

URGENCY ORDINANCE NO. 731

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA ESTABLISHING AN INTERIM PROHIBITION OF RENT INCREASES ON CERTAIN RESIDENTIAL PROPERTIES FOR NINETY (90) DAYS WITH THE ABILITY TO EXTEND FURTHER

WHEREAS, the City of Cudahy (“the City”) is a general law city, incorporated under the laws of the State of California; and

WHEREAS, pursuant to its police power, the City may enact and enforce laws within its boundaries that promote the public health, morals, safety, or general welfare of the community, and are not in conflict with general laws; and

WHEREAS, rents throughout Los Angeles County are continuing to rise despite the State’s Tenant Protection Act of 2019 (Tenant Protection Act), and as housing costs rise, many local residents continue to struggle with a decrease in affordability, housing insecurity, and potential homelessness, particularly low-income households and those persons who continue to be negatively impacted by the ongoing COVID-19 Pandemic; and

WHEREAS, Los Angeles County and the cities within the County are experiencing a housing affordability crisis, which is driving homelessness and displacement of residents; and

WHEREAS, many of the City’s renters are rent-burdened, paying over 30 percent of their income on rent, and some renters are severely rent-burdened, paying over 50 percent of their income on rent, which leaves less money for families to spend on other necessities like food, healthcare, transportation, and education; and

WHEREAS, housing displacement due to rent increases hinders residents from weathering and surviving through the ongoing COVID-19 Pandemic, including waves of infection, by preventing individuals from isolating as necessary at home due to infection or exposure; and

WHEREAS, there is an urgent need for the City to extend the temporary moratorium on rent increases to protect the health, safety, and welfare of its residents in light of the ongoing COVID-19 Pandemic, including the need to keep residents in their homes to isolate or shelter-in-place as necessary; and

WHEREAS, pandemic-related tenant protections under the County of Los Angeles and State of California are gradually phasing out; and

WHEREAS, current State law allows increasing annual rent of five percent (5%) plus the consumer price index (CPI), up to a maximum of ten percent (10%) for properties subject to the Tenant Protection Act of 2019; and

WHEREAS, this Urgency Ordinance is intended to extend the temporary prohibition on rent increases to protect tenants from rising rent costs while the City further considers and develops a permanent rent control program; and

WHEREAS, failure to adopt this extension to the temporary moratorium may subject renters 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, provided that such Urgency Ordinance is passed by a four-fifths vote of the City Council.

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

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

SECTION 2. Findings. Based on the findings set forth in the Recitals, 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) is warranted and shall take effect immediately upon adoption by a fourth-fifths vote of the City Council.

SECTION 3. Definitions. For the purposes of this Urgency Ordinance, the following definitions shall apply:

- A. "Base Rent" means the monthly Rent that was in effect on January 17, 2022.
- B. "Covered Rental Unit(s)" means any Rental Unit except for:
 - a. 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;
 - b. A dwelling unit for which a certificate of occupancy was issued after February 1, 1995; or
 - c. 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.
- C. "Hearing Officer" means the person designated by the City Manager to conduct a review hearing under Section 7 of this Urgency Ordinance. The Hearing

Officer shall not be the enforcement officer that investigated the matter under Section 7 of this Urgency Ordinance that is the subject of the administrative hearing or the immediate supervisor of that enforcement officer.

- D. "Housing Services" means all services provided by the Landlord related to the use or occupancy of a Covered Rental Unit, including but not limited to, insurance, repairs, replacement, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, recreational areas and/or pools, janitorial service, refuse removal, furnishings, parking, storage, and security services.
- E. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive Rent of the use and occupancy of any Covered Rental Unit or Rental Unit or portion thereof, and the representative, agent, or successor of such owner, lessor, or sublessor. 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.
- F. "Protection Period" means the time period commencing on the effective date of this Urgency Ordinance and shall terminate ninety (90) days thereafter on April 17, 2023, unless further extended or repealed by action of the City Council.
- G. "Rent(s)" is 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 Covered 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.
- H. "Responsible Person" is a person responsible for, or alleged to be responsible for, a violation of this Urgency Ordinance.
- I. "Tenant" means a person entitled, by written or oral agreement, or by sufferance, to the use or occupancy of any Covered Rental Unit or Rental Unit.
- J. "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.

SECTION 4. Rent Increases Temporarily Prohibited. As of the effective date of this Urgency Ordinance, and through the Protection Period, a residential Landlord in the City of Cudahy shall not increase Rent for a Covered Rental Unit occupied by an existing Tenant whose tenancy began before or on January 17, 2022. A decrease in Housing Services is considered an increase in Rent. This Urgency Ordinance does not regulate the initial Rent at which a unit is offered.

SECTION 5. Exceptions and Exemptions. The following are exempt from this Urgency Ordinance:

- A. Accommodations in motels, hotels, inns, tourist houses, rooming houses, and boarding houses, provided that such accommodations are not occupied by the same tenant for thirty (30) or more days;
- B. Commercial units; and
- C. Housing accommodation in any hospital, convent, monastery, extended care facility, convalescent home, nonprofit home for the aged, or dormitory operated by an educational institution.

SECTION 6. Enforcement. In any action by a Landlord to recover possession of a Covered Rental Unit, the Tenant may raise, as an affirmative defense, any violation or noncompliance with the provisions of this Urgency Ordinance.

SECTION 7. Petition for Relief.

- A. Petition Process. If a Landlord desires to increase the rent for a Covered Rental Unit during the Protection Period and the Landlord contends that the prohibition on Rent increases in Section 4 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 Community Development Department by 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. Hearing Process.

- i. 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 7, unless the Hearing Officer determines that good cause exists for an extension of time. The Hearing Officer shall send written notice to the Landlord and the Tenant 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 eleven (11) inches in width and seventeen (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.
 - ii. At the hearing the Landlord shall be given the opportunity to testify, call witnesses, and to present evidence concerning the petition. The Hearing Officer shall then hear testimony from the Tenants in the affected Covered Rental Units. The Hearing Officer may continue the hearing and request additional information from the Landlord or Tenant before issuing a written decision. The Hearing Officer shall have the power to issue orders to keep order and decorum during the hearing. All hearings conducted by the Hearing Officer shall be open to the public.
 - iii. 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.
 - iv. The cost of the hearing, including but not limited to a Hearing Officer's fee, shall be borne by the petitioner.
- C. 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, trash collection rates, property taxes, insurance, advertising, variable mortgage interest rates, governmental assessments and fees, incidental services, employee costs, normal repair, maintenance,

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

- D. Hearing Officer Decision. After considering all the testimony and evidence submitted at the hearing, within twenty (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. The written decision shall be served by first-class mail, postage prepaid on the Landlord and any Tenants in the affected Covered Rental Unit. The Hearing Officer's decision shall be final.
- E. 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 this Urgency Ordinance 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.
- F. Timing of Petitions and Hearing. Any petition that is timely filed before the expiration of this Urgency Ordinance may continue to be adjudicated. Relief may be granted retroactively to the date the petition was filed.

SECTION 8. Inconsistent Provisions. Any provision of the Cudahy Municipal Code or appendices thereto that conflicts with the provisions of this Urgency Ordinance, to the extent of such conflict 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, 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. Sunset Date. This Urgency Ordinance shall expire by its own terms on April 17, 2023, unless otherwise extended by action of the City Council.

SECTION 11. Compliance with California Environmental Quality Act. The City Council finds that this Urgency Ordinance is not subject to the California Environmental Quality Act pursuant to Section 15060(c)(2), constituting an activity that will not result in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060(c)(3) constituting an activity that is not a project as defined in Section 15378.

SECTION 12. The City Clerk shall certify to the passage and adoption of this Urgency Ordinance and shall cause this Urgency Ordinance to be published or posted as

required by law, which shall take full force and effect immediately upon its adoption by a four-fifths vote of the City Council for a period of 90 days, unless extended.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Cudahy at the regular meeting of this 17th day of January 2023.

Daisy Lomeli
Mayor

ATTEST:

Richard Iglesias
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF CUDAHY) SS:

I, Richard Iglesias, City Clerk of the City of Cudahy, hereby certify that the foregoing Urgency Ordinance No. 731 was introduced on the 17th day of January 2023 and adopted by said City Council at its regular meeting by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Richard Iglesias
City Clerk