

URGENCY ORDINANCE NO. 4275

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA ENACTING RULES AND REGULATIONS TO TEMPORARILY PROHIBIT NO-FAULT EVICTIONS THROUGH DECEMBER 31, 2019, FOR RESIDENTIAL REAL PROPERTY BUILT PRIOR TO JANUARY 1, 2005

WHEREAS, the State of California, the County of Los Angeles, and the City of Pomona are experiencing a humanitarian crisis of homelessness and displacement of renters at unprecedented levels;

WHEREAS, the California legislature passed the Tenant Protection Act of 2019, Assembly Bill 1482 ("AB 1482"), effective January 1, 2020, which prohibits evictions without "just cause" and prevents owners of residential rental property from increasing rents each year more than 5 percent plus the percentage change in the cost of living or 10 percent, whichever is lower;

WHEREAS, AB 1482 will provide renter protections to many households in the City of Pomona;

WHEREAS, in advance of the implementation of AB 1482, no-fault eviction notices and threats of eviction have surged; and

WHEREAS, the City of Pomona wishes to protect renters from no-fault evictions through December 31, 2019, to prevent further homelessness and displacement; and

WHEREAS, it is urgent that the City provide these protections immediately, or homelessness and displacement will surge as a result of landlords' accelerating rush to evict tenants before AB 1482 takes effect.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Pomona as follows:

SECTION 1. The recitals above are true and correct and are hereby incorporated herein by this reference.

SECTION 2. The City Council of the City of Pomona hereby enacts the following rules and regulations to temporarily prohibit no-fault evictions ("Prohibition") through December 31, 2019, for residential real property built prior to January 1, 2005.

TEMPORARY PROHIBITION OF NO-FAULT EVICTIONS

I. Purpose and Intent

On October 8, 2019, Assembly Bill 1482 ("AB 1482"), the Tenant Protections Act of 2019, was passed to address a key cause of California's

affordable housing crisis by preventing rent gouging and arbitrary evictions. AB 1482 becomes effective on January 1, 2020.

The City of Pomona is experiencing a housing affordability crisis, which is driving homelessness and displacement of residents to an unprecedented scale. Many of the City's renters are rent-burdened, paying over 30 percent of their income on rent. Some are severely rent-burdened, paying over 50 percent of their income on rent. These households will be covered by AB 1482 once the bill takes effect.

Rapidly escalating real estate values provide an incentive to landlords to evict lower-income tenants without cause, to raise rents and establish a higher base rent before AB 1482 takes effect. Tenants have already reported experiencing a surge of no-fault eviction notices and threats of eviction. Therefore, it is imperative that the City implement temporary strategies to keep people housed.

This Prohibition will temporarily prohibit no-fault evictions through December 31, 2019, for residential real property that will be covered by AB 1482 beginning on January 1, 2020.

II. Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this section.

“Owner” means any person, acting as principal or through an agent, offering residential real property for rent, and includes a predecessor in interest to the owner.

“Residential real property” means any dwelling or unit that is intended or used for human habitation.

III. Prohibition on Evictions.

A. Through December 31, 2019, the owner of residential rental property shall not terminate a lawful tenancy without at-fault just cause, unless the termination is required to comply with an order issued by a government agency or court necessitating vacating the residential real property or to comport with due process, federal, or state law, which shall be stated in the written notice of termination of tenancy. This Prohibition shall also apply to an owner's action that constitutes constructive eviction under California law. An owner's failure to comply with this Prohibition shall render any notice of termination of tenancy void. This Prohibition may be asserted as an affirmative defense in an unlawful detainer action. An owner's failure to comply with this Prohibition does not constitute a criminal offense.

B. At-fault just cause is the following:

1. Default in the payment of rent.
2. A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the California Code of Civil Procedure, including, but not limited to, violation of a provision of a lease after being issued a written notice to correct the violation.
3. Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
4. Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the California Penal Code, on or off the residential real property against the owner of the residential real property.
5. Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
6. The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the California Civil Code, and Sections 13113.7 and 17926.1 of the California Health and Safety Code.
7. Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
8. The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the California Code of Civil Procedure.
9. When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the California Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the owner, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the California Code of Civil Procedure.

C. This Prohibition shall not apply to any of the following residential real property or residential circumstances:

1. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.

2. Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.

3. Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

4. Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

5. Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

6. A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

7. Housing that has been issued a certificate of occupancy within the previous 15 years.

8. Residential real property that is alienable separate from the title to any other dwelling unit, provided that the owner is not any of the following:

(a) A real estate investment trust, as defined in Section 856 of the internal Revenue Code.

(b) A corporation.

(c) A limited liability company in which at least one member is a corporation.

9. Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

IV. Application.

This Prohibition shall apply to tenancies where the tenant remains in possession and the period of notice required under California Civil Code section 1946.1 has not expired.

V. Severability.

If any provision of this Prohibition is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Prohibition, which can be implemented without the invalid provisions, and to this end, the provisions of this Prohibition are declared to be severable. The City Council hereby declares that it would have adopted this Prohibition and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 3. Effective Date; Urgency Declaration. The City Council finds and declares that this Urgency Ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: The City of Pomona would suffer potentially irreversible displacement of tenants resulting from no-fault evictions during the period before AB 1482 becomes effective. The Council, therefore, adopts this Urgency Ordinance to become effective immediately upon adoption pursuant to Pomona City Charter Section 510 and Government Code Section 36937.

SECTION 4. CEQA Exemption. This Urgency Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, this Urgency Ordinance is exempt from CEQA as there is no possibility that this Ordinance or its implementation would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3).

SECTION 5. Certification. The Mayor shall sign, and the City Clerk shall certify to the passage and adoption of this Urgency Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of applicable law.

PASSED, APPROVED AND ADOPTED this _____ day of NOVEMBER, 2019.

ATTEST:

CITY OF POMONA:

Rosalia A. Butler, MMC, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

Sonia Carvalho, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF POMONA)

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Urgency Ordinance was duly introduced at a regular meeting of the City Council of the City of Pomona held on NOVEMBER 4, 2019, and was adopted at the regular meeting of the City Council of the City of Pomona held on NOVEMBER 4, 2019, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Rosalia A. Butler, MMC, City Clerk