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REPORT NO. R 17 - 0 3 38
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REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 12.24 AND 14.00 OF THE
LOS ANGELES MUNICIPAL CODE TO ALLOW FOR DISCRETIONARY APPROVAL
OF CERTIFIED FARMERS' MARKETS IN RESIDENTIAL ZONES AND MINISTERIAL
APPROVAL IN OTHER ZONES AS A PUBLIC BENEFIT**

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. 10-1832

Honorable Members:

This Office has prepared and now transmits for your consideration, approved as to form and legality, the enclosed draft ordinance amending Section 12.24 of the Los Angeles Municipal Code (LAMC) to allow for discretionary approval of Certified Farmers' Markets in Residential (R) zones and adding Subdivision 11 to LAMC Section 14.00 to permit by right the operation of Certified Farmers' Markets in the Agricultural (A), Commercial (C), Manufacturing (M) and Parking (P) zones.

Background

On April 26, 2011, the Planning and Land Use Management Committee (PLUM) considered a report from the Department of City Planning (Planning Department), initiated by motion (Wesson-Koretz), regarding the feasibility of allowing non-profit organizations to operate farmers' markets by right in the R (residential) zones without the need for a Zoning Administrator hearing. The PLUM Committee recommended that

the City Council instruct the Planning Department to create a conditional use process for farmers' markets in residential zones with a 500-foot notification and public hearing and add a new Public Benefit for farmers' markets in non-residential zones, allowing farmers' markets by right in agricultural, commercial and manufacturing zones. On May 11, 2011, the City Council adopted the PLUM Committee's recommendations.

At its meeting on September 22, 2011, the City Planning Commission (CPC) approved and recommended a draft ordinance to create a discretionary approval process for Certified Farmers' Markets in any R zone and to allow Certified Farmers' Markets to operate by right in the A, C, M and P zones. On November 15, 2011, the City Council requested the City Attorney to prepare an ordinance in accordance with the CPC recommendation and further instructed the Planning Department to study the feasibility of expanding the parking lot area used by a farmers' market from 20 percent to 50 percent.

On May 5, 2017, Councilmember Huizar requested the Planning Department and City Attorney to present a report to the PLUM Committee relative to the 2011 instructions from Council. On May 9, 2017, the PLUM Committee held a hearing, during which several Council offices requested specific amendments to the ordinance considered by the PLUM Committee in 2011. The PLUM Committee requested that the City Attorney transmit an ordinance, incorporating the following amendments:

1. Allow Farmers' Markets on a parking lot in a Residential Zone serving a church, school or philanthropic institution, to go through the public benefit process instead of Zoning Administrator process.
2. Require that copies of applications be provided to the Councilmember of the district in which the Farmers' Market is proposed.
3. Limit the operation of Farmers' Markets to twice a week.
4. Eliminate the requirement for toilet facilities.
5. Eliminate the requirement for a cleanup deposit of \$250.
6. Require the operator of a Farmers' Market to keep a list of the vendors during the day of operation and ensure that at least 75 percent are producers or certified producers selling agricultural products.
7. Require applications to include Farmers' Market certificate information and name of contact person available during hours of operation, and require the same information to be posted on-site.
8. Limit the number of parking spaces used for Farmers' Market to 80 percent of the total spaces provided.

The PLUM Committee further requested that the City Attorney, in consultation with the Planning Department, consider an additional amendment requiring operators to provide a safety barricade between the 80 percent of parking space used for the Farmers' Markets and the 20 percent area used for parking.

Key Provisions of the Draft Ordinance

The draft ordinance incorporates most of the amendments requested by the PLUM Committee on May 11, 2017, with a couple of noted exceptions. In conducting its legal review of the proposed changes to the ordinance, and in consultation with the Department, this Office has determined that further study by the City would be necessary before establishing a by-right process for farmers' markets in R-Zones. As a result, this draft ordinance removes the by-right provisions for the operation of farmers' markets in R-Zones, and recommends that such farmers' markets be subject to the discretionary approval process, consistent with the recommendations of the CPC. In further consultation with the Planning Department, it was determined that "Certified Farmers' Markets," as defined under the California Code of Regulations, are bound by existing state regulations for producers and certified producers. Thus, the draft ordinance removes the proposed amendment for a 75 percent mix of producers or certified producers selling agricultural products because its inclusion would have been duplicative of state regulations.

The amendments to Section 12.24 X.6 require that applications for a Certified Farmers' Market on any property in an R-Zone proceed through the Zoning Administrator Determination process. A copy of the application will be provided to the Councilmember of the district in which the farmers' market is proposed, and if approved, the market will be subject to a number of prescribed operating requirements under Section 12.24 X.6(c) that address operational aspects such as farmers' market hours, clean-up requirements and noise limitations.

The draft ordinance also adds a new public benefits provision to LAMC Section 14.00 to permit the operation of certified farmers' markets in other zones through a ministerial, by-right process. The by-right uses will be allowed in the A, C, M and P zones, subject to a number of Citywide Performance Standards that regulate the operations of farmers' markets in these zones.

Charter Findings Required

Charter Section 558(b)(3) requires the City Council to make the findings required in Subsection (b)(2) of the same action; 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 and recommendations as set forth in the CPC's Transmittal Report or make its own.

California Environmental Quality Act (CEQA) Determination

The Planning Department recommends that the City Council adopt a negative declaration for this project and also find that the project is categorically exempt from CEQA. 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.

In addition, the Department further recommends the City Council determine that based on the whole of the administrative record, the draft ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15303(c), 15304(e), 15311(c), 15332 and City CEQA Guideline Class 4; and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. If the City Council concurs, it should adopt these findings prior to or concurrent with its action on the ordinance.

Council Rule 38 Referral

Pursuant to Council Rule 38, a copy of the draft ordinance was sent to the Department of Building and Safety with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Oscar Medellin at (213) 978-8068. He 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
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Transmittal