



Legislation Text

File #: 21-0013, **Version:** 2

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 21.66 relating to an Unpermitted Dwelling Unit Amnesty Program, read and adopted as read. (Citywide)

The City of Long Beach (City) has many housing units that have been developed over time without building permits. These units provide much needed housing, tend to be naturally occurring affordable units, and fulfill an important niche in the housing market. These units, which generally represent one or two units carved out of ancillary spaces like laundry rooms or storage areas, or which have resulted from modest additions in otherwise existing, legally permitted multi-family buildings, may exceed the number of dwellings permitted by the zone or otherwise be out of compliance with underlying zoning regulations and development standards.

Currently, there is no clear pathway to encourage the rehabilitation and preservation of these units, and in some instances, these units must be removed to bring a property into compliance with zoning regulations. The proposed Ordinance creates an Unpermitted Dwelling Unit Amnesty Program (Program) to legalize these unpermitted units. Preservation of existing affordable housing units has been identified as a goal of the City. It is consistent with and implements Everyone Home recommendation 2e “to expand the number of rent-stabilized units,” and Policy 1.1 of the 2017 report prepared by the Mayor’s Affordable and Workforce Housing Study Group and adopted by the City Council “to encourage the preservation of existing housing stock, consistent with the City’s adopted Housing Element.” Preservation of existing housing units is also a goal of the City’s adopted Housing Element.

Moreover, the City is currently in the process of updating its Housing Element, in accordance with State law, and is pursuing a number of housing ordinances and initiatives that will aim to increase housing supply and enable the City to meet its Regional Housing Needs Assessment (RHNA) obligation under the Housing Element. While these units do exist today, the process of legalizing them counts as a housing unit created toward RHNA goals.

Regulatory Framework

The proposed Long Beach Municipal Code (LBMC) amendment would create a new chapter (Chapter 21.66) in Title 21 that would establish a pathway to allow the preservation of unpermitted dwelling units by exempting them from some Zoning Regulations that would otherwise pose a barrier to the legalization of these units in exchange for requiring the unit to be retained as an income-restricted unit for a period of ten years. Exempting such existing units from specified provisions of the Zoning Code can facilitate preservation of this important

component of the City's housing stock. Additionally, preservation of these existing units represents a cost effective and environmentally sensitive way to provide and retain critical affordable housing units in a safe and sanitary condition in the City and can be counted towards the City's RHNA requirements and future Census counts.

Specifically, the proposed Ordinance entails the following Program provisions:

- **Eligibility requirements.** Dwelling units eligible for legalization through this program are those located in any zoning district except for in the General Industrial (IG) and Port Industrial (IP) zones and that have been occupied for more than 30 continuous days prior to December 31, 2016.
- **Exemption from certain zoning standards.** Allows the unpermitted dwelling unit to be exempt from some zoning regulations such as density limitations, parking, open space, setback requirements, etc., that would otherwise preclude the existing unit from being legalized and maintained as a housing unit through the Program. The units will be required to comply with Building Code regulations to ensure life and safety standards are adequately met;
- **Affordability covenant.** In exchange for amnesty, the applicant will be required to retain the unit as an income-restricted unit for a period of ten years at an income level that is the lower of either the existing tenant's income level or a moderate-income household, as determined by Area Median Income (AMI) limits established by the Department of Housing and Urban Development (HUD). In the instance where the income of the current tenant is above the income level stipulated in the Ordinance, then the ten-year affordability period would be deferred until the unit is occupied by a tenant whose income meets the income restriction (e.g., has an income that is defined as moderate income or lower). The applicant will be required to record a covenant on the property memorializing the affordability requirement. Lastly, the unit would be subject to an annual covenant monitoring fee, so the City can ensure the units are being retained as income-restricted units for the life of the covenant;
- **Review process.** The legalization of these units would be permitted with approval by the Site Plan Review Committee and would be appealable only by the applicant to the Planning Commission. By formalizing a review process to legalize these unpermitted units, the City would be able to conduct building inspections and bring existing units into compliance with applicable fire, life, and safety standards to ensure the safety and habitability of the dwelling units.

On September 3, 2020, the Planning Commission reviewed and recommended approval of the proposed Program to the City Council, consistent with adopted policies and plans (Attachment A - Findings). The draft Zoning Code Amendment is attached (Attachment B - Draft Zoning Code Amendment). The Planning Commission staff report is also attached as Attachment C - Planning Commission Report.

Public Notice and Environmental Compliance

Notice of this public hearing was published in the Long Beach Press-Telegram on December 21, 2020, in accordance with provisions of the Zoning Ordinance. Due to the declared state of emergency, notices were not provided to City libraries (they are closed), notice posting was provided at City Hall but not at multiple locations. A notice of the proposed Zoning Code Amendment was distributed through the City's LinkLB e-mail blast system and to individual stakeholders who have requested notification on this item. No responses were received in response as of the date of preparation of this report. Any comments received prior to the City Council hearing will be provided at the hearing.

In accordance with the California Environmental Quality Act (CEQA) Guidelines, the Zoning Code Amendment (ZCA) is exempt from CEQA under Section 15305 (Minor Alterations to Land Use Limitations) and Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) and none of the exceptions in Section 15300.2 apply. Section 15305 exempts projects that consist of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density. The properties affected by this ZCA have an average slope of less than 20 percent.

The ZCA is further exempt pursuant to Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) and Section 15061(b)(3) (Common Sense Exemption), as it will not result directly or indirectly in significant environmental impacts. The ZCA does not result in any physical changes in the environment because it is limited to the amendment of the Zoning Code to allow the preservation of existing housing units, consistent with adopted City plans and policies. The proposed ZCA will allow the legalization of existing informal units, enable the City to bring them into compliance with the Building Code, and increase the supply of affordable housing by requiring that they be covenanted, restricted affordable units for a period of ten years for households with moderate income or lower. As the units already exist, the proposed Ordinance would not result in new construction and thus would not result in physical impacts to the environment. The proposed Ordinance does not change the density, height, intensity of land use, or allowable land uses currently permitted by the underlying zoning.

This matter was reviewed by Assistant City Attorney Michael J. Mais on December 9, 2020 and by Budget Analysis Officer Julissa José-Murray on December 7, 2020.

City Council action is requested on January 5, 2021. Pursuant to Section 21.25.103 of the Zoning Code, this request must be presented to the City Council within 60 days of the Planning Commission hearing, which took place on September 3, 2020. The January 5, 2021 public hearing date was the first available opportunity for the item to be reviewed by the City Council.

This recommendation has no staffing impact beyond the budgeted scope of duties and is

consistent with existing City Council priorities. There is no fiscal or local job impact associated with this recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 21.66 RELATING TO AN UNPERMITTED DWELLING UNIT AMNESTY PROGRAM

Approve recommendation.

OSCAR W. ORCI
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA
CITY MANAGER