

ORDINANCE NO. 185644

An ordinance amending Articles 1 and 2 of Chapter XVI of the Los Angeles Municipal Code to make technical changes, clarify inspection and notice procedures and to amend appeal procedures to conform to federal and state law.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 161.101 of Division 1, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.101. TITLE.

This Article shall be known as the Los Angeles Housing Code, a portion of the Los Angeles Municipal Code. Wherever the phrase “**this Article**” is used, it shall mean the Los Angeles Housing Code. Wherever the phrase “**this Code**” is used, it shall mean the Los Angeles Municipal Code.

Sec. 2. Section 161.201 of Division 2, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended to add in alphabetical order the following definition to read as follows:

RENT ADJUSTMENT COMMISSION (RAC). The Rent Adjustment Commission as established under Los Angeles Municipal Code Section 151.03.

Sec. 3. Section 161.351 of Division 3.5 of Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 4. Section 161.353 of Division 3.5 of Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 5. Section 161.354 of Division 3.5 of Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 6. Section 161.355 of Division 3.5 of Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 7. A new Section 161.400 is added to Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code to read as follows:

SEC. 161.400. AUTHORITY TO INSPECT.

A. **Inspection.** The General Manager shall have the authority to conduct inspections of residential rental properties, buildings, units, and structures falling within the scope of this Article. Inspections may be periodic or complaint-based.

B. **Re-inspections.** The General Manager has the authority to conduct re-inspections after the compliance date stated in the notice and order to determine if the violation has been corrected. If the violation has not been corrected, the General Manager may schedule a General Manager's hearing or take any other enforcement action deemed appropriate under Chapter XVI of this Code.

Sec. 8. Section 161.401 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.401. AUTHORITY TO ADMINISTER AND ENFORCE.

A. **Laws, Regulations and Codes.** The General Manager shall have the authority to administer and enforce the provisions of this Article, the State Housing Law (Part 1.5 of Division 13 of the California Health and Safety Code), the State Housing Law Regulations (Sub-chapter 1, Chapter 1, Division 1, Title 25 of the California Code of Regulations), and this Code relating to the maintenance, sanitation, ventilation, use, occupancy, and habitability of existing residential rental properties, buildings, units, and structures falling within the scope of this Article, including enforcement of those requirements governing any alteration, addition, or repair.

B. **Abatement Procedures.** In addition to the abatement procedures set forth in the State Housing Law and State Housing Law Regulations, the General Manager shall have the authority to utilize the procedures in Divisions 81 and 89 of the Los Angeles Building Code (Article 1, Chapter IX of this Code) to abate existing residential rental properties, buildings, units, and structures that have been determined to be a nuisance, hazardous, or substandard.

Sec. 9. Section 161.403 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.403. REPRESENTATIVE OF SUPERINTENDENT OF BUILDING.

A. The General Manager is hereby designated as an authorized representative of the Superintendent of Building of the Department of Building and Safety for the purpose of implementing and enforcing the following provisions:

1. Los Angeles Building Regulations (Chapter IX of this Code) relating to the maintenance, sanitation, ventilation, use, occupancy, and habitability of existing residential rental properties, buildings, units, and structures falling within the scope of this Article, including enforcement of those requirements governing alterations, additions, or repairs.

2. Los Angeles Zoning Code (Article 2, Chapter I of this Code) Sections 12.21.A.1(a), 12.21.A.4(m), 12.21.A.8, and 12.21.C.1(g).

Sec. 10. Section 161.404 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended to add a title as follows:

SEC. 161.404. ENFORCEMENT AGENCY AND GOVERNING BOARD.

Sec. 11. Section 161.405 of Division 1, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.405. AUTHORITY TO SEEK AID AND ASSISTANCE.

The General Manager is authorized to call upon the Chief of the Fire Department, Chief of Police, General Services Department, and all other City officers, employees, departments and bureaus to aid and assist in the enforcement of this Article, and it shall then be their duty to enforce the provisions of this Article and to perform those duties as may come within their respective jurisdictions.

Sec.12. Section 161.407 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended to add a title as follows:

SEC. 161.407. AUTHORIZED REPRESENTATIVE.

Sec. 13. Section 161.409 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.409. ISSUANCE AND SERVICE OF ORDERS AND NOTICES.

A. **Issuance of Orders.** If, upon inspection, one or more violations of this Code is discovered, the General Manager shall cause to be issued a notice and order pursuant to this Article, except that, upon inspection, if the premises is declared substandard pursuant to the State Housing Law (Part 1.5 of Division 13 of the California Health and Safety Code), the General Manager shall cause to be issued a notice and order pursuant to the provisions of the State Housing Law.

B. **Service on Property Owner/Landlord.** Except as otherwise provided, any notice or order required to be served on the property owner/landlord under this Article shall be completed by either:

1. Personal service; or
2. Posting a copy of the notice or order in a conspicuous place on the property along with service by United States Mail, in a sealed envelope, postage prepaid, addressed to the person to be notified at the address as listed in the last equalized assessment roll. Service by mail shall be deemed complete at the time of deposit in the mail.

C. **Service on Tenant.** Except as otherwise provided, any notice or order required to be served on the tenant under this Article shall be completed by either:

1. Personal service; or
2. Posting the notice or order in a conspicuous place on the property and on a prominent place on each affected unit; or
3. Posting a copy of the notice or order in a conspicuous place on the property along with service by United States mail, in a sealed envelope, postage prepaid, to each affected residential unit. Service by mail shall be deemed complete at the time of deposit in the mail.

Sec. 14. Section 161.410 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended to read as follows:

SEC. 161.410. ARREST AUTHORITY.

A. **Arrest Authority and Immunity.** In the performance of his or her duty, the General Manager shall have the power, authority and immunity of a public officer or employee as set forth in California Penal Code Section 836.5 and to make arrests without a warrant whenever he or she has reasonable cause to believe that the person to be arrested has committed a misdemeanor or an infraction in his or her presence in violation of an ordinance or statute which the employee has the duty to enforce, including: Sections 12.21.A.1(a), 12.21.A.4(m), 12.21.A.8, 12.21.C.1(g), 80.01.1, 91.109.1, 91.310.4, 91.6103, 91.6109, 91.8102.2, 91.8104, and 91.8603.1.1 of this Code, or a violation of California Penal Code Sections 556 or 556.1.

B. **Written Notice to Appear.** In accordance with Section 11.06(b) of this Code, in cases where a person is arrested pursuant to this Article and does not demand to be taken before a magistrate, the public officer or employee making the arrest shall prepare a written notice to appear and shall release the person on his or her promise to appear as prescribed by California Penal Code Sections 853.5 and 853.6. If the person signs the written notice to appear, thereby promising to appear, he or she shall not be taken into physical custody.

Sec. 15. Section 161.410.1 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 16. Section 161.410.2 of Division 4, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 17. Section 161.601 of Division 6, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.601. RIGHT OF ENTRY.

A. **General.** Whenever it is necessary to conduct an inspection or perform any duty under this Article or other applicable law, the General Manager is authorized to enter any residential rental property, building, unit or structure falling within the scope of this Article, between 8:00 a.m. and 6:00 p.m., or any other agreed upon time reached with the person in control or possession of the residential property, building, unit or structure. Before gaining entry, the General Manager shall serve a notice pursuant to Section 161.601.B of this Article. However, an inspection notice need not be served if the General Manager gains entry by obtaining the consent of the person in control or possession of the residential rental property, building, unit or structure, as follows:

1. If the building, unit or structure is occupied, the General Manager shall present proper credentials to the occupant; explain the reasons for the inspection; and request consent to conduct an inspection.

2. If the building, unit or structure is unoccupied, the General Manager shall locate the owner or other person having charge or control of the property, building, unit, or structure and present proper credentials; explain the reasons for the inspection; and request consent to conduct an inspection.

B. **Inspection Notice.** Except as otherwise provided in this Division, the General Manager shall serve an inspection notice to the property owner/landlord and tenant in accordance with Section 161.409 of this Article at least 30 calendar days prior to the inspection date.

C. **Right to Object to an Inspection.** The property owner/landlord and tenant may object to the inspection notice by seeking pre-compliance judicial review.

1. Pre-compliance judicial review shall be sought at least ten calendar days before the inspection date provided on the inspection notice in any Court of competent jurisdiction located in the City of Los Angeles.

2. A person seeking pre-compliance judicial review of an inspection notice shall follow the applicable rules of court, including, but not limited to, the time for providing notice to the Department and content and service of the notice.

D. **Inspection Warrant.**

1. If consent to conduct an inspection is refused or cannot be obtained, the General Manager shall secure entry to inspect the premises by getting an inspection warrant under California Code of Civil Procedure Sections 1822.50 through 1822.57.

2. Notice that an inspection warrant has been obtained shall be served by the General Manager on the property owner/landlord or tenant at least

five calendar days before the warrant is set to be executed, unless the judge finds that immediate execution is reasonably necessary in the circumstances shown.

3. The notice that an inspection warrant has been issued shall include the name of the judicial officer who issued the warrant and his/her address or department.

4. Before the date the warrant is set to be executed, the property owner/landlord or tenant may seek judicial review of the inspection warrant before the judicial officer who issued the warrant.

E. **Exigent Circumstances.** Notwithstanding the foregoing, if the General Manager has reasonable cause to believe that a residential rental property, building, unit, structure, or common area subject to this Article is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the public health or safety, the General Manager shall have the right to immediately enter and inspect the premises by use of any reasonable means to effect entry.

Sec. 18. Section 161.602 of Division 6, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended to read as follows:

SEC. 161.602. PERIODIC INSPECTIONS.

A. **Frequency of Periodic Inspections.** Except as otherwise provided in this Article, the Department shall make a reasonable effort to conduct a periodic inspection once every four years of all residential rental properties, buildings, units and structures falling within the scope of this Article.

B. **Criteria for More Frequent Periodic Inspections.** The Department shall promulgate regulations, subject to approval of the City Council, determining when a residential rental property, building, unit, or structure falling within the scope of this Article may be inspected more frequently than provided in Section 161.602.A due to a substantial risk of violation of this Article. The regulations may include the following criteria:

1. The extent and seriousness of the current violations and any reasonably anticipated effect on the occupants.

2. The history of the property during the past four years, including whether the property has been the subject of orders issued by other agencies concerning health and safety violations; orders imposed by the General Manager under Division 8 of this Article; or involvement in nuisance abatement.

3. The age of the premises.

4. The record in the past four years of the persons or entities who own, manage or control the property with respect to health or safety violations at the premises or other properties and whether the violations have been subject to enforcement action.

5. Whether the property has delinquent fees imposed under Division 9 of this Article.

6. Whether there are tax defaults on the property.

7. If a master-metered property, whether there are any delinquent utility bills in excess of 6 months.

8. Any other criteria determined by the Department to be indicative of the existence of health or safety violations.

C. **Regulations and Policies.** The General Manager may adopt regulations and policies to implement this Section.

Sec. 19. Section 161.602.1 of Division 6, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 20. Section 161.602.2 of Division 6, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 21. Section 161.603 of Division 6, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.603. COMPLAINT INSPECTIONS.

A. **General.** Subject to Section 161.601, the General Manager may inspect those portions of residential rental properties, buildings, units or structures falling within the scope of this Article about which a complaint has been lodged.

B **Regulations and Policies.** The General Manager may adopt regulations and policies to implement this Section.

Sec. 22. Section 161.604 of Division 6, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.604. NOTICE OF INSPECTION.

A. **Inspection Notice.** An inspection notice shall contain the following information:

1. Name, address, and telephone number of the Department.

2. The purpose of the inspection.
3. The date and approximate time of the inspection.
4. Notice of the right to refuse consent for inspection in absence of an inspection warrant and right to seek pre-compliance judicial review of the inspection notice without threat of imposition of any fine or penalty.

B. **Post-Inspection Notice.** If a periodic or complaint inspection is conducted, the General Manager shall provide written notice to the property owner/landlord and/or occupant of each residential rental property, building, unit, structure, or common area inspected, stating an inspection occurred and providing the address and telephone number where further information may be obtained. The post-inspection notice shall be served in accordance with Section 161.409 of this Article.

Sec. 23. Section 161.801 of Division 8, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.801. GENERAL MANAGER'S HEARING.

A. **General.** Whenever a violation has not been corrected by the time specified for compliance, the General Manager shall hold a hearing within 21 calendar days of the date specified for compliance or any extension compliance date. If the hearing does not occur within the time frame stated in this Section, it does not remove the obligation of the property owner/landlord or other responsible party to comply with any orders or notices, nor does it limit the General Manager's authority to issue orders at the hearing.

B. **Referrals from Other Agencies.** The General Manager may hold a hearing under this Division when a violation is referred by the Fire Department, Department of Building and Safety, or the Los Angeles County Department of Health Services. The General Manager may issue any orders pursuant to Section 161.805 of this Article, excluding Sections 161.805(1), 161.805(5), or 161.805(6).

Sec. 24. Section 161.801.1 of Division 8, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 25. Section 161.801.2 of Division 8, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 26. Section 161.802 of Division 8, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.802. NOTICE OF GENERAL MANAGER’S HEARING.

A. **Service of Notice.** A notice of the General Manager’s hearing shall be served as follows:

1. On the property owner/landlord by certified United States mail, postage prepaid, to the address listed in the last equalized assessment roll, or by personal service, at least 15 calendar days before the hearing.
2. On each affected residential unit in the manner prescribed by Section 161.409.C of this Article, at least 15 calendar days before the hearing.

B. **Content of the Notice.** In addition to any other information deemed necessary, the notice shall notify the property owner/landlord and any affected tenants of the:

1. Proposed inclusion in Rent Escrow Account Program and rent reductions as specified in Section 162.04 of this Code.
2. Proposed inclusion in the Urgent Repair Program under Section 50.00.C of this Code or any successor program.
3. Proposed relocation assistance as specified in Section 161.805(7) of this Article.
4. Proposed property management training under Section 154.00 of this Code.
5. Proposed inclusion in the Receivership Program.
6. Proposed increased frequency of periodic inspections as provided by Division 6 of this Article.
7. Proposed rent withholding as provided by Division 9 of this Article.
8. Evictions protections as provided in Sections 151.09 and 161.806.
9. Prohibited rent increases as provided in this Division.
10. Proposed fees, costs or penalties imposed under Division 9 of this Article.
11. Proposed referral for criminal prosecution.

Sec. 27. Section 161.803 of Division 8, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.803. CONTINUANCES.

A. Upon a showing of good cause, the General Manager may grant a continuance of the hearing.

B. Before granting a continuance, the General Manager shall consider the extent and seriousness of the property conditions and cited violations; the reasonably anticipated effect of the violations on the occupants; the criteria set forth in Section 161.602.B; and any other criteria provided under the law or by regulation indicating a risk of recurring violations or harm.

C. The General Manager shall make written findings to support the continuance decision.

Sec. 28. Section 161.805.1 of Division 8, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.805.1. NOTICE OF GENERAL MANAGER'S DECISION.

A. **Service of Notice of Decision.** A copy of the General Manager's decision shall be served as follows:

1. On the property owner/landlord by certified United States mail, postage prepaid, or by personal service.

2. On each affected residential unit in the manner prescribed by Section 161.409.C of this Article.

3. A copy shall be made available to any person requesting a copy of the decision.

B. **Content of Decision.**

1. If the decision orders inclusion into REAP or rent reductions, the decision shall comply with the notice provisions of Section 162.04 in this Code.

2. If the decision orders relocation assistance, the decision shall comply with Section 161.805(7) of this Code.

3. The decision shall advise the property owner/landlord of any additional potential consequences that may result from non-compliance with the orders, including, but not limited to, imposition of civil penalties and fines under Section 161.905; criminal penalties and fines under Section 161.906; liens under Section 161.904; eviction protections under Section 161.806; prohibition of rent increases under Section 161.807; and rent withholding under Section 161.903.3 due to the property owner's failure to pay any fees owed to the Department.

4. The General Manager's decision shall state that an appeal may be filed within 15 calendar days of the date the decision is served.

Sec. 29. A new Section 161.907 is added to Division 9 of Article 1 of Chapter XVI of the Los Angeles Municipal Code to read as follows:

SEC. 161.907. NO FINE OR PENALTY FOR SEEKING PRE-COMPLIANCE REVIEW OF INSPECTION NOTICE.

No civil or criminal fine, penalty or cost shall be imposed for seeking pre-compliance judicial review of an inspection notice.

Sec. 30. Section 161.1001 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 161.1001. GENERAL.

A. **Right to Appeal.** An appeal may be filed in accordance with this Division by any person or entity aggrieved by:

1. A fee or penalty imposed under Division 9 of this Article except those associated with referral for prosecution; or
2. An order issued by the General Manager relative to the application or enforcement of the Los Angeles Zoning Code as set forth in Section 161.403 of this Article; or
3. A General Manager's decision issued pursuant to Division 8 of this Article, other than a referral to the City Attorney or issuance of an order to abate; or
4. Any other General Manager's decision, determination or order concerning the maintenance, sanitation, ventilation, use, occupancy or habitability of residential rental properties, buildings, units, structures, or common areas falling within the scope of this Article.

B. **Rules and Procedures.** The General Manager shall promulgate rules and procedures necessary to implement the provisions of this Division.

Sec. 31. Section 161.1001.1 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 32. Section 161.1002 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows.

SEC. 161.1002. APPEAL OF FEES AND PENALTIES.

Any person or entity aggrieved pursuant to Section 161.1001.A.1 of this Article concerning a fee or penalty imposed under Division 9 of this Article, except those associated with prosecutions, may file an appeal in accordance with this Section.

A. **Requirements to File an Appeal.** An appeal filed under this Section shall meet the following requirements:

1. Such appeals shall be made in writing on the form provided by the Department.

2. Such appeals shall be filed with the Department along with payment of any required appeal processing fee.

3. Such appeals shall be filed within 15 calendar days of service of the challenged fee or penalty except that, whenever the time for filing any appeal falls on a Saturday, Sunday or legal holiday, the time for filing the appeal shall be extended to the close of business on the next succeeding business day.

4. Such appeals shall include a copy of the contested fee or penalty notice or invoice.

5. The appellant shall specify the grounds for appeal as to any claimed error of law or fact or abuse of discretion.

B. **Burden of Proof.** In any appeal filed under this Section, the appellant shall have the burden of proving the basis of the appeal by a preponderance of the evidence.

C. **Stay of Enforcement.** The filing of an appeal under this Section shall stay enforcement of any disputed fee or penalty.

D. **Decision.** Upon timely receipt of an appeal filed pursuant to this Section, the Department shall review the appeal and issue a decision within 30 calendar days of the filing of the appeal or within such further time as may be required.

E. **Final Administrative Decision.** The Department's decision issued pursuant to this Section shall be the final administrative decision.

F. **Serving of the Decision.** A copy of the appeal decision shall be served on the appellant by first class United States mail, postage prepaid or by personal service.

G. **Good Cause Extension.** In any appeal filed pursuant to this Section, the Department may, upon showing of good cause by the appellant, extend the time to file an appeal for up to 15 calendar days beyond the end of the original appeal period.

Sec. 33. Section 161.1002.1 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 34. Section 161.1002.2 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 35. Section 161.1002.3 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 36. Section 161.1002.4 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 37. Section 161.1002.5 of Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code is repealed.

Sec. 38. A new Section 161.1003 is added to Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code to read as follows:

SEC. 161.1003. APPEAL OF ZONING ORDER.

Any person or entity aggrieved pursuant to Section 161.1001.A.2 of this Article concerning an order issued by the General Manager relative to the application or enforcement of the Los Angeles Zoning Code may file an appeal in accordance with this Section.

A. **Requirements to File an Appeal.** An appeal filed under this Section shall meet the following requirements:

1. Such appeals shall be made in writing on the form provided by the Department.
2. Such appeals shall be filed with the Department along with payment of any required appeal processing fee.
3. Such appeals shall be filed before the expiration of the compliance date specified in the order except that, whenever the time for filing any appeal falls on a Saturday, Sunday or legal holiday, the time for filing the appeal shall be extended to the close of business on the next succeeding business day.
4. Such appeals shall include a copy of the contested order.

5. The appellant shall specify the grounds for appeal as to any claimed error of law or fact or abuse of discretion.

B. **Burden of Proof.** In any appeal filed under this Section, the appellant shall have the burden of proving the basis of the appeal by a preponderance of the evidence.

C. **Stay of Enforcement.** The filing of an appeal under this Section shall stay enforcement of the challenged order except when the violations are found to constitute an imminent danger or hazard to life or limb, health or safety.

D. **Decision.** Upon timely receipt of an appeal filed pursuant to this Section, the Department shall review the appeal and issue a decision within 30 calendar days of the filing of the appeal or within such further time as maybe required.

E. **Serving of the Decision.** A copy of the appeal decision shall be served on the appellant by first class United States mail, postage prepaid or by personal service.

F. **Appeal of Department's Decision.** Any person or entity aggrieved by the Department's decision issued pursuant to this Section may appeal the Department's decision to the Director of Planning in accordance with Section 12.26.K of this Code. For the purposes of this Subsection, whenever the phrase "Department of Building and Safety" is used in Section 12.26.K of this Code, it shall mean Housing and Community Investment Department.

Sec. 39. A new Section 161.1004 is added to Division 10, Article 1 of Chapter XVI of the Los Angeles Municipal Code to read as follows:

SEC. 161.1004. APPEALS TO HOUSING APPEALS BOARD.

A. **Creation.** There is hereby created and established the "Housing Appeals Board" ("Appeals Board") consisting of members of the Rent Adjustment Commission ("RAC") or any successor commission. The Appeals Board shall have the authority to adopt rules of procedure for conducting business. Copies of all rules of procedure adopted by the Appeals Board shall be delivered to the General Manager, who shall make them accessible to the public.

B. **Authority of the Appeals Board.** The Appeals Board shall have the authority to hear and decide appeals concerning:

1. A General Manager's decision issued pursuant to Division 8 of this Article, other than a referral to the City Attorney or issuance of an order to abate.

2. Any other General Manager's decision, determination or order concerning the maintenance, sanitation, ventilation, use, occupancy or

habitability of residential rental properties, buildings, units, structures, or common areas falling within the scope of this Article.

3. A request received pursuant to the California Health and Safety Code Section 17959.4.

C. Requirements to File an Appeal. An appeal filed under this Section shall meet the following requirements:

1. Such appeals shall be made in writing on the form provided by the Department.

2. Such appeals shall be filed with the Department along with payment of the appeal processing fee of \$150.00

3. For appeals filed pursuant to Section 161.1001.A.3 of this Article, such appeals shall be filed within 15 calendar days of service of the challenged decision except that, whenever the time for filing any appeal falls on a Saturday, Sunday or legal holiday, the time for filing the appeal shall be extended to the close of business on the next succeeding business day.

4. For appeals filed pursuant to Section 161.1001.A.4 of this Article, such appeals shall be filed before the expiration of the compliance date specified in the order or within 15 calendar days of service of the challenged decision or determination except that, whenever the time for filing any appeal falls on a Saturday, Sunday or legal holiday, the time for filing the appeal shall be extended to the close of business on the next succeeding business day.

5. The appellant shall specify the grounds for appeal as to any claimed error of law or fact or abuse of discretion.

D. Burden of Proof. In any appeal filed under this Section, the appellant shall have the burden of proving the basis of the appeal by a preponderance of the evidence.

E. Stay of Enforcement. The filing of an appeal under this Section shall stay enforcement of those portions of the challenged decision, determination, or order, except referrals to the City Attorney and Urgent Repair Program (Article 15 of Chapter IV of this Code) where violations constitute an imminent danger or hazard to life or limb, health or safety.

F. Notice of Hearing. Upon receipt of a timely appeal, the Appeals Board shall set the matter for hearing.

1. Notice of the hearing date, time, place and purpose shall be served at least 15 calendar days before the Appeals Board hearing.

2. The Notice of hearing shall be served on the appellant, property owner/landlord, tenant(s) of affected residential units, General Manager, and any interested party who has requested in writing to be so notified as follows:

a. Appellant shall be served by first class United States mail, postage prepaid, at the address provided on the appeal form.

b. Property owner/landlord and tenants shall be served in accordance with Section 161.409 of this Article as applicable.

c. General Manager shall be served by delivery to the Office of the General Manager.

d. Interested parties shall be served by first class United States mail, postage prepaid, at the address provided by the interested party.

G. Conduct of Appeals Board Hearing and Scope of Review.

1. During the hearing, the Department, appellant, property owner/landlord, tenant, and any interested person may present oral and documentary evidence relevant to a decision on the appeal.

2. The Appeals Board review shall be limited to those claimed errors of law or fact or abuse of discretion set forth in the written appeal.

3. For appeals of a General Manager's decision issued under Division 8 of this Article, the Appeals Board shall not consider evidence that was not presented during the General Manager's hearing unless it is newly discovered evidence that could not, with due diligence, have been discovered and produced at the General Manager's hearing.

4. For appeals of a General Manager's decision issued under Division 8 of this Article, compliance with orders to comply after the General Manager's hearing shall not be considered by the Board.

5. No evidence shall be submitted outside of the hearing.

6. The Appeals Board shall have no authority relative to interpretation of the administrative provisions of this Article and the Appeals Board shall not be empowered to waive requirements of this Article.

7. The decision of the General Manager to refer the property to the City Attorney for criminal prosecution is not subject to appeal.

H. **Decision.**

1. The Appeals Board shall issue a written decision within 15 calendar days of the hearing on appeal.

2. The Appeals Board may affirm, modify or reverse the appealed decision, determination or order of the General Manager upon making written findings setting forth specifically any error or abuse of discretion.

3. The Appeals Board decision shall be served on the appellant, property owner/landlord, and tenant in accordance with subsection F of this Section.

4. If the Appeals Board denies the appeal, any decision, determination or order that was appealed shall be effective retroactively to the date specified in the original order, decision or determination.

5. If the Appeals Board's decision orders a rent reduction or inclusion into REAP, it shall comply with the notice provisions of Sections 162.04 and 162.06 of this Code.

6. If the Board's decision orders relocation assistance, the decision shall comply with Section 151.09(G) of this Code.

7. The Appeals Board decision shall be the final administrative decision.

Sec. 40. The first sentence of Subdivision 6 of Subsection B of Section 162.06 of Article 2 of Chapter XVI of the Los Angeles Municipal Code is amended to read as follows:

6. The General Manager may refer the building, unit or structure for a periodic inspection pursuant to Section 162.602.

Sec. 41. The first paragraph of Subsection C of Section 162.06, Article 2 of Chapter XVI of the Los Angeles Municipal Code is amended to read as follows:

C. Appeal of General Manager Hearing Officer Decision. The property owner/landlord, any tenant, or the Enforcement Agency may appeal to the RAC Appeals Board following the procedures set forth in Division 10 of Article 1 of Chapter XVI. If a General Manager Hearing Officer Decision to place a property into REAP is appealed, enforcement of REAP will be stayed until the appeal is final. An application fee required pursuant to Section 161.1004.C.2 of this Code may be waived by the Department in accordance with the standards and procedures set forth in Section 151.14 C.

Sec. 42. **URGENCY CLAUSE.** The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reason: In order for the Los Angeles City Housing + Community Investment Department to continue enforcing the Systematic Code Enforcement Program in order to protect the health and safety of tenants in the City of Los Angeles. The Council, therefore, with the Mayor's concurrence, adopts this ordinance to become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 43 The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By Deborah Breithaupt
DEBORAH BREITHAUPT
Deputy City Attorney

Date 6-1-18

File No. _____

m:\muni counsel\reports\scep ordinance amendments - final.doc (1).docx

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK

MAYOR

Holly Lynn Wolcott

E. G. ...

Ordinance Passed 06/20/2018

Approved 06/27/2018

Published Date: 07/06/2018
Ordinance Effective Date: 07/06/2018
Council File No.: 15-0463-S1