



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-1

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November 2, 2020

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 8.101, relating to tenant harassment and declaring the urgency thereof, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

Pursuant to your request on October 20, 2020, this 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

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 8.101, RELATING TO TENANT HARASSMENT; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, the majority of residents in the City of Long Beach are renters;

and

WHEREAS, many renters have reported increased and significant incidents of harassment by landlords, including interruption or termination of housing services, failure to timely perform unit maintenance, abuse of unit access rights, and service of improper notices to vacate; and

WHEREAS, the City has the responsibility to protect renters from unwarranted harassment;

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

Section 1. Chapter 8.101 is added to the Long Beach Municipal Code to read as follows:

Chapter 8.101
TENANT HARASSMENT

8.101.010 Purpose.

The purpose of this Chapter is to deter harassing behavior by residential real property owners, to encourage such owners to follow the law and uphold their responsibility to provide habitable rental properties, and to

1 give tenants legal recourse when they are subjected to harassment by
2 owners.

3
4 8.101.020 Definitions.

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

7 A. Owner. The term "owner" is any person, acting as principal or
8 agent, offering a rental housing unit for rent, or any contractor or
9 subcontractor performing work for the benefit of such person, or any
10 representative of the foregoing.

11 B. Rental agreement. The term "rental agreement" means an
12 agreement, oral, written, or implied, between an owner and a tenant for the
13 use and/or occupancy of a rental housing unit.

14 C. Rental housing unit. The term "rental housing unit" is any
15 dwelling or unit that is intended or used for human habitation.

16 D. Tenant. The term "tenant" shall mean any renter, tenant,
17 subtenant, lessee, or sublessee of a rental housing unit.

18
19 8.101.030 Prohibition of tenant harassment.

20 No owner shall:

21 A. Interrupt, terminate, or fail to provide housing services
22 required by a rental agreement or by Federal, State, County, or local
23 housing, health, or safety laws, or threaten to do so, or violate or threaten to
24 violate California Civil Code Section 789.3.

25 B. Fail to timely perform repairs and maintenance required by a
26 rental agreement or by Federal, State, County or local housing, health or
27 safety laws; fail to exercise due diligence in completing such repairs once
28 undertaken; fail to follow appropriate industry repair, containment, or

1 remediation protocols designed to minimize exposure to noise, dust, lead,
2 paint, mold, asbestos, or other building materials with potentially harmful
3 health impacts; or conduct elective renovation or construction of a rental
4 housing unit for the purpose of harassing a tenant.

5 C. Abuse the right of access into a rental housing unit as
6 established by California Civil Code Section 1954 or other applicable law.
7 Such abuse includes, without limitation, entries for inspections that are not
8 related to necessary repairs or services; entries excessive in number;
9 entries or demands for entry at times outside normal business hours;
10 entries contrary to a tenant's reasonable request to change the date or time
11 of entry; photographing or otherwise recording portions of a rental housing
12 unit that are beyond the scope of a lawful entry or inspection; and
13 misrepresenting the reasons for accessing a rental housing unit.

14 D. Influence or attempt to influence a tenant to vacate a rental
15 housing unit through fraud, misrepresentation, intimidation or coercion,
16 which shall include threatening to report a tenant to the United States
17 Department of Homeland Security.

18 E. Threaten a tenant, by word or gesture, with physical harm, or
19 abuse tenant with words, either orally or in writing, which are inherently
20 likely to provoke an immediate violent reaction.

21 F. Violate any law which prohibits discrimination based on race,
22 gender, sexual preference, sexual orientation, ethnic background,
23 nationality, religion, age, parenthood, marriage, pregnancy, disability,
24 human immunodeficiency virus (HIV) / acquired immune deficiency
25 syndrome (AIDS), occupancy by a minor child, or source of income.

26 G. Take action to terminate any tenancy, including service of any
27 notice to quit or other eviction notice, or bring any action to recover
28 possession of a rental housing unit, based upon facts which owner has no

1 reasonable cause to believe to be true or upon a legal theory which is
2 untenable under the facts known to owner.

3 H. Provide false written or verbal information regarding any
4 Federal, State, County or local tenant protections, including
5 mischaracterizing the nature or effect of a notice to quit or other eviction
6 notice. False information includes, without limitation, requesting or
7 demanding a tenant (i) sign a new lease not in the tenant's primary
8 language if (a) lease negotiations were conducted in the tenant's primary
9 language, (b) the existing lease is in the tenant's primary language, or (c)
10 owner is otherwise aware that the new lease is not in tenant's primary
11 language; or (ii) enter into a rent repayment plan to take advantage of
12 tenant protection laws that do not require such plans.

13 I. Refuse to acknowledge or accept receipt of a tenant's lawful
14 rent payment as set forth in a rental agreement, by usual practice of the
15 parties, or in a notice to pay rent or quit; refuse to cash or process a rent
16 check or other form of acceptable rent payment for over thirty (30) days
17 after it is tendered; or fail to maintain a current address for delivery of rent
18 payments.

19 J. Violate a tenant's right to privacy, including without limitation,
20 by requesting information regarding residence or citizenship status,
21 protected class status, or social security number, except for, in the case of
22 social security number, for purposes of obtaining information for the
23 qualifications for a tenancy; release such information except as required or
24 authorized by law; or request or demand an unreasonable amount of
25 information from tenant in response to a request for reasonable
26 accommodation.

27 K. Communicate with a tenant in a language other than the
28 tenant's primary language for the purpose of intimidating, confusing,

1 deceiving or annoying the tenant.

2 L. Interfere with the right of tenants to organize as tenants and
3 engage in concerted activities with other tenants for the purpose of mutual
4 aid and protection; deny property access to tenant organizers, advocates,
5 or representatives working with or on behalf of tenants living at a property;
6 prevent tenant or tenant organization meetings in an appropriate space
7 accessible to tenants under the terms of their rental agreement(s); or
8 discourage distribution or posting in common areas of literature informing
9 tenants of their rights.

10 M. Commit other repeated acts or omissions of such significance
11 as to substantially interfere with or disturb the comfort, repose, peace or
12 quiet of any person lawfully entitled to occupancy of a rental housing unit
13 and that cause, are likely to cause, or are intended to cause any person
14 lawfully entitled to occupancy of a rental housing unit to vacate such rental
15 housing unit or to surrender or waive any rights in relation to such
16 occupancy.

17
18 8.101.040. Remedies and penalties.

19 A. If an owner violates the terms of this Chapter, an aggrieved
20 tenant may institute a civil action for injunctive relief, direct money
21 damages, and any other relief that the court deems appropriate, which such
22 relief shall include a civil penalty of no less than Two Thousand Dollars
23 (\$2,000), and no more than Five Thousand Dollars (\$5,000), per violation,
24 at the discretion of the court. If the aggrieved tenant is older than sixty-five
25 (65) or disabled, the court may award an additional civil penalty of up to
26 Five Thousand Dollars (\$5,000) per violation, at the discretion of the court.

27 B. The court may award reasonable attorneys' fees and costs to
28 a tenant who prevails in any such action. The court may award reasonable

1 attorneys' fees and costs to an owner who prevails in any such action if the
2 court determines that the tenant's action was frivolous.

3 C. The above remedies are not exclusive and do not preclude
4 any tenant from seeking other remedies or penalties provided by applicable
5 law.

6
7 8.101.050. Severability.

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

16
17 8.101.060. Lawful Evictions.

18 Nothing in this Chapter shall be construed as to prevent an owner from
19 lawfully evicting a tenant pursuant to applicable State or local law.

20
21 Section 2. This ordinance is an emergency ordinance duly adopted by
22 the City Council by a vote of five of its members and shall take effect at 12:00 a.m. on
23 November 2, 2020. The City Clerk shall certify to a separate roll call and vote on the
24 question of the emergency of this ordinance and to its passage by the vote of five
25 members of the City Council of the City of Long Beach, and cause the same to be posted
26 in three conspicuous places in the City of Long Beach.

27 Section 3. This ordinance shall also be adopted by the City Council as a
28 regular ordinance, to the end that in the event of any defect or invalidity in connection

1 with the adoption of this ordinance as an emergency ordinance, the same shall,
2 nevertheless, be and become effective on the thirty-first (31st) day after it is approved by
3 the Mayor. The City Clerk shall certify to the passage of this ordinance by the City
4 Council of the City of Long Beach and shall cause the same to be posted in three (3)
5 conspicuous places in the City of Long Beach.

6

7 I hereby certify that on a separate roll call and vote which was taken by the
8 City Council of the City of Long Beach upon the question of emergency of this ordinance
9 at its meeting of November 2, 2020, the ordinance was declared to be an emergency by
10 the following vote:

11

12 Ayes: Councilmembers: _____

13 _____

14 _____

15 Noes: Councilmembers: _____

16 _____

17 Absent: Councilmembers: _____

18 _____

19 Recusal(s): Councilmembers: _____

20 _____

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

4
5 Ayes: Councilmembers: _____

6 _____

7
8 Noes: Councilmembers: _____

9 _____

10 Absent: Councilmembers: _____

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12 Recusal(s): 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 _____, 2020, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor