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CITY ATTORNEY

REPORT NO. R 1 5 - 0 0 1 9

FEB 0 4 2015

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 12.24 AND 19.01 OF THE
LOS ANGELES MUNICIPAL CODE TO ADD PRE-APPLICATION FEES TO
CERTAIN CONDITIONAL USE PERMIT APPLICATIONS AND TO IMPLEMENT
CLEARANCE, MONITORING AND REVOCATION FEES ASSOCIATED WITH
CERTAIN CONDITIONAL USE PERMITS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File Nos. 13-0046, 14-0600-S143 and 14-0122

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration, approved as to form and legality, the enclosed draft ordinance that would amend Los Angeles Municipal Code (LAMC) Sections 12.24 and 19.01 to require a mandatory pre-application consultation with the Planning Department; impose pre-application fees for certain conditional use permit applications; and implement clearance, monitoring and revocation fees associated with certain conditional use permits and other similar quasi-judicial approvals.

Background and Summary of Ordinance Provisions

On May 21, 2014, pursuant to the adoption of the Mayor's 2014-15 budget, Council adopted a budget recommendation that instructed the Planning Department, with the assistance of the Department of Building and Safety (DBS) to report to the Planning and

Land Use Management Committee (PLUM) regarding the Conditional Use Monitoring Program (CF 14-0600-S143).

On August 27, 2014, Council adopted a report from PLUM requesting the City Attorney to draft an ordinance implementing the fees analyzed and recommended by the City Administrative Officer (CAO) in his August 20, 2014, report on the Development Services Reform Initiative (CF13-0046). That report discussed fees levied by the Planning Department and DBS for their work under the Condition Compliance Monitoring, Verification, and Inspection Program (the MVP). The MVP is currently limited to conditional use approvals related to alcohol sales and adult establishments.

Also, on August 27, 2014, a motion was introduced (Bonin-Krekorian) requesting the Planning Department, with the assistance of the City Attorney, to draft an ordinance establishing a cost-recovering proactive field-inspection program to ascertain compliance with conditional use permit (CUP) conditions (CF 14-0122). The motion also requested that the draft ordinance establish a system under which the penalties imposed on an operator followed a scale based on the severity or recurrence of a violation, or based on the number of violations committed at a location. Finally, the motion requested the draft ordinance to establish a Condition Compliance Fee to investigate complaints related to CUP operations.

On December 3, 2014, Planning and DBS entered into a cooperative agreement regarding the enforcement of conditions related to discretionary approvals, as well as a memorandum of agreement to enforce discretionary approvals of granted Conditional Use Beverage (CUB) permits and Conditional Use Entertainment (CUX) permits. The cooperative agreement is the first in a series of agreements pertaining to Planning and DBS's enforcement of discretionary approval conditions.

The proposed ordinance amends the LAMC to establish a mandatory consultation with the Planning Department by a project applicant, to allow the Planning Department to preliminarily review a project and provide an estimate of the fees and approvals the project would require. The ordinance adds pre-application fees to CUP applications filed pursuant to LAMC Sections 12.24.M, 12.24.W or 12.24.X to cover the costs incurred by the Planning Department in providing this consultation.

The ordinance also amends the LAMC to implement clearance, monitoring and inspection fees for the Planning Department to conduct condition compliance inspections of projects for which a CUP was issued. The ordinance states the Planning Department's authority to take action against a business operator or property owner who, upon inspection, is found to be in violation of a CUP or other similar quasi-judicial approval. To that end, the ordinance amends LAMC Section 12.24.Z to implement a revocation fee to cover the cost of the revocation process and proceedings. However, the ordinance provides that, if Council reverses the decision of the Director or Area or City Planning Commission in favor of the operator or owner, no fee shall be required.

CEQA Determination

The California Environmental Quality Act (CEQA) does not apply to continuing administrative activities or organizational activities of government that will not result in specific direct or indirect physical changes in the environment, or to the creation of government funding mechanisms or other governmental fiscal activities that do not commit to any specific project that may result in potentially significant environmental impacts. Public Resources Code Section 21065 and State CEQA Guideline Section 15378(b). This proposed ordinance establishes fees to support the Planning Department's condition compliance monitoring activities and implements a preliminary consultation of certain projects submitted to the Department for approval. On that basis, the proposed ordinance is not subject to CEQA.

Charter Findings Not Required

The enclosed draft ordinance relates to the introduction of new fees related to certain applications and clearances, and for monitoring activities already within the authority of the Planning Department, and is not a land use ordinance. For this reason, this draft ordinance is not subject to approval by the City Planning Commission pursuant to Charter Section 558.

Notice Requirements

We note that, because this ordinance would impose a new fee, notice of its proposed adoption should be given in accordance with the provisions of California Government Code Sections 66018 and 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Council Rule 38 Referral

The draft ordinance was sent, pursuant to Council Rule 38, to the City Administrative Officer and the Department of Building and Safety. The Departments were requested to report their comments directly to you at the time this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Adrienne Khorasanee at (213) 978-8246. A member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By

A handwritten signature in cursive script, appearing to read "David Michaelson for".

DAVID MICHAELSON
Chief Assistant City Attorney

DM/ASK:mgm/mrc
Transmittal