

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

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WHEREAS, it is in the City's interest that the Chicago Housing Authority make its public housing and Housing Choice Vouchers available to individuals and families in need to the maximum extent possible; and

WHEREAS, Chicago Housing Authority seeks to convert 10,395 public housing units (nearly half of Chicago's remaining public housing) under an experimental HUD Demonstration program called Rental Assistance Demonstration (RAD); and

WHEREAS, conversions under Rental Assistance Demonstration threaten Chicago's remaining public housing assets with the possibility of privatization, 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:

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".

1.1 Purpose and Intent.

The purpose and legislative intent of this Chapter is to strengthen City Council oversight of the Chicago Housing Authority (CHA) in order to maximize the impact of the public resources under the CHA's stewardship. In addition, this Chapter seeks 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.

1.2 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.

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1.3 Definitions.

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 governed and operated by competent residents within the affected area and one or more entities developing or holding title to a parcel of land, or financing a redevelopment initiative.

"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, conversion of assistance through Rental Assistance Demonstration, 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.

"Current household" means a lawful household, including each member of the household that occupies a public housing unit in a covered project prior to a conversion under RAD.

"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.

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"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, commercial, 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 units, 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:

- 1) accumulated unspent revenue, both restricted and unrestricted.
- 2) its progress and plans for building replacement public housing units.
- 3) 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.
- 4) its progress and plans for ensuring equitable and proportional access to CHA programs for low-income individuals across all city communities and constituencies.
- 5) 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.
- 6) Housing Choice Voucher Funding utilization rate, with a breakdown on what funds appropriated through the HCV line item are being used directly to issue housing choice vouchers and which funds are being re-purposed to create project-based vouchers, property rental assistance contracts, or other uses, the number of vacant and offline public housing units by ward, and length of time units have been vacant in a particular development.
- 7) average Housing Quality Standard (HQS) inspection scores by ward of all units assisted under the CHA's voucher program and the average timeline for resolution of HQS violations or resident complaints, ward by ward.
- 8) the number and percent of voucher-holders living in Opportunity Communities,
- 9) the number of Section 3 jobs and contracting opportunities 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, with an emphasis on the creation of permanent employment opportunities. The CHA shall further report on how many of the section 3 jobs and contracting opportunities were in fact

taken by public housing residents versus other qualified section 3 business concerns.

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 under federal law subject to continued federal funding at commercially viable levels.
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.
- 4) This Section 1.5 shall not apply 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.

1.6 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:

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- 1) Specifies how and where the CHA will replace the number of public housing units promised by the CHA at the time of demolition or conversion, 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 5,000 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 30% 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 public housing residents and any household with a right to return to replacement housing units of the covered project to determine how many of the public housing residents and households with a right to return:
 - 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;

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- 2) Where the property is only partially occupied, votes of current public housing 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 public housing 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
 - 1) Specifies the number of units to be demolished, disposed of, or converted,
 - 2) Identifies specific Replacement Units for each unit proposed to be demolished, disposed of, or converted; or in the case of demolition that took place historically, specifies the number of Replacement Units CHA historically committed to replace at the time CHA approved the demolition of the units,
 - 3) Sets a timetable for Demolition, Disposition, or Conversion, and the completion of Replacement Units in compliance with Sections 1.5-1.6.

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- B. Identify sources of available subsidy and financing that are sufficient to produce and operate the Replacement Units and ensure 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 any 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.

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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 for CHA revitalization projects, 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, and as part of achieving the voucher funding utilization goal laid out in Section 2.0, the CHA will increase its financial commitment to mobility counseling and other social services to expand the access of voucher holders to Communities of Opportunity and to 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 and Housing Assistance Payment Contract in the Housing Choice Voucher Program

A. Creation of a Citywide Task Force on Improving Housing Quality in the CHA's voucher program

1 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.

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- 1) The City shall direct CHA to convene a citywide task force made up of competent CHA staff members from the Voucher Division, Housing Choice Voucher holders designated by the HCV Participant Council, and representatives from the City of Chicago Department of Buildings to improve housing quality in the CHA's Housing Choice Voucher program. This task force will encourage the revitalization of properties receiving assistance from the housing choice voucher program.
- 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.

2.3 Rental Assistance Demonstration (RAD)

- A. Application. This Section 2.3 applies to the CHA and any owner of a covered project converted from traditional public housing under HUD's experimental "Rental Assistance Demonstration" (RAD)
- B. Preservation of public interest. In order to ensure sufficient public interest in, and oversight of, public housing, the CHA and any owner of a covered project converted from public housing under RAD must comply with the following requirements:

- (1) Public ownership or control. The CHA may not transfer ownership or control of any covered project unless, after any conversion, the owner of the covered project remains: a) the CHA itself;

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- b) a public or non-profit entity that is a wholly-owned or wholly-controlled subsidiary of the CHA; or
 - c) a for-profit tax credit entity pursuant to Subparagraphs 2 and 3.

"wholly-controlled" for purposes of this paragraph means that the CHA has established the entity, and has the power to appoint the board of the directors or is the sole member of the entity.

- 2) For-profit ownership. The CHA shall not transfer ownership or control of any covered project to a for-profit entity unless
 - a) the CHA retains fee ownership in the land and leases the real estate to a tax credit entity pursuant to a long-term ground lease, or is the sole general partner or managing member of the entity; and b) the CHA and the for-profit entity execute a control agreement to which the residents of the covered property are expressly granted third-party beneficiary rights, whereby the CHA retains exclusive control over maintaining and administering the waiting list for the covered project, a the CHA and for-profit entity assent and agree to compliance with the CHA's HCV Administrative Plan as it pertains to covered projects converted through RAD.
- 3) Approval of For-Profit Conversion Plan. Prior to transferring any ownership or controlling interest in any development or parcel of land under RAD to a for-profit entity, the CHA shall present a For-Profit Conversion Plan and application to the Department of Planning and Development which:
 - a) Includes a physical needs assessment;
 - b) Demonstrates that the physical deficiencies of the property outstrip the CHA's financial capacity resources to provide for the long-term capital needs of the development without transferring ownership or control to a for-profit entity,
 - c) Demonstrates that transfer to a for-profit will leverage sufficient private capital to address the property's long-term physical and capital needs; and
 - d) Demonstrates how the CHA will comply with Subsection (B)(2).

The Commissioner shall publish a notice in a newspaper of general circulation in the City of Chicago a notice of intent to approve a For-Profit Conversion Plan at least ninety (90) days before submitting it to the Committee on Housing and Real Estate, which shall finally approve any plan prior to the CHA's transfer of

any ownership or interest to a for profit entity pursuant to this Subsection.

Documentation evidencing the CHA and any owner's compliance with this Subsection must be made available by the CHA to the public including any resident of the covered project.

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(4) Public participation and oversight. An owner must substantially comply with the terms of Sections 2, 2.01, 2.02, 2.03, 2.05, 2a, and 7 of the Illinois Open Meetings Act, 5 ILCS 120/1 et. seq., as if it were a "public body" as defined by that Act, and the CHA shall additionally make reasonable efforts to substantially comply with those sections requiring website publication of notice of the owner's meetings.

- C. Right to return. Unless a current household's tenancy was lawfully terminated other than in connection with a conversion under RAD, CHA and any owner must provide all current households with the right and highest priority to remain at or return to the covered project after a conversion under RAD.
- D. Rescreening prohibited. Neither the CHA nor any owner shall rescreen a current household of a covered project for eligibility for initial occupancy after a conversion.
- E. Tenant participation. Following any RAD conversion, the CHA and any owner must provide residents with the right to establish and operate a tenant council for the purpose of addressing issues related to their living environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development. The CHA and any owner must allow residents and resident organizers to conduct activities related to the establishment or operation of a tenant council. As long as proper procedures are followed, the CHA and any owner shall officially recognize the duly elected resident council and support its tenant participation activities. The CHA shall maintain previous practices related to elections, use of CHA's premises, funding levels, and stipends required by HUD for resident councils of traditional public housing or as specified in any Memorandum of Accord or funding agreement executed by the CHA with the Central Advisory Council.
- F. Grievance procedures. The CHA and any owner must establish and maintain administrative grievance procedures that provide residents of covered property with the right to seek redress regarding any dispute with respect to the CHA's and/or owner's action or failure to act in accordance with the resident's lease or lease addendum, the CHA's Relocation Rights Contract, RAD requirements, and/or CHA policy implementation or procedures that adversely affect the individual resident's rights, duties, welfare, or status; including but not limited to any dispute regarding termination or alleged noncompliance with the resident's lease. Such policies must minimally include requirements of reasonable notice to the resident of the residents' grievance rights, the opportunity for an informal review, and the opportunity for a formal hearing before an impartial hearing officer to be conducted by the City of Chicago's Department of Administrative Hearings (DOAH). A final decision of the DOAH hearing officer in favor of the resident shall be binding upon the CHA and owner, but a final decision by DOAH in favor of CHA or the owner shall not constitute a waiver nor otherwise affect the rights of a resident to pursue a trial de novo or judicial review.

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2.4 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.

2.5 Enforcement.

- A. The provisions of this Chapter shall apply to all owners, agents, successors and assignees of a public housing development.
- B. 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.
- C. A person who been injured by a violation of this Chapter, 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 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.
- D. If the City initiates or joins any enforcement action against an owner who violates or resists enforcement of Section 2.3 of this Chapter, the owner shall be fined not less than \$100.00 nor more than \$500.00 for each offense upon which a finding of liability is entered. Each day a violation continues shall constitute a separate offense.
- E. 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

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any duties or obligations in conflict with limitations on municipal authority established by state or federal laws.

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Proco Joe Moreno
Alderman, 1st Ward

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