

Eff.: ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK, CALIFORNIA, ADDING CHAPTER 4 (“RESIDENTIAL TENANT PROTECTIONS”) TO TITLE 5 (“POLICE AND PUBLIC SAFETY”) OF THE BURBANK MUNICIPAL CODE, PROHIBITING THE TERMINATION OF CERTAIN RESIDENTIAL TENANCIES WITHOUT “JUST CAUSE” IN THE CITY OF BURBANK

City Attorney’s Synopsis

This Urgency Ordinance strengthens the residential tenant protections that were enacted statewide by Assembly Bill 1482 by heightening the requirements for an eviction based on intent to demolish or substantially remodel residential real property and by increasing the amount of relocation assistance required for “no-fault” substantial remodel evictions, as authorized by California Civil Code section 1946.2(g) and pursuant to Section 500 of the City of Burbank’s Charter. These increased tenant protections are being included in the Burbank Municipal Code by amending Title 5 to add a new Chapter 4.

WHEREAS, effective January 1, 2020, the Tenant Protection Action of 2019, Assembly Bill 1482 (“AB 1482”) added Sections 1946.2, 1947.12, and 1947.13 to the California Civil Code; and

WHEREAS, subject to certain exceptions, AB 1482: (1) limits 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 stabilization provisions”); and (2) prohibits an “owner” (as defined) of “residential real property” (as defined) from terminating a tenancy without “just cause” (as defined) (the “just cause eviction provisions”); and

WHEREAS, AB 1482’s rent stabilization and just cause eviction provisions are intended to “help families afford to keep a roof over their heads, and... provide California with important new tools to combat our state’s broader housing and affordability crisis;” and

WHEREAS, AB 1482’s rent stabilization provisions do not apply to “a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the residential real property” (Civ. Code § 1947.12(b)); and

WHEREAS, AB 1482’s just cause eviction provisions expressly permit a landlord to evict a tenant in order to “substantially remodel” the rental unit (Civ. Code § 1946.2(b)(2)(D)(i)); and

WHEREAS, AB 1482’s just cause eviction provisions define “substantially remodel” to mean:

“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”

(Civ. Code § 1946.2(b)(2)(D)(ii)); and

WHEREAS, AB 1482’s just cause eviction provisions specify that “[c]osmetic 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” (Civ. Code § 1946.2(b)(2)(D)(ii)); and

WHEREAS, AB 1482 permits a landlord to evict a tenant to “substantially remodel” the rental unit and then raise rents above AB 1482’s rent caps when a new tenancy begins; and

WHEREAS, AB 1482’s just cause eviction provisions expressly authorize local agencies (like the City of Burbank) to adopt ordinances that are “more protective” than AB 1482’s just cause eviction provisions, in which case, the “more protective” local ordinance will apply to non-exempt residential real property (Civ. Code § 1946.2(g)(1)(B)); and

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

WHEREAS, the City is concerned that, without “more protective” local just cause eviction provisions, “substantial remodel” evictions will result in displaced tenants becoming homeless.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals

The City Council finds the foregoing recitals and their findings to be true and correct, and hereby incorporates such recitals and their findings into this urgency ordinance.

SECTION 2. Environmental Review

The City Council finds and determines that the adoption of this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15060(c)(2), in that the adoption of this Urgency 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 Urgency Ordinance will have a significant effect on the environment.

SECTION 3. Urgency Findings

The City Council is authorized and hereby declares this urgency ordinance necessary as an emergency measure for the preservation of the public peace, health, or welfare, in accordance with Section 500 of the Charter. The adoption of this urgency ordinance is supported by the following findings in justifying its urgency to preserve the public peace, health, safety or welfare:

A. Independent of the COVID-19 crisis, the City of Burbank 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 income or health problems, households with a burdensome housing cost are more likely to become homeless.

C. As the cost of housing in Southern California continues to rise, homelessness has become more prevalent. The greater Los Angeles metropolitan area, including the City of Burbank, has the greatest number of homeless totaling 75,518, region wide, in the country. According to the most recent homeless count conducted by the Los Angeles Homeless Services Authority (“LAHSA”), Burbank’s homeless population is 267 in 2023. These record numbers are in spite of millions of dollars being earmarked to find solutions.

D. City Council endorsed a strategy to find solutions to the problem of homelessness, which includes the following:

1. Capacity building
2. Advocacy
3. Access, Outreach, and Engagement
4. Shelter and Housing Accessibility
5. Health and Stabilization
6. Homeless Prevention

But funding is still in need to implement the strategies so protections are imperative.

E. At-risk of Homelessness, as defined by HUD (24 Code of Federal Regulations § 91.5), means households at risk of homelessness but not considered homeless yet.

F. The Burbank Housing Element revealed, there are 5,945 very low and extremely low-income households in Burbank paying 50% or more of their income

on housing costs. There are 7,117 paying more than 30% of their income on housing expenses. The City's Regional Housing Needs study found the City of Burbank needs to build and provide its share of 8,772 affordable housing units by 2029. Of the total, 3,971 are needed to build affordable housing for Burbank's lower income households.

G. Also, almost two-thirds of female-headed households lived below the poverty level. The 2010 Census data revealed nearly one-fifth of the total female-headed households with children lived in poverty. These households need assistance with housing subsidies, as well as accessible and affordable day care. Without access to affordable housing, many of these households may be at risk of becoming homeless.

H. According to the American Community Survey (ACS) 2018 data, an estimated 11,216 persons (10.8%) of Burbank's population have some type of disability, and of the total disabled population, 21.1% were employed, and 55.1% were seniors.

I. Elderly renter households had the highest percentage (82%) in the lower-income category and therefore, were particularly vulnerable to rent increases and other changes in living expenses. With the majority (53%) of large family renter households also in the lower-income category, this household group often has difficulty finding affordable units that have an adequate number of bedrooms. Extremely low-income (ELI) households (<30% AMI) comprise 16% of Burbank's households that have significant housing needs. According to the CHAS Data compiled by HUD, 82% of the City's ELI households are renters, a group particularly vulnerable to rising rents, with 81% of ELI renters spending more than half their incomes on rent. Elderly renter households face a housing cost burden. Over two-thirds (67%) of elderly households were overpaying and 40% were severely overpaying for housing.

J. The Comprehensive Housing Affordability Strategy (CHAS) data outlines the mismatch between the need for larger rental units and the City's supply of smaller units. There are approximately 2,500 rental units in Burbank with three or more bedrooms which are generally appropriately sized units for large households of five or more members. In contrast, there are approximately 3,600 large households in the city. The disparity in the supply and demand for large rental units is especially significant among lower-income households, with 940 lower-income large family renter households and only 590 adequately sized and affordable units. This imbalance between supply and demand contributes to nearly one-fifth of the City's rental households residing in overcrowded conditions.

K. Starting in April of 2020, Burbank's residential tenants were generally protected from evictions by a variety of temporary COVID-19-related governmental measures, such as: (1) the California Judicial Council's temporary emergency measures which effectively provided for a moratorium on all evictions; (2) the State of California's eviction moratorium (ultimately codified through Assembly Bill 3088

(2020), Senate Bill 91 (2021), and Assembly Bill 81 (2021)); and (3) the County of Los Angeles' Tenant Protections Resolution; and the City of Burbank's local eviction protections that have now expired or have been lifted.

L. The City has determined, both through direct residential tenant complaints and through information available on a regional basis, that tenants throughout the Los Angeles County region have reported experiencing a surge of no-fault eviction notices and threats of eviction. In response to such threats and notices, other municipalities in this region, including the County of Los Angeles and the Cities of Los Angeles, Long Beach, Pasadena, South Pasadena, and Pomona, have adopted tenant protection ordinances.

M. Starting in April 2023, residential tenants in Burbank reported to the City Council and the Landlord Tenant Commission that their landlords served a 60 day notice to vacate to complete unit remodels. As the notices started to occur in April, they may be related to the end of the County of Los Angeles's tenant protections that expired May 31, 2023 for the alleged purpose of substantially remodeling their units.

N. At its regular meeting on August 8, 2023, the City Council conducted a study session regarding potential tenant protections and directed staff to prepare an ordinance that, if adopted, would provide heightened tenant protection against illegitimate substantial remodel evictions and increased tenant relocation assistance.

O. As noted above, the County of Los Angeles' tenant protections expired on March 31, 2023. Adoption of a regular ordinance requires two readings and will not take effect until 31 days after its second reading. As a result, absent an urgency ordinance that may be passed and effective immediately, there could be a window of time when Burbank's residential tenants do not have heightened protection from illegitimate substantial remodel evictions under State law or an amount of tenant relocation assistance that is appropriate for Burbank's housing market. More concerning, this window of time could prompt landlords to proceed with substantial remodel evictions simply to take advantage of a period when substantial remodel evictions do not require corroboration or heightened relocation assistance. In other words, adopting a regular ordinance without an urgency ordinance to fill the potential gap could have the unintended consequence of temporarily prompting more substantial remodel evictions.

P. More protective local eviction control provisions are needed to prevent tenants displaced by "substantial remodel" evictions from becoming homeless.

In accordance with AB 1482's just cause eviction provisions set forth in subsection (g)(1)(B) of Section 1946.2 of the California Civil Code, the City Council hereby makes a binding finding that the tenant protections in this urgency ordinance are "more protective" than AB 1482's just cause eviction provisions, set forth in Section 1946.2 of the California Civil Code. The City Council further finds that this urgency ordinance is consistent with

Section 1946.2. This urgency ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, and/or provides additional tenant protections that are not prohibited by any other provision of law. The above-identified facts constitute a need for an emergency measure to prevent irreparable injury to residential tenants in the Burbank community and the community in general, including without limitation, housing insecurity and homelessness for displaced tenants.

SECTION 4. Code Amendment

Chapter 4 (“Residential Tenant Protections”) is added to Title 5 (“Police and Public Safety”) of the Burbank Municipal Code to read as follows:

Chapter 4 Residential Tenant Protections

5-4-100 Adoption of Civil Code Section 1946.2 by Reference Related to Terminations of Tenancy.

This chapter adopts and incorporates by reference California Civil Code Section 1946.2 in this Code in its entirety, as modified herein, and as such statute may be amended from time to time, except for any provisions that directly conflict with this chapter.

5-4-101 Purpose of Chapter and Relationship to AB 1482

This chapter is consistent with the Tenant Protection Action of 2019, Assembly Bill 1482 (2019-2020), which is generally codified in Sections 1946.2, 1947.12, and 1947.13 to the California Civil Code (“AB 1482”). It is the City’s intent that its residential tenants be afforded the strongest protections available under the law. This chapter is more protective than AB 1482’s just cause eviction provisions set forth in Section 1946.2 of the California Civil Code.

As authorized by subsection (g) of Section 1946.2, this chapter provides for higher relocation assistance amounts and additional tenant protections for “no-fault just cause” evictions based on a property owner’s intent to “substantially remodel” the residential real property. In all other respects, this chapter is identical to Section 1946.2 of the California Civil Code, as amended from time to time or replaced by a successor statute.

If any other governmental entity (including without limitation, the United States Government, the State of California, and the County of Los Angeles) adopts stronger tenant protections that apply to residential tenants in the City of Burbank, then the stronger tenant protections shall prevail, and the City shall not enforce conflicting tenant protections in this chapter.

5-4-102 Applicability of Chapter

The tenant protections in this chapter apply to tenants and owners of real property that are subject to AB 1482’s just cause eviction provisions set forth in subsection

(a) of Section 1946.2 of the California Civil Code, as amended from time to time or replaced by a successor statute.

5-4-103 “Just Cause” Required for “No-Fault” Evictions

A. AB 1482 Requirements. An owner of residential real property shall not terminate a tenancy that is subject to this chapter without just cause, which shall be stated in the written notice to terminate tenancy, unless the termination of the tenancy fully complies with AB 1482’s just cause eviction provisions set forth in Section 1946.2 of the California Civil Code, as amended from time to time or replaced by a successor statute.

B. Heightened Requirements for Evictions Based on Intent to Demolish or Substantially Remodel the Residential Real Property. An owner of residential real property shall not terminate a tenancy that is subject to this chapter based on the owner’s intent to “demolish or to substantially remodel the residential real property” (as described and defined subsection (b)(2)(D) of Section 1946.2 of the California Civil Code, as amended from time to time or replaced with a successor statute) unless and until all of the following additional requirements have been met by or before a tenant has received a written notice terminating tenancy for just case pursuant to this chapter:

1. Building permits (for a substantial remodel) have been secured from the City of Burbank, demolition permits (for a demolition) have been secured from the City of Burbank, and/or any required permits (for abatement of hazardous materials) have been secured from a local, state, or federal agency;

2. The tenant has been provided with copies of the building, demolition, and/or any required hazardous material abatement permit(s); and

3. The tenant has been provided with a written detailed account of the scope of work, why the work cannot be reasonably accomplished in a safe manner with the tenant in place, and why the work cannot be completed within thirty (30) days.

C. Failure to Comply. An owner’s failure to strictly comply with this section shall render a notice of termination of a tenancy void and shall be an affirmative defense to an unlawful detainer action.

5-4-104 Relocation Assistance Required for “No-Fault” Evictions

If an owner of residential real property issues a termination notice based on a substantial remodel “no-fault just cause” (as defined in subsection (b)(2)(D) of Section 1946.2 of the California Civil Code, as amended from time to time or replaced by a successor statute), the owner shall provide relocation assistance in

accordance with AB 1482’s just cause eviction provisions set forth in subsection (d) of Section 1946.2 of the California Civil Code, as amended from time to time or replaced by a successor statute, provided however, the amount of relocation assistance shall be increased to at least equal to three (3) months of the tenant’s rent that was in effect when the owner issued the notice to terminate the tenancy.

An owner’s failure to strictly comply with this section shall render the notice of termination void and shall be an affirmative defense to an unlawful detainer action.

SECTION 5. Effective Date.

This Urgency Ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately upon the adoption thereof.

SECTION 6. 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.

PASSED AND ADOPTED this ____ day of September, 2023.

Konstantine Anthony
Mayor

Approved as to Form:
Office of the City Attorney

By: _____
Iain MacMillan
Senior Assistant City Attorney

Attest:

Kimberley Clark, City Clerk

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

I, Kimberley Clark, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ___ day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Urgency Ordinance was published as required by law in a newspaper of general circulation in the City of Burbank, California within 14 days following of the ordinance's adoption on _____.

Kimberley Clark, City Clerk