC's findings as set forth in the CPC's transmittal report dated October 10, 2018, or make its own.

California Environmental Quality Act (CEQA) Standard of Review

The DCP recommends that the City Council determine that the adoption of this ordinance does not constitute a "project," as defined by CEQA pursuant to CEQA Guidelines Section 15378. Furthermore, even if it were found to be a project, the DCP recommends that the adoption of this ordinance be found exempt from CEQA based upon CEQA Guidelines Section 15061(b)(3), which states that a project is exempt from CEQA if "[t]he activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

The DCP also recommends that the City Council adopt a negative declaration for this project. Adoption of a negative declaration is appropriate when the City Council, having considered the whole administrative record and exercising its independent judgment, determines the following: (1) the City has complied with all of the procedural requirements related to the preparation, noticing and distribution of the Notice of Intent to Adopt a Negative Declaration, the negative declaration and the initial study supporting the determination of a negative declaration, as set forth in Public Resources Code Section 21091 and CEQA Guidelines Sections 15071, 15072 and 15073; (2) there is no substantial evidence the project will have a significant effect on the environment; and (3) the negative declaration reflects the City Council's independent judgment and analysis. If the City Council concurs, it should adopt these findings prior to or concurrent with its action on the ordinance.

Notice Requirements

This ordinance would impose a new fee. Therefore notice of its proposed adoption should be given in accordance with the provisions of California Government Code Sections 66018 and 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing

be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Bureau of Engineering, the Department of Building and Safety, the Housing and Community Investment Department, the Fire Department, the Office of Finance, the Department of City Planning, the City Administrative Officer and the Los Angeles Police Department. 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 Amy Brothers at (213) 978-8069. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

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Transmittal