

# Agenda Report

May 7, 2018

**TO:** Honorable Mayor and City Council  
**FROM:** Planning and Community Development Department  
**SUBJECT: PROPOSED AMENDMENTS TO CHAPTER 14.16 "INSPECTION ORDINANCE" RELATED TO THE OCCUPANCY INSPECTION PROGRAM (OIP)**

## **RECOMMENDATION:**

It is recommended that the City Council:

- 1 Find that the proposed Pasadena Municipal Code Amendments are exempt from environmental review under Section 15061(b)(3) (general rule) of the California Environmental Quality Act ("CEQA"); and
2. Direct the City Attorney to prepare an ordinance within 60 days amending Pasadena Municipal Code Section 14.16 "Inspection Ordinance" and the associated "Rules and Regulations" as outlined in the staff report.

## **EXECUTIVE SUMMARY:**

The Inspection Ordinance (i.e. Occupancy Inspection Program) was adopted by the City's Board of Directors (City Council) in 1973. The last significant revisions to the Occupancy Inspection Program (OIP) were approved in 1991. The needs of the OIP have changed significantly in the past 27 years. A programmatic reassessment was recently conducted in response to the following:

- Improved conditions of the City's housing stock
- Changes in the real estate environment (e.g. required private home inspections)
- Changes in the way code violation complaints are received and addressed
- Material deficiencies in the OIP identified by the California State Auditor's Office

Staff evaluated various options and is making a recommendation to streamline the program. These changes will refocus the program on life and safety violations. Proposed streamlining includes limiting inspection criterion to unpermitted

additions/conversions utilized as habitable space, allowing self-certification for minor code violations and exempting condominium/townhouse units from mandatory inspections.

Staff resources that become available will be directed to the multi-family rental housing inspection program (Quadrennials) and general code enforcement activities. Staff is not proposing any changes to the Quadrennial inspection program as a result of the OIP changes.

**BACKGROUND:**

*Point of Sale Requirements for Other Cities*

The majority of cities in Los Angeles County do not require point-of-sale inspections. Currently, 16 of the 88 cities in Los Angeles County require an inspection of some type at point of sale. Of these 16 cities the scope of inspection varies as following:

- Drive-by inspection of exterior only
- Walking inspection of exterior only
- Inspection of exterior, interior of garage and non-residential structures
- Inspection of exterior and interior of all structures

*Comparable Cities*

Most cities direct housing inspection resources towards rental stock to ensure property owners are providing tenants safe, well maintained housing. In lieu of proactively inspecting homes at point of sale, other cities have opted to shift the onus to the prospective buyer. This is accomplished by requiring a property records report be disclosed to the buyer prior to the sale or transfer of the property. Figure 1A below summarizes pre-sale requirements from other comparable cities in Los Angeles County. The cities of Santa Monica, Los Angeles and Culver City require a property records report be delivered to the prospective buyer prior to the sale of transfer of the property.

**Figure 1A**

<b>Municipal Pre-Sale Requirements for Residential Properties</b>			
<b>City</b>	<b>Requirements</b>	<b>Cost</b>	<b>Insp. Req.</b>
Beverly Hills	Self Certification for Smoke Detectors and Water Conservation	\$0	No
Burbank	Self Certification for Water Conservation	\$0	No
Culver City	Property Records Report	\$96	No
Glendale	None	NA	No
Los Angeles	Property Records Report, and Self Certification	\$71	No
Pasadena	Occupancy Inspection Program	\$141	Yes
Santa Monica	Property Records Report	\$317	No
Santa Clarita	None	NA	No

### *History of the Occupancy Inspection Program*

The City of Pasadena has a long history of supporting and maintaining safe and vibrant neighborhoods. In the 1950s, the City implemented its first formal program to help minimize and eliminate property maintenance issues that can degrade the safety, character and value of a neighborhood. The City recognized that without mandatory inspections, the housing inventory of the City could become deteriorated. It was found necessary to implement a comprehensive program of housing code enforcement to protect occupants and maintain quality housing stock.

In 1973, the OIP was formalized through the adoption of the Occupancy Inspection Ordinance – Phase I included application to approximately 30,000 single-family and duplex dwelling units. Phase II was implemented in 1974 to address the City's multi-family housing stock (three or more units) with application to approximately 17,000 rental units. Multi-family residential inspections were scheduled based on changes of occupancy initiated by name changes in utility billings.

Over time, landlords found ways to circumvent the utility billings and avoid the inspection of rental units upon change of occupancy. It was determined that a mandatory quadrennial inspection of all multi-family structures would help to prevent circumvention of the required inspection. In 1986 the Board of Directors bifurcated the Occupancy Inspection Program (OIP). One component of the program would be the "Occupancy Inspection Program" dedicated to the point-of-sale occupancy inspections applicable to single family and two-unit dwellings, condominiums and townhouses and this inspection would occur when a unit was sold or there was a change in tenancy (if the unit was a rental). A second component of the program was the "Quadrennial" inspection applicable to rental properties with three or more units that require inspection of all units on the site every four years using the same checklist as the OIP.

The last formal revision to the OIP occurred in 1991. The then Board of Directors approved changes to the Rules and Regulations to allow property owners to self-certify corrections for minor violations. There have been no significant changes to the program since 1991.

### *Overview of Current OIP Program*

The Code Compliance Division consists of a Housing Section and Property Maintenance/Zoning Enforcement Section. The Housing Section administers the OIP and Quadrennial programs and manages an average of 1,800 OIP (point of sale/transfer) cases per year. Code Compliance Officers inspect all single-family residences and duplex properties (including condominiums/ townhouse) prior to the sale of a property using an expansive checklist of Major and Minor Violations (see Figure 2A). Major violations require a re-inspection to verify correction prior to the issuance of a Certificate of Inspection, allowing the sale/transfer of the property. The property owner and buyer also have the option of deferring correction of violations via a Transfer of

Responsibility. Minor violations do not require re-inspections, however the property owner is required to self-certify Minor violations have been corrected.

**Figure 2A: Major and Minor Violations**

Major Violations	Minor Violations	
Illegal additions	Inadequate flooring	Deficient plumbing
Illegal conversions	Inadequate siding	Inadequate water supply
Illegal HVAC/boiler/windows	Deteriorated fireplace	Inoperable water fixtures
Fire hazards	Broken windows	Overgrown vegetation
Structural deficiencies	Inadequate weather prot.	Junk & debris
Cross-connected plumbing	Inadequate fire detection	Inadequate rat proofing
Inadequate heating	Inadequate stairway	Missing covered parking
	Inadequate ventilation	Stagnant water
	Missing/Inop. GFCIs	Inoperable vehicle
	Missing outlet covers	Infestation
	Inoperable gas shut-off	Exposed wiring

The Housing Section also manages approximately 22,000 multi-family rental units (3 or more units) registered in the Quadrennial program. This program requires the inspection of approximately 5,500 units per year. Given that an OIP inspection is in response to a direct customer request and if not conducted will hold up the sale of a home, these inspections are prioritized over the proactive Quadrennial work.

*Evolution of Code Compliance and Home Inspections*

At its inception the OIP was considered a "catch and correct" program to address major health and safety violations and property maintenance issues. As the condition of properties have changed over time, the way in which Code Compliance operates has also changed. These changes have resulted in improvements citywide related to code matters such as illegal construction, unpermitted occupancy, property maintenance etc.

- **Multiple Complaint Platforms:** Today there are a variety of ways in which residents can report their concerns or receive an update on the status of a complaints (Code Compliance Hotline, Citizen Service Center, Code Compliance public counter).
- **Increased Transparency:** Changes have been implemented to make it easier for the community to identify and report code violations (construction noticing requirements, Online Development and Code Compliance Activity Map).
- **Home Inspections:** Prior to a property's sale, it is commonplace that a private home inspector will conduct a comprehensive inspection of the property. Many lenders require inspections prior to funding a home loan.

### *Criticism of the OIP*

Critics of the OIP argue that the program is no longer warranted, as housing stock has improved, and substandard residential properties are typically improved prior to sale, or shortly after resale. Furthermore, most buyers utilize an in-depth private home inspection as part of the real estate disclosure process.

Complaints are also received pertaining to the lack of consistency in the application of the program that presents challenges for homeowners and realtors. There are some instances where an inspection identifies a violation that was missed under a previous inspection. This situation places a hardship on the homeowner to correct inherited violations at the time of sale.

Realtors have expressed concerns that OIP requirements are delaying close of escrow and jeopardizing sales agreements. Staff regularly receives requests for expedited inspections, reports and processing of necessary permits. A seller can request an inspection when the property is first placed on the market, but often these requests come late in the escrow process.

### *California State Audit*

The California State Auditor conducted an audit of the OIP in March, 2016 (as part of a larger audit that included the programs of Pasadena and two other cities). The intent of the report was not to conclude whether the OIP warranted value, it was to assess administration of the program in conformance with the adopted ordinance and approved rules and regulations. The report concluded that the City needed to strengthen several aspects of the OIP, most notably consistency by Officers in conducting inspections and follow-through on violations identified during an OIP inspection.

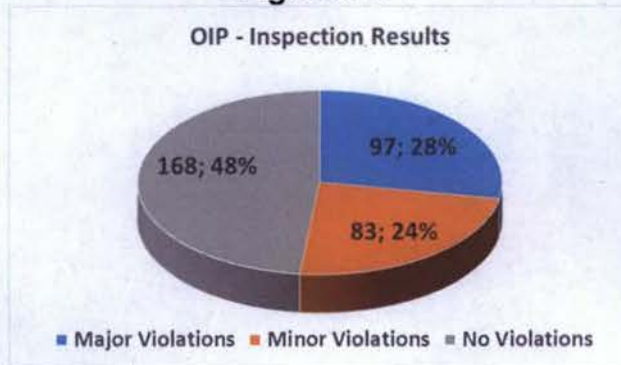
## **ANALYSIS**

To provide current data, staff conducted a review of all OIP cases received between January - March, 2018. 348 cases were received and analyzed (the sample size is limited as this is currently a manual process until the new Land Management System is in place). As noted in Figure 3A, 28% of inspections resulted in Major violations, 24% resulted in Minor violations and 48% resulted in no violations. Of the 97 cases that included a Major violation, 21 (21%) involved one or more non-permitted additions and/or conversions utilized as habitable space.

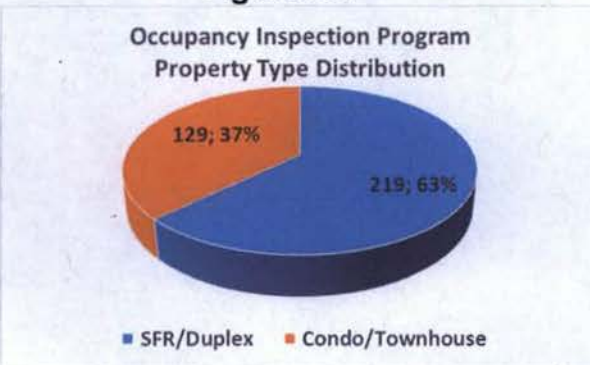
As noted in Figure 3B, this same sampling shows that 63% of the inspections were conducted on a single-family home or duplex, and 37% involved a condominium or townhome. The condominium and townhome inspections rarely result in any violations and most of the time they are minor. This is due to the fact that most of the units are

relatively new and they are constructed and configured in a manner that limits the ability to add on or expand, and there are usually HOAs that monitor construction activity within a complex. As noted in Figure 3C, the sampling confirms these findings showing that of the 129 condominium/townhouse inspections, 70% resulted in no violations, 25% had Minor violations and only 5% had a Major violation (and those are related to unpermitted HVAC units or water heaters that are presently categorized as Major violations).

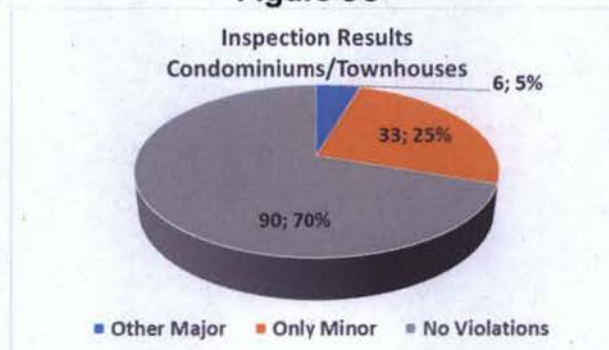
**Figure 3A**



**Figure 3B**



**Figure 3C**



### *OIP Options*

#### Option A: Streamline OIP to life/safety violations

The current OIP requires the Code Compliance Officer to inspect for compliance on a wide range of Major and Minor deficiencies as noted in Figure 2A. The original intent of the program was not to create an in-depth, detailed inspection (as is the case with a private home inspection service). Delaying the sale of a property for violations that are not a major life and safety concerns presents a hardship for homeowners and an ineffective use of staff resources.



It is staff's recommendation the scope of the OIP program be streamlined to direct staff resources to only Major violations. The inspection categories would be reduced to five categories. Some of these categories would allow for self-certification that the violation has been addressed after the inspection; others will require re-inspection by the Code Officer:

- Major violation: Illegal addition, alteration, conversion utilized as a habitable space (re-inspection required)
- Major violation: Unpermitted electrical panel replacement/upgrade (re-inspection required)
- Minor violation: Other minor electrical deficiencies (self-certification – declaration under penalty of perjury)
- Minor violation: Unpermitted mechanical equipment (self-certification – declaration under penalty of perjury)
- Minor violation: Missing or improper fire detection (self-certification – declaration under penalty of perjury)
- Minor violation: Required gas shut off (self-certification – declaration under penalty of perjury)

Condominiums and townhouses are currently subject to the Occupancy Inspection Program. As discussed, in the sampling of recent cases condominiums and townhouses accounted for 37% of the OIPs, of which there were zero illegal additions/conversions. Those which included major violations were limited to unpermitted HVACs, water heaters, etc. It is recommended to keep condominiums/townhouses in the program but exempt them from the mandatory OIP inspection and require self-certification forms for these units.

It is also worth noting that illegal construction has long-term fiscal impacts to the City. The City provides the Los Angeles County Tax Assessor's Office with construction plans after permit issuance. The County adjusts the property's appraised value to reflect improvements. Unreported illegal construction may result in undervalued property appraisals and reduced property tax revenues.

Option B - Discontinue the OIP. Require seller to obtain a property records report and disclose prior to the sale or transfer of the property.

The property records report would assure that purchasers of residential property are furnished with a City record which includes permit history, authorized use, occupancy and zoning classification of a residential property prior to sale or exchange. The ordering and transmittal of the property records report is typically administered by escrow agents. The report will be prepared by the Code Compliance Division and include the following:

- Street address and legal description of subject property
- Zone classification (including historic status)

- Occupancy as indicated and established by permits of record
- Permit history
- Code Compliance case history (including previous OIPs)
- Land use permits including but not limited to Variances, Conditional Use Permits, and other pertinent entitlement records
- Any special restrictions in use or development which may apply to the subject property including but not limited to recorded deed restrictions

Making the property owner aware of illegal additions, conversions and alterations will not necessarily result in the abatement of such deficiencies. Furthermore, new property owners will become aware of illegal construction that occurred without repercussion, which may promulgate continued illegal construction.

#### Option C – Discontinue the OIP

While the OIP was progressive at its inception to promote public safety and enhance community character, the issues that spurred the Program's current iteration have greatly dissipated. In today's real estate market, substandard residential properties are typically improved prior to sale or thereafter. The Code Compliance Division utilizes a series of new resources (e.g. direct complaint reporting, on-line information about permits and code violations, access to the Customer Service Center etc.) to identify and enforce code violations on residential properties.

The staffing resources that are directed to this point of sale program can be utilized for the Quadrennial program. This program is essential as it provides pro-active monitoring of the City's rental housing stock. Tenants are often fearful of reporting violations. This program ensures that tenants are afforded a safe and well maintained unit.

#### Option D- Retain the OIP and continue as is

Another option is to retain the OIP as it currently operates and consider raising fees to improve the program. Staff does not recommend retaining the program as is. Aside from the resources or costs, given the modern real estate market where private home inspections are commonplace, and the City's more comprehensive code enforcement practices, a rigorous point of sale inspection program (that addresses items such as peeling paint and missing weather stripping) is not needed. Resources are better served limiting the point of sale program to life/safety violations and ensuring the rental housing stock is maintained for tenants who do not control the quality of their living environment.

#### *Next Steps*

The reduction of scope for the Occupancy Inspection Program as described under Option A, would ensure that staff resources are directed to identifying and abating only major violations and primarily unpermitted construction. Staff time can be directed to a



more robust Quadrennial Inspection Program where the likelihood of identifying major violations is greater.

If the Council agrees to the streamlined Occupancy Inspection Program, staff would:

1. Prepare revisions to the existing inspection ordinance to streamline the Occupancy Inspection Program as outlined in Option A; including authorization of the City Manager to prepare updates to the adopted Rules and Regulations which outline the administrative enforcement and implementation of the inspection program; and
2. Return to Council for approval of any necessary fee changes to ensure cost recovery for the program.

**COUNCIL POLICY CONSIDERATION:**

The proposed amendments further City Council's strategic plan goals to ensure public safety, and to support and promote the quality of life and the local economy. Additionally, it furthers the City's mission to deliver exemplary municipal services.

**ENVIRONMENTAL ANALYSIS:**

The proposed Pasadena Municipal Code Amendments are exempt from environmental review under Section 15061(b)(3) (general rule) of the California Environmental Quality Act ("CEQA"), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

**FISCAL IMPACT:**

There is a fiscal impact as a result of the proposed Inspection Ordinance changes. The current OIP program is a subsidized service as the fee does not cover the full cost of staff time to conduct the inspection, conduct necessary research and prepare a final report. If the program is retained staff will return with recommended fee changes that include full cost recovery to ensure there is no continued subsidy of the program.

Respectfully Submitted:



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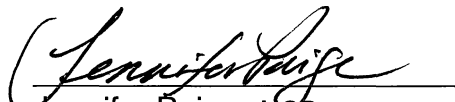
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