



# Office of the City Clerk

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## Legislation Text

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### **ORDINANCE/ City of Chicago Keeping the Promise**

#### **An ordinance concerning preserving affordable housing supported by City of Chicago funds.**

WHEREAS, It is a public purpose of the City of Chicago that all individuals and families in Chicago have access to safe, decent affordable housing for as long as they need it; and

WHEREAS, There is a scarcity of affordable housing in Chicago for low-income individuals and families in need; and

WHEREAS, The City of Chicago has allocated public dollars towards the development and the rehabilitation of federally supported public housing within the City of Chicago; and

WHEREAS, The State Housing Authorities Act (310 ILCS 10/8.10) requires all Illinois public housing authorities to report comprehensive financial, demographic and development information to the local City Council for their jurisdiction; and

WHEREAS, In spite of that commitment of public dollars by the City of Chicago more than 16,000 units of public housing have been lost due to rehabilitation, demolition, disposition, redevelopment, and/or conversion since 1999. This loss of public housing has exacerbated Chicago's affordable housing crisis; and

WHEREAS, The Chicago Housing Authority has been de-regulated under a federal demonstration program removing traditional HUD oversight and performance standards regarding public housing occupancy, voucher circulation, and reserve levels; and

WHEREAS, As a result of this de-regulation, Chicago Housing Authority has left an average of 4,600 public housing units unoccupied between 2009 and 2013; and

WHEREAS, Chicago Housing Authority has not circulated an average of 13,272 funded housing choice vouchers between 2009 and 2013; and

WHEREAS, Chicago Housing Authority has left unspent an average of \$106 million in federal revenue annually between 2009 and 2013; and

WHEREAS, Discrimination against tenant-based Housing Choice Voucher holders continues to be a serious hindrance to housing choice and racial and economic integration within the City of Chicago; and

WHEREAS, It is in the City's long term interest to preserve the existing public housing especially when the

City's public dollars are being utilized and that the City's public housing authority, to the maximum extent possible, make its public housing and Housing Choice Vouchers available as affordable housing to individuals and families in need; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO, AS FOLLOWS:**

SECTION ONE: RECITALS. The foregoing recitals are incorporated herein as the findings of the City Council.

SECTION TWO: A new Chapter of the Municipal Code of Chicago is hereby created as follows:

**Article I. Chapter . The City of Chicago Keeping the Promise Ordinance.**

**1 Title.**

This Chapter , Sections through shall be entitled and referred to as the "The City of Chicago Keeping the Promise Ordinance".

**1 Purpose and Intent.**

The purpose and legislative intent of this Chapter is to promote the public health, safety, and welfare of the City by ensuring that the City's public dollars are only allocated to the redevelopment, rehabilitation, demolition, disposition, conversion, or new construction of public housing developments in Chicago if all existing public housing units are replaced on a one-for-one basis. This action will help meet the City's goal of reducing homelessness and preserving a critical supply of deeply subsidized public housing within the City of Chicago.

**2 Applicability.**

The provisions of this Chapter shall apply to any owner of a public housing project in the City of Chicago who proposes the redevelopment, rehabilitation, demolition, disposition, conversion, or new construction of all or a substantial part of a public housing development, except where any redevelopment, rehabilitation, demolition, disposition, conversion or new construction would result in less than 5% of the public housing units being lost or to meet the requirements of Section 504 of the Rehabilitation Act of 1974.

**1.3 Definitions.**

(A) For the purpose of administering this Chapter:

"Chicago Housing Authority" means an Illinois municipal corporation, created and existing under the Housing Authorities Act, 310 111. Comp. Stat. 10/1 et seq. CHA is a Public Housing Agency within the meaning of 42 U.S.C. § 1437 and administers federally subsidized and assisted housing as authorized by the United States Housing Act and implementing federal regulations.

"City public dollars" means any financing appropriated or approved by the City of Chicago for the rehabilitation, demolition, disposition, conversion, redevelopment, or new construction of a public housing, including but not limited to bond financing, LIHTC grants, CDBG, HOME, TIF, and revolving loan funds.

"Community areas" are geographic areas which are designated pursuant to Chapter 1-14 of the Municipal Code of Chicago.

"Community Benefits Agreement" means contracts executed between community-based organizations and one or more developers and the City of Chicago.

"Commissioner" means the Commissioner of the Chicago Department of Planning and Development or its successor agency or any successor agency.

"Conversion" or "convert" means, unless otherwise indicated, the act of changing or substantially altering the operation and affordability of all or a part of a federally-assisted housing development, including by disposition, sale, conversion, demolition, or other actions.

"Covered project" means public housing as defined below.

"Covered unit" means an apartment or housing unit where public housing subsidy is attached to the unit.

"Department of Planning and Development or its successor agency" means, unless otherwise indicated, the Chicago Department of Planning and Development or its successor agency or any successor agency.

"Developer" means any person who develops housing units, but does not include a lender or any governmental entity.

"Housing Choice Voucher" means subsidized housing assistance as defined in the United States Housing Act of 1937, as amended (42 U.S.C. § 1437) and regulated by 24 CFR 982.

"Housing Choice Voucher Funding Utilization" means the percent of federal funding spent on the Chicago Housing Authority's voucher program out of the total federal appropriation granted to the CHA for Housing Choice Vouchers annually.

"Land swap" means the disposition of vacant land with the City of Chicago in exchange for comparable or greater acreage and/or value of land for CHA development of mixed income residential housing, retail, or other uses.

"Low, very low, and extremely low-income" means those families whose incomes are between 0 and 80 percent of the median income for the Chicago region, as determined by the Secretary of

the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.

"One-for-one basis" means replacement of any public housing unit lost due to conversion, rehabilitation, redevelopment, new construction, demolition, or disposition, with a comparable public housing unit or a project-based voucher unit for the maximum term allowable under each federal housing program as prescribed by HUD.

"Owner" means any person who alone, jointly or severally with others:

- a) Shall have legal title to any premises or dwelling units, with or without accompanying actual possession thereof; or
- b) Shall have charge, care or control of any premises, dwelling or dwelling unit as owner or agent of the owner;
- c) "Owner" includes the owner, his agent for the purpose of managing, controlling or collecting rents, any other person managing or controlling a building or premises or any part thereof and any person entitled to the control or direction of the management or disposition of a building or of any part thereof.

"Public housing" means housing as defined in the United States Housing Act of 1937, as amended (42 U.S.C. § 1437) and its regulatory and administrative authority.

"Rental Assistance Demonstration" ("RAD") means the program designed to preserve and improve public housing and certain other multifamily housing through the voluntary conversion of properties with assistance under section 9 of the United States Housing Act of 1937, or the moderate rehabilitation program under section 8(e)(2) of the Act into project-based vouchers or project-based rental assistance.

"Replacement housing" means public housing or project-based vouchers. It does not mean tenant-based Housing Choice Vouchers.

"Section 3 hire" means any person hired according to programs described in Section 3 of the Housing and Urban Development (HUD) Act of 1968.

#### **1.4 Quarterly Reporting By The Chicago Housing Authority.**

To ensure that there is a sufficient supply of available decent, safe, and affordable housing across all neighborhoods of the City of Chicago and that available public resources are being used to the fullest extent, the Chicago Housing Authority will present and publish a quarterly report to the City of Chicago Committee on Housing and Real Estate on:

- a) its progress and plans for building replacement public housing units,
- b) its progress and plans for meeting CHA's obligation to rebuild family public housing units of equivalent bedroom sizes to the units demolished under the Plan for Transformation
- c) its progress and plans for ensuring equitable and proportional access to CHA programs across all

communities and constituencies

- d) the number of households with an outstanding right to return to each CHA community, and an update regarding the status of all original right to return households
- e) the number of vacant and offline public housing units by ward, and length of time units have been vacant in a particular development
- f) Housing Choice Voucher Funding utilization rate,
- g) a report on accumulated unspent revenue not currently obligated.
- h) average Housing Quality Standard inspection scores by ward of all units assisted under the CHA's voucher program
- (i) the number and percent of voucher-holders living in Opportunity Communities
- (j) the number of Section 3 jobs generated by CHA's redevelopment projects and management contracts, whether these jobs are part-time or full-time, and whether they are temporary or permanent employment opportunities.

### **1.5 One-For-One Replacement Requirement of Existing Units If City Funds Utilized.**

As a condition of receipt of the City's approval or appropriation of financing for the rehabilitation, demolition, disposition, conversion, redevelopment, or new construction of all or part of development containing public housing, the owner shall replace all covered units at the time of enactment of this Ordinance that are demolished, disposed of, or converted to a use other than housing for low, very low, and extremely low income tenants.

- 1) Not less than 20% of such replacement units shall be located in Communities of Opportunity.
- 2) Such replacement units shall have the same number of bedrooms as the units being replaced, except to the extent necessary to convert studio units to one-bedroom units;
- 3) Replacement units shall remain public housing or project-based vouchers for the maximum allowable term for each program under federal law subject to continued federal funding at commercially viable levels.
- 4) Subject to lease compliance requirements, replacement units shall be first offered as replacement housing to the residents displaced from the housing units that were demolished, lost, or, otherwise converted to a use other than housing for low, very low, and extremely low income tenants.

### **1.6 Approval of Planned Development Applications for vacant CHA land contingent on Assisted Housing Replacement Plan and Community Benefits Agreement**

Prior to the approval of a Planned Development application for any parcel of land owned by the CHA at the time of enactment of this Ordinance, and prior to participation in any land swap of City-owned land for CHA land:

A. The Chicago Housing Authority shall present an Assisted Housing Replacement Plan to the Department of Planning and Development which:

- 1) Specifies how and where the CHA will replace the number of public housing units lost with equivalent or larger bedroom sizes as the housing that was demolished, disposed of, or converted to another use.
- 2) Identifies sources of available subsidy and financing that are sufficient to produce and operate the Replacement Units at the same level of Affordability as the original assisted units which are being replaced.
- 3) Demonstrates that the replacement housing will remain public housing or project-based vouchers for the maximum allowable term under federal law subject to continued federal funding at commercially viable levels.
- 4) Demonstrates how replacement housing construction will be initiated within eighteen (18) months and completed within 60 months of the date on which Planned Development Application is approved or land swap commences.

B. Should the proposed development include commercial facilities greater than 10,000 square feet, the Chicago Housing Authority shall present a Community Benefits Agreement to the Department of Planning and Development that has been approved by the prospective developer specifying the number of permanent and temporary jobs to be created by the construction and on-going operation of any commercial facility proposed for construction on CHA-owned land. The Community Benefits Agreement shall be published and made available for public comment for no less than 30 days prior to presentation to the Department. In no case shall less than 10% of the temporary and permanent jobs created by the facility be set-aside for current public housing residents or other section 3 hires.

## 1.7 Off-Site Option

The Department of Planning and Development may allow an owner or developer of a covered project to comply with the requirements of Section 1.5 and 1.6 by constructing replacement housing units on a site within the City of Chicago other than that on which the covered project is located, subject to the following conditions:

- (1) The owner has surveyed current residents and any household with a right to return to replacement housing units of the covered project to determine how many residents/ right to returners:
  - a) Wish to return to replacement housing constructed on-site
  - b) Wish to return to replacement housing constructed within 2 miles of the site on which the covered project is located
  - c) Wish to relocate to a community area within the City of Chicago with less than 20% poverty;

- 2) Where the property is only partially occupied, votes of current residents and households with a Right of Return to the development shall be weighted proportionately to provide recommendations for the siting of vacant units where no survey respondent is available at the development.
- 3) The survey results have been published electronically, with notification in print.
- 4) The CHA and the Gautreaux Plaintiffs have acknowledged the survey results and, to the extent they have objections, provided such objections in a written response, demonstrating how their proposed changes to the Assisted Housing Replacement Plan respond to residents' stated wishes regarding the location of replacement housing.
- 5) Off-site units must be constructed within the City of Chicago.
- 6) The Department of Planning and Development has reviewed the proposal for off-site replacement housing and determined that off-site replacement units will be sited within a census tract not generally less desirable than the original site with regard to public utilities and public and commercial facilities, as well as crime and poverty rates.
- 7) All the provisions of Section 1.5 and 1.6 shall apply without exception to off-site replacement units under the provisions of this section.

### **1.8 Approval of Assisted Housing Replacement Plan**

Any owner of a covered project, as a condition to receiving city funding or financing approval or approval of a Planned Development application must:

- A. Submit to the Department of Planning and Development an Assisted Housing Replacement Plan which specifies the number of units to be demolished, disposed of, or converted, identifies specific Replacement Units for each unit proposed to be demolished, disposed of, or converted, and sets a timetable for Demolition, Disposition, or Conversion, and the completion of Replacement Units in compliance with Sections 1.5-1.6.
- B. Identify sources of available subsidy and financing that are sufficient to produce and operate the Replacement Units; ensures that all displaced households be given the option of being housed in the Replacement Units;
- C. Provide other relevant information as required by the Commissioner.

The Commissioner shall not approve an Assisted Housing Replacement Plan unless it is in compliance with this Ordinance.

In turn, the Committee on Housing and Real Estate shall not approve any city funding or financing or Planned Development Application until such time as an Assisted Housing Replacement Plan has been approved by the Commissioner.

Changes to an approved Assisted Housing Replacement Plan shall be required to undergo the same review, and be subject to the same requirements, as original approval of that plan.

The Commissioner shall publish notice in a newspaper of general circulation in the City of Chicago a notice of intent to approve an Assisted Housing Replacement Plan sixty (60) days before approving such a plan and submitting it to the Committee on Housing and Real Estate.

### **1.9 Review of Proposal for Phasing**

Proposals for projects to be constructed in phases shall be reviewed by the Department of Planning and Development under the criteria set out in Sections 1.5-1.6. A schedule setting forth the phasing of the total number of units in a covered project, along with a schedule setting forth the proportional phasing of the required replacement housing units, shall be presented to the Commissioner for review and approval as part of the funding and/or Planned Development Application approval process, for any development subject to the provisions of this article. If phasing is not included as part of the review process, no phasing of the replacement housing units shall be allowed.

If a covered project is approved to be constructed in phases, the requirements of Sections 1.5-1.7 shall be applicable to each such phase.

Replacement housing units shall be made available for occupancy on approximately the same schedule and in a proportional manner to any market rate units in the covered project except that certificates of occupancy for the last ten percent (10%) of the market units shall be withheld until certificates of occupancy have been issued for all of the replacement housing units required. With respect to covered projects to be constructed in phases, certificates of occupancy may be issued on a phased basis consistent with the conditions of approval set forth previously in this Section.

### **2.0 City Funds suspended until Housing Choice Voucher Funding Utilization Goals Met.**

As a condition of the receipt of the City's public dollars, the CHA will actively work to address the under utilization of its Housing Choice Voucher revenue. The CHA shall increase the proportion of Housing Choice Voucher Revenue used on its Housing Choice Voucher program, inclusive of administrative costs, mobility counseling, and other social service programs for voucher holders, until such time as the CHA can report to the City a voucher funding utilization rate in excess of 96%.

CHA will make additional Housing Choice Vouchers available annually to reach an 83% voucher funding utilization rate in the first year after passage of this Ordinance; 90% voucher funding utilization rate in the second year after passage; and 97% voucher funding utilization

rate in the third year after passage. CHA's failure to make additional Housing Choice Vouchers available to



meet these utilization benchmarks will result in immediate suspension of new City funding awards to CHA projects.

**1 City Funds suspended unless Chicago Housing Authority increases its commitment to Mobility Counseling for Housing Choice Voucher Holders**

As a condition of the receipt of the City's public dollars for CHA revitalization projects, the CHA will increase its financial commitment to mobility counseling to expand the access of voucher holders to Communities of Opportunity and enable households with disabilities to live in the least restrictive settings possible.

The CHA's failure to increase funding for mobility counseling by % / (\$ )' will result in immediate suspension of new City funding awards to CHA projects.

**2 Enforcement of Housing Quality Standards in the Housing Choice Voucher Program**

- A. Creation of a City wide Task Force on Improving Housing Quality in the CHA's voucher program
  - 1. The City shall convene a citywide task force to improve housing quality in the CHA's Housing Choice Voucher program and encourage the revitalization of properties assisted with housing choice voucher funds.
  - 2. The CHA shall designate representatives from the Housing Choice Voucher division to serve on this Task Force and work in active collaboration with other public and private agencies to ensure CHA's voucher program provides high quality housing across all of Chicago's communities to low-income families.
  - 3. The Task Force shall develop and implement initiatives to strengthen housing quality and promote reinvestment and revitalization of properties assisted with housing choice voucher funding.
  - 4. The Task Force shall further develop annual benchmarks by which to evaluate CHA's progress improving the quality of housing provided through the CHA's voucher program and CHA's own internal management of the voucher program
- B. City Funds suspended unless Chicago Housing Authority progressively improves housing quality for housing choice voucher holders
  - 1) As a condition of the receipt of the City's public dollars for CHA revitalization projects, the CHA shall meet the benchmarks for improving the voucher program laid out by the Task Force established in 2.2(A).
  - 2) The CHA's failure to meet the annual benchmarks established by the Task Force will result in the immediate suspension of new City funding awards to CHA revitalization projects.

' Amount left intentionally blank: We seek to develop the suggested figure for increasing mobility counseling resources in partnership with the Chicago Housing Authority and other stakeholders.

**3 Relationship to Provisions of the Chicago Municipal Code.**

Nothing in this ordinance shall be construed as creating an exception to compliance with Title 13 (Building and

Construction), of the Chicago Municipal Code or preventing City departments from ordering that a building be vacated as set forth in Chapters 13-8 or 13-12 of the Chicago Municipal Code.

#### 4 **Enforcement.**

A) The provisions of this Chapter shall apply to all owners, agents, successors and assignees of a public housing development.

B) Any resident of a public housing development who has been displaced from their housing by demolition, conversion, new construction, disposition, conversion, or rehabilitation in violation of 1.5-1.8, may institute an injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this Chapter. In addition, any resident of a public housing development who has been displaced by demolition, conversion, disposition, new construction, conversion, or rehabilitation and who brings legal action pursuant to this act and who is adjudged to be a prevailing party is entitled to attorney's fees and court costs.

C) The City shall recapture the total amount of City dollars allocated to the project from any person, firm, or entity, whether as principal, agent, employee or otherwise, who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Chapter. The City will also ban any person, firm, or entity, whether as principal, agent, employee or otherwise, who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Chapter from receiving future City dollars for the next 10 years.

This ordinance shall be in full force and effect 60 days after its passage by the City Council and proper publication.

#### **2.5 Conflict with State or Federal Laws.**

This Chapter shall be construed so as not to conflict with applicable federal or state laws, rules, or regulations. Nothing in this Chapter shall authorize any City agency to impose any duties or obligations in conflict with limitations on municipal authority established by state or federal laws.