

ITEM No. 12 - B

MOTION

I MOVE that the matter of the Categorical Exemption, Statutory Exemption, Communication from the City Attorney and Ordinance Second Consideration relative to grandfathering Second Dwelling Units, Item No. 12 on today's Council Agenda (CF 14-0057-S8), **BE AMENDED** to PRESENT and ADOPT the attached Ordinance in lieu of the Ordinance attached to the File.

PRESENTED BY: 
MITCH O'FARRELL
Councilman, 13th District

SECONDED BY: 

ORIGINAL

September 13, 2016
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OK-

ORDINANCE NO. _____

An ordinance granting legal nonconforming status to second dwelling units.

WHEREAS, by its adoption of this Ordinance the Los Angeles City Council makes the following findings:

1. The extreme shortage of housing in the City of Los Angeles has been well documented. High land and construction costs and a long-standing insufficient supply of housing have caused rents to rise steadily for many years, increasing the number of renters who are either cost-burdened or live in overcrowded and often substandard conditions; and

2. The Los Angeles General Plan prioritizes the need for a mix of housing types across the City, including both rental and homeownership opportunities for singles, families, seniors, persons with disabilities, and multi-generational families; and

3. Second dwelling units, often referred to as "granny flats," allow homeowners to make ends meet while providing affordable housing opportunities for single young people, seniors, and multi-generational families by providing a mix of housing that responds to changing family needs and smaller households; and

4. Second dwelling units can provide housing benefits without significantly changing the basic character of established neighborhoods and allow more efficient use of housing stock and infrastructure; and

5. The second dwelling unit ordinance enacted by the City of Los Angeles establishes a discretionary Conditional Use Permit process, stated in Los Angeles Municipal Code Sections 12.24.W.43 and 12.24.W.44; and

6. In 2002, the State of California enacted AB 1866, amending Government Code Section 65852.2, which requires, among other matters, that municipalities with their own second dwelling unit ordinances administer them "ministerially without discretionary review or a hearing," and states in Government Code Section 65852.2(b)(1) a set of ministerial state development default standards for approving second dwelling units for cities that have not adopted an ordinance governing second units in accordance with state law; and

7. On June 23, 2003, the City of Los Angeles responded to AB 1866 by issuing "Internal-Departmental Correspondence" (2003 Internal-Departmental Correspondence) from the City's Department of City Planning and Department of Building and Safety, stating that effective July 1, 2003, a second dwelling unit would be considered through a ministerial process without discretionary review and permitted if it met all of the standards in the 2003 Internal-Departmental Correspondence; and

8. On May 6, 2010, the City, through the Office of Zoning Administration, issued ZA Memorandum 120 (ZA Memo 120), which replaced the 2003 Internal-Departmental Correspondence and provided that a second dwelling unit would be considered through a ministerial process without discretionary review and permitted if it met all of the standards in ZA Memo 120; and

9. The City of Los Angeles committed to facilitate the production of second dwelling units when it adopted the Housing Element of the General Plan adopted December 3, 2013; and

10. In 2016, the Los Angeles Superior Court entered an Order in the case titled *Los Angeles Neighbors in Action vs. City of Los Angeles, et al.* (BS 150559), finding ZA Memo 120 invalid; and

11. Property owners in the City have received building permits, or otherwise have submitted plans accepted by the Department of Building and Safety, for second dwelling units in reliance upon the 2003 Internal-Departmental Correspondence or 2010 ZA Memo 120. The validity of some of these permits and plans may be made uncertain by the Court's 2016 Order in *Los Angeles Neighbors in Action vs. City of Los Angeles, et al.* (BS 150559); and

12. It is the intention of the City Council to promote laws and policies to help alleviate the extreme shortage of housing in the City of Los Angeles, and to expand rental and homeownership opportunities for singles, families, seniors, persons with disabilities, and multi-generational families; and

13. As a matter of public policy, the City Council finds it is not in the best interests of the City or its residents to question the lawfulness of any second dwelling unit to the extent constructed in reliance upon the 2003 Internal-Departmental Correspondence or ZA Memo 120; and

14. As a matter of public policy the City Council finds it is in the best interests of the City and its residents to bestow legal non-conforming status to any second dwelling unit to the extent constructed in reliance upon the 2003 Internal-Departmental Correspondence or ZA Memo 120.

NOW, THEREFORE,

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

Section 1. LEGAL NON CONFORMING STATUS.

Any second dwelling unit constructed or currently under construction pursuant to an issued building permit, or proposed per plans sufficient for a complete plan check accepted by the Department of Building and Safety on or before September 30, 2016, shall be considered lawful to the extent that such second dwelling unit is constructed, under construction or proposed in accordance with the June 23, 2003, Internal-Departmental Correspondence issued by the City of Los Angeles Department of City Planning and Department of Building and Safety, or the May 6, 2010, Zoning Administrator Memorandum 120 issued by the Office of Zoning Administration.

Sec. 2. SEVERABILITY. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

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 City is currently in the midst of a housing crisis, with the supply of affordable options unable to support the demand for housing in the City. The US Census reports that vacancy rates for housing in the Los Angeles area are currently the lowest of any major city. A housing option that is currently available and affordable for many in the City is second dwelling units. However, a 2016 Order of the Los Angeles Superior Court invalidated ZA Memo 120, and that invalidation: (1) casts uncertainty over the validity building permits issued in reliance upon ZA Memo 120; and (2) effectively precludes residents who received building permits in reliance upon ZA Memo 120, or who are otherwise in the process of applying for building permits for second dwelling units, from obtaining clarity regarding the lawfulness of their units or otherwise from proceeding with their projects. The City estimates there exist hundreds of second dwelling unit projects either currently under construction or in plan check in reliance upon ZA Memo 120. Immediate action is necessary to bring the City's regulations into compliance with state law; allow the continued construction of, and processing of applications for, second dwelling unit; and eliminate confusion and potential litigation regarding second dwelling units that are already built, under construction, and in the permitting process phase.

Public testimony further confirms the dire position of residents pursuing and constructing second dwelling units due to the court's Order. Failure to take immediate action will impede the orderly sale of property in the City as properties with second dwelling units are unable to obtain clarity regarding the lawfulness of their units.

Failure to take immediate action to provide for the continued construction of second dwelling and processing of second dwelling unit applications and certainty for residents who constructed second dwelling units in reliance upon policies and practices implemented by the City for second dwelling units since June 23, 2003, will exacerbate the housing shortage and negatively impact individuals living in and seeking to construct second dwelling units.

For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.

Sec. 4. 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

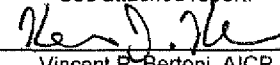

MICHAEL N. FEUER, City Attorney

By 
TERRY KAUFMANN MACIAS
Assistant City Attorney

Pursuant to Charter Section 559, Pursuant to Charter Section 559, I **disapprove** this ordinance on behalf of the City Planning Commission

September 13, 2016

See attached report.


Vincent P. Bertoni, AICP 
Director of Planning

Date 9-13-2016

File No(s). CF No. 14-0057-S8