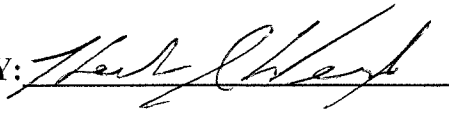


MOTION

I MOVE that the matter of EXEMPTION, COMMUNICATIONS FROM THE DEPARTMENT OF CITY PLANNING, CITY ATTORNEY and ORDINANCE FIRST CONSIDERATION relative to establishing a moratorium on the issuance of permits or entitlements issued under Chapter I or Chapter IX of the Los Angeles Municipal Code for the construction, operation, establishment or expansion of private detention facilities and community detention facilities for unaccompanied minors, Item 30 on today's Council Agenda (Council File No. 20-0065), BE AMENDED to PRESENT and ADOPT the attached ordinance in lieu of the ordinance attached to the File, to make a technical correction to reference the California Government Code Section 65858, relating to the adoption of Interim Control Ordinances.

PRESENTED BY: 
NURY MARTINEZ
Councilwoman, 6th District

SECONDED BY: 

ORIGINAL

February 4, 2020



rrm

ORDINANCE NO. _____

An Interim Control Ordinance prohibiting the construction or operation of private detention centers and community detention facilities for unaccompanied minors in the City of Los Angeles.

WHEREAS, on October 11, 2019, Governor Newsom signed into law Assembly Bill 32 (Bonta), which bans private prisons and detention facilities from operating in California, and prevents the State from entering into or renewing contracts with for-profit prison companies after January 1, 2020, phasing out such facilities by 2028;

WHEREAS, just before the new State law went into effect, the federal government awarded new contracts to private companies that operate private detention centers in California;

WHEREAS, a multitude of studies and public testimony describe the alarming status of private detention center operations, including a February 2019 report by the California Attorney General¹ which found that privately operated immigration detention centers in California maintain poor living conditions, including, but not limited to, issues related to inadequate access to medical and mental health care and obstacles to contacting family and other support systems;

WHEREAS, an April 2017 report by the American Academy of Pediatrics² concluded that no time in detention is safe for children, and further detailed the impacts of detention on children, adults, and families, which includes negative physical and emotional trauma that may lead to long-term negative impacts;

WHEREAS, the economic impacts on individual detainees, households, and communities result in financial insecurity, with a compounded disadvantage for low income immigrant communities in Southern California, as detailed in a September 2015 study by the UCLA Institute for Research on Labor and Employment³;

WHEREAS, research on the spillover effects on surrounding communities with high incarceration rates reveals that such neighborhoods "endure disproportionate stress, since these communities face disrupted social and family networks alongside elevated rates of crime and infectious disease,"⁴ as well as increased rates of anxiety and depressive disorders;

WHEREAS, the federal government regularly outsources the housing and care for undocumented immigrants detained based upon their immigration status to for-profit

¹ See, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf>

² See, <https://pediatrics.aappublications.org/content/pediatrics/early/2017/03/09/peds.2017-0483.full.pdf>

³ See, <https://escholarship.org/uc/item/23h0r12q#main>

⁴ See, <https://www.theatlantic.com/health/archive/2015/03/how-incarceration-inflicts-a-community/385967/>

prisons corporations and, for some minor undocumented immigrants, to nonprofit organizations⁵;

WHEREAS, in recent months, the City received a service request from a private organization for a change of use from a “home for the aged” to a “*temporary residential facility with supportive services for unaccompanied minors*” (“Subject Facility”);

WHEREAS, the Subject Facility upon further review was intended as a privately-run detention facility for unaccompanied minor immigrants held under the authority of U.S. Homeland Security, and therefore may be prohibited under Assembly Bill 32;

WHEREAS, in describing the Subject Facility in the City’s Service Request Form, the applicant described its proposed use in summary as, “Other: Dormitory with supportive services (cafeteria, clinic, tutoring)” and more extensively as follows:

The proposed new use of the property is a federal government-contracted residential facility for children ages 11-17 who cross the border unaccompanied. This would not be a detention facility. Rather, the facility would provide clothing, food, housing, tutoring, and medical assistance with the goal of finding relatives or foster parents or homes for the children. The maximum stay would be approximately 60-90 days;

WHEREAS, this description does not currently fall into any use in the City’s Comprehensive Zoning Plan in Chapter I of the LAMC (City’s Zoning Ordinance) and without amending the City’s Zoning Ordinance may create confusion with permissible uses, such as “Supportive Housing,” defined under the recently adopted Ordinance No. 185,492, intended to facilitate homeless housing to address the City’s homeless housing crisis, and/or other uses in the City’s Zoning Ordinance, including “Transitional Housing,” “Shelter,” “Foster Care Home,” “Dormitory,” “Philanthropic Institutions,” and “Correctional or Penal Institutions” uses;

WHEREAS, on July 8, 2019, the City Council moved that “the Planning Department, in consultation with the City Attorney, be instructed to prepare and present an ordinance amending the City’s zoning code to prohibit the construction and operation of private detention centers in the City [sic] Los Angeles”;

WHEREAS, goals, objectives, and policies listed in the City’s General Plan, including the Framework Element, the Health and Wellness Element, and the Housing Element respectively promote: a liveable City for existing and future residents that is attractive to future investment, a City that leads on health and equity, and a City of safe, liveable, and sustainable neighborhoods. The prohibition of private detention centers would prevent irreversible and incompatible development, protect the health and well-being of Angelenos, and impede adverse impacts on neighborhoods and the surrounding environment by allowing the necessary time needed to develop appropriate

⁵ See https://www.thenonproffitimes.com/npt_articles/nonprofits-shouldering-care-migration-detainees/; see also, <https://www.scu.edu/ethics/all-about-ethics/nonprofit-detention-centers-for-migrant-children/>

regulations and standards that will support the goals, objectives, and policies outlined in the plans; and

WHEREAS, "Private Detention Centers" and Community Detention Facilities for Unaccompanied Minors" are not currently enumerated in the Los Angeles Municipal Code and therefore the Interim Control Ordinance is designed to allow the City to further evaluate the impacts of such facilities on its residents and neighborhoods and to ensure that these facilities are not confused with supportive or transitional housing intended to provide housing for the homeless, or other housing types intended for minors or other incapacitated individuals placed under the consent of a parent or guardian or under the authority of the State Welfare and Institutions Code or persons housed or detained under the authority of the State Penal Code. The Interim Control Ordinance will prevent the construction or operation of these facilities pending the consideration and adoption of permanent land use regulations.

NOW THEREFORE,

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

Section 1. **FINDINGS.** Based upon the above recitals and the record, the City Council finds:

A. The development in the City of Private Detention Center or Community Detention Facilities for Unaccompanied Minors presents a current and immediate threat to the public health, safety, and welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with the zoning ordinance would result in that threat to public health, safety, or welfare.

B. Private Detention Centers and Community Detention Facilities for Unaccompanied Minors uses may be in conflict with the zoning proposals currently being studied by the Planning Department for private detention facilities pursuant to City Council motion.

C. This Ordinance will protect the public health, safety, and welfare.

D. The City Council finds this Ordinance is not subject to the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15060, Subdivision (c)(2) and Section 15061, Subdivision (b)(3), because adoption of the Ordinance will not result in a directly or reasonably foreseeable indirect physical change in the environmental and has no potential for resulting in a significant effect on the environment as the Ordinance will maintain the status quo.

Sec. 2. **DEFINITIONS.** The following term(s), whenever used in this Ordinance, shall be defined in this section. Words and phrases not defined here shall be construed as defined in Sections 12.03, of the Los Angeles Municipal Code (LAMC), if defined therein.

A. **COMMUNITY DETENTION FACILITY FOR UNACCOMPANIED MINORS.** A facility operated by a private or nongovernmental person or entity to house unaccompanied, undocumented minors in the custody of the federal government.

B. **PRIVATE DETENTION CENTER.** A facility operated by a private or nongovernmental person or entity where persons are incarcerated or otherwise involuntarily confined for purposes of execution of a punitive sentence imposed by a court, or detention pending a trial, hearing, or other judicial or administrative proceeding, except:

1. A Private Detention Center shall not include any facility described in Penal Code Section 9502.

2. However, a Private Detention Center shall include a facility described in Penal Code Section 9502, subsection (d), if that facility is used to house persons in the custody of the federal government.

Sec. 3. **PROHIBITION.** Notwithstanding any provisions of the LAMC to the contrary, after the effective date of this Ordinance no permit or entitlement shall be issued under Chapter I or Chapter IX of the LAMC for the construction, operation, establishment, or expansion of the following uses:

A. Private Detention Center.

B. Community Detention Facility for Unaccompanied Minors.

Sec. 4. **CITYWIDE APPLICATION.** This Ordinance shall apply Citywide.

Sec. 5. **HARDSHIP EXEMPTIONS.** The City Council, by resolution, may grant an exemption from the provisions of this Ordinance in cases of extreme hardship duly established to the City Council's satisfaction. An application for hardship exemption shall be filed with the City Clerk on forms provided by the Department of City Planning.

Sec. 6. **DURATION OF ORDINANCE.** This Ordinance shall be in force and effect for 45 days from its date of adoption. The City Council may extend this Ordinance for a period of 10 months and 15 days, subject to a second extension of one year, for a total period of two years from the date of initial adoption, by council resolution as provided in Government Code Section 65858.

Sec. 7. **APPLICABILITY OF ZONING CODE.** The provisions of this Ordinance supplement those set forth in LAMC, Chapter I and any other City ordinance, and do not confer any right or benefit not otherwise conferred under existing law.

Sec. 8. **SEVERABILITY.** If any portion, subsection, sentence, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this Ordinance and each portion or subsection, sentence, clause, and phrase herein, irrespective of the fact that any one or more portions, subsections, sentences, clauses, or phrases be declared invalid.

Sec. 9. **SAVINGS CLAUSE.** The provisions of this Ordinance do not apply to the extent that their application would result in a taking requiring compensation, would deprive any person of constitutional or statutory rights or privileges, or would otherwise be inconsistent with state or federal law.

Sec. 10. **URGENCY CLAUSE.** The City finds and declares that this Ordinance is required for the immediate protection of the public peace, health, welfare, and safety for the following reasons:

The City must carefully consider the most appropriate, comprehensive, and effective alignment and implementation of all relevant laws, including California Assembly Bill 32, to make the appropriate amendments to the Los Angeles Municipal Code, and this Ordinance is necessary to prevent potential irreversible adverse impacts on neighborhoods. This Ordinance is needed to protect the public peace, health, and safety of the residents of Los Angeles by limiting the impacts of Private Detention Centers and Community Detention Facilities for Unaccompanied Minors as evidenced by studies and public testimony that describe a multitude of quality of life issues associated with these facilities. This Ordinance is of urgent matter because it is anticipated that without a prohibition on Private Detention Centers and Community Detention Facility for Unaccompanied Minors, recommendation of the permanent ordinance regulating private detention centers would be undermined. Therefore, this Ordinance shall become effective upon the date of adoption pursuant to Government Code Section 65858.

Sec. 11. 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.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By Kathryn C. Phelan (Ikm)
KATHRYN C. PHELAN
Deputy City Attorney

Date 2-4-2020

File No. 20-0065

M:\REAL PROP_ENV_LAND USE\LAND USE\KATHRYN PHELAN\ORDINANCES\ICO DETENTION FACILITIES\ICO ORDINANCE (FOUR-FIFTHS).DOCX

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than four-fifths** of all its members.

CITY CLERK

Ordinance Passed _____