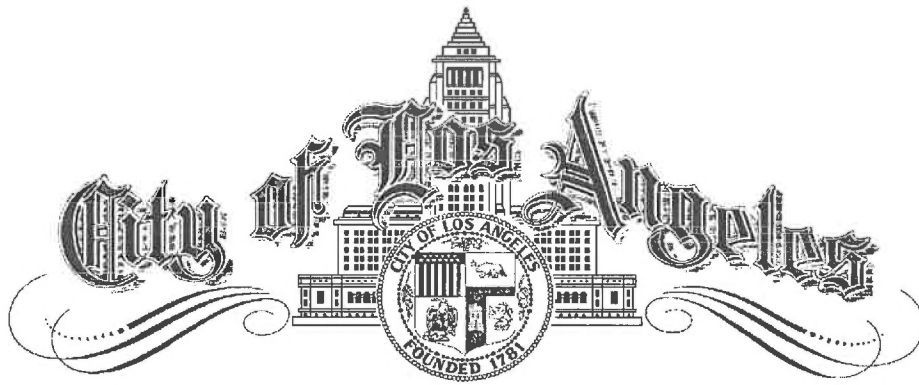




MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 20 - 0190
JUN 15 2020

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 91.9704, 91.9705, 91.9706, 91.9708,
AND 91.9709 OF DIVISION 97, ARTICLE I, CHAPTER IX OF THE LOS ANGELES
MUNICIPAL CODE TO MAKE CHANGES TO THE EXISTING BUILDING ENERGY
AND WATER EFFICIENCY PROGRAM**

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. 14-1478-S1

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 91.9704, 91.9705, 91.9706, 91.9708, and 91.9709 of Division 97, Article 1 of Chapter IX of the Los Angeles Municipal Code (LAMC) to make corrections, clarifications, and simplify compliance dates for the Existing Building Energy and Water Efficiency Program.

Legislative Background

The Existing Building Energy and Water Efficiency (EBEWE) Program was first created by Ordinance No. 184674, which became effective on January 29, 2017. The purpose of the EBEWE Program is to reduce the energy and water consumption in existing buildings in the City.

On November 5, 2019, the City Council (Council) instructed the Department of Building and Safety (DBS), with the assistance of the City Attorney, to prepare an ordinance to revise the EBEWE Program by amending LAMC Sections 91.9704, 91.9705.1, 91.9705.2(e), 91.9708, and Table 9708.2 of Section 91.9708 to make corrections, clarifications, and simplify compliance dates.

This Office subsequently transmitted a draft ordinance to the City Council on November 26, 2019, that postponed the compliance dates for reporting requirements under the EBEWE Program for a year while DBS continued to work on updating the EBEWE Program regulations pursuant to the City Council's instruction. Ordinance No. 186480 became effective on December 19, 2019, and amended Table 9708.2 to LAMC Subsection 91.9708.2 to postpone the compliance dates for Energy and Water Audits and Retro Commissioning reports required by LAMC Section 91.9706 for one year.

Summary of Ordinance Provisions

The draft ordinance addresses the corrections and clarifications requested by the City Council on November 5, 2019, and also includes another update of the compliance dates for Energy and Water Audits and Retro Commissioning reports set forth in Table 9708.2 to Subsection 91.9708.2.

In order to achieve the City's goal of 100% clean power in all City buildings by 2050, the draft ordinance amends the EBEWE Program regulations as follows:

- Adds a definition for "Treatment Facility" as a place where industrial processes take place for the treatment of substances.
- Includes irrigated areas in the benchmarking of water usage.
- Allows buildings with central cooling systems having capacity of less than 100 refrigeration tons, and buildings with cooling systems that do not use the consumption of water in the cooling process, to be exempt from Energy Audits and Retro Commissioning.
- Clarifies that buildings of 20,000 square feet or more are subject to the report schedule outlined in Subdivision 4.
- Changes the basis for the initial compliance date for Energy and Water Audits and Retro Commissioning reports from the last digit of a building's Los Angeles Assessor's Identification Number (AIN) to the last digit of the "Los Angeles Department of Building and Safety Identification Number (LADBS Building ID) assigned by LADBS."

- Extends compliance dates by six months so that the first due date is December 1, 2021, instead of January - June, 2021. The remaining compliance dates in Table 9708.2 are likewise postponed by six months.
- Provides alternatives for the initial compliance date for buildings with an AIN ending in 0 or 1 that had an initial compliance due date of January 1, 2021, or December 1, 2021.
- Creates five new conditions under which a building owner may apply for an extension of time to comply with submittals required by the EBEWE Program and specifies that DBS may waive fees for the request.
- Creates an exception for the imposition of noncompliance fees for any of the reasons stated in Subdivisions 4 through 8 of Subsection 91.9708.3.

California Environmental Quality Act (CEQA) Standard of Review

The City Council may determine, based on the whole of the administrative record, that the draft ordinance is exempt from the California Environmental Quality Act (CEQA) under California CEQA Guidelines Sections 15301 (categorical exemption for existing facilities), 15302(c) (categorical exemption for replacement/reconstruction of existing utility systems), and 15308 (categorical exemption for regulatory actions for protection of the environment) and that none of the exceptions under Section 15300.2 apply. If the City Council concurs, it should adopt these CEQA findings prior to or concurrent with its action on the ordinance.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to DBS with a request to provide comments, if any, directly to the City Council or its Committee when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Charles D. Sewell at (213) 978-8083. He or another member of this Office will be available 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:CDS:ev
Transmittal