

# FACT SHEET

*Updated 10/17/2024*

## Resident Protections Ordinance

Case No. CPC-2024-388-CA

### Summary

The Resident Protections Ordinance is guided by the goal of strengthening protections for the City's renters and ensuring that all residents in areas subject to housing redevelopment pressures are better protected citywide. Provisions within the Ordinance have been designed to establish and strengthen citywide tenant protections for individuals facing evictions due to redevelopment, as well as impose requirements on housing developments that include deed-restricted affordable housing units. The ordinance would strengthen tenant protections, including the right to relocation assistance, the right to remain, the right to return to comparable units in a new development, and the right to return if demolition does not proceed. The ordinance expands upon existing regulations for mixed-income development to ensure the quality and equitable distribution of affordable units. It attempts to prioritize Restricted Affordable Units for those with the greatest housing need. Additionally, the ordinance extends covenant terms for new restricted affordable housing units to 99 years, enforces affirmative marketing and outreach requirements, and mandates use of the Affordable and Accessible Housing Registry for rental listings.

### Background

The Citywide Resident Protection Ordinance is an important component of the City's larger Rezoning Program. It is intended to provide additional safeguards for existing residents at the same time that rezoning strategies are aimed at expanding housing options through new construction. This proposed ordinance better protects residents to improve housing stability while harmonizing with broader state legislation, resulting in a comprehensive citywide approach.

This ordinance serves to codify housing replacement requirements that were initially introduced through the Housing Crisis Act and incorporates recent amendments to the law introduced by Assembly Bill 1218 in 2023. Among its key provisions, the proposed ordinance enacts state requirements pertaining to the demolition of housing units to extend replacement requirements in conjunction with new housing development projects beyond January 1, 2030. However, the requirements on non-housing developments will expire in alignment with the expiration of corresponding state laws in 2030.

Importantly, the proposed housing replacement policy introduces a one-for-one replacement requirement for projects that result in the demolition of units subject to the Rent Stabilization Ordinance (RSO), surpassing existing requirements. This means that RSO units would be replaced with lower income units, regardless of the income of existing occupants, or whether the units are occupied. The proposed ordinance will also make the state's "no net loss" requirements, which prohibit a Housing Development Project from demolishing more units than it creates, permanent. Together these changes help preserve the city's affordable housing stock to ensure that every development project that demolishes RSO units will result in a net gain of covenanted affordable units. Additionally, the ordinance reinforces existing occupant protections, including the right to relocation assistance, the right to remain in their units for six months before demolition and the right to return to a new comparable unit within the newly constructed building.

While the City currently upholds fair housing policies and regulations related to unit mix, size, quality, distribution and amenities, within mixed-income housing developments, these requirements are not currently codified in the Los Angeles Municipal Code (LAMC). The proposed ordinance clarifies that these requirements are applicable to all mixed-income developments, with the specific details outlined in a concurrent set of Fair Housing Requirements developed alongside the proposed ordinance. These provisions are intended to align with fair housing laws and enhance both the quality of life for occupants and predictability for developers.

## Key Provisions

### **Housing Development Projects that Result in Housing Unit Demolitions**

The Ordinance would prevent the City from approving housing development projects that result in the demolition of protected housing units that are occupied or have been vacated and demolished within the past five years, unless the following conditions are met:

- **Replacement of Existing or Demolished Protected Units.** The project must replace all existing occupied and vacant protected units as well as protected units that have been demolished since January 1, 2020, pursuant to California Government (Cal. Gov.) Code Section 66300.6(b).
- **No Net Loss of Dwelling Units.** Housing development projects that require the demolition of residential dwelling units must construct at least as many residential dwelling units as will be demolished pursuant to Cal. Gov. Code Section 66300.6(a).
- **Existing Occupant Protections.** Existing occupants must be provided the following rights.
  - **Right to Remain.** Existing occupants can continue to occupy their units up until six months prior to the start of construction activity.
  - **Right to Return.** The developer shall provide a right of first refusal for a comparable unit and at an affordable cost or prior rental rate, whichever is lower, in the new housing development to lower income occupants of any protected units.
  - **Right to Return if Demolition Does Not Proceed.** If the demolition does not proceed and the property is returned to the rental market, prior occupants will be allowed to return at their prior rental rate.
  - **(UPDATED) Right to Relocation.** Relocation benefits shall be afforded to the occupants of those affordable residential rental units. The amount of relocation shall be the greater of the state provision or existing local amounts, as determined by the Los Angeles Housing Department. The proposed ordinance would create a local formula for complying with the state provision, clarifying expected relocation amounts for tenants and developers. As required by state law, the formula takes the difference between the income category of the renter and the cost of a market rate apartment and multiplies it by 42 months, which is about the average time it takes for a new apartment to be constructed.
  - **(NEW) Additional Tenant Notification Obligations.** Developers are required to properly notify tenants of all of their rights, including their right to return, how they can exercise their rights, and provide accurate contact information that tenants can use to obtain updates and information. Tenants would receive notifications on a bi-annual basis and of major milestones throughout the construction process when exercising their right to return. Once tenants are notified that their replacement unit is ready for occupancy, tenants will have 30 days to claim their unit, after which owners would keep their unit available for 60 days.
  - **(NEW) Withholding or Revoking of Demolition Permit Approval for Illegal Tenant Harassment or Eviction.** The proposed ordinance would

withhold or revoke demolition permits from beneficial owners placed on the Los Angeles Housing Department's (LAHD) Anti-Harassment Violators Database. Beneficial owners would be placed on the Anti-Harassment Violators Database for either:

1. Receiving 3 final City citations for violation of the Tenant Anti-Harassment Ordinance (TAHO) (Article 5.3 of Chapter IV of LAMC) citywide within the last 10 years, or
2. Receiving 1 final City citation for TAHO violations within the last 5 years within zones where there is a heightened risk of displacement of lower income tenants, as determined by the City's Displacement Assessment Risk Tool, or
3. Having a final court judgment issued against them within the last 5 years for wrongfully or illegally evicting a tenant, or causing a tenant to involuntarily quit within City limits in violation of local or State law.

This demolition permit prohibition would last 5 years from the date of the last violation, would run with the land and transfer to any new owner.

Effectuating this policy would require LAHD to dedicate significant resources to build out the Anti-Harassment Violators database as a citywide tool, including both sufficient staffing and time. LAHD anticipates that the Department would need twelve months from the adoption of the proposed ordinance to obtain the appropriate staffing and develop the system.

### **Non Housing Development Projects that Result in Housing Unit Demolitions**

Any non-housing development project that will require the demolition of occupied or vacant protected units, or is located on a site where protected units were demolished on or after January 1, 2020 must meet replacement requirements of existing or demolished protected units and provide existing occupant protections (see above), until 2030. These replacement units are permitted to be located off-site from the development project, subject to certain requirements.

### **Length of Affordability of Restricted Affordable Units**

The covenant terms for restricted affordable units within housing development projects is proposed to be extended from 55 years to 99 years. Covenants for restricted affordable units must still be prepared acceptable to the Los Angeles Housing Department (LAHD), recorded, and must guarantee that the occupancy restriction

establishing affordability will be observed throughout the entirety of the covenant term from the issuance of the Certificate Occupancy. Limited exceptions for this extended 99 year covenant term include for-sale projects as well when public subsidies require their own affordability covenant term length.

### **Size, Location, and Amenities of Restricted Affordable Units in Mixed-Income Housing Development Projects**

The proposed ordinance would formalize in the Los Angeles Municipal Code the authority of the City to establish and administer requirements regarding the unit mix, unit size, quality and amenities, access to and distribution of affordable housing units in mixed-income housing development projects to ensure compliance with fair housing law. The requirements will be codified in a set of Fair Housing Requirements for Affordable Housing that is created by the Los Angeles Housing Department (LAHD) and the Department of City Planning, and adopted by the City Planning Commission. It will be accompanied by an explanatory User Guide that explains the various affordable housing incentive programs in the City. LAHD will have the authority to interpret these requirements to best implement the goals of the guidelines.

### **Allocation of Restricted Affordable Units**

As proposed, all Restricted Affordable Units would be subject to the affirmative marketing and outreach requirements established by LAHD and be made available for rent on the [Affordable and Accessible Housing Registry](#), or any equivalent registry, managed by LAHD, to the extent feasible.

### **Priority Populations**

This ordinance attempts to prioritize Restricted Affordable Units in mixed-income housing development projects for those with the identified housing need. These priority populations include those displaced pursuant to provisions in the Ellis Act and LAMC 151.22 to 151.28, lower income residents impacted by a rent increase due to the termination of affordability restrictions, and residents displaced due to natural disasters and other code enforcement orders issued for uninhabitable units.

### **(NEW) Private Right of Action**

Private right of action provisions within the RPO provide a framework for aggrieved tenants or their representatives to seek legal remedies and enforcement of the occupant protections. Tenants may be awarded reasonable attorney's fees and costs, compensatory or punitive damages, and civil penalties per violation. Penalties are increased in cases of willful violations and when tenants are 65 years of age or older.

## **Summary of Changes**

Since the second Public Hearing draft of the ordinance was released in June 2024, the ordinance has undergone significant revisions based on public feedback, economic analysis, and interdepartmental coordination. The changes to the ordinance are summarized below.

### **Stronger Enforcement**

- The proposed ordinance has been amended to include a new **Tenant Notifications** section, LAMC Section 16.60 A.3(b)(5), which is based upon recently adopted provisions in the South Los Angeles Community Plan Implementation Overlay (South LA CPIO). These notification requirements have been added to better ensure tenants are adequately informed of their rights and notified of important milestones (i.e. the start of construction, at 180, 90, 30 and 15 days in advance of the issuance of the Temporary or Final Certificate of Occupancy, and when the Temporary or Final Certificate of Occupancy is issued) throughout the development of a project. Understanding that these notifications can be critical for a tenant's life planning, these proposed citywide requirements are intended to allow tenants to better estimate when they may be able to move into the new building. These requirements also set a timeline for notifications and response times.
- Additional provisions apply penalties associated with the **Anti-Harassment Violators Database** citywide, as described in LAMC Section 16.60 A.6. This new system was initially created as a result of the recently adopted South LA CPIO amendment for LAHD to identify and penalize developers or beneficial owners who are found to have committed unlawful tenant harassment or illegally evicted a tenant, pursuant to the City's Tenant Anti-Harassment Ordinance. (See Key Provisions Section above for more detail). These penalties are intended to discourage owners or developers from harassing tenants or unlawfully vacating a building for redevelopment.
- **Private Right of Action** provisions in Sections 16.60 A.7 and 16.61 D of the LAMC have been added to the proposed Resident Protections Ordinance to provide tenants a framework for pursuing legal action against developers who violate their rights pursuant to the proposed ordinance. These provisions detail the violations that the RPO intends to prevent, as well as the civil penalties that prevailing tenants could receive with egregious violations facing stiffer penalties.

### **Occupant Protections**

- Providing for the ability of a tenant to exercise their **Right to Return** at their prior rental rate. Subsequent rent increases would then be limited to those permitted by the Rent Stabilization Ordinance (RSO).
- Expanding the definition of a "**comparable unit**" and applying it to an additional situation. The prior definition mirrored state law (Housing Crisis Act) and only

required the new units match the old with regards to the number of bedrooms. The definition has been expanded to require the same number of bathrooms and bedrooms. Also, it previously only applied to a tenant's Right to Return to the site of a newly constructed building. It will now also apply to the **Right to Return when Demolition Does Not Occur**, in addition to the regular Right to Return to the new building.

- Relocation assistance for lower income residents established under the **Right to Relocation** has been refined to better align with state law and allow for a simpler option to obtain a higher level of relocation assistance than is currently available now. The formula would be based on the income category of the renter and the cost of a market rate apartment. This difference would be multiplied by 42 months, which is close to the average time it takes for a new apartment to be constructed, and is required by state law. This is a critical change to help ensure tenants who are displaced are able to remain in their neighborhoods until they are able to take advantage of their right to return to the new development.

### **Affordable Unit Allocations**

- Expands allocation requirements from mixed-income projects to all restricted affordable units.

### **Creating Deeper Affordability**

- Adding **Acutely Low Income (ALI)** as an income replacement category that must be replaced when an existing or prior tenant's income is known to be ALI. Previous drafts incorporated Extremely Low Income in this scenario, different from the practice today. This helps ensure that the City will not lose the stock of housing units affordable for this important income category.
- Updating the replacement policy for when incomes are not known, requiring replacement units to reflect the most recent proportionate overall share of all citywide renters in various income categories based on defined census data in the Housing and Urban Development Community Housing Affordability Strategy (CHAS) database. For example, the most recent data from, September 5, 2023, indicates that there are 31% ELI, 18% VLI, 20% LI, 31% moderate income and above tenants throughout the City.

In this replacement scenario, 31% of the units (representing the renting population assumed to be above lower income) would be replaced as LI units, for a breakdown of 31% ELI, 18% VLI and 51% LI units. However, to prioritize deeper affordability levels in lower resource communities and further fair housing goals, the ordinance proposes forgoing the CHAS allocation for moderate income and above, and only considering income levels within the band of lower income

residents.

In this scenario, proposed to be applicable in lower resource communities, using the same data from September 3, 2023, the distribution of income levels for replacement units would be 45% ELI, 26% VLI, and 29% LI. This modified replacement formula for low resource communities, where ELI renters are more likely to find affordable housing, will ensure ELI remains the largest share in those areas. As new CHAS data becomes available, these proportions will change to reflect demographics.

### **Minor Revisions and Clarifications**

- Clarifying the distribution of bedrooms and units in replacement units, to align with the current practice by LAHD and recent advice provided by the Department of Housing and Community Development (HCD) in a technical assistance letter to the City of Westminster dated August 7, 2023. Replacement units must contain at least the same total number of units and total aggregate number of bedrooms as the Protected Units being replaced but are not required to match on a unit-by-unit basis.
- Other minor technical changes to better align the proposed ordinance with state law that do not change policy direction

## **Frequently Asked Questions**

### **How has the draft Resident Protections Ordinance been revised since the initial release in March 2024?**

The draft released in June 2024 reflected a variety of technical edits to the March 2024 draft of the ordinance. These technical edits included updates to code citations, clarified definitions, and some targeted edits that seek to clarify the intent of the ordinance and match current City policies. While the revisions included in the June 2024 draft were limited in nature, a more comprehensive revised draft has recently been released ahead of a City Planning Commission Hearing. This new, September 2024 draft, reflects public feedback, a variety of policy considerations, and includes several changes which are detailed in the “*Summary of Changes*” section above.

### **How does the Resident Protections Ordinance differ from existing state legislation?**

The Resident Protections Ordinance primarily intends to codify provisions of the state Housing Crisis Act (HCA), which was introduced through SB 330 (2019) and updated by AB 1218 (2023). These provisions establish housing replacement requirements, no net



loss provisions, and occupant protections that apply to housing development projects and development projects. However, state law set these provisions to expire in 2030. The Resident Protections Ordinance would make the provisions applicable to housing development projects permanent, while allowing provisions that apply to non-housing development projects to expire in 2030. Moreover, the proposed ordinance would go further than current practice under state law by instituting a one-to-one replacement requirement for units subject to the City's local Rent Stabilization Ordinance, ensuring that the City's affordable housing stock is maintained by having affordable units replaced if they are demolished.

In addition to codifying the HCA provisions, the proposed Resident Protections Ordinance would establish a local set of requirements for restricted affordable units. For example, the covenant length for restricted affordable units would be extended from 55 years to 99 years. In alignment with fair housing policy, restricted affordable units in mixed-income projects would also be subject to regulations governing their size, location and amenities. These regulations are intended to ensure that restricted affordable units in mixed-income properties provide the same living experience as market-rate units. Finally, it would also codify requirements pertaining to Affirmative Marketing and Fair Housing Outreach, use of the Affordable and Accessible Housing Registry, and priority populations.

Finally, in alignment with recent local programs in the City, the proposed ordinance adds a variety of tenant protections not required by state law, including additional tenant notification obligations, private right of action remedies, and the citywide application of an Anti-Harassment Violators Database. Also, individual occupant protections have been strengthened and expanded beyond state law requirements. For example, tenants exercising their Right to Return to a unit in the new development and their Right to Return if Demolition Does Not Proceed shall now be able return at their prior rental rate. What is considered to be a comparable unit was expanded to include the number of bathrooms, in addition to the same number of bedrooms, and will now also be required for the units afforded to tenants exercising their Right to Return if Demolition Does Not Proceed.

### **What would be the impact of a No Net Loss policy?**

A No Net Loss policy applicable to housing development projects ensures that new developments are providing as many units as they demolish, irrespective of protected unit status. Extending this policy beyond its sunset date in state law would help ensure that as new housing is built throughout the City, no housing stock is lost. For example, a four-plex could not be demolished to build a duplex.

### **What is considered a protected unit?**

Protected Units include those that have either been rented by lower income households, have been subject to a recorded covenant, ordinance, or law that restricts rents to affordable income levels within the past five years. This includes residential dwelling units that have been subject to the Rent Stabilization Ordinance (LAMC Section 151).

Residential dwelling units are also considered protected units if they were withdrawn from rent or lease in accordance with the Ellis Act within the past 10 years.

### **What is considered a housing development project?**

A housing development project is defined the same as in Cal. Gov. Code Section 65589.5. In addition, projects that do not involve a discretionary approval and include construction of a single dwelling unit are also considered housing development projects.

### **What is considered a non-housing development Project?**

A non-housing development project includes any project that requires a City Planning application or building permit for the purpose of construction, demolition, or alteration of the size of any structure, and a change in the density or intensity of use of land, consistent with how the term is used in the Housing Crisis Act.

### **Which units are subject to the longer term length?**

All new restricted affordable housing units in development projects resulting from planning and zoning related programs (i.e. DB, MIIP, AHIP) will be subject to a 99 year covenant term length unless otherwise exempt. Some exemptions include for-sale projects, or projects funded by public subsidies that require their own affordability covenant term length. The extended covenants will also not apply to projects built via other non-planning or zoning programs such as the Parks Fee.

### **What are the next steps and upcoming opportunities to provide public comment?**

In this phase of the RPOs timeline, the draft ordinances associated with the Housing Element Rezoning Program were considered and adopted by the City Planning Commission (CPC) on Thursday, September 26, 2024. This included the [CHIP Ordinance, Housing Element Sites and Minimum Density Ordinance, and Resident Protections Ordinance](#). To view the Staff Recommendation Report to the CPC and the Letter of Determination click [here](#).

As a next step, the ordinances will move to the Planning and Land Use Management (PLUM) Committee, then to the full City Council for final consideration and adoption in

the following months. To stay up to date on upcoming milestones associated with the RPO, make sure to subscribe to the Council File ([24-1230-S8](#)) here. More information on the RPO and the adoption phase of the process can be found [here](#).

### **Who can I contact for additional information?**

As a reminder, the formal public comment period has now closed. If you have questions about the next steps in the adoption process for the proposed ordinances associated with the [Housing Element Rezoning Program](#), please email [housingelement@lacity.org](mailto:housingelement@lacity.org).

Any media inquiries should be directed to Jamie Francisco at [planning.media@lacity.org](mailto:planning.media@lacity.org) or (213) 562-8294.