

Informative

Zoning Code/Los Angeles Municipal Code(LAMC)/Reorganization of Administrative Provisions/Amendment Council File 12-0460-S4, CPC-2016-3182-CA, ENV-2016-3183-CE

This proposed ordinance is described by the Dept of City Planning as “improving accessibility to the Zoning Code by making it easier to use and understand”

It goes further, to state that it accomplishes this by “ clearly stating the steps in how the Department” (of City Planning) “evaluates development proposals” and “The ordinance consolidates redundant workflows and reduces over 100 processes down to about 50 having unique actions”

It is presented as inconsequential insofar as “the proposed ordinance involves purely administrative provisions and does not change any land use regulations (i.e. zoning on a property)”

However the ordinance does propose to change the relative authorities of city branches of government

Currently, the City Council has complete legislative authority over all land use decisions (see City Charter Section 240, 245(c), 250 (c)). It:

- Has ultimate authority over all matters. If the Mayor fails to act on an ordinance, within 10 days, mayoral approval of the ordinance is enacted automatically
- can pull any project or matter from the City Planning Commission
- can override a Mayoral veto by a 2/3 vote

Newly proposed Section 13.1 specifically provides that the City Council has legislative authority **except as limited by the Charter, state law or the Los Angeles Municipal Code**. Subsection C states: General Authority: The City Council generally exercises all legislative authority associated with the Zoning Code, **except where otherwise provided** by the Charter, State Law, or the Zoning Code. The City Council’s legislative authority is subject to veto or approval by the Mayor.

The **except where otherwise provided language** is new and makes the City Council’s legislative authority for Planning and Zoning expressly subject to other provisions of the Zoning Code and of State law. This also makes the legislative authority of the Council subject to veto or approval by the Mayor **without express reference to the provisions regarding overrides of mayoral veto**.

Further: the new language **subject to State Law** paves the way for a statewide Planning and Zoning Commission that is implemented top-down, by State law directly to City Planning managers, **bypassing the City Council and the Mayor**

The new language **subject to the Zoning Code** takes away all legislative authority from the City to the extent given to others in the Zoning Code itself. The existing City Charter gives the City Council the ability to respond to neighborhood sentiment by “pulling” a matter from the Dept of City Planning. The proposed ordinance takes that right away since decisions are left to the Zoning Administrator or LADBS (Los Angeles Dept of Building and Safety). Furthermore, nearly all such decisions are unappealable and unreviewable under its tenets.

The proposed ordinance is missing the crucial phrase, included everywhere that a veto is mentioned in the Charter itself- the phrase “**subject to the power of veto or approval by the Mayor as set forth in the Charter**” Thus, without the override provisions, this could strip the City Council of ALL legislative authority except as otherwise approved by the Mayor.

These “procedural” changes seem to fundamentally alter the veto power that the City Council has in the face of a mayoral veto.

The new section 13.1.1 opens by stating: This Division recognizes or formally establishes the agencies involved in administering the Los Angeles Zoning Code. The Division also describes how the agencies are composed, and their powers and duties”

This language suggests that the agencies are being given their powers independently of Council and its power per the City Charter. Since this will be enacted by ordinance (as opposed to resolution), the provisions and powers granted may be read to override contrary provisions in the City Charter. It changes the power of the City Council (as set forth in the Charter) but not that of the Mayor. The City Charter cannot be amended or modified without a vote on the ballot, yet that is what this proposed ordinance appears to do.

In addition, Section D of the proposed ordinance adds a finite list of “Specific” Authorities given to the City Council. **No such specifications of authority exist in the current City Charter because the City Council ultimately exercises ALL legislative authority**

Section 13.1.2 of the proposed ordinance gives the Mayor several specific powers that he does not have in the current Charter, including the exercise of any authority delegated by any section of the Municipal Code or State Law. It also confirms the veto power of the mayor as provided in the Charter. **This specific confirmation, when combined with the lack of reference to the veto powers of the City Council and the default approval of a measure if the Mayor fails to act on it, raises the implication that the two actions were deliberate and intended to upend the City Charter division of power.**

Section 13.1.3 of the proposed ordinance **gives the CPC (City Planning Commission) final decision-making authority** (among other things) over Class 3 Conditional Permits, Preservation Plan Adoptions/Amendments and Policy Plans, Project Review relating to density bonuses, Specific Plan Interpretation, Appeals of Departmental or City Planning actions on LADBS appeals, Zoning Code interpretations, Subdivision approvals, as well as over all decisions given

to Area Planning Commissions. Currently the CPC has final authority over nothing, since all their activities are subject to Council's ultimate legislative power.

Area Planning Commissions are also given vastly expanded powers

Moreover, the proposed ordinance does not state "to hear in the first instance subject to any right of appeal to the full CPC and Council". It says, instead: "to approve or deny, on appeal", in each case, suggesting no further right of appeal.

The proposed ordinance (Section 1.3.5) gives the Director of Planning, a single, appointed-not elected-individual, who has no ultimate authority under the existing Charter and Municipal Code, ultimate authority over an extraordinary array of land use actions.

In particular over "any decision within the original jurisdiction of the City Planning Commission or the Area Planning Commission." The transfer, by ordinance, of authority from Commissions to one official would seem to turn departmental hierarchy on its head.

A review of the operative provisions of the new ordinance reveals that the only decisions that can be appealed to or come before the City Council are:

1. General Plan, Specific Plan and Preservation Plans Adoptions and Amendments
2. Final Tract and Final Parcel Maps
3. Zoning Code Amendments and Changes

"By Right" or "ministerial actions" are made by LADBS with no right of appeal by anyone

Conditional Use Permits and Variances are Zoning Administrator decisions

Everything else:

tentative maps,
adjustments from zoning (which have been considered by at least one judge to be illegal under the City Charter),
certificates of compatibility and appropriateness in HPOZ
project review,
determinations of compliance or alternative compliance with any specific plan
interpretations of specific plans
zoning
maps, etc

All fall under the jurisdiction of the Director of Planning

And finally, **the proposed ordinance reduces required notifications to residents and neighbors** regarding a nearby project:

Currently: Councilmembers, Neighborhood Councils, occupants and neighbors within 500 feet or such an area to ensure notice to at least 20 property owners

Proposed: Councilmembers and immediately adjacent property owners ONLY

- It reduces the notice period from 24 to 21 days
- All requirements for a public hearing are vastly reduced and may be waived unless adjacent property owners **(not Neighborhood Councils or other stakeholders)** object in writing to the proposed project within 21 days of receiving notice
- The number of hearings, particularly at the Director of Planning level is “optional”