

URGENCY ORDINANCE NO. 4320

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, ESTABLISHING URGENCY RENT CONTROL MEASURES, INCLUDING BUT NOT LIMITED TO, A PROHIBITION ON RESIDENTIAL RENT INCREASES IN EXCESS OF FOUR PERCENT (4%) ABOVE MONTHLY RENT IN EFFECT ON AUGUST 1, 2022

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 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 501, 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 City has not previously regulated the setting and increasing of rents for residential real property. However, given the concerns discussed herein, the City Council desires to evaluate rent stabilization policies protecting residents from unreasonable rent increases, while ensuring that the owners of residential real property may earn a fair and reasonable return on their property; and

WHEREAS, the City currently does not regulate rental amounts, rent increases, or evictions from residential housing.

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 herein as substantive findings of this Urgency Ordinance.

SECTION 2. Urgency Rent Control Measures. Based on the findings set forth in this Urgency Ordinance, the City Council hereby determines that urgency rent 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. Findings and Purpose.

- (a) Absent the adoption of this ordinance, as a result of the economic conditions and recognized housing shortage in Southern California, significant rent increases will impact a substantial number of residents in Pomona and constitute a threat to public health, safety and welfare, and a particular hardship for senior citizens, persons living on fixed incomes, and other vulnerable persons living in Pomona.
- (b) The housing rent burden and poverty faced by many residents in the City threatens the health, safety, and welfare of its residents, particularly when resulting in eviction and displacement. Studies have shown that evictions play an impactful role in the lives of low income renter households and can also contribute to poverty through disruptive effects such as job loss, adverse health effects, and negative consequences for children; and
- (c) Certain aspects of public health, safety, and welfare are not adequately protected due to the lack of rent stabilization mechanics or controls in Pomona, and it is the interest of the City, the owners, residents, and the community as a whole that the City consider regulations to protect affordable housing within the City, including, but not limited to, rent stabilization regulations applicable to residential real property.

SECTION 4. Definitions.

“City Manager” shall mean the City Manager or his or her designee.

“CPI” shall mean the Consumer Price Index for All Urban Consumers for All Items (CPI-U) for the Los Angeles-Long Beach-Anaheim metropolitan area (1982-84=100 reference base), or any successor designation of that index that may later be adopted by the United States Bureau of Labor Statistics.

“Covered Rental Unit” shall mean any Rental Unit that is not exempt, pursuant to this Urgency Ordinance.

“Housing Services” are services that are connected with the use or occupancy of a rental unit including, but not limited to, utilities (including light, heat, water and telephone), ordinary repairs or replacement, and maintenance including painting. The term also includes the provision of elevator service, laundry facilities and privileges, common recreational facilities, janitor service, resident manager, refuse removal, furnishings, food service, parking and any other benefits, privileges or facilities.

“Landlord” shall mean an owner, lessor, or sublessor who receives or is entitled to receive Rent for the use and occupancy of any Rental Unit or portion thereof, and the representative, agent, or successor of such owner, lessor, or sublessor.

"Notice of Termination" shall mean a written notice from a Landlord to a Tenant that is in the form required by State law to terminate a residential Tenancy and that is served in accordance with State law.

"Percentage Change in CPI" shall mean the percentage change in the annual average CPI, which is the average of the latest twelve (12) monthly CPIs published before the effective date of the Rent increase minus the average of the prior twelve (12) monthly CPIs (the "base CPI"), divided by the base CPI and multiplied by 100. The Percentage Change in CPI shall be rounded to the nearest one-quarter of one percent.

"Rent or Rents" shall mean the sum of all periodic payments and all nonmonetary consideration demanded or received by a Landlord from a Tenant for the use or occupancy of a Rental Unit, including Tenant's access to and use of Housing Services. Rent includes, without limitation, the fair market value of goods accepted, labor performed, or services rendered.

"Rental Agreement" shall mean a lease, sublease or other oral or written agreement between the Landlord and Tenant establishing the terms and conditions of the Tenancy.

"Rental Unit" shall mean any dwelling unit as defined in California Civil Code Section 1940(c), including joint living and work quarters, located within the jurisdictional boundaries of the City of Pomona and used for human habitation in consideration of payment of Rent, whether or not such use is legally permitted, including accessory dwelling units.

"Tenant" shall mean a person entitled, by a Rental Agreement, or by sufferance, or by this Code or State or federal law, to the use or occupancy of any Rental Unit.

SECTION 5. Rent Increases. As of the effective date of this Urgency Ordinance, no Landlord may request, receive, or retain Rent for a Covered Rental Unit from an existing Tenant whose tenancy began on or before August 1, 2022, in an amount that exceeds the monthly Rent that was in effect on August 1, 2022, plus any Rent increase authorized by this Urgency Ordinance. No Landlord may request, receive, or retain Rent for a Covered Rental Unit from a Tenant whose tenancy began after August 1, 2022, which amount exceeds the initial monthly Rent charged for the Covered Rental Unit, plus any increase authorized by this Urgency Ordinance, if applicable.

- (a) **Rent Increases Generally.** While this Urgency Ordinance is in effect, Rent for a Covered Rental Unit may be increased no more than four percent (4%) or the change in the Consumer Price Index, whichever is less, above the monthly Rent in effect on August 1, 2022, or the initial Rent charged for tenancies that began after August 1, 2022. Following the effective date of this Urgency Ordinance:
 - (1) For any Covered Rental Unit in which Rent for a particular Tenant household has not been increased by four percent (4%) of the Rent in effect on August 1, 2022 the Rent for that particular Tenant household may only be increased by an amount that, when added to the amount of any Rent increase noticed on or after August 1, 2022, does not exceed four percent

(4%) of: (a) the monthly Rent in effect on August 1, 2022; or (b) the initial Rent charged if the tenancy began after August 1, 2022.

- (2) For any Covered Rental Unit in which the Rent for the Tenant household has been increased more than four percent (4%) above the Rent in effect on August 1, 2022, the Rent for that particular Tenant household shall be capped at the monthly Rent in effect as of August 1, 2022, plus four percent (4%). In the event that a Tenant household has already paid Rent in excess of a four percent (4%) increase above the Rent in effect on August 1, 2022, the Landlord shall credit the Tenant for the balance of the overpayment. The Landlord may elect to either: (a) pay the Tenant the balance of the overpayment directly in one lump sum; or (b) give the Tenant a credit against the Rent otherwise due from the Tenant to the Landlord over a six-month period.
 - (3) Not more than one Rent increase may be imposed on a Tenant household in any 12-month period following the effective date of this Urgency Ordinance.
- (b) **Rent Increases Following Vacancies.** Notwithstanding any other provisions set forth in this Urgency Ordinance to the contrary, a Landlord may set an initial Rent for Covered Rental Unit without restriction at the commencement of a new tenancy where no Tenant is an occupant of the Covered Rental Unit in question. After the Landlord sets the initial Rent for such Covered Rental Unit, the Landlord may only increase the Rent as provided by this Urgency Ordinance.
 - (c) **Housing Service Adjustments.** A decrease in Housing Services is considered an increase in Rent. A Tenant may petition for an adjustment in Rent based on a decrease in Housing Services under the process set forth in Section 7 of this Urgency Ordinance.
 - (d) **No Rent increase may be imposed on a Tenant if the Landlord's failure to maintain or repair the Covered Rental Unit has caused the unit to be out of compliance with the implied warranty of habitability or untenable pursuant to CA Civil Code 1941.1.** A Tenant may petition for an adjustment in Rent and reimbursement for overpayment of rent, based on Covered Rental Unit's uninhabitable condition or failure to comply with the implied warranty of habitability, under the process set forth in Section 8 of this urgency ordinance.

SECTION 6. Evictions.

- (a) **Application.** This Urgency Ordinance shall apply to any Notice of Termination of Tenancy, regardless of the date it is delivered to a Tenant of a Rental Unit, if the Tenant has not vacated the Rental Unit as of the effective date of this Urgency Ordinance.

(b) Cause Required to Terminate Tenancy. No Landlord may terminate a residential tenancy of a Tenant occupying a Rental Unit unless the Landlord can demonstrate all of the following:

- (1) The Landlord served a Notice of Termination on the Tenant in accordance with California Code of Civil Procedure Section 1162; and
- (2) The Landlord has not accepted and will not accept Rent or any other consideration in return for the continued use of the Rental Unit beyond the term of the terminated tenancy in compliance with California Civil Code Sections 1945, 1946, and 1946.1; and
- (3) The termination qualifies as a For Cause or No Fault termination; and
- (4) The Landlord has submitted to the City of Pomona, 505 South Garey Avenue, Pomona, CA 91766 via certified mail, return receipt requested, within five (5) calendar days after service on the Tenant, a true and accurate copy of the Notice of Termination, with proof of such service on the tenant(s) attached. Evidence of proof of service may include receipt of delivery of the notice by the Tenant or a sworn statement by the Landlord under penalty of perjury under the laws of the State of California that confirms service of the Notice of Termination on the Tenant in accordance with California Code of Civil Procedure Section 1162. Landlord shall submit proof of service to the City as evidence that Landlord has complied with this Subsection. If the Notice of Termination was served on Tenant prior to the effective date of this Urgency Ordinance, Landlord shall submit to the City the documentation required by this Subsection within five (5) days of the effective date of this Urgency Ordinance.

A Tenant may challenge the validity of a Landlord's legal action to terminate a tenancy, including a suit for unlawful detainer, based on a Landlord's failure to comply with any or all of the requirements included in Subsection, including the Landlord's failure to provide the City with a true and accurate copy of the Notice of Termination with proof of service. The City will accept copies of all Notices of Termination received in accordance with this Section and, upon written request of a Tenant who verifies residency in the Covered Rental Unit that is the subject of the Notice of Termination, and/or upon the written request of the Landlord who submitted the Notice of Termination, the City will endeavor to provide confirmation to the requesting party that such Notice of Termination was received. Notwithstanding the foregoing, the City assumes no responsibility for errors or omissions in its response, and the City's response or lack thereof shall in no way create a City duty, impose an obligation on the City with respect to the requirements of this Section, or otherwise lead to legal or equitable liability on behalf of the City.

(c) For
Cause Termination. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as a for cause termination:

- (1) Tenant failed to pay Rent within three (3) days of receiving written notice from the Landlord demanding payment as provided in California Code of Civil Procedure Section 1161(2); or
- (2) Tenant violated a Material Rental Agreement Term as provided in California Code of Civil Procedure Section 1161(3) and did not cure such violation within ten (10) days after receiving written notice from the Landlord of such violation; or
- (3) Tenant has continued to refuse, after Landlord has provided a written request, reasonable access to the Rental Unit by the Landlord in accordance with California Civil Code Section 1954;
- (4) Tenant, or Tenant's guest or invitee, is creating or maintaining a nuisance in, or is causing damage to, the Rental Unit, or the appurtenances thereof, or to the common areas of the rental complex, or creating an unreasonable interference with the comfort, safety or enjoyment of any other residents of the rental complex within one thousand (1,000) feet outside the boundary line of the rental complex. The term "nuisance" as used herein includes, but is not limited to:
 - a. Maintaining a dangerous and unsanitary condition and that condition has not been promptly abated or repaired after written notice to the Tenant from the Landlord and the passage of a reasonable cure period.
 - b. Any gang-related crime, any documented activity commonly associated with illegal drug dealing, including complaints of noise, steady traffic day and night to a particular unit, barricaded units, sighting of weapons, drug loitering as defined in California Health and Safety Code Section 11532, or other drug related circumstances brought to the attention of the Landlord by other tenants, persons within the community, law enforcement agencies or prosecutorial agencies. For purposes of this section 30-574, gang-related crime is any crime in which the perpetrator is a known member of a gang, or any crime motivated by gang membership in which the victim or intended victim of the crime is a known member of a gang.
- (5) Tenant, or Tenant's guest or invitee, is using the Rental Unit, the common areas of the Rental Unit or rental complex containing the Rental Unit, or an area within one thousand (1,000) feet outside the boundary line of the rental complex, to be used for any illegal purpose. The term "illegal purpose" as used herein, includes, but is not limited to:

- a. A violation of the provisions of Divisions 10 through 10.7 of the California Health and Safety Code.
- b. A crime committed by a Tenant of a Rental Unit which involves use of a gun, a deadly weapon or serious bodily injury and for which a police report has been filed, but not a crime that is committed against a person residing in the same Rental Unit as the person committing the crime.
- c. A threat of violent crime, which includes any statement made by a Tenant, or at his or her request, by his or her agent to any person who is on the premises that includes the Rental Unit or to the Landlord, or his or her agent, threatening the commission of a crime which will result in death or great bodily injury to another person, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, when on its face and under the circumstances in which it is made, it is so unequivocal, immediate and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, but not including a threat that is committed against a person who is residing in the same Rental Unit as the person making the threat.

The act or acts constituting domestic violence or sexual assault or stalking against the Tenant or a member of Tenant's household cannot form the substantial basis of a For Cause reason to terminate the tenancy of the victim of such acts. A member of a Tenant household may raise such facts as an affirmative defense to an action terminating the tenancy.

- (d) No Fault Termination. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as a No Fault termination:
 - (1) Landlord seeks in good faith to recover possession in order to:
 - a. Demolish the Rental Unit.
 - b. Remove the Rental Unit permanently from rental housing use pursuant to State law.
 - c. Perform work on the building or buildings housing the Rental Unit(s); and:

1. Such work costs not less than the product of eight (8) times the amount of the monthly Rent times the number of Rental Units upon which such work is performed. For purposes of this section, the monthly Rent shall be the average of the preceding twelve (12) month period; and
 2. The work necessitates the eviction of Tenant because such work will render the Rental Unit uninhabitable for a period of not less than thirty (30) calendar days, except that if Landlord seeks to recover possession for the purposes of converting the Rental Unit into a condominium, cooperative or community apartment, Landlord must comply with the notice requirements of Government Code Section 66427.1.
- (2) Landlord seeks in good faith to recover possession of the Rental Unit for use and occupancy by:
- a. A resident manager, provided that no alternative vacant unit is available for occupancy by a resident manager; except that where a building has an existing resident manager, the owner may only evict the existing resident manager in order to replace him or her with a new manager.
 - b. Landlord or Landlord's spouse registered domestic partner, children, grandchildren, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law, as a primary place of residence. The Rental Unit must be occupied as the primary residence within three (3) months of the Tenant household vacating the Rental Unit, and the Rental Unit must continue to be occupied as the primary residence for at least 12 months. However, Landlord may use this Section to qualify as a No Fault termination only once for a particular person in each rental complex of the Landlord.
 - c. A Tenant that requires an occupancy agreement and intake, case management or counseling as part of the tenancy.
 - d. A Landlord may not recover possession of a Rental Unit if:
 1. any Tenant in the Rental Unit has continuously resided in the Rental Unit for at least ten years, and is either: (a) 62 years of age or older; or (b) disabled as defined in Title 42 United States Code Section 423 or handicapped as defined in Section 50072 of the California Health and Safety Code; or

2. any Tenant in the Rental Unit is terminally ill as certified by a treating physician licensed to practice in the State of California.
- e. A Landlord may recover possession of a Rental Unit pursuant to the provisions of this Section only from a Tenant who is the most recent Tenant, if not protected from termination of tenancy pursuant to the provisions of this Section, to occupy a Rental Unit in the building with the same number of bedrooms needed by the Landlord, the Landlord's eligible relative or the resident manager, except that a Landlord may recover possession from a different tenant if a different unit is required because of medical necessity, as certified by a treating physician licensed to practice in the State of California.
- (3) Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a government agency's order to vacate, or any other order that necessitates the vacating of the building, housing or unit as a result of a violation of the Pomona Municipal Code or any other provision of law.
 - (4) Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a contractual agreement relating to the qualifications of tenancy with a governmental entity, where Tenant is no longer qualified.

SECTION 7. 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 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 entire relocation fee shall be paid to a Tenant who is the only Tenant in a Rental Unit; or
 - (2) 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.
 - (3) 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.

- (4) 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) 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.
- (d) Notwithstanding the date of the notice of termination of tenancy, this section 30574 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 section , but has not yet vacated the Rental unit as of the effective date of this Urgency Ordinance.
- (e) 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.

- (f) 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.
- (g) 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 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 the amount of two (2) times Tenant's current Rent in effect, plus one thousand dollars (\$1,000.00)."

SECTION 8. Petitions.

- (a) **Petitions for Relief from Urgency Ordinance.** If a Landlord desires to increase the Rent for a Covered Rental Unit in an amount greater than allowed by this Urgency Ordinance, and the Landlord contends that the limitations on Rent increases will prevent the Landlord from receiving a fair and reasonable return with respect to the operation of the property containing the Covered Rental Unit, the Landlord may file a petition with the City requesting a hearing, which will be heard by a Hearing Officer appointed by the City Manager. The Landlord shall mail a copy of the petition by first class mail, postage prepaid, to all Tenants whose Rents are the subject of the petition within five (5) calendar days after the date the petition is filed. Within ten (10) calendar days after the date the petition is filed, the Landlord shall file a proof of service signed under penalty of perjury stating that a copy of the petition was mailed to all such Tenants. The petition shall include a statement indicating the basis on which the Landlord contends that the limitations of this Urgency Ordinance on Rent increases will prevent the Landlord from receiving a fair and reasonable return, together with any evidence that the Landlord wants the Hearing Officer to consider. The Landlord shall bear the burden of proving by a preponderance of the evidence at the hearing that because of the implementation of this Urgency Ordinance, the Landlord is unable to obtain a fair and reasonable return.
- (b) Applicant shall be responsible for all costs associated with the City's review of the Petition. Upon receipt of a Petition, the City Manager shall determine the anticipated costs of review and if the employment of expert(s) will be necessary or appropriate for a proper analysis of the applicant's request. If the City Manager so determines, the City Manager shall also determine the anticipated costs of employing such expert(s). The resulting figure shall be communicated to the applicant, and the Petition shall not be processed until the applicant has paid to the

City the estimated cost of the complete analysis. City will provide applicant with an invoice of all costs incurred after the review of the Petition. Any unused portion of the advance payment for analysis shall be refunded to the Applicant. If additional funds are required, payment will be required before Applicant receives the determination on the Petition from the City.

(c) Petitions for Noncompliance.

- (1) If a Tenant contends that a proposed or actual Rent increase is not in compliance with this Urgency Ordinance, the Tenant may file a petition with the City requesting a hearing, which will be heard before a Hearing Officer appointed by the City Manager. The Tenant shall mail a copy of the petition by first class mail, postage prepaid, to the appropriate Landlord whose Rents are the subject of the petition within five (5) calendar days after the date the petition is filed. Within ten (10) calendar days after the date the petition is filed, the Tenant shall file a proof of service signed under penalty of perjury stating that a copy of the petition was mailed to all such Landlords. The petition shall include a statement indicating the basis on which the Tenant contends that a proposed or actual Rent increase is in violation of this Urgency Ordinance, together with any evidence that the Tenant wants the Hearing Officer to consider. The Tenant shall bear the burden of proving by a preponderance of the evidence at the hearing that the proposed Rent increase is not in compliance with this Urgency Ordinance.
- (2) A Landlord who is determined by the Hearing Officer to be in violation of this Urgency Ordinance may be subject to an administrative fine of up to One Thousand Dollars (\$1,000.00). Each separate day, or any portion thereof, during which any violation of such Urgency Ordinance occurs or continues constitutes a separate violation.

(d) Hearing Procedure.

- (1) A hearing before the Hearing Officer shall be set for a date no sooner than fifteen (15) days and no later than sixty (60) days after receipt of the request and proof of service on any request complying with the requirements of this Section, unless the Hearing Officer determines that good cause exists for an extension of time.
 - a. In the instance of a Landlord's petition filed pursuant to this Section, upon setting the hearing date, the Hearing Officer shall send written notice to the Landlord of the date, time and place set for the hearing. Upon receipt, the Landlord shall post such notice in a conspicuous place at the affected property including the Covered Rental Units that are the subject of the petition. Such notice shall be placed on a written instrument that is at least 11 inches in width and 17 inches in length, and shall be placed not less than four (4) feet above ground level in the common area, at the entry or entries to the building or

units, or other similar location or locations as necessary to provide Tenants a reasonable opportunity to view the notice and be advised of the hearing. Within five (5) calendar days of receipt of the notice of hearing, the Landlord shall personally deliver a copy of the notice to each Tenant in the affected Covered Rental Units.

- b. In the instance of a Tenant's petition, filed pursuant to this Section, upon setting the hearing date, the Hearing Officer shall send written notice to the Tenant and Landlord of the date, time and place set for the hearing.
 - (2) At the hearing, the party filing the petition shall be given the opportunity to testify, call witnesses and to present evidence concerning the petition.
 - (3) In the instance of a Landlord's petition, filed pursuant to this Section, the Hearing Officer may hear testimony from the Tenants in the affected Covered Rental Units.
 - (4) In the instance of a Tenant's petition, filed pursuant to this Section, the Hearing Officer may hear testimony from the Landlord.
 - (5) The Hearing Officer may continue the hearing and request additional information from the Landlord or Tenant prior to issuing a written decision.
 - (6) The Hearing Officer shall have the power to issue orders to keep order and decorum during the hearing.
 - (7) All hearings conducted by the Hearing Officer shall be open to the public.
- (e) **Hearing Continuance.** The Hearing Officer may, in his or her discretion, grant a continuance of the hearing date upon a request and a showing of good cause by the Landlord or Tenant. The request must be made in writing and be received by the Hearing Officer at least five (5) business days prior to the hearing date. In the instance of a Landlord's continuance request, the Landlord must personally deliver a copy of the request to the affected Tenant(s). In the instance of a Tenant's continuance request, the Tenant must personally deliver a copy of the request to the Landlord. In no event shall the continuance be longer than fifteen (15) calendar days from the originally scheduled hearing date.
- (f) **Evaluation of Petitions.** In evaluating the petitions from a Landlord or Tenant, the Hearing Officer shall consider all relevant factors that may potentially impact a Landlord's ability to obtain a fair and reasonable return and shall consider the basis for the calculation of any increase in Rent. Relevant factors may include, but are not limited to, changes in costs to the Landlord attributable to increased utility rates, property taxes, insurance, advertising, variable mortgage interest rates, governmental assessments and fees, incidental services, employee costs, normal

repair and maintenance, upgrading and addition of amenities or services, rent rolls, financial statements, expert analysis, and relevant studies.

- (g) Hearing Officer Decision.
 - (1) After considering all of the testimony and evidence submitted at the hearing, within 20 calendar days after the conclusion of the hearing, the Hearing Officer shall issue a written decision denying, affirming or modifying the petition and shall adopt written findings in support of that decision. In the instance of a Landlord's petition filed pursuant to this Section, the written decision shall be served by first-class mail, postage prepaid on the Landlord and Landlord shall post such notice in a conspicuous place at the property containing the affected Covered Rental Units. Within five (5) calendar days of receipt of the written decision, the Landlord shall personally deliver a copy of the written decision to each Tenant in the affected Covered Rental Units. In the instance of a Tenant's petition filed pursuant to this Section, the Hearing Officer shall send a copy of the written decision to the Tenant and the Landlord, each by first-class mail, postage prepaid. The Hearing Officer's decision shall be final, unless an administrative penalty has been assessed.
 - (2) If the Hearing Officer determines that a Landlord is in violation of this Urgency Ordinance and assesses an administrative penalty, the Landlord may file a request with the City for a separate administrative hearing before a Hearing Officer to contest the imposition and/or the amount of the administrative penalty in accordance with the procedures identified in Pomona City Municipal Code (PMC) Section 2-1188. Unless a Landlord requests an administrative hearing to contest the imposition of the administrative penalty, pursuant to PMC Section 2-1188, the assessment of the administrative penalty shall constitute the final administrative order of the City with respect to said administrative penalty, and the penalty shall be due and payable by the Landlord to the City of Pomona within 10 calendar days following assessment of the administrative penalty.
- (h) Judicial Review of Hearing Officer Decision. Any person directly aggrieved by an administrative decision of a Hearing Officer pertaining to a Petition for Relief from Urgency Ordinance, Petition for Noncompliance, or assessment of an administrative penalty, may seek judicial review in the Superior Court pursuant to Government Code Section 53069.4 and/or Code of Civil Procedure Sections 1094.5 and 1094.6.

SECTION 9. Enforcement and Administrative Fines.

- (a) Administrative Citations. The City is authorized to take appropriate steps to enforce this Urgency Ordinance, including conducting investigations of possible violations by a Landlord. The City, in its sole discretion, may choose to enforce the provisions of this Urgency Ordinance through the administrative citation process set forth in

Section 2-1181 et. seq. of the PMC. Notwithstanding any provision in Section 21181 et. seq. to the contrary, each violation of any provision of this Urgency Ordinance may be subject to an administrative fine of up to \$1,000. Each separate day, or any portion thereof, during which any violation of such Urgency Ordinance occurs or continues, constitutes a separate violation. The City's decision to pursue or not pursue enforcement of any kind shall not affect a Tenant's rights to pursue civil remedies.

- (b) **Administrative Appeals and Judicial Review.**
 - (1) **Administrative Appeal.** Any person who receives an administrative citation may request an administrative hearing before a Hearing Officer in accordance with Section 2-1181 et. seq. of the PMC.
 - (2) **Judicial Review of Hearing Officer Decision.** Any Responsible Person may seek judicial review of a Hearing Officer's decision pertaining to the imposition of an administrative fine in accordance with Section 2-1181 et. seq. of the PMC.
- (c) **Civil Action.** The City Attorney is authorized to bring a civil action and/or proceeding for violation of this Urgency Ordinance or any rule or guideline promulgated pursuant to Section 11 of this Urgency Ordinance for civil penalties, injunctive, declaratory and other equitable relief, restitution and reasonable attorneys' fees and costs and may take such other steps as necessary to enforce this Urgency Ordinance.

SECTION 10. Civil Remedies.

- (a) Any Tenant aggrieved by a violation of this Urgency Ordinance may bring a civil suit in the courts of the State alleging a violation of this Urgency Ordinance. In a civil suit, a Landlord found to be in violation of this Urgency Ordinance shall be liable to the aggrieved Tenant. A prevailing Tenant in a civil action shall be awarded attorneys' fees and costs. No administrative remedy need be exhausted prior to filing suit pursuant to this Section.
- (b) Nothing in this Urgency Ordinance shall be interpreted to deprive a Landlord of the ability to earn a fair and reasonable return from a property or to preclude a Landlord from terminating a tenancy in accordance with this Urgency Ordinance and California Code of Civil Procedure section 1161.

SECTION 11. 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 12. Exemptions. Pursuant to the Costa-Hawkins Rental Housing Act, the provisions of this Urgency Ordinance regulating the amount of rent that a residential real property owner may charge shall not apply to the following: any residential real property that has a certificate of occupancy issued after February 1, 1995 (*California Civil Code* section 1954.52(a)(1)); and, any other provisions of the Costa-Hawkins Rental Housing Act addressing exemptions, as applicable.

SECTION 13. Waiver Prohibited. Any waiver of rights under this Urgency Ordinance shall be void as contrary to public policy.

SECTION 14. 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 15. Rent Control Study. During the Urgency Ordinance period, City staff is directed to further study and analyze whether a permanent rent control program is warranted. Such study should include, but not be limited to, peer jurisdiction rent control and tenant protection programs, rental market analysis, rent control/tenant protection program administration, landlord and tenant grievance, hearing and due process procedures, tenant legal assistance and staffing and costs.

SECTION 16. 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 17. 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 18. Certification of City Clerk. This Urgency Ordinance is adopted by a 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 accord 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 19. Effective Date. This ordinance shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 1st day of August, 2022.

CITY OF POMONA:



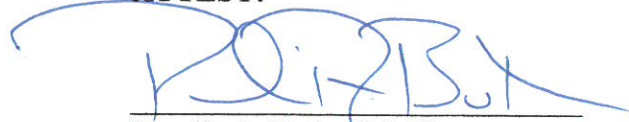
Tim Sandoval
Mayor

APPROVED AS TO FORM:



Sonia Carvalho
City Attorney

ATTEST:



Rosalia A. Butler, MMC
City Clerk

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, ROSALIA A. BUTLER, MMC, 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 August 1, 2022 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on August 1, 2022 by the following vote:

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



Rosalia A. Butler, MMC
City Clerk