

URGENCY ORDINANCE NO. 2959

AN UNCODIFIED URGENCY ORDINANCE OF THE
CITY COUNCIL OF THE CITY OF EL MONTE
ESTABLISHING INTERIM PROHIBITION OF NO-
FAULT EVICTIONS THROUGH DECEMBER 31,
2019, FOR RESIDENTIAL REAL PROPERTY BUILT
PRIOR TO JANUARY 1, 2005 PURSUANT TO
GOVERNMENT CODE SECTIONS 36934 AND
36937

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

WHEREAS, the California legislature passed the Tenant Protection Act of 2019, Assembly Bill 1482 ("AB 1482") (Exhibit "A"), effective January 1, 2020, which prohibits evictions without "just cause" and prevents owners of residential rental property from increasing rents more than five percent (5%) within a twelve (12) month period, plus the percentage change in the cost of living or ten percent (10%), whichever is lower; and

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

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

WHEREAS, the City of El Monte 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 of El Monte 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; and

WHEREAS, failure to adopt this temporary ordinance may subject Tenants to economic hardship and potential displacement that may lead to homelessness to the detriment of the public health, safety and welfare; and

WHEREAS, Government Code Sections 36934 and 36937 authorize the City to adopt an urgency ordinance for the immediate preservation of the public peace, health and safety.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE,
CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

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

SECTION 2. Urgency Findings

A. 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 increases and arbitrary evictions. AB 1482 becomes effective on January 1, 2020.

B. Rapidly escalating real estate values provide an incentive for Landlords to evict lower-income Tenants without cause prior to AB 1482 taking 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.

C. The City is experiencing a housing affordability crisis, which is driving a homelessness and displacement of residents to an unprecedented scale.

Many of the City's renters are rent-burdened, paying over 50 percent (50%) of their income on rent. These households will be protected by AB 1482 the moment the bill takes effect.

SECTION 3. Purpose and Intent

- A. This Prohibition will temporarily prohibit no-fault evictions through December 31, 2019, for residential real property that will be protected pursuant to AB 1482, commencing January 1, 2020.
- B. The City Council of the City of El Monte (hereinafter "City") 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.

SECTION 4. Definitions. For the purposes of this Urgency Ordinance, the following definitions shall apply:

- A. "Landlord" means any person, acting as principal or through an agent, offering residential real property for rent, and includes a predecessor in the interest to the owner. For purposes of this Urgency Ordinance, a Landlord does not include an individual whose primary residence is the same Covered Rental Unit as the Tenant.
- B. "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.
- C. "Residential real property" means any dwelling or unit that is intended or used for human habitation.
- D. "Covered Rental Unit(s)" means any Rental Unit except:
 - 1. A dwelling unit which is alienable separate from the title to any other dwelling unit or which is a subdivided interest in a subdivision, as specified in subdivision (b), (d) or (f) of Section 11004.5 of the Business and Professions Code;
 - 2. Any other dwelling unit exempt from the Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.52) or any other applicable state or federal law.
- E. "Rental Unit(s)" means any dwelling units as defined in California Civil Code section 1940, subsection (c), including joint living and work quarters used or occupied in consideration of payment of Rent. This definition applies to any dwelling space that is actually used for residential purposes, whether or not the residential use is legally permitted, including live-work spaces, mobile homes rented by the owner of a mobile home to a Tenant, and accessory dwelling units. For purposes of compliance with this Urgency Ordinance, Rental Unit does not mean any dwelling unit in which the Landlord or any member of his/her immediate family occupies one of the dwelling units on the property containing the Rental Unit and it is necessary for the Landlord or any member of his/her immediate family to use either a bathroom or kitchen facility common with the Tenant.
- F. "Just Cause" shall have the same meaning as the future California Civil Code Section 1946.2(b), as amended by Section 2 of the Tenant Protection Act of 2019.
- G. "Notice of Termination" means a written notice from a Landlord to a Tenant that, in addition to any information required by State or Federal Law to terminate a residential tenancy, identifies at least one For Cause or No Fault reason that permits the Landlord to terminate the tenancy.
- H. "Tenant" means a person entitled, by written or oral agreement, or by

sufferance, to the use of occupancy of any Covered Rental Unit or Rental Unit.

SECTION 5. Prohibition on Evictions. Through December 31, 2019, the Landlord of Residential Unit(s) 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 a Landlord's action that constitutes constructive eviction under California law. A Landlord'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. A Landlord's failure to comply with this Prohibition does not constitute a criminal offense.

At-fault just cause is 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 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;
 - C. 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;
 - D. 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;
 - E. 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;
 - F. The Tenant's refusal to allow the Landlord to enter the Residential Unit(s) 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;
 - G. Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure;
 - H. 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;
 - I. When Tenant fails to deliver possession of the Residential Unit after providing the Landlord 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 make 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.
- This Prohibition shall not apply to any of the following residential real property or residential circumstances:
- A. Transient and tourist hotel occupancy defined in subdivision (b) of Section 1940 of the California Civil Code;
 - B. Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly as

defined in Section 15699.2 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;

C. Housing accommodations in which the Tenant shares bathroom or kitchen facilities with the Landlord who maintains their principal residence at the residential real property;

D. Single-family Landlord-occupied residences, including a residence which the Landlord-occupant rents or leases no more than two (2) units or bedrooms, including but not limited to, an accessory dwelling unit or a junior accessory dwelling unit;

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

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

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

1. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code;
2. A corporation;
3. A limited liability company in which at least one members is a corporation;

H. 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;

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

SECTION 6. Application. This Prohibition shall apply to tenancies where the Tenant Remains in possession and the period of notice required under the California Civil Code section 1946.1 has not expired.

SECTION 7. Environmental. 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. (Cal. Code Regs., tit.14, § 15378, subd. (a).) Further, this Urgency Ordinance is exempt from CEQA as there is no possibility that it or its implementation would have a significant negative effect on the environment. (Cal. Code Regs., tit.14, § 15061, subd. (b)(3).)

SECTION 8. Inconsistent Provisions. Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of this Urgency Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Urgency Ordinance.

SECTION 9. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent

jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

SECTION 10. Construction. The City Council intends this Urgency Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Urgency Ordinance shall be construed in light of that intent. To the extent the provisions of the EI Monte Municipal Code as amended by this Urgency Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Urgency Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.


SECTION 11. Publication and Effective Date. This Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council by Government Code Sections 36934 and 36937 and shall be in full force and effect upon its adoption by a four-fifths (4/5) vote of the City Council. The City Clerk shall cause this Urgency Ordinance to be published once in a newspaper of general circulation within fifteen (15) days after its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of EI Monte at the regular meeting of this 19th day of November, 2019.



André Quintero, Mayor
City of EI Monte

ATTEST:



Catherine A. Eredia, City Clerk
City of EI Monte

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF EL MONTE

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SS:

I, Catherine A. Eredia, City Clerk of the City of El Monte, hereby certify that the foregoing Urgency Ordinance No. 2959 was passed and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 14th day of November, 2019 and that said Urgency Ordinance was adopted by the following vote, to-wit:

AYES: Mayor Quintero, Mayor Pro Tem Velasco, Councilmembers Ancona,
Martinez Muela, and Morales

NOES: None

ABSTAIN: None

ABSENT: None



Catherine A. Eredia, City Clerk
City of El Monte

EXHIBIT "A"
AB 1482