

CITY COUNCIL OF THE CITY OF OXNARD
ORDINANCE NO. 3041

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
OXNARD AMENDING SECTION 27-4 OF THE OXNARD CITY CODE
REGARDING NO-FAULT JUST CAUSE EVICTIONS OCCURRING AS THE
RESULT OF A DEMOLITION OR SUBSTANTIAL REMODEL

WHEREAS, effective January 1, 2020, the Tenant Protection Act 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 prohibits an “owner” (as defined) of “residential real property” (as defined) from terminating a tenancy without “just cause” (as defined); and

WHEREAS, AB 1482’s 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 just cause eviction provisions expressly permit an owner to evict a tenant 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, the Oxnard City Council adopted Ordinance 3012 on May 3, 2022, which among other things, codified AB 1482’s definition of “substantially remodel” at Oxnard City Code Section 27-4(D); and

WHEREAS, loopholes in AB 1482 have led to widespread abuses that leave many covered renters vulnerable to displacement or eviction in instances where an owner terminates a tenancy under the guise of substantially remodeling a unit when the owner has no intent to actually perform the substantial remodel; and

WHEREAS, like many cities throughout California, the City of Oxnard is experiencing a housing affordability crisis and a homelessness crisis that would be exacerbated by the displacement of renters by property owners illegally evicting tenants; and

WHEREAS, the City is concerned that, without more protective local just cause eviction provisions, evictions designated for “substantial remodel” evictions that do not actually qualify as substantial remodel evictions will result in displaced tenants becoming homeless to the detriment of peace, health and safety; and

WHEREAS, upon adoption of this Urgency Ordinance all tenants currently residing in their units, would receive benefits of these regulations, including that property would then have to re-notice in compliance with the Oxnard City Code; and

WHEREAS, Government Code section 36937 subd.(b) authorizes the adoption of an urgency ordinance for the immediate preservation of the public peace, health, or safety.

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

PART 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.

PART 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.

PART 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 and safety. The adoption of this Urgency Ordinance is supported by the following findings in justifying its urgency to preserve the public peace, health and safety:

- (A) The city of Oxnard 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”), the household 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, rent burdened households are more likely to become homeless.
- (C) Starting in April of 2020, Oxnard’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 that effectively provided for a moratorium on all evictions; and (2) the State of California’s eviction moratorium (ultimately codified through Assembly Bill 3088 (2020), Senate Bill 91 (2021), and Assembly Bill 81 (2021)). These eviction protections are no longer in place.
- (D) The City has determined, through direct residential tenant complaints, that tenants throughout the City of Oxnard have reported experiencing a surge of no-fault eviction notices and threats of eviction.
- (E) In recent months, Housing Department staff has been informed of a number of evictions occurring due to purported substantial remodeling of residential properties where permits have not been sought for the work to be undertaken.
- (F) Adoption of a regular ordinance requires two readings and will not take effect until 30 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 Oxnard’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 Oxnard’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. 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.

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 finds 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 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 Oxnard community and the community in general, including without limitation, housing insecurity and homelessness for displaced tenants.

PART 4. CODE AMENDMENT

CHAPTER 27, ARTICLE I, SECTION 27-4 (D) of the Oxnard City Code is hereby amended to read as follows:

“(D) *Intent to demolish or to substantially remodel the residential real property.* For purposes of this section, “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 a substantial remodel.

A tenant is not required to vacate the residential real property on any days where a tenant could continue living in the residential real property without the violation of health, safety, and habitability legal requirements.

(1) A written notice terminating a tenancy for a just cause pursuant to this Section 27-4(D) shall include all of the following information:

(a) A statement informing the tenant of the owner’s intent to demolish the property or substantially remodel the rental unit property.

(b) The following statement:

“If the substantial remodel of your unit or demolition of the property as described in this notice of termination is not commenced or completed, the owner must offer you the opportunity to re-rent your unit with a rental agreement containing the same terms as your most recent rental agreement with the owner at the rental rate that was in effect at the time you vacated. You must notify the owner within thirty (30) days of receipt of the offer to re-rent of your acceptance or rejection of the offer, and, if accepted, you must reoccupy the unit within thirty (30) days of notifying the owner of your acceptance of the offer.”

(c) A description of the substantial remodel to be completed, the approximate expected duration of the substantial remodel, or if the property is to be demolished, the expected date by which the property will be demolished, together with one of the following:

(i.) A copy of the issued permit or permits required to undertake the substantial remodel or demolition.

(ii.) If the remodel does not require any permit, a copy of the signed contract with the contractor hired by the owner to complete the substantial remodel, that reasonably details the work that will be undertaken to abate the hazardous materials.

(d) A notification that if the tenant is interested in reoccupying the rental unit following the substantial remodel, the tenant shall inform the owner of the tenant's interest in reoccupying the rental unit following the substantial remodel and provide to the owner the tenant's address, telephone number, and email address.

(2) The owner shall provide 60 days advance written notice to the tenant of the ability to reoccupy the unit upon completion of the repairs, or if requested by the tenant, the right of first refusal to any comparable vacant rental unit which has been offered at comparable rent owned by the owner; and

(3) In the event the owner seeks to rent the remodeled unit within six months following the completion of the remodeling work, the evicted tenant shall have the right of first refusal to reoccupy and rent the unit, unless the owner provides a written waiver by the tenant of their right to reoccupy the premises pursuant to this subsection.

(4) 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."

Part 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.

Part 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.

Part 7. VOTING REQUIREMENTS AND PUBLICATION

This Urgency Ordinance requires a four-fifths vote of approval of all of the members of the City Council and goes into effect immediately upon its adoption. This Urgency Ordinance shall be published once within fifteen (15) days of its adoption in accordance with Government Code Section 36933.

Part 8. Ordinance No. 3041 was adopted on January 25, 2023 and became effective immediately.

AYES: Councilmembers Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela and Zaragoza

NOES: None.

ABSENT: None.

ABSTAIN: None.

ATTEST:

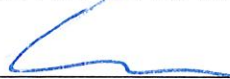


Rose Chaparro, City Clerk



John C. Zaragoza, Mayor

APPROVED AS TO FORM:



Stephen M. Fischer, City Attorney