

URGENCY ORDINANCE NO. 4329

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, AMENDING URGENCY ORDINANCE NO. 4320 RELATED TO RELOCATION ASSISTANCE AND FINDING THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the increasing housing rent burden and poverty faced by many residents in the City threatens the health, safety, and welfare of its residents by forcing them to choose between paying rent and providing food, clothing, and medical care for themselves and their families; and

WHEREAS, according to a report by the California Housing Partnership Corporation (May 2017), median rent in Los Angeles County, which includes the City of Pomona, has increased 32% since 2000 while median renter household income has decreased 3%, when adjusted for inflation. Additionally, in 2021 the California Housing Partnership Corporation reported that 78% of extremely low-income households in Los Angeles County, are paying more than half of their income on housing costs compared to just 2% of moderate-income households and renters in Los Angeles County need to earn \$38.23 per hour – 2.5 times the City of Los Angeles minimum wage – to afford the average monthly asking rent of \$1,988; and

WHEREAS, the City's 2013-2021 Housing Element states almost 17,000 Pomona Households (43.7%) have incomes that are less than 80% of the Area Median Income (AMI), the low-income threshold as defined by the U.S. Housing and Urban Development department; and

WHEREAS, according to an August 2020 study by the Southern California Association of Governments (SCAG) for the City, across the City's 18,648 renter households, 11,497 (61.7%) spend thirty percent or more of gross income on housing cost, compared to 55.3% in the SCAG region. Additionally, 5,939 renter households in Pomona (31.8%) spend fifty percent or more of gross income on housing cost, compared to 28.9% in the SCAG region; and

WHEREAS, the Costa-Hawkins Rental Housing Act, California Civil Code section 1954.50, et seq., limits the applicability of local rent stabilization policies, including prohibiting local jurisdictions from applying rent stabilization to certain residential rental properties. This Urgency Ordinance intends to comply with the Costa-Hawkins Rental Housing Act, and all other applicable state and federal laws; and

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, section 7 of the California Constitution, and Pomona Charter section 510, the Pomona City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, and safety of the City and its residents; and

WHEREAS, the state of emergency due to COVID-19 came to an end on March 1, 2023 and the City anticipates that residential evictions will be increasing. In order to protect the public peace, health and safety the City wishes to enhance relocation assistance provisions for the City's tenants; and

WHEREAS, the City has experienced recent evictions of residents and the City has had to step in to assist residents with relocation assistance; and

WHEREAS, the City Council adopted Urgency Ordinance No. 4320 establishing urgency rent stabilization measures, including but not limited to, a prohibition on residential rent increases and relocation assistance amongst other tenant protections; and

WHEREAS, the City Council now wishes to amend Urgency Ordinance No. 4320 to: (1) add three definitions for "Department", "Eligible Tenant" and "Qualified Tenant;" (2) change references from "Rent Control" to "Rent Stabilization," and (3) strengthen relocations assistance provisions.

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

SECTION 1. The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Urgency Ordinance.

SECTION 2. Urgency Ordinance Amendment. Section 2 of Urgency Ordinance No. 4320 is amended to read as follows (all additions are underlined and deletions are ~~stricken through~~):

"Urgency Rent ~~Stabilization Control~~ Measures. Based on the findings set forth in this Urgency Ordinance, the City Council hereby determines that urgency rent stabilization ~~control~~ measures are warranted, while the City explores more permanent solutions, as follows:

- (a) Urgency Prohibition on Rent Increases. No Landlord may request or receive Rent for the monthly use and occupancy of a Covered Rental Unit in excess of the allowable monthly amount of Rent due and payable under this Urgency Ordinance.
- (b) Exemptions. This Urgency Ordinance shall not apply to any dwelling units expressly exempt pursuant to any provision of state or federal law, and such units shall be exempt from the provisions of this Urgency Ordinance. The following dwelling units are specifically exempt:

- (1) Any dwelling unit that has a certificate of occupancy or equivalent permit for residential occupancy issued after February 1, 1995. For this purpose, certificate of occupancy is the certificate first issued before the property is used for any residential purposes; or
- (2) Any dwelling unit that is alienable separate from the title to any other dwelling unit, including single family residences, condominiums, and townhomes.
- (3) Any dwelling unit that is a subdivided interest in a subdivision, as specified in California Business and Professions Code Section 11004.5 (b), (d) and (f).
- (4) Any dwelling unit for which the Landlord receives federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 line 9 (42 U.S.C. Sec. 1437f).

SECTION 3. Urgency Ordinance Amendment. The following definitions are added to Section 4 of Urgency Ordinance No. 4320 as follows (additions underlined):

“Department” shall mean the Pomona Neighborhood Services Department.

“Eligible Tenant” shall mean unless a tenant is a Qualified Tenant as explained in this Section, the tenant is an Eligible Tenant and is entitled to receive a relocation assistance amount that depends on length of time in the unit and income.

“Qualified Tenant” shall mean any tenant who on the date of service of the written notice of termination is (1) 62 years of age or older; (2) handicapped, as defined in Section 50072 of the California Health and Safety Code, or disabled as defined in Title 42 of the United States Code, Section 423; or (3) who has one or more minor dependent children (as determined for federal income tax purposes.”

SECTION 4. Urgency Ordinance Amendment. Section 7 of Urgency Ordinance No. 4320 is amended to read as follows (all additions are underlined and deletions are ~~strikethrough~~):

“Relocation Assistance.

- (a) If a termination of tenancy of a Rental Unit is based on the No Fault termination grounds set forth in this Urgency Ordinance, then the Landlord shall pay a relocation fee in the amount set forth below ~~of two (2) times Tenant’s current Rent in effect, plus one thousand dollars (\$1,000.00).~~
- (b) The relocation fee shall be paid to the Tenant or Tenants as follows:

- (1) The landlord shall pay a relocation fee of: \$12,998 to any Qualified Tenant and a \$6,164 fee to all other tenants who have lived in their rental unit for fewer than three years; \$15,377 to any Qualified Tenant and a \$8,074 fee to all other tenants who have lived in their rental unit for three years or longer; or \$15,377 to any Qualified Tenant and \$8,074 to all other tenants whose household income is 80% or below Area Median Income (AMI), as adjusted for household size, as defined by the U.S. Department of Housing and Urban Development, regardless of length of tenancy. If more than one fee applies to a rental unit, the landlord shall pay the highest of the applicable fees.
- (2) Relocation fees owed for termination of tenancy based on No Fault termination under this section shall not relieve any obligations under the Uniform Relocation Act or California Relocation Assistance Act, including any obligation to pay an amount higher than what is required under this Urgency Ordinance.
- (3) Tenants who claim eligibility for relocation assistance based on their income shall file a statement with the Department verifying their income on a form prescribed by the Department. Requests for a hearing to appeal a decision regarding a tenant's relocation assistance eligibility, including disputes about eligibility for higher relocation assistance based on a tenant's income, age, length of tenancy, family status and/or disability status, must be filed in writing on the form prescribed by the Department and received by the Department within fifteen calendar days of the date of the Department's notification of its decision regarding tenant relocation assistance.
- (4) The entire relocation fee shall be paid to a Tenant who is the only Tenant in a Rental Unit, or if a Rental Unit is occupied by two (2) or more Tenants, then each Tenant of the Rental Unit shall be paid a pro-rata share of the relocation fee.
- (5) Landlord may deduct from the relocation fee payable any and all past due rent owed by Tenant during the twelve (12) months prior to termination of tenancy and may deduct from the relocation fee any amounts paid by the Landlord for any extraordinary wear and tear or damage cause by the Tenant, cleaning, or other purposes served by a security deposit as defined by the rental agreement, to the extent the security deposit is insufficient to provide the amounts due for such costs.
- (6) After taking into account any adjustments in the amount of the relocation assistance provided herein, the Landlord shall pay one-half (1/2) of the relocation assistance no later than five (5) business days following service of the notice to a Tenant of the termination and one-half (1/2) of the

relocation assistance no later than five (5) business days after the Tenant has vacated the rental unit.

(c) If a termination of tenancy of a Rental Unit is based on No Fault termination grounds set forth in this Urgency Ordinance, and in addition the Landlord meets the requirements set forth below, the Landlord shall pay reduced relocation fees:

- (1) The building containing the rental unit contains four or fewer rental units.
- (2) Within the previous three years the Landlord has not paid the fee authorized by this Subsection to any tenant who resided in the building.
- (3) The Landlord owns, in the City, no more than four units of residential property and a single-family home on a separate lot.
- (4) Any eligible relative for whom the Landlord is recovering possession of the rental unit does not own any residential property in the City.
- (5) If Subsections (c)(1)-(4) are met, then the Landlord shall pay a relocation fee of \$11,960 to any Qualified Tenant and a fee of \$5,926 to all other tenants.

(d) This Section shall not apply in any of the following circumstances:

- (1) Tenant received written notice, prior to entering into a written or oral tenancy agreement, that an application to subdivide the property for condominium, stock cooperative or community apartment purposes was on file with the City or had already been approved, whichever the case may be, and that the existing building would be demolished or relocated in connection with the proposed new subdivision, and the termination of tenancy is based on the grounds set forth in this Urgency Ordinance.
- (2) The Tenant received written notice, prior to entering into a written or oral tenancy agreement, that an application to convert the building to a condominium, stock cooperative or community apartment project was on file with the City or had already been approved, whichever the case may be, and the termination of tenancy is based on the grounds set forth in this Urgency Ordinance.
- (3) The Landlord seeks in good faith to recover possession of the Rental Unit for use and occupancy by a resident manager, provided that the resident manager is replacing the existing resident manager in the same unit. For the purposes of this exception, a resident manager shall not include the Landlord, or the Landlord's spouse, children or parents.

- (4) The Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a governmental agency's order to vacate the building housing the Rental Unit due to hazardous conditions caused by a natural disaster or act of God.
- (5) The Tenant receives, as part of the eviction, relocation assistance from another government agency, and such amount is equal to or greater than the amount provided for by this Section.
- (e) Notwithstanding the date of the notice of termination of tenancy, this section shall apply in any case where Tenant has received a notice of termination of tenancy based on the No Fault termination grounds set forth in this section, but has not yet vacated the Rental unit as of the effective date of this Urgency Ordinance.
- (f) The requirements set forth in this section are applicable to all Rental Units, regardless of whether the Rental Unit was created or established in violation of any provision of law.
- (g) Nothing in this section relieves a Landlord from the obligation to provide relocation assistance pursuant to any other provision of local, state or federal law. If a Tenant is entitled to monetary relocation benefits pursuant to any other provision, of local, state or federal law, then such monetary benefits shall operate as a credit against monetary benefits required to be paid to the Tenant under this section.
- (h) Where applicable, written notice of a Tenant's entitlement to relocation assistance shall be provided by the Landlord at the same time the Landlord provides notice of termination of tenancy of a Rental Unit. Such notice shall be substantially consistent with the following: "Pursuant to the requirements of Section 7 of the City's Urgent Rent Stabilization Control Measures, a landlord must provide qualifying tenants this notice of the tenant's eligibility for relocation assistance at the same time the landlord provides a notice of termination of tenancy. Qualifying Tenants are entitled to a relocation fee in accordance with Urgency Ordinance No. 4320 the amount of two (2) times Tenant's current Rent in effect, plus one thousand dollars (\$1,000.00)."

SECTION 5. Implementation; Rulemaking and Subpoena Authority. The City Manager is authorized to administer and enforce this Urgency Ordinance, which may include promulgating guidelines and rules consistent with the provisions of this Urgency Ordinance. Guidelines and rules promulgated by the City Manager pursuant to the authority provided under this Urgency Ordinance shall have the force and effect of law and may be relied upon by parties to determine their rights and responsibilities under this Urgency Ordinance. In administering and enforcing this Urgency Ordinance, the City Manager may also issue subpoenas and may report noncompliance thereof to the judge of the Superior Court, pursuant to California Government Code section 53060.4.

SECTION 6. Waiver Prohibited. Any waiver of rights under this Urgency Ordinance shall be void as contrary to public policy.

SECTION 7. Urgency Measure. Based on the findings set forth in this Urgency Ordinance, the City Council finds and declares this Urgency Ordinance to be necessary for the immediate preservation of the public health, safety and welfare and upon that basis has determined that an urgency measure, pursuant to Government Code Section 36937(b) and Pomona Charter Section 510, is warranted and shall take effect immediately upon adoption by a five-sevenths vote of the City Council.

SECTION 8. CEQA. This Urgency Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 9. Severability. This Urgency Ordinance is adopted under the authority of City Council of the City of Pomona and state law. If any section, subsection, clause or phrase is declared invalid or otherwise void by a court of competent jurisdiction, it shall not affect any remaining provision hereof. In this regard City Council finds and declares that it would have adopted this measure notwithstanding any partial invalidity hereof.

SECTION 10. Certification of City Clerk. This Urgency Ordinance is adopted by fifth-sevenths majority vote of the City Council. The City Clerk shall certify to the adoption of this Urgency Ordinance and, within 15 days after its adoption, shall cause it to be published in accordance with California Law. The City Clerk shall cause this Urgency Ordinance to be published in a newspaper of general circulation published and circulated in the City within 15 days after its passage.

SECTION 11. Effective Date. This Urgency Ordinance shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 17th day of April, 2023.

CITY OF POMONA:

Tim Sandoval
Mayor

APPROVED AS TO FORM:

Sonia Carvalho
City Attorney

ATTEST:

Rosalia A. Butler, MMC
City Clerk

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

I, DIANA ROBLES, DEPUTY CITY CLERK of the City of Pomona do hereby certify that the foregoing Urgency Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on April 17, 2023 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on April 17, 2023 by the following vote:

AYES: Nolte, Preciado, Garcia, Lustro, Sandoval
NOES: Ontiveros-Cole, Torres
ABSENT: None
ABSTAIN: None

Diana Robles
Deputy City Clerk