

ORDINANCE NUMBER 2585 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA AMENDING ARTICLES IV and VIII OF THE SANTA MONICA
MUNICIPAL CODE BY UPDATING TENANT RELOCATION ASSISTANCE AND
TENANT PROTECTION DURING CONSTRUCTION LAWS

WHEREAS, relocation benefits are vital to Santa Monica tenants including those who must vacate their homes for repairs necessitated by law or government order or if their residence is rendered uninhabitable through no fault of their own; and

WHEREAS, benefits must be sufficient in length of time and in amount to cover actual relocation costs; and

WHEREAS, experience has shown that certain provisions within the existing relocation law have been subject to differing interpretations by landlords and tenants, and such differences in opinion can lead to unnecessary litigation and uncertainty; and

WHEREAS, both tenants and landlords will benefit from enhancements to the clarity and certainty of relocation requirements and obligations; and

WHEREAS, the City's relocation requirements are intended to protect the rights of both tenants and landlords.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4.36 of the Santa Monica Municipal Code is hereby amended and entirely restated to read as follows:

Chapter 4.36 TENANT RELOCATION ASSISTANCE

4.36.010 Definitions.

For purposes of this Chapter and Chapter 8.100, the following words and phrases shall have the following meaning:

(a) **Comparable Housing.** A replacement unit shall be comparable to the existing unit if both units are reasonably comparable in size, number of bedrooms and bathrooms, accessibility, price, location (which may be in either Santa Monica or Los Angeles), proximity to services and institutions upon which the displaced tenant depends, and amenities, including the allowance for pets should the tenant have pets.

(b) **Director.** Director of Planning and Community Development or designee.

(c) **Person with Disabilities.** Any person who is receiving benefits from a Federal, State, or local government, or from a private entity on account of a permanent disability that prevents the person from engaging in regular, full-time employment.

(d) **Displaced Tenant.** Any tenant who vacates a rental housing unit in the City for any of the reasons set forth in Section 4.36.020 or 4.36.100(a).

(e) **Landlord.** Any owner, lessor, sublessor, or any other person entitled to receive rent for the use and occupancy of a rental housing unit, or any agent, representative or successor of any of the foregoing.

(f) **Minor Child.** Any person younger than eighteen years of age.

(g) **Permanent Relocation.** The relocation of a tenant due to permanent termination of tenancy, in which case the tenant will not reoccupy the unit.

(h) **Rental Housing Unit.** A housing unit in the City of Santa Monica, regardless of permit status, including a room in a single-family home, hotel or motel, rooming house or apartment, single-family home, mobile home or mobile home space, trailer or trailer space, offered for rent. A dwelling unit lawfully registered with the City's Rent Control Board also constitutes a "Rental Housing Unit." "Rental housing unit" does not include any unit occupied pursuant to an innkeeper-guest relationship.

(i) **Senior Citizen.** Any person sixty-two years of age or older.

(j) **Temporary Relocation.** The relocation of a tenant temporarily and where tenancy has not been terminated.

(k) **Tenant.** Any tenant, subtenant, lessee, sublessee, or any other person occupying a rental housing unit pursuant to a written or oral rental housing agreement.

4.36.020 When permanent relocation fee required.

(a) A relocation fee shall be paid in accordance with the provisions of this Chapter by any landlord who terminates or causes the termination of a tenancy for any of the following reasons:

(1) The landlord seeks to withdraw all rental housing units from the rental housing market as provided in Government Code Sections 7060 et seq.

(2) The landlord seeks to recover possession of a rental housing unit pursuant to Section 1806(a)(8), 1806(a)(9), 2304(a)(8), or 2304(a)(9) of the City Charter.

(3) The landlord seeks to recover possession to demolish or otherwise withdraw a rental housing unit, excluding Single-Family Homes as defined in Charter Section 2302, from residential rental housing use, including units that were illegally converted to residential use, after having obtained all proper permits from the City, if any such permits are required.

(b) A relocation fee shall be paid in accordance with the provisions of this Chapter to a displaced tenant who serves a landlord with a notice to terminate tenancy after having received written notice from either the landlord or the Santa Monica Rent Control Board that the landlord has filed a notice of intent to withdraw residential rental units pursuant to Government Code Section 7060.4 and Santa Monica Rent Control Board Regulation 16002(a) or an application for removal permit pursuant to Santa Monica Charter Section 1803(t).

(c) The fee required by this Chapter shall be due and payable to a displaced tenant whether or not the landlord actually utilizes the rental housing unit for the purposes stated in the notice of eviction.

4.36.030 Notice to tenants being displaced.

(a) Any notice to terminate a tenancy which is served upon tenants for any of the reasons set forth in Section 4.36.020 shall be accompanied by the following on the form provided by the City:

(1) A written statement of the rights and obligations of tenants and landlords under this Chapter;

(2) A written statement informing the tenants that the required relocation fee has been placed in an escrow account or other account approved by the City;

(3) A written statement that the landlord has complied with Section 4.36.050. If the landlord has complied with Section 4.36.050 by obtaining City approval of a Displacement Plan, a copy of the Displacement Plan shall accompany the written statement.

(b) A landlord shall comply with the provisions of this Section within two working days after receiving a tenant's notice to terminate tenancy as set forth in Section 4.36.020(b).

4.36.040 Amount of relocation fee—Permanent relocation.

The amount of the permanent relocation fee payable pursuant to the provisions of this Chapter shall be established in accordance with the following formula: 2011 relocation fee adjusted for inflation by the percentage change in the rent of primary residence component of the CPI-W Index for the Los Angeles/Riverside/Orange County area, as published by the United States Department of Labor, Bureau of Labor Statistics, between November 2011 and the July 1st preceding the date of vacancy rounded to the nearest fifty dollars. This amount shall be updated annually commencing on July 1, 2012 and on July 1st of each year thereafter.

(a) The 2011 permanent relocation fee established pursuant to Ordinance 2383CCS and determined according to the size of the retail housing unit, was as follows:

Apartment Size	2011 Relocation Amount	2011 Augmented Amount
Single or studio	\$ 7,800	\$ 8,900
One bedroom	12,050	13,850
Two or more bedrooms	16,300	18,750

(b) If a tenant is evicted from more than one rental housing unit on a property, the tenant shall not be entitled to receive separate permanent relocation fees for each rental housing unit. The tenant shall receive a single relocation fee based on the combined total number of bedrooms in the rental housing units from which the tenant is being evicted. If one of the rental housing units is a bachelor or single unit, it shall be counted as a one bedroom unit for purposes of determining the amount of the relocation fee (e.g., a tenant who is evicted from a bachelor rental housing unit and a one bedroom rental housing unit would receive relocation benefits for a two bedroom unit).

(c) If the rental housing unit from which the tenant is being evicted is furnished, two hundred fifty dollars shall be deducted from the amount set forth in subsection (a) of this Section. For purposes of this subsection, a rental housing unit shall be considered to be furnished if the landlord has provided substantial furnishings in each occupied room of the rental housing unit.

(d) If one or more of the displaced tenants is a senior citizen or disabled person, or is a tenant with whom a minor child resides, an augmented amount shall be paid as set forth in subsection (a) of this Section. The amount added pursuant to this subsection shall be adjusted annually pursuant to the formula specified above commencing on July 1, 2012, and each July 1st thereafter.

(e) Any tenant still in possession of a rental unit after the permanent relocation amounts have been updated pursuant to this Section, shall be entitled to the updated relocation amounts even if the landlord commenced the termination of the tenancy prior to the update. In the event that a landlord has already complied with the provisions of Section 4.36.060 based on the relocation amounts previously in effect, but has not yet

received a written request from a tenant for distribution of the fee pursuant to Section 4.36.070, the landlord shall place in escrow the additional amount of relocation fee required by this Section within five working days of the effective date of the updated amount.

4.36.050 Additional fee for required counseling.

(a) For each rental housing unit from which tenants are displaced for any of the reasons set forth in Section 4.36.020(a), prior to service of a notice to terminate tenancy, the landlord shall pay a fee to the City in the amount of two hundred fifty dollars to be used by the City to pay for counseling or other assistance required by displaced tenants as a result of displacement.

(b) In lieu of the fee required by subsection (a) of this Section, a landlord may prepare a Displacement Plan which must be approved by the Housing and Economic Development Department prior to service of a notice to terminate tenancy. The Displacement Plan shall identify the special needs of the displaced tenants, identify the types of assistance that will be provided and include a commitment to pay for any such assistance. At the time of submitting the Displacement Plan to the City for review and approval, the landlord shall pay a fee to the City for such review and approval in the amount of one hundred dollars for each rental housing unit.

4.36.060 Deposit of relocation fee into escrow for permanent relocation.

(a) The permanent relocation fee required by this Chapter shall be placed in an escrow account prior to service by a landlord upon any tenant of a notice to terminate tenancy for one of the reasons set forth in Section 4.36.020(a) or within two working days of service by a tenant upon a landlord of notice to terminate tenancy as set forth in Section

4.36.020(b). All costs of an escrow opened pursuant to the provisions of this Section shall be borne by the landlord. Escrow instructions shall be approved by the City.

(b) The escrow instructions shall provide that monies deposited in the escrow account shall only be distributed to displaced tenant in accordance with the instructions of the landlord and that no monies deposited in escrow may be returned to the landlord without the written approval of the City.

(c) In lieu of deposit of the permanent relocation fee in an escrow account, a landlord may deposit the fee in another account approved by the City.

4.36.070 Payment to displaced tenants of permanent relocation fee.

(a) Within two working days of the written request by the tenant, the landlord shall deliver written instructions to the escrow holder to distribute all or a portion of the permanent relocation fee to a third party providing moving or replacement housing to the tenant. The instructions shall direct the escrow holder to make the distribution within three working days of delivery of the instructions.

(b) Within two working days of the vacation of the rental housing unit, the landlord shall deliver written instruction to the escrow holder to distribute the amount of the remaining relocation fee to the displaced tenant or displaced tenants of such rental housing unit. The instruction shall direct the escrow holder to make the distribution within three working days of delivery of the instructions.

(c) The entire fee shall be paid to a tenant who is the only displaced tenant in a rental housing unit. If a rental housing unit is occupied by two or more displaced tenants, the permanent relocation fee shall be paid to all displaced tenants jointly. In no event shall a landlord be liable to pay a total amount more than the fee required by Section 4.36.040

of this Chapter for one rental housing unit, and the landlord shall have no responsibility or liability for disputes between displaced tenants over allocation of the relocation fee between such displaced tenants.

(d) In the event the landlord has been required to commence a legal action to recover possession of the rental housing unit and a decision is rendered or a judgment has been entered in favor of the landlord prior to the tenant's vacation of the unit, the landlord may instruct the escrow holder to withhold from distribution to the displaced tenant or displaced tenants of such rental housing units any unsatisfied monetary award provided in such decision or judgment in favor of the landlord. Upon the judgment becoming final, the City shall authorize the escrow holder to return to the landlord the amount withheld. If no decision has been rendered or no judgment has been entered for a monetary award in favor of the landlord prior to the tenant's vacation of the unit, the landlord must authorize the distribution of the entire relocation fee in accordance with Section 4.36.070.

4.36.080 Physical relocation in lieu of fee.

(a) In lieu of the permanent relocation fee required by Sections 4.36.040 and 4.36.050, the landlord may, at the landlord's option, relocate the displaced tenant into a comparable replacement housing unit satisfactory to the tenant, in which event the landlord shall be liable only for the actual costs of relocating the tenant, except that this Section shall not abrogate any rights already created by Section 1806(a)(8)(ii) of the City Charter. A tenant shall not unreasonably withhold approval of a comparable replacement rental housing unit offered by the landlord.

(b) If a tenant displaced for the reason set forth in Section 4.36.020(a)(2) elects to occupy a noncomparable vacant unit on the same property from which that tenant is being displaced, pursuant to the terms set forth in Section 1806(a)(8) of the City Charter, in lieu of the permanent relocation fee required by Sections 4.36.040 and 4.36.050, the landlord shall only be liable for the actual costs of relocating the tenant.

4.36.085 Prohibition against agreements limiting public participation.

No landlord shall, with respect to property used as rental housing, any rental housing agreement or other tenancy or estate at will, however created, do any of the following:

(a) Enter into an agreement with a tenant which prohibits or limits the tenant from participating in the City's public process, including speaking at a meeting of the City Council or any City Commission, submitting written comments to the City, or otherwise communicating with City elected officials, appointed officials, and employees on any subject.

(b) Attempt to enforce an agreement such as described in subsection (a).

(c) Withhold deposit of relocation fees into escrow or withhold payment of such fees or other payments otherwise owed to the tenant in an attempt to induce a tenant to enter into an agreement such as described in subsection (a).

4.36.090 Remedies.

(a) In any action by a landlord to recover possession of a rental housing unit for one of the reasons set forth in Section 4.36.020, the landlord shall allege and prove compliance with this Chapter.

(b) Any landlord who fails to provide relocation assistance as required by Sections 4.36.040, 4.36.050, 4.36.070 and 4.36.100 or who violates Section 4.36.085 of this Chapter shall be subject to injunctive relief and be liable in a civil action to the tenant to whom such assistance is due for damages in the amount of the relocation fee the landlord has failed to pay, a civil penalty in the amount of five hundred dollars and reasonable attorneys' fees and costs as determined by the court. The court may also award punitive damages in a proper case as defined by Civil Code Section 3294. Any person, including the City, may enforce the provisions of this Chapter by means of a civil action.

(c) Any person violating any of the provisions of or failing to comply with the requirements of this Chapter, including failure to comply with a relocation order issued by the Building Officer pursuant to Section 4.36.100, shall be guilty of an infraction which shall be punishable by a fine not exceeding \$250.00, or a misdemeanor and upon conviction shall be punished by a fine of not greater than \$500.00 or by imprisonment in the County Jail for not more than six months, or by both such fine and imprisonment.

(d) Failure to comply with a relocation order shall be considered a strict liability offense; accordingly, the prosecution shall not be required to prove criminal intent or that the violator meant to violate any provision of this Chapter.

(e) Any person convicted of violating any provision of this Chapter shall be required to reimburse the City its full investigative costs.

(f) If a landlord fails or refuses to provide relocation benefits required by this Chapter, and the City chooses to pay such benefits to tenants in the landlord's place, the City shall have the right to recover such monetary outlays, plus any administrative fees

incurred by the City, from the landlord as restitution in any criminal case filed pursuant to this Chapter or in any appropriate civil or administrative proceeding.

(g) Unless otherwise specifically authorized, no landlord shall attempt to secure from a tenant any waiver of any provision of this Chapter. Any agreement, whether written or oral, whereby any provision of this Chapter is waived, shall be deemed against public policy and shall be void.

(h) Any contractual term which violates Section 4.36.085 of this Chapter, whether written or oral, shall be deemed against public policy and shall be void.

(i) Nonexclusive Remedies and Penalties. The remedies provided in this Chapter are not exclusive, and nothing in this Chapter shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

4.36.100 Temporary relocation mandated by code compliance or by government order.

(a) A landlord is required to provide temporary relocation benefits to tenants as required by this Section when:

(1) The landlord is required to temporarily recover possession of a rental housing unit in order to comply with housing, health, building, fire or safety laws of the State of California or the City of Santa Monica, or

(2) A rental housing unit has been rendered uninhabitable, necessitating the tenant(s) of the housing unit to no longer dwell within that unit, or

(3) A tenant is required to vacate a rental housing unit upon the order of any government officer or agency.

A landlord's obligations under this subsection shall be self-executing; nonetheless, the Building Officer may issue a relocation order to the landlord to compel performance under this Section. No person shall fail to comply with any such relocation order.

(b) These relocation benefits shall include both temporary housing as provided in subsection (c) of this Section and moving costs as provided in subsection (d) of this Section and shall be paid until such time temporary relocation benefits are no longer required by law, such as when legal tenancy is terminated or the tenant is returned to his/her dwelling unit which has been made habitable. Provision of temporary relocation benefits does not relieve the Landlord's obligation to provide permanent relocation benefits as required by this Chapter.

(c) The type of temporary housing, required by this Section is dependent on the duration of the tenant's displacement. When the Building Officer or landlord determines the need for a tenant to vacate, he or she shall estimate the projected duration of the vacancy. That estimate will determine whether subsection (c)(1) or (c)(2) of this Section must be followed. If the Building Officer orders relocation, he or she shall provide notice to the landlord and all affected tenants of the relocation requirements and responsibilities pursuant to this Section. This notice may include a copy of this Section and the City Council's resolution regarding per diem rates. The landlord shall facilitate the Building Officer's provision of tenant notification by providing forwarding contact information for affected tenants if the tenants vacated the premises prior to the Building Officer's Order. If the landlord determines that the provisions of this code require a tenant to vacate, the landlord shall provide notice of the estimated relocation period to affected

tenants and relocation benefit requirements and responsibilities established by this Section.

(1) Relocation Less Than 30 days. If it is anticipated that a tenant will be displaced for a period less than thirty days, the landlord shall pay the tenant relocation costs in the per diem amounts set by the City Council pursuant to subsection (e). The per diem amount shall be calculated to include compensation for the following:

(A) Temporary relocation to a motel or hotel accommodation which is safe, sanitary, located in Santa Monica and contains standard amenities such as a telephone;

(B) Meals, if the temporary accommodation lacks cooking facilities;

(C) Laundry, if the rental property included laundry facilities; and

(D) Accommodations for lawful pets if the temporary accommodation does not accept pets.

The landlord shall have the option, in lieu of providing tenant relocation costs in accordance with this subsection, of providing the tenant with comparable housing pursuant to subsection (c)(2) for the period of the displacement or temporary placement in a safe and sanitary hotel/motel located in Santa Monica or within reasonable proximity to Santa Monica as set forth by Administrative Regulations, if the relocation is estimated to be five (5) days or less. If the relocation extends beyond five (5) days, the tenant shall be entitled to the per diem or comparable housing, unless the tenant explicitly agrees to extend his/her stay in the hotel/motel. The tenant shall remain responsible to pay to the landlord rent which falls due for the tenant's existing unit during the period of displacement.

(2) Relocation 30 days or Greater. If it is anticipated that the displacement will be for a period of thirty days or greater, the landlord shall provide either temporary rental housing or per diem payments in accordance with Subsection (c)(1) of this Section, prepaid by the landlord in weekly increments. If the landlord elects temporary rental housing, such housing shall be comparable to the tenant's existing housing, as determined by the Director. However, a landlord's election of temporary rental housing shall not be revocable by the landlord, once the tenant moves into the temporary housing. In cases where the landlord elects temporary rental housing, the landlord must provide per diem payments in accordance with Subsection (c)(1) of this Section until such time the displaced tenant is housed in temporary rental housing. The landlord shall pay all costs associated with the temporary housing, including rent, even if the temporary housing is more expensive than the tenant's existing unit. The tenant shall remain responsible to pay rent to the landlord for the tenant's existing unit during the period of displacement.

(3) Inadequate kitchen facilities. The Building Officer may only order a meal per diem when an otherwise habitable rental housing unit has inadequate kitchen facilities.

(4) The relocation benefits required by this Section shall be paid within twenty-four hours of when any condition outlined in Subsection (a) of this Section arises, or at least twenty days prior to the vacation date set forth in any order or notice to vacate, whichever is later.

(5) If the landlord or the Building Officer determines that the actual relocation period will be longer than a landlord has paid for, or than projected by the landlord or the Building Officer, the landlord must notify the affected tenant as soon as the determination

is made and promptly pay the tenant the amount owed and remain current on such payments. If a tenant's actual vacancy period is shorter than the period the landlord has paid for, the tenant must repay any overpaid amount to the landlord within thirty days of receiving written notice from the landlord of the overpayment. The landlord must make a good faith effort to monitor the necessity of the tenant's continued displacement and provide the tenant with advance notice of any changes to the anticipated relocation period.

(6) The landlord shall ensure that temporary relocation of a tenant does not exceed the estimated relocation period as determined by the Building Officer pursuant to this Section. Should a longer period be necessary, the landlord shall request an extension from the Building Officer and demonstrate good cause for such an extension.

(7) The landlord and the tenant may mutually agree upon a housing type or relocation benefit other than what is required by this Section. The landlord is required to inform the tenant, in writing, of the statutorily required temporary relocation benefits prior to entering into such an agreement. The landlord may not coerce any tenant into such an agreement. Any such coercion may constitute unlawful tenant harassment, subject to the remedies set forth in Chapter 4.56 of this Code.

(d) Moving costs shall consist of all actual reasonable costs of moving, including transportation of personal property, packing and unpacking, insurance of personal property while in transit, compensation for any damage occurring during moving, necessary storage of personal property, disconnection and reconnection of utility services related to the move and any other additional costs attributable to a tenant's special needs, including needs resulting from disability or age.

(e) The City Council shall periodically establish by resolution reasonable per diem rates for the following items of temporary relocation expenses required under this Section. These rates shall be adjusted annually for inflation by the percentage change in the Consumer Price Index ("CPI") commencing on July 1, 2007 and on July 1st of each year thereafter.

- (1) Hotel accommodations;
- (2) Meal allowance;
- (3) Laundry allowance;
- (4) Pet accommodations.

(f) The displacement and relocation of a tenant pursuant to this Section or Section 8.100.030 shall not terminate the tenancy of the displaced tenant. The displaced tenant shall have the right to reoccupy his or her unit upon the completion of the work necessary for the unit to comply with housing, health, building or safety laws, any governmental order, or the unit is otherwise restored to a habitable condition, the tenant shall retain all rights of tenancy that existed prior to the displacement.

(g) Upon receiving a relocation order from the City or when any condition outlined in 4.36.100(a) exists, the landlord is required to promptly obtain any required permits and/or approvals from the City and/or other regulatory agency who has jurisdiction over the required work, promptly commence the necessary work to restore the affected unit(s) to a habitable condition, diligently work towards completion of the work and return all affected tenants to their units.

(h) If a displaced tenant's behavior causes the tenant to be removed or evicted, for cause, from his/her temporary housing accommodations, the landlord may request

and the Director may grant early termination of temporary relocation obligations with respect to that tenant. The Director may develop criteria that would aid in reviewing such requests.

(i) A landlord or tenant who disputes a notice or order regarding temporary relocation benefits may request a hearing pursuant to the procedures set forth in Chapter 6.16. Any such hearing request shall be filed with the Building Officer within five business days of the notice or order on a form provided by the Building Officer.

(j) An appeal shall not automatically stay the underlying relocation order. However, the Building Officer or the Hearing Examiner on appeal may grant a written request to stay the relocation order. Any such request to stay the relocation order shall be considered as soon as practicable. The Hearing Examiner may choose to make any preliminary inquiries necessary, including holding a preliminary in-person or telephonic hearing, to receive preliminary facts. However, if the Building Officer rejects a landlord's written request to stay a relocation order pending an appeal and the landlord ultimately prevails in overturning the Building Officer's relocation order, the City shall reimburse the landlord any actual reasonable housing, moving and storage costs incurred by the landlord as required by Section 4.36.100, which shall begin to accrue on the first business day after the date the City receives a written stay request. The landlord may not recover other costs, such as attorney's fees or court costs, from the City.

4.36.110 Applicability of relocation assistance requirements as provided in this Chapter.

(a) A tenant shall be entitled to the relocation benefits established by this Chapter pursuant to Section 4.36.100.

(b) The landlord shall comply with the requirements contained in Sections 4.36.030, 4.36.040, 4.36.050 and 4.36.060 within five days of the effective date of any ordinance codified in this Chapter or any update of the fee amount pursuant to Section 4.36.040 in the event that a notice to terminate tenancy for one of the reasons set forth in Section 4.36.020(a) has already been served on a tenant or a notice to terminate tenancy pursuant to Section 4.36.020(b) has already been served on a landlord. In the event that on the effective date of any such amendment or update, a landlord has complied with the provisions of Section 4.36.060 previously in effect, but has not yet received a written request from a tenant for distribution of the fee pursuant to Section 4.36.070, the landlord shall place in escrow the additional amount of relocation fee required by Section 4.36.040 within five working days of the effective date of the amendment or update.

(c) Nothing in this Chapter shall limit the amount of the relocation fee that the City Council may require under Government Code Section 65863.7.

(d) An administrative citation's fine amount shall be doubled, when the citation is issued in connection with a landlord's commencement of construction work without first obtaining all necessary governmental permits and that the work necessitated the relocation of a tenant.

4.36.120 Applicability of Chapter to certain situations.

(a) Notwithstanding Section 4.36.110 and 4.36.100 (c), the requirements set forth in this Chapter shall not apply to any tenant whose tenancy is terminated pursuant to a lawful notice to terminate tenancy pursuant to Section 1806(a) of the City Charter served on or before June 10, 1986.

(b) No landlord shall be required to pay temporary relocation benefits pursuant to Section 4.36.100 if the displacement and relocation of the tenant is the result of an earthquake or other natural disaster, terrorist attack, or other incident occurring or substantially initiated off of the property from which relocation is required, but not caused by the landlord, as determined by the Fire Marshal or Building Officer (such as vehicle accident, criminal activity, public utility failure or adjacent building failure). However, to the extent that any person, other than the landlord, causes tenant relocation pursuant to Section 4.36.100, such person shall be responsible for the provision of temporary relocation benefits, as required by Section 4.36.100.

(c) The displacement and relocation of a tenant for repair and retrofitting pursuant to Municipal Code Chapters 8.60, 8.64, 8.68, 8.72, 8.76, and 8.80 shall not terminate the tenancy of the displaced tenant. The displaced tenant shall have the right to reoccupy the unit upon the completion of the repairs and retrofitting and shall retain all rights of tenancy that existed before the displacement.

(d) No landlord shall be required to provide temporary relocation benefits pursuant to Section 4.36.100 to a tenant if that tenant or his or her guest or invitee was entirely or primarily responsible for causing the condition that necessitated the temporary relocation. In such cases, the landlord's responsibility to provide temporary relocation benefits to other non-responsible tenants remains.

(e) If a tenant elects to remain in his/her unit (including day, evening, and/or night time hours) following an order directing temporary relocation, said tenant shall not receive relocation benefits. However, the tenant's right to relocation benefits shall not be affected by the tenant's limited access to the unit to retrieve personal belongings.

(f) If a tenant interferes, obstructs or delays an owner's ability to conduct necessary repairs to restore a unit to habitable status, the owner's obligation to provide relocation benefits to that tenant may be lifted by order of the Building Officer or Director.

4.36.130 Coordination with other relocation requirements.

In the event that a landlord is required by any other governmental body to provide relocation benefits to a tenant who receives a notice to terminate tenancy for one of the reasons set forth in Section 4.36.020, such benefits shall be off-set against the amount of relocation benefits required by Section 4.36.040. This Chapter shall not apply to any relocation plan approved by agreement by the Rent Control Board on or before June 24, 1986.

4.36.140 Security deposit for temporary relocation.

The Director may require the landlord to furnish security to the City sufficient to ensure the timely and faithful performance of all work included within the scope of a permit and the payment of all relocation assistance necessitated by the temporary displacement of the tenants, if any, based on an analysis of the following factors: size of project, duration of project, potential for impact on tenant safety, and invasiveness of project. If required, any of the following or similar instruments are acceptable forms of security:

(a) A deposit, either with the City or a responsible escrow agent or trust company, at the option of the City, of money or negotiable bonds of the kind approved for securing deposits of public monies;

(b) An instrument of credit from one or more financial institution subject to regulation by the State or Federal government or a letter of credit issued by such a financial institution;

- (c) Bond or bonds by one or more duly authorized corporate sureties;
- (d) A restricted bank account.

4.36.150 Administrative regulations.

The Director shall have the authority to adopt administrative regulations, consistent with the legislative purpose, to implement the provisions of this Chapter.

SECTION 2. Chapter 8.100 of the Santa Monica Municipal Code is here by amended and entirely restated to read as follows:

Chapter 8.100 TENANT PROTECTION DURING CONSTRUCTION

8.100.010 Construction means and method plan required.

(a) When applying for a permit to alter, repair, or rehabilitate any structure that contains one or more dwelling units or mobile home park, the applicant shall indicate on a form furnished by the Building Officer whether the property is occupied by tenants.

(b) If the property is tenant-occupied and, as determined by the Building Officer, the construction work could impact the habitability of any occupied unit on the property, prior to obtaining a permit, the applicant shall submit a construction means and method plan to the Building Officer, consistent with the standards set forth by Administrative Regulations. The Building Officer may consult all relevant sources of authority, including Health and Safety Code Section 17920.3 or its successor legislation, to guide his/her determination of habitability.

(c) No permit shall be issued until a satisfactory means and method plan is approved by the Building Officer, if required.

(d) If the unit or building was not tenant occupied at the time a permit application was submitted, the applicant shall submit a construction means and method plan prior to any unit in the building being tenant occupied. If the Building Officer determines that the work could impact the habitability of any unit on the property given the manner in which the construction is being undertaken, the requirements of Sections 8.100.020, 8.100.030, 8.100.040, 8.100.050, and 8.100.060 below shall also apply.

(e) If at any point during construction it is determined that conditions and construction impacts are not adequately addressed by means and method plan previously approved by the City, the Director may require the owner to submit an amended means and method plan.

(f) The Building Officer may stop construction until all applicable requirements of this Chapter have been met.

8.100.020 Reserved.

8.100.030 Relocation plan.

(a) If the construction means and method plan demonstrates, as determined by the Building Officer, that the work being performed on the property may require that tenants be temporarily relocated, the applicant shall also prepare and submit a relocation plan on a form provided by the Building Officer for City approval prior to issuance of a permit which shall contain:

(1) The fair and reasonable relocation benefits that will be provided to all displaced tenants as required by Municipal Code Section 4.36.100;

(2) The timing of the displacement will be provided to all tenants who will be displaced;

(3) A copy of the notice required by Section 8.100.040(a) consistent with the standards set forth by Administrative Regulations.

(4) Based upon a recent survey and analysis of both the housing needs of persons who will be displaced and the supply of available temporary housing, and considering the competing needs for that housing, verification that sufficient temporary housing of the type required by Section 4.36.100 will be provided;

(5) Verification that the owner has adequate resources to provide the required relocation benefits and adequate provisions have been made for the orderly, timely, and efficient relocation of displaced tenants to comparable replacement housing.

(b) If the Building Officer determined, at the time of permit approval, that temporary relocation was not required and if new construction conditions could potentially impact habitability of any tenant unit, the applicant must submit an amended means and method plan and obtain all required City approvals prior to commencing any work beyond the scope of work originally approved. If the Building Officer determines that the work could impact the habitability of any unit on the property given the manner in which the change in construction is being undertaken, the requirements of this Section and Sections 8.100.040, 8.100.050, and 8.100.060 below shall also apply.

8.100.040 Tenant noticing requirements.

(a) Before a permit can be issued for the alteration/repair/rehabilitation of a building or mobilehome park which required an applicant to prepare a construction means and method plan pursuant to Section 8.100.010 of this Chapter, the applicant must provide notifications to affected tenants of the property consistent with the standards set forth by Administrative Regulations. This notice shall be hand-delivered, with a proof of service, to

each affected tenant of the property or sent by certified mail or otherwise delivered in a form of electronic means acceptable to the City.

(b) The notice required by subsection (a) of this Section shall contain the following information:

(1) A statement that the construction being undertaken at the property will not terminate the tenant's tenancy;

(2) A statement informing the tenants of their right to seek mitigation from the property owner for nuisance conditions at the property, including, but not limited to, noise, dust, vibrations, utility shut-offs and other construction impacts. Mitigation measures may include, but are not limited to, temporary rent reductions, quiet office space for tenants working at home and temporary accommodations; and

(3) Any other information required by Administrative Regulations.

(c) The tenant notification shall provide the following information if the project will require the temporary relocation of tenants:

A statement that the construction activity may require displacement, but that to the greatest extent practicable, no tenant lawfully occupying the property will be required to move without written notice from the owner in accordance with this Chapter.

(d) In addition to the notice required by subsections (a), (b), and (c) of this Section, if the projected construction period is 30 days or more, the owner shall post the property with a preprinted sign or signs prepared by the City measuring thirty inches by forty inches in size in a conspicuous location visible to tenants that include the information on where to file a complaint with the owner or owner representative and the City regarding any conditions at the property which any tenant considers to be unsafe, unsanitary, in

violation of the City's technical or safety codes, or in violation of the applicant's construction means and method plan.

8.100.050 Security.

Before receiving a permit for a project which requires an applicant to prepare a construction means and method plan pursuant to Section 8.100.010 of this Chapter, the applicant shall furnish security to the City in accordance with Section 4.36.140 of this Chapter.

8.100.060 Compliance with required means and method plan.

(a) **General.** No person shall erect, construct, enlarge, alter, repair, move, improve, remove, sandblast or convert the use of any building, structure or building service equipment regulated by this Code without complying with all conditions of any required construction means and methods plan.

(b) **Owner's Responsibility.** The property owner shall remain responsible for any violation of the construction means and method plan regardless of the responsibility of any other person for the violation or any contract or agreement the owner entered into with a third party concerning the owner's property or the construction that necessitated the preparation of the means and method plan. A licensed contractor serving as the agent of the owner or as the applicant for a permit may be held jointly responsible for violations of the means and methods plan.

8.100.070 Administrative regulations.

The Director shall have the authority to adopt administrative regulations, consistent with the legislative purpose, to implement the provisions of this Chapter.

8.100.080 Hazardous Materials

(a) Any owner shall ensure that hazardous materials, such as mold or asbestos, are properly handled and abated during any construction, demolition or modification to any building.

(b) Whenever handling or abatement of hazardous materials, such as mold or asbestos, is undertaken, the owner shall provide proof, to the satisfaction of the Building Officer, that proper handling and/or abatement procedures, performed by appropriately certified experts, were followed, and that the site is safe for its intended occupancies.

(c) The City may reasonably engage the services of qualified experts, at the owner's expense, to assist the City in evaluating the owner's compliance with this section.

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:



LANE DILG
City Attorney

Approved and adopted this 28th day of August, 2018.

Ted Winterer
Ted Winterer (Sep 20, 2018)

Ted Winterer, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2585 (CCS) had its introduction on August 14, 2018, and was adopted at the Santa Monica City Council meeting held on August 28, 2018, by the following vote:

AYES: Councilmembers Himmelrich, McKeown, O'Connor, O'Day, Vazquez, Mayor Pro Tem Davis, Mayor Winterer

NOES: None

ABSENT: None

ATTEST:

Denise Anderson-Warren

Denise Anderson-Warren, City Clerk

Sep 21, 2018

Date

A summary of Ordinance No. 2585 (CCS) was duly published pursuant to California Government Code Section 40806.