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March 9, 2017

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: City Council

Dear Honorable Members:

CEQA CLEARANCE RELATIVE TO DRAFT ORDINANCES AMENDING LOS ANGELES MUNICIPAL CODE SECTION 12.03, 12.80 AND 12.81 TO EXPAND AND CORRECT THE DEFINITION OF "SHELTER FOR THE HOMELESS" AND TO ALIGN THE CITY'S SHELTER CRISIS REGULATIONS WITH STATE LAW – COUNCIL FILE 15-1138-S6

On November 29, 2016, the PLUM Committee directed the City Attorney's Office to make several amendments to a proposed ordinance amending Los Angeles Municipal Code (LAMC) Section 12.03, 12.80 and 12.81 to expand and correct the definition of "shelter for the homeless" and to streamline the process for a declaration by the Mayor or the City Council of a shelter crisis and to allow the swift establishment of temporary homeless shelters on public and private property in response to that declaration.

The Department of City Planning (Department) has amended its findings under the California Environmental Quality Act (CEQA) to reflect the revisions to the proposed ordinance as described in the March 3, 2017 report transmitted by the City Attorney's Office. This transmittal contains the amended CEQA findings.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

KEVIN J. KELLER, AICP
Deputy Director

VPB:KJK:KB:CH:mn

Attachment

ATTACHMENT

CEQA Findings

Pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (categorical exemption for existing facilities), 15303 (categorical exemption for new construction or conversion of small structures), 15304 (categorical exemption for minor alterations to land), 15332 (categorical exemption for in-fill development projects), and 15378 (definition of a project), the adoption of the proposed ordinance amending Los Angeles Municipal Code (LAMC) Sections 12.03, 12.80 and 12.81 to provide for the establishment and operation of temporary homeless shelters during a shelter crisis is categorically exempt from CEQA. Additionally, none of the exceptions to the categorical exemptions identified in CEQA Guidelines Section 15300.2 apply. The proposed ordinance will have no direct or reasonably foreseeable indirect environmental impacts.

The proposed ordinance is not a "project" under CEQA pursuant to CEQA Guidelines Section 15378, which provides that CEQA applies to "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed ordinance does not involve any activities that will directly or indirectly alter the environment from its base conditions today.

The proposed amendments to LAMC Sections 12.80 and 12.81 would change the approval process to establish and operate emergency shelters for the homeless during a declared shelter crisis. The changes are largely procedural and technical in nature, with the exception of removing the seasonal time limits on emergency shelters. The anticipated result is that temporary emergency shelters may be established more quickly and that shelters may operate for a longer period of time in case of an emergency, but would not result in any direct or indirect impact to the environment.

No new major or permanent construction is anticipated as a result of the ordinance, nor does the ordinance create any permanent change to density or permitted uses. The most likely scenario is a potential for increased re-use of existing facilities including interior or exterior alterations involving such things as interior partitions and new fire-safety provisions, etc., all of which would be considered a minor alteration to existing structures or facilities and would be exempt under CEQA Guidelines Section 15301. Such activities would likely involve negligible or no expansion of an existing use, because a provider is likely to operate a temporary shelter within an existing structure and shelters serve a limited number of guests during a temporary period of operation. In some cases, minor new construction activities within the limits prescribed by CEQA Guidelines Section 15303 may also occur. Construction of large permanent facilities is not anticipated because the approvals granted under this program are temporary by their very nature. However, if a new building were to be constructed as a temporary emergency shelter, this ordinance would only facilitate the use of that structure as a shelter and not grant any other permissions for the construction of that building than would otherwise be allowed. Furthermore, any minor construction resulting from this ordinance would likely be categorically exempt pursuant to CEQA Guidelines Section 15332 (in-fill development) and/or CEQA Guidelines Section 15304 (minor alterations of land).

The construction of any new buildings for use as a temporary shelter would satisfy the following requirements of CEQA Guidelines Section 15332: (a) the project would be consistent with the site's general plan designation and all applicable general plan policies and zoning regulations; (b) the project would be within the boundaries of the City of Los Angeles, and is not reasonably expected to be located on a site larger than five acres; (c) the project site would not have any value as habitat for endangered, rare or threatened species as the site would foreseeably be surrounded by development; (c) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality because emergency shelters for the homeless would not exceed City thresholds for traffic, the project would be subject to Regulatory Compliance Measures (RCMs) which require compliance with the City of Los Angeles Noise Ordinance, and there are no foreseeable significant effects to Air or Water quality; and (e) the site would be adequately served by all required utilities and public services.

The provisions would only apply during a declared shelter crisis emergency pursuant to state law. A shelter crisis may be revoked by the Mayor or City Council at any time. Any significant changes on the ground, therefore, would largely only occur during times of extreme need for housing. Any potential impacts from the changes to LAMC Sections 12.80 and 12.81 would be temporary in nature and necessary to mitigate an emergency shelter crisis that exists in the City.

Furthermore, the City has found, based on the response to an amendment to LAMC Section 12.82 approved by City Council on March 30, 2016, that the environmental impacts are likely to be *de minimus*. The amendment to Section 12.82 allowed for the operation and establishment of temporary emergency shelters for the homeless throughout the City for the duration of the 2016 El Niño cycle. For purposes of CEQA review, there are substantial similarities between Section 12.82 and the proposed amendments to Sections 12.80 and 12.81. The Amendment to Section 12.82 did not have any significant environmental impact. During the course of the El Niño Emergency Shelter season (April 5, 2016 to July 5, 2016), the City approved one application, temporarily permitting 22 emergency shelter beds at the site of a church.

The amendment to the definition of "shelter for the homeless" in LAMC Section 12.03 is largely technical in nature and will not result in a change to the environment. For example, the amendment would add clarifying language about the meaning of a homeless shelter "provider" to reduce confusion about who is able to operate an emergency shelter. However, the change will not meaningfully expand operators beyond the existing number of non-profit organizations. For example, while "religious institutions" will be added to the definition of "providers," such organizations already operate emergency shelters pursuant to this code section. Similarly, the definition would remove some references to state codes that have since been changed or removed, and instead refer to the need to meet all applicable health and safety codes. This change does not materially impact the establishment or operation of shelters since all applicable codes must still be met. Finally, the amendment to 12.03 would remove the word "residential" from the type of facility to be used as part of a shelter. Residential simply refers to a structure fit for human habitation. Since LAMC 91.8605 already lays out the habitability requirements that apply to emergency homeless shelters operated during a shelter crisis, this phrase is redundant and subject to confusion. The Department considers this removal a minor clarification that does not reflect a significant change from current law and therefore will not impact the environment.

While it is not possible to evaluate every sort of temporary emergency shelter that may be impacted by the proposed ordinance, the Department has evaluated projects that have been established as a result of LAMC Sections 12.80 and 12.81 in prior years. In looking at projects that have occurred under LAMC Sections 12.80 and 12.81, as well the entirety of the record, the Department determines that the proposed ordinance will not result in significant effects on the environment and similarly, that none of the exceptions to the categorical exemptions set forth in CEQA Guidelines Section 15300.2 apply.

While it is possible that an emergency shelter may be located within a sensitive environment (such as a Liquefaction Zone, Fault Zone, Methane Zone) as a result of the proposed ordinance, specific Regulatory Compliance Measures (RCMs) in the City of Los Angeles regulate the construction of any projects in these particular types of locations and will reduce any potential impacts caused in the unlikely event of new construction to less than significant. These RCMs have been historically proven to work to the satisfaction of the City Engineer to reduce any impacts from the specific environment a project may be located in. Thus, the proposed ordinance will not result in a significant impact based on the potential location of an emergency shelter.

Additionally, any emergency shelters operated as a result of the proposed ordinance would be temporary in nature, with the majority to be located and operated out of existing structures. The ordinance further requires that a qualifying shelter must be operated on the physical site of the applicant's institution (i.e. on the site of an existing church facility). As a result, there is no reason to believe that the proposed ordinance would create a succession of projects of the same type in the same place, given the limited number of existing facilities where such projects would be eligible to operate. There are no unusual circumstances created as a result of this ordinance which may lead to a significant effect on the environment. The ordinance is unlikely to result in physical construction of new facilities, so there is no possibility that an emergency shelter created as a result of this ordinance would have any impact on scenic resources. There is no reason to believe that an emergency shelter would be located in a hazardous waste site, as most would be located within or on the site of an existing structure that is operated by a nonprofit, religious, or governmental institution. Any physical changes made to a project site identified as a historic resource or eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register would be further subject to historic review by the Los Angeles Office of Historic Resources. Any such project would be required to seek a separate permit for any construction associated with rehabilitation or tenant improvements, and would be subject to historic review at that time. As such, the proposed ordinance in and of itself will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.

On the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that there is no substantial evidence that the proposed project will have a significant effect on the environment. The analysis reflects the lead agency's independent judgment and analysis. The records upon which this decision is based are with the Department of City Planning in Room 278, 200 North Spring Street in Los Angeles, California.