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FROM: David DeGrazia, Deputy Director 
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ASSEMBLY BILL 1218: DEMOLITION OF AFFORDABLE RESIDENTIAL DWELLING UNITS

On October 11, 2023, the Governor signed Assembly Bill (AB) 1218 (Lowenthal), which became effective January 1, 2024. AB 1218 adds Article 2 (commencing with Section 66300.5) in Chapter 12 of the Government Code and among other things, amends the requirements pertaining to the replacement of existing or pre-existing residential units prior to or concurrently with a development project if the existing or pre-existing residential units are proposed to be or have been demolished. As such, certain provisions in the Affordable Housing Preservation Ordinance (AHPO) are inconsistent with state law. Potentially conflicting provisions in the AHPO include the following:

- **Locational Criteria:** The AHPO requires affordable housing replacement in all unincorporated areas unless the development project is in a Very High Fire Hazard Severity Zone (VHFHSZ) or an area subject to an affordable housing replacement requirement under a development agreement, specific plan, or local policy. On the other hand, AB 1218 requires affordable housing replacement in an “affected County,” which is defined as “a census-designated place, based on the 2013-2017 American Community Survey 5-year Estimates, that is wholly located within the boundaries of an urbanized area, as designated by the United States Census Bureau,” also known as an urban CDP. [The Housing-NET](#) mapping application shows where the VHFHSZs and urban CDPs are located.

- **Units Requiring Replacement:**
 - Demolition vs. Conversion: While the AHPO requires residential units that are proposed to be or have been demolished, vacated, or converted from rental to for sale (e.g., condominium conversion) to be replaced, AB 1218's replacement requirements only apply to development projects that either will require the demolition of residential units or are located on sites where the units were demolished in the five years prior to application submittal.
 - Consistency with zoning and the General Plan: The AHPO only requires the existing/pre-existing residential units to be replaced if the use and density of the units are consistent with zoning or the General Plan. On the other hand, AB 1218 requires more residential units to be replaced as it disregards any local density requirements, and only certain units nonconforming due to use in limited scenarios are exempt from the state mandate.
- **Affordable Housing Replacement Fee:** The AHPO allows non-residential development and certain land division projects to pay the Affordable Housing Replacement Fee in lieu of providing affordable replacement units. However, under AB 1218, a development project cannot be approved unless the required replacement units are developed prior to or concurrently with the development project. The Affordable Housing Replacement fee is therefore not an option for development projects that are also subject to AB 1218.
- **Off-Site Replacement:** The AHPO allows affordable replacement units to be provided off-site only if the affordable replacement units count toward the affordable housing set-aside units required by the Inclusionary Housing Ordinance, subject to additional locational criteria for the off-site parcel. On the other hand, AB 1218 allows non-residential development to provide the required replacement units off-site so long as the off-site parcel is within the same jurisdiction.

Please note that the requirements specified in AB 1218 are state-mandated minimums only. The bill does not supersede any objective provision of a local ordinance that places restrictions on the demolition of residential units or the subdivision of residential rental units that are more protective of lower-income households or requires the provision of a greater number of units affordable to lower-income households. As such, only provisions in the AHPO that do not meet the state-mandated minimums where applicable are superseded by AB 1218.

Please see the attached step-by-step guide (Attachment A) for further instructions on how to determine the applicable affordable housing replacement requirements. For development projects that are eligible for the Affordable Housing Replacement Fee, please refer to page 5 of Attachment A, which includes a fee schedule that reflects the annual fee adjustments

pursuant to Section 22.268.050 (Annual Fee Update). A copy of the bill (Attachment B) is also attached for your reference. This memo shall apply until such time when Titles 21 and 22 are amended to be consistent with state law.

If you have any questions regarding this memo, please contact Tina Fung in the Housing Policy Section at (213) 974-6417 or tfung@planning.lacounty.gov.

DJD:CC:TF:lm

Attachments:

- A. Step-by-Step Guide – Affordable Housing Replacement Requirements
- B. Assembly Bill 1218 (Lowenthal)

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