



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: DEC 22 2016

Case No.: **CPC-2016-4345-CA**
CEQA: ENV-2016-4346-CE
Plan Areas: All

Council Districts: All

Location: Citywide

Applicant: City of Los Angeles
Representative: Matthew Glesne, City Planner

At its meeting of **December 15, 2016**, the Los Angeles City Planning Commission took the actions below in consideration of the following ordinance:

An ordinance amending Sections 12.03 and 12.22 and repealing portions of Section 12.24 of Chapter 1 of the Los Angeles Municipal Code (LAMC) for the purpose of regulating Accessory Dwelling Units and complying with State law.

1. **Determined**, based on the whole of the administrative record, the Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant Public Resources Code 21080.17 and CEQA Guidelines Sections 15378(a), 15061(b)(3), 15301, 15302, and 15303; and, pursuant to CEQA Guidelines Section 15074(b), **Adopted** ENV-2016-4346-CE and **Found** that based on the whole of the administrative record, in the independent judgment of the decision-maker, the project will not have a significant effect on the environment;
2. **Recommended** the City Council **Adopt** the attached proposed ordinance, provided that the office of the City Attorney review the ordinance as to form and legality;
3. **Adopted** the Department of City Planning Staff Report as the Commission Report; and
4. **Adopted** the attached Findings.

This action was taken by the following vote:

Moved: Dake Wilson
Seconded: Millman
Ayes: Ahn, Ambroz, Katz, Padilla-Campos,
Absent: Choe, Mack, Perlman

Vote: 6 - 0

James K. Williams, Commission Executive Assistant II
Los Angeles City Planning Commission

The decision of the Los Angeles City Planning Commission is final upon the date of this determination letter and is not appealable.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Proposed ordinance, Findings

c: Phyllis Nathanson, City Planner
Matthew Glesne, City Planner

ORDINANCE NO. _____

An ordinance amending Sections 12.03 and 12.22 and repealing portions of Section 12.24 of Chapter 1 of the Los Angeles Municipal Code (LAMC) for the purpose of regulating Accessory Dwelling Units and complying with State law.

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

Sec. 1. Section 12.03 of the Los Angeles Municipal Code is amended by adding a definition for "Accessory Dwelling Unit" in proper alphabetical order to read:

ACCESSORY DWELLING UNIT. Attached residential dwelling units or detached Accessory Buildings, not considered to exceed the allowable density of the parcel, which provide complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family dwelling. Accessory Dwelling Units include efficiency units, as defined in Section 17958.1 of the Health and Safety Code, and manufactured homes, as defined in Section 18007 of the Health and Safety Code.

Sec. 2. Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended by adding a new Subdivision 32 to read:

32. Accessory Dwelling Units (ADU).

(a) Purpose. The purpose of this Subdivision is to provide for the creation of Accessory Dwelling Units in a manner that is consistent with requirements set forth in California Government Code Sections 65852.2, as amended from time to time.

(b) General Provisions. Accessory Dwelling Units shall be ministerially approved if in compliance with the following provisions:

- (1) Accessory Dwelling Units must comply with all provisions of this section as well as the underlying zoning district. In instances where there is conflict this section shall govern.
- (2) Accessory Dwelling Units are allowed in all zones wherein residential uses are permitted by right.
- (3) Only one Accessory Dwelling Unit is permitted per parcel.
- (4) An Accessory Dwelling Unit is permitted only on a parcel that contains an existing single-family dwelling unit. In multiple family zones, the Accessory Dwelling Unit will be counted towards the overall number of dwelling units as permitted by the zone.

- (5) No Accessory Dwelling Unit is permitted on parcels located in Hillside Areas as defined by the Hillside Area Map per LAMC 12.03, except in instances where:
 - i. The parcel is located within one-half mile of a transit stop, including but not limited to bus stops and rail stations, and;
 - ii. The parcel is adjoining a street meeting standard roadway dimensions.
- (6) Accessory Dwelling Units are not intended for sale and shall not be sold separate from the existing single-family dwelling unit and may be rented.
- (7) No passageway, as per LAMC 12.21.C.2, is required in conjunction with the construction of Accessory Dwelling Units.
- (8) No additional setbacks are required for the conversion of a garage to an Accessory Dwelling Unit, and a setback of five feet from the side and rear property lines is required for any new additions when an Accessory Dwelling Unit is constructed above a garage.
- (9) Accessory Dwelling Units are required to follow the same building and safety requirements as the existing single-family dwelling unit.
- (10) Accessory Dwelling Units are not required to provide fire sprinklers if they are not required for the existing single-family dwelling unit.
- (11) Accessory Dwelling Units are not considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
- (12) Parking Requirements:
 - (i) One parking space is required per Accessory Dwelling Unit and may be provided through tandem parking.
 - (ii) Parking is allowed in rear and side setback areas. No parking is allowed in front setback areas.
 - (iii) When a garage or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit, the replacement parking spaces may be located in any configuration on the same parcel as the Accessory Dwelling Unit, including but not limited to covered spaces, uncovered spaces, or tandem spaces.
- (13) Parking Exemptions. Parking requirements are not applicable for Accessory Dwelling Units in any of the following instances:
 - (i) Located within one-half mile of a public transportation stop along a prescribed route according to a fixed schedule; or
 - (ii) Located within one block of a car share parking spot; or
 - (iii) Located in a historic district listed in or formally determined eligible for listing in the National Register of Historic Places and the California Register of Historical Resources or as a City Historic Preservation Overlay Zone; or
 - (iv) When on-street parking permits are required but not offered to the occupant of the Accessory Dwelling Unit; or
 - (v) The Accessory Dwelling Unit is part of the existing Dwelling Unit or an existing accessory structure.

(c) Detached Accessory Dwelling Unit Requirements. Detached Accessory Dwelling Units are Accessory Buildings and must comply with all provisions in paragraph (b), in addition to the following:

- (1) Detached Accessory Dwelling Units are allowed a maximum size of the larger of: 640 square feet, or fifty percent of the total floor area, excluding garages, of the existing single-family dwelling unit, up to a maximum of 1200 square feet.
- (2) Where applicable, detached Accessory Dwelling Units shall comply with Section 12.21 C.5.
- (3) Detached Accessory Dwelling Units shall not be located between the existing single-family dwelling unit and the street adjoining the front yard.

(d) Attached Accessory Dwelling Unit Requirements. Attached Accessory Dwelling Units are considered an Accessory Use and can be either attached to or completely contained within an existing single-family dwelling unit and must comply with all provisions in paragraph (b) in addition to the following:

Attached Accessory Dwelling Units may not result in an increase in total floor area exceeding fifty percent of the existing floor area of the existing single-family dwelling unit, excluding garages, up to a maximum of 1,200 square feet.

(e) Conversions of Existing Space or Existing Accessory Structures.

Notwithstanding the provisions of this subdivision one Accessory Dwelling Unit per property will be ministerially approved if the unit is located in a single-family residential zone, contained within the existing space of a single-family residence or existing accessory structure, has independent exterior access, and the side and rear setbacks are sufficient for fire safety.

Accessory Dwelling Units, as described in paragraph (e), are not required to install new or separate utility connections and are not subject to separate utility connections connection fees or capacity charges.

Sec. 3. Subdivisions 43 and 44 of Subsection W of Section 12.24 of the Los Angeles Municipal Code are hereby repealed.

Sec. 4. **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. 5. **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 Accessory Dwelling Units.

While Accessory Dwelling Units are assets in mitigating the housing crisis, Los Angeles is a very unique city for the amount of mountain terrain and hillside areas located within its boundaries. The City's current second unit ordinance in LAMC §12.24 W.43 precludes second unit development within defined hillside area boundaries. The proposed ordinance would continue this policy by providing that second units not be allowed in Hillside areas covered by the Baseline Hillside Ordinance (BHO). The BHO applies to approximately 136,000 single-family lots (28% of the City's total) located within the Department of City Planning Hillside Area Map, as defined in Section 12.03 of the LAMC.

Hillside areas are often characterized by larger amounts of natural vegetation and substandard streets. They are typically far from public transit, services or jobs. Impacts of new construction are often multiplied in hillside neighborhoods, with pronounced impacts on water and sewer services, congestion, parking availability, roadway degradation, and public safety due to construction vehicles and machinery forced to park and transverse narrow hillside streets. Hillside areas also have a higher fire and natural disaster risk, while the winding roads slow emergency response times. For these reasons the draft ordinance places a restriction on ADUs in Hillside Areas.

Given their unique characteristics and development challenges, these areas have long had distinct zoning and land use policies, including the development regulations contained in the BHO. City policies aim to preserve natural viewsheds, whenever possible, in hillside and coastal areas (General Plan Framework 6.1.2). Therefore, immediate action is necessary to bring the City's regulations into compliance with state law while preventing the development of Accessory Dwelling Units in Hillside Areas; allow the regulated development of Accessory Dwelling Units.

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

FINDINGS

General Plan/Charter Findings

City Charter Section 556

In accordance with Charter Section 556, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan in that it would further accomplish the following goals, objectives and policies of the General Plan outlined below.

General Plan Framework Element

The proposed ordinance will meet the intent and purposes of the General Plan Framework Element to encourage the creation of housing opportunities for households of all types and income levels, while at the same time preserving the existing residential neighborhood stability of single-family zoned neighborhoods and promoting livable neighborhoods. Accessory Dwelling Units, as a housing typology, furthers those goals as they increase capacity and availability of housing without significantly changing neighborhood character. In particular, the ordinance would further the intent and purpose of the Framework Element of the following relevant Goals and Objectives:

Goal 3B - Preservation of the City's stable single-family residential neighborhoods.

Objective 3.5 - Ensure that the character and scale of stable single-family residential neighborhoods is maintained, allowing for infill development provided that it is compatible with and maintains the scale and character of existing development.

The proposed ordinance is in substantial conformance with the intent to preserve the City's stable single-family neighborhoods as it would result in relatively minor alterations to a small fraction of single-family properties each year and those alternations would be compatible with existing regulations governing accessory buildings. In other words, the ordinance would not allow an accessory building to be built that was not already allowed permitted in the same location with the same size and scale. The use inside the building may be different, but the scale and architectural character will not be altered. Specific provisions in the draft ordinance, applicable only to ADUs, will prevent their development where other types of accessory buildings are permitted today.

The standards set forth in the proposed ordinance require that the lot be zoned for residential use and contain an existing single-family dwelling. No more than one ADU would be permitted per lot. Furthermore, the ordinance would require that any detached ADU or ADU addition to existing space be limited in size and not be located between the front of the primary residence and the street. Therefore, these units would either be built behind the main home, or attached to the rear of the existing home. Either way, the ADUs are unlikely to be significantly different in character from existing typical rear yard structures such as garages or carriage houses. They are also unlikely, in the majority of circumstances, to be significantly visible from the public way. In addition, the proposed ordinance would require that the increased floor area of an attached second unit not exceed fifty percent of the existing floor area, up to a maximum of 1,200 square feet. This limitation helps differentiate an attached ADU from a traditional duplex, which is not permitted in single-family zones. Furthermore, the proposed ordinance would restrict the floor area of a detached ADU, which will not exceed a maximum size of the larger of 640 square feet or fifty percent of the total floor area of the primary dwelling unit, up to a maximum size of 1,200 square feet. Any new ADU must further comply with City zoning requirements relating to height, setback,

lot coverage, architectural review, and other applicable zoning requirements. These standards offer significant protections against out-of-scale new development in single-family neighborhoods.

The State Legislature has determined it is appropriate to provide for second dwelling units within single-family and multifamily zoned areas absent specific adverse impacts on the public health, safety, and welfare that could result from allowing second units within single-family and multifamily zoned areas (Gov. Code §65852.2(c)). The City's Housing Element also provides for second units within single-family and multifamily zoned areas, as a matter of citywide policy. The proposed ordinance will increase housing production and capacity in single-family and multifamily neighborhoods on lots designed to accommodate more than one independent residence within the existing home or as a separate structure, as part of the City's overall goal to increase housing production and capacity in the City overall to accommodate the existing and expected increases in population.

Goal 4A - An equitable distribution of housing opportunities by type and cost accessible to all residents of the City.

The ordinance would also further a more equitable distribution of housing opportunities as it would permit a greater diversity of dwelling units in areas of the City that would otherwise receive little additional housing. This creates additional opportunities for homeowners to purchase and stay in their homes, as well as for renters to live in areas they might otherwise be excluded from. ADUs are generally smaller than the primary home on the property, adding to the diversity and type of housing available in the City. The ordinance would facilitate the construction and preservation of a range of different housing types that address the particular needs of the city's households, including the elderly, disabled family members, in-home health care providers, and young adults. The proposed ordinance thereby expands rental and homeownership accessibility in single-family and multifamily neighborhoods for all residents of the City.

Objective 4.4 - Reduce regulatory and procedural barriers to increase housing production and capacity in appropriate locations.

The ordinance would reduce the regulatory and procedural barriers to the operation and placement of accessory dwelling units by providing for implementation of the ministerial development standards in Government Code Section 65852.2(b)(1) in approving accessory dwelling units on a City wide basis. The ordinance clarifies regulations regarding accessory dwelling units that are in the planning process, under construction, or already built. It would also expressly permit ADUs on multifamily lots and allow for a greater variety of ADUs to be built.

Policy 6.1.2.c. - Coordinate City operations and development policies for the protection and conservation of open space resources, by preserving natural viewsheds, whenever possible, in hillside and coastal areas.

The ordinance would restrict the construction of ADUs in Hillside areas covered by the City's Baseline Hillside Ordinance (BHO), thereby contributing to the preservation of natural viewsheds in these areas.

Housing Element

The ADU housing typology is specifically called out by the Housing Element as a way to facilitate the provision of additional rental housing types and help make homeownership more affordable. The Housing Element includes a specific Program (or implementation action) to alleviate barriers to increased construction of ADUs (Program 68 in the current 2014-2021 Housing Element). In

addition, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan in that it would further accomplish the goals, objectives and policies of the Housing Element outlined below.

Objective 1.4 - Reduce regulatory and procedural barriers to the production and preservation of housing at all income levels and needs.

Policy 1.4.1 - Streamline the land use entitlement, environmental review, and building permit processes, while maintaining incentives to create and preserve affordable housing.

The proposed ordinance would streamline the land use entitlement, environmental review, and building permit processes for the operation and placement of accessory dwelling units as it: (1) eliminates potential litigation between neighbors and against the City regarding accessory dwelling units that are in the planning process, under construction, and already built; (2) expressly permits ADUs on multi-family lots; and (3) allows for a greater variety of ADUs to be built. The ordinance would also further a more equitable distribution of housing opportunities as it would permit a greater diversity of dwelling units in areas of the City that would otherwise receive little additional housing.

Policy 1.2.2 - Encourage and incentivize the preservation of affordable housing, including non-subsidized affordable units, to ensure that demolitions and conversions do not result in the net loss of the City's stock of decent, safe, healthy or affordable housing.

The proposed ordinance encourages and incentivizes the preservation of non-subsidized affordable units by making it more likely they are able to be legalized in the future and therefore will not have to be demolished.

Objective 1.1 - Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.

Policy 1.1.1 - Expand affordable homeownership opportunities and support current homeowners in retaining their homeowner status.

The proposed ordinance expands affordable homeownership opportunities and supports current homeowners as the supplemental rental income from an ADU allows households to afford homeownership who otherwise may be unable.

Policy 1.1.2 - Expand affordable rental housing for all income groups that need assistance.

The proposed ordinance expands the creation of additional rental housing options by supporting the creation of additional ADU units, which adds to the overall rental housing supply, which results in lower rents by increasing the overall vacancy rate in the City. The proposed ordinance further accomplishes this policy, in that ADUs are typically more affordable to rent than other types of housing.

Policy 1.1.3 - Facilitate new construction and preservation of a range of different housing types that address the particular needs of the city's households.

The proposed ordinance facilitates the construction and preservation of a range of different housing types that address the particular needs of the city's households, including but not limited to the elderly, disabled family members, in-home health care providers, and young adults.

Policy 1.1.6 - Facilitate innovative models that reduce the costs of housing production.

The proposed ordinance also facilitates an innovative housing type that reduces the typical cost of new construction, because the cost of land does not have to be factored into the development costs.

Finally, the ordinance would support the intent and purposes of the Housing Element of the General Plan regarding ADUs in that it affirms that the City should follow, as a matter of policy, state law standards for approving second units (2013 Housing Element, pages 2-11 through 2-12).

City Charter Section 558(b)(2)

In accordance with Charter Section 558(b)(2), the adoption of the proposed ordinance would be in conformity with public necessity, convenience, general welfare and good zoning practice for the following reasons:

The proposed ordinance is in conformity with public necessity because it: (1) brings the City's regulations into compliance with state law; (2) brings the City's regulations into compliance with the Housing Element of the General Plan; (3) allows the continued processing of permit applications for ADUs; (4) eliminates potential litigations between neighbors and against the City regarding accessory dwelling units that are in the planning process, under construction, and already built; and (5) brings the City into compliance with the ADU policy in effect since 2009 which has been relied upon since that time by property owners, family members, students, the elderly, in-home health care providers, the disabled, and others, who reside in accessory dwelling units.

The proposed ordinance is in conformity with public convenience and general welfare for the same reasons as stated above. The proposed ordinance is additionally in conformity with public convenience and general welfare because it provides a locally-tailored ADU policy that is in conformance with the intent of State law.

The proposed ordinance is in conformity with good zoning practice for reasons (1), (2) and (5) as stated above.

City Charter Section 559

In accordance with Charter Section 559, and in order to ensure the timely processing of this ordinance, the City Planning Commission authorizes the Director of Planning to approve or disapprove for the Commission any modification to the subject ordinance as deemed necessary by the Office of City Attorney. In exercising that authority, the Director must make the same findings as would have been required for the City Planning Commission to act on the same matter. The Director's action under this authority shall be subject to the same time limits and shall have the same effect as if the City Planning Commission had acted directly.

CEQA Findings

Statutory Exemption – PRC Section 21080.17

Pursuant to Section 21080.17 of the California Public Resources Code, the adoption of the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA).

Under PRC Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (the state second dwelling unit law). The proposed ordinance, if adopted, implements Government Code Section 65852.2 within the City of Los Angeles in a manner that is consistent with the requirements of state law. As such, the adoption of the proposed ordinance is exempt from CEQA.

As proposed, the City's ordinance would place additional restrictions on ADUs beyond those expressly mandated in the state's second dwelling unit law. The state second dwelling unit law expressly authorizes local agencies to adopt additional restrictions so long as the additional restrictions do not conflict with or invalidate the regulations established in the state law. To the extent that a Court would find that regulations in the proposed ordinance that are authorized by state law but not mandated ("discretionary regulations") are not exempt under PRC Section 21080.17, the City provides the following additional analysis.

The provisions of the proposed ordinance that go beyond state law would do the following:

- Restrict ADUs in Hillside areas covered by the City's Baseline Hillside Ordinance (BHO)
- Prohibit ADUs from being sited between the front of the primary residence and the street
- Further restrict the size of ADUs, to 50% of the square footage of the primary residence, up to the maximum of 1,200 sq. ft. allowed under state law.
- Require ADUs to meet all underlying zoning and land use regulations

Not a Project Under CEQA – CEQA Guidelines Section 15378, and “Common Sense Exemption” – CEQA Guidelines Section 15061(b)(3)

These provisions of the proposed ordinance are 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 would additionally be subject to the “common sense” exemption pursuant to CEQA Guidelines section 15061(b)(3), which provides that, where it can be seen with certainty that there is no possibility that a project may have a significant effect on the environment, the project is not subject to CEQA. These standards are intended to offer significant protections against out-of-scale new development in single-family neighborhoods and in the City's environmentally-sensitive Hillside areas. As such, the effect of the proposed provisions would be to provide further environmental protections and would not have a significant effect on the environment.

The City's analysis shows that these provisions are not anticipated to significantly alter the number or location of new ADUs. In particular, historical data on location of ADUs shows that a restriction on new ADUs located in Hillside Areas would not result in the additional development of ADUs in other parts of the City.

As explained above, the City's current second unit ordinance in LAMC §12.24 W.43 restricts second unit development within defined hillside area boundaries. The proposed ordinance would continue this policy by providing that second units, unless contained within the existing space of a single-family residence or existing accessory structure pursuant to state law, not be allowed in Hillside areas covered by the BHO. The BHO applies to approximately 136,000 single-family lots (28% of the City's total) located within the Department of City Planning Hillside Area Map, as defined in Section 12.03 of the LAMC.

Based on prior history of ADU development, there is no evidence to conclude that a restriction on ADUs in Hillside Areas would result in an increase in ADU development in other locations. ADUs are constructed by individual homeowners, are limited to one per lot where a preexisting single-family home is located. ADU development does not directly correlate to demand, so it would be speculative to connect a prohibition on ADUs in Hillside Areas with an increase in development elsewhere. Furthermore, of the 680 ADUs which have been permitted since the City first began regulating their construction, only 30 have been located in Hillside Areas (and only 13 of all permitted Hillside ADUs have received their Certificate of Occupancy). This represents only 4.4% of the City's total supply of permitted ADUs and a fractional source of housing supply for a City with an annual housing need of 10,250 dwelling units (2013-2021 Housing Element). Further restricting the construction of ADUs in Hillside Areas is therefore not expected to result in substantial development of other housing elsewhere.

More generally, a University of California, Berkeley study suggests that ADUs would have a lower environmental impact than other residential typologies.¹ ADU residents have fewer cars and utilize public transportation more often than the general population. In communities already served by transit, ADUs can provide new homes without adding traffic. Any potential for new ADU construction that would result from the passage of the proposed ordinance would have insignificant impact.

Categorical Exemption – CEQA Guidelines Sections 15301, 15302 and 15303

Class 1 Exemption

To the extent that the proposed ordinance allows the conversion of existing accessory structures to ADUs, the ordinance additionally qualifies for the Class 1 Categorical Exemption. A project qualifies for a Class 1 Categorical Exemption if it involves negligible or no expansion of an existing use, including small additions to existing structures. Any conversion or legalization of an existing ADU which may occur as a result of this ordinance would be subject to this exemption. Legalization of an existing dwelling unit would also be subject to a common sense exemption as it would not change the baseline conditions. CEQA Guidelines Section 15061(b)(3).

Class 2 Exemption

To the extent that the proposed ordinance would also allow for the replacement or reconstruction of existing structures that would not otherwise occur, the ordinance additionally qualifies for the Class 2 Categorical Exemption. A project qualifies for a Class 2 Categorical Exemption if it involves the replacement or reconstruction of existing structures and facilities where the new structure would be located on the same site and have substantially the same purpose and capacity as the preexisting structure. Under the proposed ordinance, ADUs are restricted in size, such that they may not exceed a total of the greater of 50% of the square footage of the primary dwelling unit or 1,200 square feet.

Class 3 Exemption

Furthermore, Class 3 exempts the development of second dwelling units. CEQA Guidelines Section 15303(a).

Exceptions

¹ "Yes in My Backyard: Mobilizing the Market for Secondary Units," Karen Chapple, J. Weigmann, A. Nemirow, and C. Dentel-Post (2011), UC Berkeley: Center for Community Innovation.

There is no evidence in the record which demonstrates that any of the six (6) Exceptions from CEQA Guidelines Section 15300.2 apply to the proposed ordinance: (a) Location; (b) Cumulative Impacts; (c) Significant Effect; (d) Scenic Highways; (e) Hazardous Waste Sites; and (f) Historical Resources.

While it is possible that an ADU 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 grading and construction of projects in these particular types of locations and will reduce an potential impacts 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 ADU.

Additionally, ADUs are limited to one per lot, with a requirement that a single-family home already be present. There is no reason to believe that the proposed ordinance would create a succession of projects of the same type and in the same place. As discussed, the ordinance restricts ADUs to areas zoned and designated for such development, and places further restrictions on the allowable size and scale to ensure that any ADU is consistent with surrounding development. Thus, there are no unusual circumstances created as a result of this ordinance which may lead to a significant effect on the environment. According to Appendix B of the City of Los Angeles Mobility Plan, there are no designated state scenic highways located within the City of Los Angeles, so there is no possibility that an ADU created as a result of this ordinance would have any impact on scenic resources. There is no reason to believe that an ADU would be located in a Hazardous Waste Site, as the ordinance requires that the site already contain a single-family residence and this condition would have been verified upon construction of the pre-existing home. Any ADU constructed on 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. As such, the proposed ordinance in and of itself does will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.

State Accessory Dwelling Unit Law Findings

State law explicitly allows cities to prevent off-street parking in setback areas when specific findings are made that parking in setback areas is not feasible based upon it not being permitted anywhere else in the jurisdiction. Currently the City prohibits front yard parking citywide (LAMC Section 12.21 A.6); therefore, this provision in the Ordinance is consistent with current zoning policies that apply to all residential uses and furthers objective health and safety goals of preventing parking on sidewalks, maintaining clear and open front yards and allowing for greater visibility and safety.

Urgency Clause Findings

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 Accessory Dwelling Units.

While Accessory Dwelling Units are assets in mitigating the housing crisis, Los Angeles is a very unique city for the amount of mountain terrain and hillside areas located within its boundaries. The City's current second unit ordinance in LAMC §12.24 W.43 precludes second unit development within defined hillside area boundaries. The proposed ordinance would continue this policy by providing that second units be restricted in Hillside areas covered by the BHO. The BHO applies to approximately 136,000 single-family lots (28% of the City's total) located within the Department of City Planning Hillside Area Map, as defined in Section 12.03 of the LAMC.

Hillside areas are often characterized by larger amounts of natural vegetation and substandard streets. They are typically far from public transit, services or jobs. Impacts of new construction are often multiplied in hillside neighborhoods, with pronounced impacts on water and sewer services, congestion, parking availability, roadway degradation, and public safety due to construction vehicles and machinery forced to park and transverse narrow hillside streets. Hillside areas also have a higher fire and natural disaster risk, while the winding roads slow emergency response times. For these reasons the draft ordinance places a restriction on ADUs in Hillside Areas.

Given their unique characteristics and development challenges, these areas have long had distinct zoning and land use policies, including the development regulations contained in the Baseline Hillside Ordinance (BHO). City policies aim to preserve natural viewsheds, whenever possible, in hillside and coastal areas (General Plan Framework 6.1.2). Therefore, immediate action is necessary to bring the City's regulations into compliance with state law while preventing the development of Accessory Dwelling Units in Hillside Areas.

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