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REPORT NO. R 19-0242
AUG 06 2019

REPORT RE:

**DRAFT ORDINANCE AMENDING LOS ANGELES
MUNICIPAL CODE SECTIONS 12.80 AND 12.81 TO
ALIGN THE CITY'S SHELTER CRISIS REGULATIONS WITH
GOVERNMENT CODE SECTION 8698, *ET SEQ.***

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. 15-1138-S40

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 12.80 and 12.81 of the Los Angeles Municipal Code (LAMC) to eliminate extraneous requirements and align the City's shelter crisis regulations with Government Code Section 8698, *et seq.*

Background and Summary of Ordinance Provisions

On March 28, 2017, the City Council adopted Ordinance Number 184836, which amended LAMC Sections 12.03, 12.80 and 12.81 to align local regulations with the provisions of Government Code Section 8698, thus providing for the development of temporary emergency shelters on public and private property pursuant to the declaration of a shelter crisis. The ordinance limited the declaration of a shelter crisis to 365 days, requiring the City to re-declare a shelter crisis on an annual basis.

On January 1, 2018, Government Code Section 8698.4 (also known as AB932), a special statute designed to address the problem of homelessness in certain cities,

including Los Angeles, became effective. That legislation provided certain exemptions and alternatives to expedite the development of temporary emergency homeless shelters on properties owned or leased by the City. On April 18, 2018, the City Council adopted Ordinance Number 185490, which updated local development standards to meet the requirements of Government Code 8698.4 to take advantage of the zoning exemptions and development alternatives provided under those regulations. However, the City's ordinance did not amend LAMC Sections 12.80 and 12.81 to remove the time limit on a shelter crisis declaration that the City imposed on itself, which state law does not require.

On March 6, 2019, a motion (O'Farrell-Harris-Dawson) was introduced requesting an ordinance that would align the requirements of LAMC Sections 12.80 and 12.81 with Government Code Section 8698, *et seq.* On March 20, 2019, the Homelessness and Poverty Committee of the City Council considered and recommended approval of the motion. The City Council adopted the recommendation of the Committee on March 27, 2018.

The City Planning Commission (CPC) considered Planning staff's report and proposed ordinance on May 9, 2019, and recommended approval of the proposed ordinance and related findings to the City Council. At its meeting on June 5, 2019, the Homelessness and Poverty Committee considered and approved the recommendations of the CPC. On June 14, the City Council adopted the Committee's recommendations and requested that this Office transmit the draft ordinance.

The draft ordinance amends LAMC Sections 12.80 and 12.81 to remove the paragraph in each section that limits the City's declaration of a shelter crisis to 365 days. Under the draft ordinance, the declaration of a shelter crisis remains until the City determines that the facts no longer support the finding that "a significant number of persons within the jurisdiction of the governing body are without the ability to obtain shelter, and that the situation has resulted in a threat to the health and safety of those persons." Government Code Section 8698.2(a)(1).

The draft ordinance also includes an urgency clause so that, upon adoption by Council and approval by the Mayor, it can become effective upon publication. Given the dire homeless shelter situation that gave rise to the City Council's declaration of a homeless shelter crisis and that led to Council's motion requesting this Office to transmit this draft ordinance, the utilization of an urgency clause pursuant to Charter Section 253 is legally appropriate. The draft ordinance is required for "the immediate preservation of the public peace, health or safety" insofar as it provides for additional shelters to be established throughout Los Angeles to alleviate the shortage of beds that currently exists in the City in order to accommodate the many homeless in Los Angeles. The draft ordinance includes a statement describing the urgency as required by Charter Section 253. Urgency ordinances require a three-fourths vote of the Council in order to pass.

Charter Findings Required

Charter Section 558(b)(3) requires the 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 Council to adopt an ordinance conforming to the City Planning Commission's recommendation of approval of the ordinance, if the City Planning Commission recommends such approval. Similarly, Charter Section 556 requires the 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 to the City Council on this matter, dated May 22, 2019, or make its own.

California Environmental Quality Act Standard of Review

The Department of City Planning recommends that the City Council, based on the whole of the administrative record, determine that the draft ordinance amending LAMC Sections 12.80 and 12.81 is exempt under California Public Resources Code Sections 15061(b)(3) and 15269 (statutory exemption for emergency projects). Reliance on these categorical exemptions is appropriate when substantial evidence in the record supports the use of the exemptions.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the City Administrative Officer with a request that all comments, if any, be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Adrienne Khorasane at (213) 978-8246. She or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:ASK:mgm
Transmittal