


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: April 14, 2015

TO: Honorable Members of the Rules, Elections and the Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No. 15-0002-S31
Assignment No. 15-04-0270

SUBJECT: Resolution (Wesson-Bonin) to OPPOSE AB 1220 (Harper), Transient Occupancy Taxes & Residential Short-Term Rentals

CLA RECOMMENDATION: Adopt Resolution (Wesson-Bonin) to include in the City's 2015-16 State Legislative Program OPPOSITION to AB 1220 (Harper), which would exempt cities and counties, including charter cities, from levying local hotel taxes, that is, transient occupancy taxes, on residential short term rentals, inasmuch as it undermines local land use control, and ultimately, the principle of home rule.

SUMMARY

On March 31, 2015, a Resolution (Wesson-Bonin) was introduced to oppose AB 1220 (Harper), which would exempt cities and counties, including charter cities, from levying local hotel taxes, that is, transient occupancy taxes, on residential short term rentals, for the following reasons:

- Enactment into law of AB 1220 undermines local land use control, inasmuch as the definition of 'short term rentals' included in AB 1220 is contrary to the definition used by the city, which is applicable to hotels or motels, residential buildings, including single family dwellings that are occupied for *30 days* or fewer. AB 1220, defines 'short term rentals' as accommodations for less than *90 days*.
- Nine neighborhoods in the city (Venice; Downtown; Miracle Mile; Hollywood; Hollywood Hills; Echo Park; Silver Lake; Mar Vista; and Los Feliz) are reported to be the epicenter of 'short term rental' locations, the same neighborhoods with very tight housing vacancy rates.
- The city has been experiencing for many years a shortage in the supply of affordable housing, and now it is the most unaffordable city in the nation, where 50% of its residents spend more than the recommended 30 percent of income on rent or mortgage payments.

BACKGROUND

Land use and short term rentals:

The city's Municipal Code (Section 12.03) defines 'short term rentals' to include any portion of residential buildings that are designed or used for occupancy for a period of 30 consecutive calendar day or less, '*Transient Occupancy Residential Structure*' (Ordinance No. 167689). The definition of 'short term rentals' applies to distinct uses such as, hotels or motels, residential buildings, including single family dwellings.

In a Memorandum to the Council dated March 19, 2014, the Planning Department explains the restrictions governing 'short term rentals' and zoning controls, and notes that they are disallowed in single family residential zones and lower density multi-family residential zones, as well as the lower intensity 'mixed use zone', the residential accessory services zone (RAS3).

Short term rentals, however, are allowed in commercial zones, the RAS4 residential accessory services zone; and the higher density multi-family residential zones, the R4 and R5 residential zones. In some instances, short term rentals are allowed with the issuance of a conditional use permit.

Policy and short term rentals:

The Council has adopted various Motions to gain an understanding of the mechanism of short term rentals, and how they can be regulated as denoted by the following actions:

1. On December 9, 2014, the Council directed the Office of Finance, in consultation with the City Attorney, to send a notice to each host on the Airbnb site and all similar sites, to inform the hosts of city laws regarding temporary occupancy (Council File No. 14-0600-S89).
2. On August 27, 2014, the Council directed various city departments, and the City Administrative Officer, as lead, to prepare a comprehensive report on the so-called 'sharing economy' and its impacts on the city. The report requested information that denotes its positive and negative impacts, as well as information regarding *non-owner occupied operators* (Council File No. 14-0593).
3. On December 2, 2014, a Motion (Bonin-Wesson-Huizar) was introduced and referred to Committee(s) directing the City Administrative Officer, as lead, with the assistance of the Chief Legislative Analyst, City Attorney, and various city departments, to prepare a report that reviews short term room and home rental regulations (Council File No. 14-1635).

The various requested reports are forthcoming and will be vetted in committee. Inasmuch, as the concept of the 'sharing economy' covers various policy realms, such as but not limited to, transportation (Uber) and housing (Airbnb), the focus thus far has been on housing, inasmuch as it has attracted attention in the city, which is already experiencing an affordable housing shortage.

League of Cities Letter:

In a letter dated April 3, 2015, the League of California Cities opposes AB 1220 for the same reasons denoted in the Resolution (Wesson-Bonin), which is that it undermines local control by prohibiting the collection of local hotel taxes, that is, transient occupancy taxes (TOT).

The city relies on these local taxes to pay for local public services, such as but not limited to, streets, roads, fire, police, and trash pick up services. Enactment into law of AB 1220 would prohibit the city from collecting these necessary and much needed taxes from short term rental operators.

The letter further notes that there should be no free rides, and that short term rental operators should be subject to the same taxes paid by hotels, motels, and other accommodations where guests pay the TOT. In addition, the League opposes AB 1220 because the operation of short term rentals may create additional noise, traffic, and parking impacts; and undermine local rent control laws by decreasing the availability of housing.


AB 1220, therefore, undermines local control by taking away the city's ability to collect much need local taxes, and by undermining the city's ability to enforce its land use regulatory controls.

DEPARTMENTS NOTIFIED:

Building and Safety
City Planning
City Attorney
Office of Finance
Housing & Community Investment Department

BILL STATUS:

2/27/15 Introduced
3/23/15 Referred to Committees on Local Government and Revenue & Taxation
4/15/15 Local Government Committee



Roberto R. Mejia
Analyst

Attachments: 1. Resolution
2. AB 1220 (Harper)
3. League of Cities letter dated April 3, 2015
4. March 19, 2014 Planning Department Memorandum on Short Term Rentals
5. Ordinance No. 167689, *Transient Occupancy Residential Structure*

Office of the City Clerk, City of Los Angeles

This report was generated by the Council File Management System on 04/09/2015

Council File Number

15-0002-S31

Title

AB 1220 (Harper) / Transient Occupancy Taxes / Residential Short Term Rentals

Last Change Date

03/31/2015

Expiration Date

03/31/2017

Reference Numbers

Related Council File: 14-0600-S89

Pending in committee

Rules, Elections and Intergovernmental Relations Committee

Mover

HERB WESSON, JR.

Second

MIKE BONIN

Action History for Council File 15-0002-S31

Date Activity

03/31/2015 Resolution referred to Rules, Elections and Intergovernmental Relations Committee.

RESOLUTION
RULES, ELECTIONS & INTERGOVERNMENTAL AFFAIRS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, on February 27, 2015, Assembly Member Harper (R-Huntington Beach), introduced AB 1220, which would prohibit local governments, cities and counties, including charter cities, from levying local hotel taxes, commonly referred to as transient occupancy taxes, on 'short term rentals'; and

WHEREAS, AB 1220 defines 'short term rentals' to include a residential dwelling unit, including single family residence, apartment, condominium unit, or other residential real estate where members of the public obtain sleeping accommodations for less than 90 days; and

WHEREAS, the definition of 'short term rentals' included in AB 1220 is contrary to the definition used by the city, 'Transient Occupancy Residential Structure' (Ordinance No. 167689), as applicable to hotels or motels, residential buildings, including single family dwellings that are occupied for 30 days or fewer; and

WHEREAS, 'short term rentals' are prohibited in the city in single family residential zones and lower density multi-family residential zones, although allowed in commercial zones; and

WHEREAS, the city has been experiencing for many years a shortage in the supply of affordable housing, and now it is the most unaffordable city in the nation, where 50% of its residents spend more than the recommended 30 percent of income on rent or mortgage payments; and

WHEREAS, nine neighborhoods in the city (Venice; Downtown; Miracle Mile; Hollywood; Hollywood Hills; Echo Park; Silver Lake; Mar Vista; and Los Feliz) are reported to be the epicenter of 'short term rental' locations, the same neighborhoods with very tight housing vacancy rates; and

WHEREAS, on December 9, 2014, the Council directed the Office of Finance, in consultation with the City Attorney, to send a notice to each host on the Airbnb site and all similar sites, to inform the hosts of city laws regarding temporary occupancy (Council File No. 14-0600-S89);


NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program OPPOSITION to AB 1220 (Harper), which would exempt cities and counties, including charter cities, from levying local hotel taxes, that is, transient occupancy taxes, on residential short term rentals, inasmuch as it undermines local land use control, and ultimately the principle of home rule.

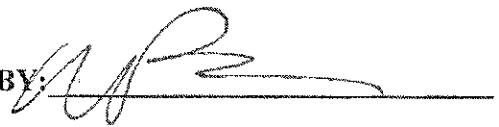
ORIGINAL



MAR 3 1 2015

rrm

PRESENTED BY: 
HERB J. WESSON, JR.
Councilmember, 10th District

SECONDED BY: 

ASSEMBLY BILL

No. 1220

Introduced by Assembly Member Harper

February 27, 2015

An act to add Section 7282.1 to the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1220, as introduced, Harper. Transient occupancy taxes: residential short-term rentals units.

Existing law authorizes the legislative body of a city or county to levy a tax on the privilege of occupying a room or other living space in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days, as provided. The California Constitution also provides that a charter city may levy local taxes to raise revenues for local purposes, subject to restrictions imposed by that city's charter or preemption in matters of statewide concern.

This bill would prohibit a legislative body of a local agency, defined to mean any city, county, city and county, including any chartered city, county, or city and county, from levying a tax on the privilege of occupying a residential short-term rental unit, as defined.

This bill would make legislative findings and declarations regarding the statewide concern of excluding the occupancy of a residential short-term rental unit from local transient occupancy taxes to ensure statewide uniformity and fairness in how those taxes are applied.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that ordinary
2 people who want to earn additional income through home-sharing
3 arrangements should not be burdened with the collection of, and
4 compliance with, local transient occupancy taxes. Excluding the
5 occupancy of a residential short-term rental unit from local
6 transient occupancy taxes will ensure statewide uniformity and
7 fairness in how those taxes are applied, and therefore is a matter
8 of statewide concern, not a municipal affair, as that term is used
9 in Section 5 of Article XI of the California Constitution.

10 SEC. 2. Section 7282.1 is added to the Revenue and Taxation
11 Code, to read:

12 7282.1. (a) Notwithstanding any other law, no legislative body
13 of a local agency may levy a tax on the privilege of occupying a
14 residential short-term rental unit.

15 (b) For purposes of this section:

16 (1) "Local agency" means any city, county, city and county,
17 including any chartered city, county, or city and county.

18 (2) "Residential short-term rental unit" means a residential
19 dwelling unit, including single-family residence, apartment,
20 residential condominium unit, or other residential real estate
21 improvement, in which members of the public, for consideration,
22 obtain sleeping accommodations for less than 90 days.

CURRENT BILL STATUS

MEASURE : A.B. No. 1220
AUTHOR(S) : Harper.
TOPIC : Transient occupancy taxes: residential short-term
rentals units.
HOUSE LOCATION : ASM

TYPE OF BILL :

- Active
- Non-Urgency
- Non-Appropriations
- Majority Vote Required
- Non-State-Mandated Local Program
- Non-Fiscal
- Non-Tax Levy

LAST HIST. ACT. DATE: 03/23/2015
LAST HIST. ACTION : Referred to Coms. on L. GOV. and REV. & TAX.
COMM. LOCATION : ASM LOCAL GOVERNMENT
HEARING DATE : 04/15/2015

TITLE : An act to add Section 7282.1 to the Revenue and Taxation
Code, relating to local government.

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1220

AUTHOR : Harper

TOPIC : Transient occupancy taxes: residential short-term rentals units.

TYPE OF BILL :

- Active
- Non-Urgency
- Non-Appropriations
- Majority Vote Required
- Non-State-Mandated Local Program
- Non-Fiscal
- Non-Tax Levy

BILL HISTORY

2015

Mar. 23 Referred to Coms. on L. GOV. and REV. & TAX.

Mar. 2 Read first time.

Mar. 1 From printer. May be heard in committee March 31.

Feb. 27 Introduced. To print.



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

April 3, 2015

The Honorable Matthew Harper
California State Assembly
State Capitol
Sacramento, CA 95814

RE: AB 1220 (Harper). Transient Occupancy Taxes: Residential Short-Term Rentals
NOTICE OF OPPOSITION

Dear Assembly Member Harper,

On behalf of the League of California Cities, I regret to inform you of our opposition to AB 1220, which would prohibit cities, counties, or a city and county from levying a transient occupancy tax (TOT) on residential short-term rental units, including single family homes, apartments, condos or other residential real estate in which the public pays for accommodations for less than 90 days.

This measure would eliminate local authority to collect revenue on transient occupancy of short term residential units, thereby undermining local control, local budgets and regulatory authority. Contrary to the intent language in your measure that states that such a measure would create "fairness," we argue that such a proposal creates major inequities.

There should be no free rides. These residential units are in direct competition with hotels, motels and other accommodations where guests do pay the local transient occupancy tax, so all such uses should be subject to the same tax. The revenues generated support local streets, roads, fire, police, lifeguards, trash pick-up, park maintenance and other local public services which directly affect local quality of life and the attraction of the community for a visitor.

Moreover, such short-term rentals of residential houses, rooms, and apartments present numerous challenges to affected neighborhoods and adjacent property owners. They may create additional noise, traffic, parking, privacy and public safety issues, subvert local rent-control laws, decrease available housing stock and in some cases turn residential neighborhoods into de-facto hotel rows.

Cities are responding in different ways. Many regulate and enforce local ordinances and collect TOT on these rentals. Yet, in other areas it may present less of an issue. Cities already have the tools they need to craft the right approach to fit their own communities.

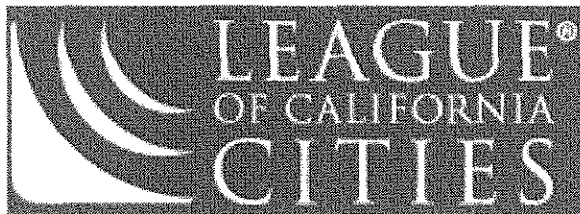
This measure would undermine local authority and revenues while also creating major inequities among taxpayers staying in transient occupancy lodging. For these reasons, we regret that we must oppose AB 1220. If you have any questions about our opposition to this bill, please call me at (916) 658-8222.

Sincerely,



Daniel Carrigg
Legislative Director

CC: Chair and Members, Assembly Local Government Committee
Chair and Members, Assembly Committee on Revenue and Taxation
Debbie Michel, Chief Consultant, Assembly Local Government Committee
William Weber, Principal Consultant, Assembly Republican Caucus
Anthony Archie, Senior Consultant, Assembly Republican Caucus
Sue Highland, Committee Secretary, Assembly Committee on Revenue and Taxation



Search Results Wednesday, April 08, 2015

AB 1220

(Harper R) Transient occupancy taxes: residential short-term rentals units.

(Introduced: 2/27/2015)

Status: 3/23/2015-Referred to Coms. on L. GOV. and REV. & TAX.

Location: 3/23/2015-A. L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chapters
1st House				2nd House				Conc.			

Calendar: 4/15/2015 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, MAIENSCHEIN, Chair

Summary: Existing law authorizes the legislative body of a city or county to levy a tax on the privilege of occupying a room or other living space in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days, as provided. The California Constitution also provides that a charter city may levy local taxes to raise revenues for local purposes, subject to restrictions imposed by that city's charter or preemption in matters of statewide concern. This bill would prohibit a legislative body of a local agency, defined to mean any city, county, city and county, including any chartered city, county, or city and county, from levying a tax on the privilege of occupying a residential short-term rental unit, as defined. This bill contains other related provisions.

Attachments:

[AB 1220 \(Harper\) Author, Oppose 4.3.15](#)

Policy Committee (primary)	Primary Lobbyist	2nd Lobbyist		
Housing Community and Economic Development	Carrigg, Dan			
League Position	Position Taken	Policy Committee (secondary)	Policy Analyst	
Oppose	Hot			

Total Measures: 1
Total Tracking Forms: 1

4/8/2015 1:30:29 PM



EXECUTIVE OFFICE

City Hall • 200 N. Spring Street, Room 525 • Los Angeles, CA 90012



March 19, 2014

To: Council Offices
Other Interested Parties

From: Alan Bell, AICP *AB*
Deputy Director of Planning

Subject: **Short-Term Rentals**

This memorandum answers frequently asked questions about how the zoning laws in effect today regulate short-term rentals in the City of Los Angeles.

1. What is a short-term rental?

In Los Angeles, short-term rentals include all or any portion of residential buildings that are designed or used for occupancy for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. While this definition typically applies to hotels or motels, it also applies to any other residential buildings (including one-family dwellings) that are designed or used for occupancy of 30 or fewer days.

2. Where are short-term rentals allowed?

Short-term rentals may be allowed in commercial zones; the RAS4 residential accessory services zone; and the R4 and R5 higher-density multi-family residential zones. The rules governing short-term rentals in these zones are complex. In some cases, short-term rentals are allowed with a Conditional Use Permit. In other cases, no Conditional Use Permit is required. Areas governed by specific plans, overlay zones or other specially zoned areas may have different rules.

3. Where are short-term rentals prohibited?

Short-term rentals are prohibited in agricultural zones; the R1 and other single-family residential zones; the R2, RD and R3 lower-density multi-family residential zones; and the RAS3 residential accessory services zone. Areas governed by specific plans, overlay zones or other specially zoned areas may have different rules.

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ORDINANCE NO. 167689

An ordinance amending Sections 12.03, 12.12.2, 12.13, 12.13.5, and 12.24 of the Los Angeles Municipal Code to regulate the establishment of hostels and transient occupancy residential structures.

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

Section 1. Section 12.03 of the Los Angeles Municipal Code is hereby amended by adding the following definition in proper alphabetical sequence, to read:

Transient Occupancy Residential Structure - A residential building designed or used for one or more dwelling units or a combination of three or more dwelling units and not more than five guest rooms or suites of rooms wherein occupancy, by any person by reason of concession, permit, right of access, license, or other agreement is for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

Hostel - A one-family dwelling, boarding or rooming house, dormitory, apartment hotel or apartment house which is advertised as a hostel or which is listed with any recognized national or

NEW

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3 international hostel organization.
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5 Sec. 2. Paragraph (d) of Subdivision 1 of Subsection
6 A or Section 12.12.2 of the Los Angeles Municipal Code is
7 hereby amended to read as follows:

8 (d) Hotels (including motels), Apartment
9 hotels, transient occupancy residential structures
10 or hostels when no portion of a structure proposed
11 to be used as a hotel (including a motel), apartment
12 hotel, transient occupancy residential structure or
13 hostel is located within 500 feet from any A or R
14 zone.

15
16 Sec. 3. Subdivision 1.5 of Subsection A of Section
17 12.13 of the Los Angeles Municipal Code is hereby amended to
18 read as follows:

19 1.5 Hotels (including motels), apartment
20 hotels, transient occupancy residential structures,
21 or hostels when no portion of a structure proposed
22 to be used as a hotel (including a motel), apartment
23 hotel, transient occupancy residential structure or
24 hostel is located within 500 feet from any A or R
25 zone.

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27 Sec. 4. Subdivision 11 of Subsection A or Section
28 12.13.5 of the Los Angeles Municipal Code is hereby amended to

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3 read as follows:

4 11. Hotels (including motels), apartment
5 hotels, transient occupancy residential structures
6 or hostels when no portion of a structure proposed
7 to be used as a hotel (including a motel), apartment
8 hotel, transient occupancy residential structures,
9 or hostels is located within 500 feet from any A or
10 R zone.

11
12 Sec. 5. Subdivision 7 is added to Subsection C of
13 Section 12.23 of the Los Angeles Municipal Code to read as
14 follows:

15 7. Discontinuance of nonconforming hostels and
16 transient occupancy residential structures.

17 (a) Any hostel or transient occupancy
18 residential structure to which the provisions
19 of Sections 12.12.2 A, 1(d), 12.13A, 1.5, and
20 12.13.5A, 11 of this article are applicable,
21 existing in or within 500 feet of an A or R
22 zone on the effective date of this ordinance,
23 shall be discontinued within 180 days unless
24 the use has been made to comply with the
25 limitations applicable to such use. However,
26 upon a showing that substantial compliance with
27 the limitations applicable to a particular use
28 has been effected, the Director of Planning or

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3 his authorized representative may grant an
4 extension of time to complete the work
5 necessary to effect full compliance. No
6 extension so granted shall exceed 90 days in
7 duration nor shall more than one such extension
8 be granted with respect to any individual use.

9 The Director shall give notice of the
10 provisions of this subdivision to existing
11 hostels and transient occupancy residential
12 structures which the Director knows are not in
13 compliance with the provisions of this part.

14
15 Sec. 6. Paragraph (t) of Subdivision 1 of Subsection
16 C of Section 12.24 of the Los Angeles Municipal Code is hereby
17 amended to read as follows:

18 (t) Hotels (including motels), apartment
19 hotels, transient occupancy residential structures,
20 or hostels in the CR, C1, C1.5, C2, C4, and C5 zones
21 when any portion of a structure proposed to be used
22 as a hotel (including a motel), apartment hotel,
23 transient occupancy residential structure or hostel
24 is located within 500 feet of any A or R zone.

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26 Sec. 7. Paragraph (j) of Subdivision 1.1 of
27 Subsection C of Section 12.24 of the Los Angeles Municipal Code
28 is hereby amended to read as follows:

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(j) Hotels, motels, apartment hotels transient occupancy residential structures, and hostels in the R4 or R5 Zones, unless expressly permitted by Sections 12.11 and 12.12 of this Code. In the R5 Zone, incidental business may be conducted, but only as a service to persons living therein, and provided that such business is conducted within the main building, that the entrance to the business is from the inside of he building and that no sign advertising such business is visible from outside the building. If the proposed use is to be established by the conversion of an existing apartment house, apartment hotel, or single family dwelling then, a relocation assistance plan shall be drawn up and approved in a manner consistent with Section 12.95.2.6

Sec. 8. To the extent feasible the Department of Building and Safety shall work with the City Clerk to identify any residential buildings which are used as transient occupancy apartment houses or hostels.

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Sec. 9. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of.....

ELIAS MARTINEZ, City Clerk,

By .. *Raymond S. King*
Deputy.

Approved..... MAR 27 1992

Tom Bradley
Mayor.

Approved as to Form and Legality
MAR 11 1992

LAJ 414452 4/3

JAMES K. HAHN, City Attorney.

By .. *Clara M. Holt*
Deputy.

File No..... C.F. 88-1249

Pursuant to Sec. 97.8 of the City Charter,
approval of this ordinance recommended
for the City Planning Commission.....

City Clerk Form 23

MAR 4 1992

Madame S. Faber
See attached report
Director of Planning