

URGENCY ORDINANCE NO. 894

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTIONS 36934 AND 36937 TEMPORARILY PROHIBITING THE TERMINATION OF CERTAIN RESIDENTIAL TENANCIES WITHOUT “JUST CAUSE” THROUGH DECEMBER 31, 2019

WHEREAS, on October 8, 2019, the California legislature passed the Tenant Protection Action of 2019, Assembly Bill 1482 (“AB 1482”), which adds Sections 1946.2, 1947.12, and 1947.13 to the California Civil Code; and

WHEREAS, effective January 1, 2020, AB 1482 will, subject to certain exceptions: (1) limit rent increases over the course of any 12-month period to 5% plus the “percentage change in the cost of living” (as defined), or 10%, whichever is lower (the “Rent Control Provisions”); and (2) prohibit an “owner” (as defined) of “residential real property” (as defined) from terminating a tenancy without “just cause” (as defined) (the “Eviction Control Provisions”); and

WHEREAS, although AB 1482 does not take effect until January 1, 2020, its Rent Control Provisions apply to rental increases occurring on or after March 15, 2019 (Civ. Code, § 1947.12(h)); however, AB 1482’s Rent Control Provisions do not limit rental increases if a unit is vacant (Civ. Code, § 1947.12(b)); and

WHEREAS, until January 1, 2020, existing State law generally allows owners to terminate a tenancy without just cause, provided the owner gives proper notice (Civ. Code, §§ 1946 & 1946.1); as a result, owners may take advantage of AB 1482’s exception for vacant rentals by evicting tenants ahead of January 1st; and

WHEREAS, like many cities in Los Angeles County, the City of Duarte is experiencing a humanitarian crisis of homelessness that would be exacerbated by the displacement of renters; and

WHEREAS, in advance of the effective date of AB 1482, the Los Angeles County region has seen an increase in the amount of no-fault eviction notices and/or threats of eviction; and

WHEREAS, pursuant to Government Code Sections 36934 and 36937, a city may adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety; and

WHEREAS, as set forth in more detail in the declaration of the facts constituting the urgency in Section 3 below, the threatened displacement of renters at unprecedented levels poses numerous threats to the public peace, health, or safety; and

WHEREAS, protecting renters from no-fault evictions through December 31, 2019 (i.e., the effective date of AB 1482) will prevent further homelessness and displacement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals

The above recitals are true and correct and are incorporated herein.

SECTION 2. Environmental Review

The City Council finds and determines that the adoption of this Urgency Ordinance is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15060(c)(2), in that the adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and is further and independently exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty there is no possibility the adoption of this Ordinance will have a significant effect on the environment.

SECTION 3. Declaration of Facts Constituting Urgency

The adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, or safety as those terms are used in Government Code Section 36937, subdivision (b) in at least the following respects:

- A. The City of Duarte is experiencing a housing affordability crisis, which is driving homelessness and displacement of residents to an unprecedented scale.
- B. When a household spends more than 30 percent of its income on housing costs (i.e., is “rent burdened”), it has less disposable income for other necessities such as health care. In the event of unexpected circumstances, such as loss of employment or health problems, lower income households with a burdensome housing cost are more likely to become homeless. Homeowners with a housing cost burden have the option of selling the homes and becoming renters. Renters, on the other hand, are vulnerable and subject to constant changes in the housing market. Sixty-two percent of renter-households in Duarte use more than 30 percent of their incomes to cover housing costs.. (City of Duarte Housing Strategy (August 2018).)
- C. As the cost of housing in Southern California continues to rise, homelessness has continued to be an issue in the City of Duarte. “While Duarte saw a decrease in its homeless population from 60 in 2016 to 33 in 2017, the decrease was primarily the result of the loss of 37 shelter beds for households with children. The 2017 Point-in-Time Count shows that all Duarte’s homeless residents are unsheltered with 47% living on the streets, 47% in RVs/campers and vans, and 6% in makeshift shelters.” (*Cities of Duarte and Irwindale Plan to Prevent and Combat Homelessness* (July 2018), p. 6, retrieved at <https://www.accessduarte.com/civicax/filebank/blobdload.aspx?blobid=26099>.) In the 2018 Greater Los Angeles Homeless Street Count, 15 homeless individuals were counted in Duarte. (Los Angeles Homeless Services Authority, retrieved at <https://www.lahsa.org/data?id=13-2019-homeless-count-by-community-city>.) That number increased to 29 individuals in 2019.
- D. The Greater Los Angeles Homeless Street Counts do not include individuals who live with relatives or friends, in nearby hotels, or in other transitional housing. During the 2017/18 school year, the Duarte Unified School District reported there were 217 children that fit into the latter category (although the School District includes some neighborhoods outside Duarte). (Education Data Partnership, retrieved at <http://www.ed-data.org/district/Los-Angeles/Duarte-Unified>.)
- E. One of the most effective ways to address the homeless crisis is to prevent individuals and families from becoming homeless in the first place. To that end, the City has programs to assist families threatened with homelessness as outlined in the Cities of Duarte and Irwindale Plan to Prevent and Combat Homelessness (July 2018) retrieved at <https://www.accessduarte.com/civicax/filebank/blobdload.aspx?blobid=26099>.
- F. On October 8, 2019, the California Legislature passed AB 1482, the Tenant Protections Act of 2019, 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. However, in the weeks prior to January 1st, AB 1482 may have the unintended consequence of an increase in no-fault evictions. Rapidly escalating real estate values provide an incentive to landlords to evict long-term, lower-income tenants, without cause, to raise rents and attract wealthier tenants before AB 1482 becomes effective.
- G. The City has determined, both through a direct resident tenant complaint within a senior housing project, and through information available on a regional basis, that tenants throughout the Los Angeles County region have already reported experiencing a surge of no-fault eviction notices and threats of eviction. In response to such threats and notices, other Los Angeles County cities, including the Cities of Los Angeles, Long Beach, and Pomona, have adopted urgency ordinances or are actively considering urgency ordinances.

H. An increase in no-fault evictions within Duarte in advance of AB 1482's effective date poses an immediate threat to the public peace, health, or safety, in that it would displace some of Duarte's most vulnerable residents, increase housing costs, and likely increase homelessness. The City does not want to be a contributing factor to either a local or regional homelessness crises nor the accompanying economic, social, and environmental impacts of homelessness. Therefore, it is imperative that the City implement temporary strategies to keep people housed.

SECTION 4. Temporary Prohibition.

A. Purpose.

This Urgency Ordinance temporarily prohibits evictions without cause through December 31, 2019, for residential real property that will be subject to AB 1482 (to be codified at Civil Code §§ 1946.2, 1947.12, and 1947.13) beginning on January 1, 2020.

B. Temporary Prohibition on Terminating Certain Residential Tenancies Without Just Cause.

Subject to the limitations set forth in subdivisions C and G below, through December 31, 2019, the owner of residential rental property shall not terminate a tenancy without just cause, which just cause shall be stated in the written notice to terminate tenancy.

C. Tenancies Subject to Temporary Prohibition.

As in Section 2 of AB 1482 (to be codified at Civil Code § 1946.2(a)), this temporary prohibition only applies if a tenant has continuously and lawfully occupied a residential real property for at least 12 months. If any additional adult tenants are added to a lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this temporary prohibition shall only apply if either of the following are satisfied:

1. All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more; or
2. One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

D. Just Cause to Terminate a Tenancy.

As in Section 2 of AB 1482 (to be codified at Civil Code § 1946.2(b)), "just cause" includes the following:

1. **At-fault just cause**, which is any of the following:
 - a. Default in the payment of rent.
 - b. A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.
 - c. Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - d. Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - e. The tenant had a written lease that terminated on or after the effective date of this Urgency Ordinance, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other provision of law.

- f. 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 Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.
- g. Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
- h. The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the Civil Code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.
- i. Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
- j. 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 Code of Civil Procedure.
- k. 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 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 landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.

2. **No-fault just cause**, which includes any of the following:

- a. Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.
- b. Withdrawal of the residential real property from the rental market.
- c. (i) The owner complying with any of the following:
 - (I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.
 - (II) An order issued by a government agency or court to vacate the residential real property.
 - (III) A local ordinance that necessitates vacating the residential real property.
 (ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in subdivision F below.
- d. (i) Intent to demolish or to substantially remodel the residential real property.
 - (ii) For purposes of this subparagraph, "substantially remodel" means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

E. Notice & Opportunity to Cure Lease Violation.

As in Section 2 of AB 1482 (to be codified at Civil Code § 1946.2(c)), before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

F. Relocation Assistance.

1. As in Section 2 of AB 1482 (to be codified at Civil Code § 1946.2(d)), for a tenancy for which just cause is required to terminate the tenancy under subsection C above, if an owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph 2 of subdivision D above, the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:
 - a. Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph 3 below; or
 - b. Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.
2. If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant's right to relocation assistance or rent waiver pursuant to this section. If the owner elects to waive the rent for the final month of the tenancy as provided in subparagraph b of paragraph 1 above, the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.
3.
 - a. The amount of relocation assistance or rent waiver shall be equal to one month of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.
 - b. If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.
 - c. The relocation assistance or rent waiver required by this subdivision shall be credited against any other relocation assistance required by any other law.
4. An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

G. Exclusions.

As in Section 2 of AB 1482 (to be codified at Civil Code § 1946.2(e)), this temporary prohibition shall not apply to the following types of residential real properties or residential circumstances:

1. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940.
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 both of the following apply:
 - a. The owner is not any of the following:
 - (i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.
 - (ii) A corporation.
 - (iii) A limited liability company in which at least one member is a corporation.
 - b. (i) The tenants have been provided written notice that the residential property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

The notice required under clause (i) may, but is not required to, be provided in the rental agreement.
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.

H. Definitions

As in Section 2 of AB 1482 (to be codified at Civil Code § 1946.2(i)), for the purposes of this Urgency Ordinance, the following definitions shall apply:

1. “Owner” and “residential real property” have the same meaning as those terms are defined in Civil Code Section 1954.51.
2. “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.

SECTION 5. Application.

This ordinance shall only apply to tenancies: (1) where the tenant remains in possession; and (2) the period of notice required for notices of termination under California Civil Code section 1946.1 has not expired as of the effective date of this ordinance.

SECTION 6. Enforcement & Penalties.

An owner’s failure to comply with this Urgency Ordinance shall render any notice of termination of tenancy issued prior to January 1, 2020 void. An owner’s failure to comply with this article does not constitute a criminal offense. All penalties that are set forth in State Law and the Duarte Municipal Code (including, without limitation, Chapters 1.12 and 1.14) shall apply to violations of the provisions of this Urgency Ordinance.

SECTION 7. Effective Date.

This Ordinance is declared to be an Urgency Ordinance by authority conferred on the City Council of the City of Duarte by Government Code Sections 36934 and 36937 and shall be in full force and effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 8. Term of Urgency Ordinance.

This Urgency Ordinance shall automatically expire and be of no further force and effect at 11:59 p.m. on December 31, 2019.

SECTION 9. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Urgency Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Urgency Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end, the provisions of this Urgency Ordinance are declared to be severable.

SECTION 10. Posting of Ordinance.

The Mayor shall sign this Urgency Ordinance and the City Clerk shall attest and certify to its passage and adoption. The City Clerk shall cause this Urgency Ordinance to be published or posted as required by law.

PASSED, APPROVED AND ADOPTED this 12th day of November, 2019.

/s/ Tzeitel Paras-Caracci
Mayor Tzeitel Paras-Caracci

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

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Urgency Ordinance No. 894 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 12th day of November, by the following vote:

AYES: Councilmembers: Lewis, Reilly, Finlay, Fasana, Kang, Paras-Caracci

NOES: Councilmembers: None

ABSENT: Councilmembers: Urias

/s/ Marla Akana
City Clerk Marla Akana
City of Duarte, California