



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-22

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November 12, 2019

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 8.98 to temporarily prohibit No-Fault Notices and Evictions through December 31, 2019, for residential real property built prior to January 1, 2005, read the first time and laid over to the next regular meeting of the City Council for final reading; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately. (Citywide)

DISCUSSION

Pursuant to your request of November 5, 2019, the attached ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

RICHARD F. ANTHONY
Deputy City Attorney

1 ORDINANCE NO.

2
3 AN ORDINANCE OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH AMENDING THE LONG BEACH
5 MUNICIPAL CODE BY ADDING CHAPTER 8.98 TO
6 TEMPORARILY PROHIBIT NO-FAULT NOTICES AND
7 EVICTIONS THROUGH DECEMBER 31, 2019, FOR
8 RESIDENTIAL REAL PROPERTY BUILT PRIOR TO
9 JANUARY 1, 2005; DECLARING THE URGENCY
10 THEREOF; AND DECLARING THAT THIS ORDINANCE
11 SHALL TAKE EFFECT IMMEDIATELY

12
13 WHEREAS, the City of Long Beach is experiencing a humanitarian crisis of
14 homelessness and displacement of renters of unprecedented levels; and

15 WHEREAS, the California legislature passed the Tenant Protection Act of
16 2019, Assembly Bill 1482 ("AB 1482"), an act adding and repealing Sections 1946.2,
17 1947.12, and 1947.13 of the California Civil Code, effective January 1, 2020, which
18 prohibits evictions without "just cause" and owners of residential rental property from
19 increasing rents each year more than 5 percent plus the percentage change in the cost of
20 living or 10 percent, whichever is lower; and

21 WHEREAS, AB 1482 will provide renter protections to approximately
22 69,000 households in the City of Long Beach that are not yet protected by AB 1482; and

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

25 WHEREAS, the City of Long Beach wishes to protect renters from no-fault
26 evictions through December 31, 2019, in advance of AB 1482's effective date, to prevent
27 further homelessness and displacement;

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

1 NOW THEREFORE, the City Council of the City of Long Beach ordains as
2 follows:

3 Section 1. Chapter 8.98 is added to the Long Beach Municipal Code to
4 read as follows:

5 Chapter 8.98

6 TEMPORARY PROHIBITION OF NO-FAULT NOTICES AND EVICTIONS

7
8 8.98.010 Purpose.

9 On October 8, 2019, Assembly Bill 1482 ("AB 1482"), the Tenant
10 Protections Act of 2019, was passed to address a key cause of California's
11 affordable housing crisis by preventing rent gouging and arbitrary evictions.
12 AB 1482 becomes effective on January 1, 2020.

13 The City of Long Beach is experiencing a housing affordability crisis,
14 which is driving homelessness and displacement of residents to an
15 unprecedented scale. Approximately fifty-one percent (51%) the City's
16 renters are rent burdened, paying over thirty percent (30%) of their income
17 on rent. Approximately twenty-seven percent (27%) of renters are severely
18 rent burdened, paying over fifty percent (50%) of their income on rent. No
19 renter protections presently exist for the approximately 69,000 households
20 in the City that will be covered by AB 1482 beginning on January 1, 2020.

21 Escalating real estate values provide an incentive to landlords to
22 evict long-term, lower-income tenants, without cause, to raise rents and
23 attract wealthier tenants, before AB 1482 becomes effective. Tenants have
24 reported experiencing an increase of no-fault eviction notices and threats of
25 eviction. Therefore, it is imperative that the City implement temporary
26 strategies to keep people housed.

27 This Chapter will temporarily prohibit no-fault notices and evictions
28 through December 31, 2019, for residential real property that will be covered

1 by AB 1482 beginning on January 1, 2020.

2
3 8.98.020 Definitions.

4 The following words and phrases, whenever used in this Chapter,
5 shall be construed as defined in this Section:

6 A. Owner. The term "owner" is any person, acting as principal or
7 through an agent, offering residential real property for rent, and includes a
8 predecessor in interest to the owner.

9 B. Residential real property. The term "residential real property"
10 is any dwelling or unit that is intended or used for human habitation.

11
12 8.98.030 Prohibition on no fault notices and evictions.

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

25 B. At-fault just cause is the following:

- 26 1. Default in the payment of rent.
27 2. A breach of a material term of the lease, as described
28 in paragraph (3) of Section 1161 of the California Code of Civil Procedure,

1 including, but not limited to, violation of a provision of a lease after being
2 issued a written notice to correct the violation.

3 3. Maintaining, committing, or permitting the maintenance
4 or commission of a nuisance as described in paragraph (4) of Section 1161
5 of the California Code of Civil Procedure.

6 4. Criminal activity by the tenant on the residential real
7 property, including any common areas, or any criminal activity or criminal
8 threat, as defined in subdivision (a) of Section 422 of the California Penal
9 Code, on or off the residential real property against the owner of the
10 residential real property.

11 5. Assigning or subletting the premises in violation of the
12 tenant's lease, as described in paragraph (4) of Section 1161 of the
13 California Code of Civil Procedure.

14 6. The tenant's refusal to allow the owner to enter the
15 residential real property as authorized by Sections 1101.5 and 1954 of the
16 California Civil Code, and Sections 13113.7 and 17926.1 of the California
17 Health and Safety Code.

18 7. Using the premises for an unlawful purpose as
19 described in paragraph (4) of Section 1161 of the California Code of Civil
20 Procedure.

21 8. The employee, agent, or licensee's failure to vacate
22 after their termination as an employee, agent, or licensee as described in
23 paragraph (1) of Section 1161 of the California Code of Civil Procedure.

24 9. When the tenant fails to deliver possession of the
25 residential real property after providing the owner written notice as provided
26 in Section 1946 of the California Civil Code of the tenant's intention to
27 terminate the hiring of the real property, or makes a written offer to
28 surrender that is accepted in writing by the owner, but fails to deliver

1 possession at the time specified in the written notice as described in
2 paragraph (5) of Section 1161 of the California Code of Civil Procedure.

3 10. Tenant received all or a portion of a relocation payment
4 pursuant to Chapter 8.97 and tenant remains in possession of the unit after lease
5 termination without having returned the entirety of the relocation payment received
6 to landlord on or before the date which is ten (10) days after the lease terminated.

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

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

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

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

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

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

26 6. A duplex in which the owner occupied one (1) of the
27 units as the owner's principal place of residence at the beginning of the
28 tenancy, so long as the owner continues in occupancy.

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7. Housing that has been issued a certificate of occupancy within the previous fifteen (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 (1) 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.

10. Residential real property encumbered by enforceable loan covenants in existence prior to November 5, 2019, to the extent compliance with this Chapter would necessarily result in a breach of such covenants.

8.98.040 Application.

This Chapter shall apply to tenancies where the tenant remains in possession and the eviction lawsuit has not been adjudicated.

8.98.050 Severability.

If any provision of this Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall

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

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council of the City of Long Beach and shall cause the same to be posted in three conspicuous places in the City of Long Beach.

Section 3. This ordinance is an emergency ordinance duly adopted by the City Council by a vote of five of its members and shall take effect on November 12, 2019. The City Clerk shall certify to a separate roll call and vote on the question of the emergency of this ordinance and to its passage by the vote of five members of the City Council of the City of Long Beach, and cause the same to be posted in three conspicuous places in the City of Long Beach.

Section 4. This ordinance shall also be adopted by the City Council as a regular ordinance, to the end that in the event of any defect or invalidity in connection with the adoption of this ordinance as an emergency ordinance, the same shall, nevertheless, be and become effective on the thirty-first (31st) day after it is approved by the Mayor. The City Clerk shall certify to the passage of this ordinance by the City Council of the City of Long Beach and shall cause the same to be posted in three (3) conspicuous places in the City of Long Beach.

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I hereby certify that on a separate roll call and vote which was taken by the City Council of the City of Long Beach upon the question of emergency of this ordinance at its meeting of _____, 2019, the ordinance was declared to be an emergency by the following vote:

Ayes:	Councilmembers:	_____

Noes:	Councilmembers:	_____

Absent:	Councilmembers:	_____

I further certify that thereafter, at the same meeting, upon a roll call and vote on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes:	Councilmembers:	_____

Noes:	Councilmembers:	_____

Absent:	Councilmembers:	_____

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I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2019, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
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