



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. **R19-0397**
NOV 26 2019

REPORT RE:

**DRAFT ORDINANCE AMENDING TABLE 9708.2 OF SUBSECTION 91.9708.2 OF
SECTION 91.9708, DIVISION 97, ARTICLE I, CHAPTER IX OF THE LOS ANGELES
MUNICIPAL CODE TO CHANGE THE COMPLIANCE DUE DATES FOR ENERGY
AND WATER AUDITS AND RETRO-COMMISSIONING**

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 Table 9708.2 of Subsection 91.9708.2 of Section 91.9708, Division 97, Article 1, Chapter IX of the Los Angeles Municipal Code to postpone the compliance dates for energy and water audits and retro-commissioning required by Section 91.9706, Division 97, Article 1, Chapter IX of the Los Angeles Municipal Code.

Legislative Background

Division 97, Article 1, Chapter IX of the Los Angeles Municipal Code (LAMC) codifies the Existing Building Energy and Water Efficiency (EBEWE) Program adopted by the City Council on December 13, 2016. The purpose of the EBEWE Program is to reduce the energy and water consumption in existing buildings in the City. LAMC Section 91.9706 requires that buildings subject to the EBEWE Program undergo an energy audit and retro-commissioning of the base building systems and that a report of

the audit be maintained by the building owner. Table 9708.2 establishes a schedule for compliance with LAMC Section 91.9706, the first compliance date being listed as the range between January to June, 2020.

On May 21, 2019, the Planning and Land Use Management (PLUM) Committee made a recommendation, following a report from the Los Angeles Department of Building and Safety (Building and Safety), requesting the City Attorney to prepare a draft ordinance to revise various aspects of the EBEWE Program, including the deadlines associated with the "Schedule for the Audits and Retro-Commissioning reports" found in Table 9708.2 of LAMC Subsection 91.9708.2.

The item was subsequently transmitted to the Energy, Climate Change, and Environmental Justice Committee on May 23, 2019, and waived by that committee on October 31, 2019. The City Council adopted the PLUM Committee Report on November 5, 2019.

Summary of Ordinance Provisions

In order to achieve the City's goal of 100% clean power in all of the City's buildings by 2050, Building and Safety is currently working on revisions of the EBEWE Program regulations first adopted in 2017. These revisions respond to the Council's November 5, 2019 instructions. (See letter in Council File No. 14-1478-S1 from General Manager Frank Bush dated November 18, 2019, titled "Energy And Water Efficiency In Existing Buildings – Council File 14-1478-S1"). So that Building and Safety may continue to update the EBEWE Program regulations, the draft ordinance amends Table 9708.2 of Subsection 91.9708.2 of the LAMC to change all of the compliance dates by one year so that the first compliance due date for energy audit and retro-commissioning reports would be January - June, 2021 instead of January - June, 2020. All of the remaining compliance dates in Table 9708.2 are likewise postponed by one year.

The draft ordinance now transmitted by this Office, which was reviewed as to form and legality, has been amended to include an urgency clause so that, if adopted by Council and approved by the Mayor, it can become effective upon publication. The draft ordinance is required for "the immediate preservation of the public peace, health or safety" insofar as it establishes an effective mandatory reporting process that encourages existing energy inefficient buildings to reduce water and energy consumption. These auditing measures are designed to reduce urban water demand in the face of persistent cyclical State-wide drought conditions and to reduce energy consumption in the face of persistent global warming. The draft ordinance includes a statement describing the urgency as required by Charter Section 253. Urgency ordinances require a three-fourths vote of the City Council in order to pass.

California Environmental Quality Act (CEQA) Standard of Review

City Council may determine, based on the whole of the administrative record, that the draft ordinance amending Table 9708.2 of LAMC Subsection 91.9708.2 is exempt from the California Environmental Quality Act (CEQA) under California Public Resource Code Sections 15301 (categorical exemption for existing facilities) and 15309 (categorical exemption for inspections) and that none of the exceptions under 15300.2 apply.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to Building and Safety 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 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

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Transmittal