

John Nolte
1037 Arroyo Park Drive
Pomona, CA 91768
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March 14, 2018

Eva M. Buice, MMC
City Clerk, City of Pomona
505 South Garey Avenue
Pomona, CA 91766

Re: Request for Preparation of Ballot Title and Summary of Proposed Initiative

Dear Ms. Buice:

Please find herewith a Notice of Intent to Circulate an Initiative entitled “The Pomona Housing Stabilization, Fair Rent, and Homeowner Protection Ordinance,” the text of the proposed initiative, proponents’ certifications required by Elections Code § 9608, and a \$200 filing fee. Please immediately transmit a copy of this measure to the City Attorney for preparation of a ballot title and summary.

Please direct all questions and correspondence regarding this matter to me via email at jgnolte@gmail.com or via telephone at 909-938-9991.

Thank you,

John Nolte

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Pomona for The Pomona Housing Stabilization, Fair Rent, and Homeowner Protection Ordinance.

Respectfully,

John Nolte
1037 Arroyo Park Drive
Pomona, CA 91768

John Nolte

Date

Yesenia Miranda Meza
554 Curran Place, Apt. C
Pomona, CA 91766

Yesenia Miranda Meza

Date

CERTIFICATION PURSUANT TO CA ELECTIONS CODE § 9608

I, _____ acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

John Nolte
1037 Arroyo Park Drive
Pomona, CA 91768
Dated this ____ of March 2018

CERTIFICATION PURSUANT TO CA ELECTIONS CODE § 9608

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Yesenia Miranda Meza
554 Curran Place, Apt. C
Pomona, CA 91766
Dated this ____ of March 2018

The People of the City of Pomona do hereby create Chapter 20 of the Pomona City Code, which may be referred to as: “*The Pomona Housing Stabilization, Fair Rent, and Homeowner Protection Ordinance*,” and which shall read as follows:

Chapter 20 – HOUSING STABILIZATION, FAIR RENT, & HOMEOWNER PROTECTION

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ARTICLE I. – IN GENERAL

Sec. 20-1. – Title and purpose.

This Ordinance shall be known as the Pomona Housing Stabilization, Fair Rent, and Homeowner Protection Ordinance. The purpose of this Ordinance is to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Pomona by regulating excessive rent increases and arbitrary evictions to the maximum extent permitted under California law, while ensuring Landlords a fair return and guaranteeing fair protections for renters and homeowners.

Sec. 20-2. – Findings.

The People of Pomona find and declare as follows:

- (a) There is a shortage of decent, safe, affordable, healthy housing in the City of Pomona, with the result that tenants do not have genuine freedom of contract and cannot bargain for fair, reasonable rent prices on an equitable playing field. Valuable, long-time residents are being pushed out of their homes and the City, disrupting their lives, and diminishing Pomona’s

community and culture.

- (b) Tenants should not have to fear eviction, displacement, and sometimes homelessness merely because rental property owners can dramatically increase rents. Common-sense protections against arbitrary evictions are needed in the City to preserve diversity and protect long-time and low-income residents from disruptive, predatory landlord tactics in tight rental markets.
- (c) According to a recent report by California Housing Partnership Corporation, median rent in Los Angeles County, which includes the city of Pomona, has increased 32% since 2000, while the median renter household income has actually fallen by 3%. According to the Zillow Rent Index, rents in Pomona's multi-family housing increased 33% from 2013 through 2017 (15% in just the last 2 years), while the Consumer Price Index for the region has only increased 9% over the same 5-year period.
- (d) According to the U.S. Census Bureau American Community Survey 2016 one-year estimates, households in Pomona has a median income nearly 20% lower than the median income in the Los Angeles-Long Beach-Anaheim statistical area, to which Pomona belongs.
- (e) Pomona'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.
- (f) According to the U.S. Census Bureau, 2016 American Community Survey, 31% of renting families in the City were living below the poverty level. According to the same survey, 62% of Pomona tenant households are rent-burdened, meaning the household pays 30% or more of its income on housing costs. Ninety percent (90%) of tenant households with income under \$50,000 per year pay more than 30% of their income on housing. Nearly 7,000 tenant households (39% of total tenants) earn less than \$35,000 annually and spend more than 30% of their income on housing. More than half of Pomona's housing is renter-occupied.
- (g) A household is considered severely rent-burdened if it spends more than 50% of its gross income on housing. According to Pomona's 2013-2021 Housing Element, 22.1% of renter households in Pomona were severely rent burdened.
- (h) Tenants in Pomona are being displaced because of their inability to pay excessive, increased rents, and must relocate. However, they are unable to

find decent, safe and sanitary housing at affordable rent levels within the City. Residents are aware of the difficulty in finding decent housing, and some renters attempt to pay requested rent increases. Consequently, these households must spend less on other necessities of life, such as food, transit, and healthcare. If they are unable to find replacement housing in Pomona, displaced residents are forced to look to the wider Los Angeles County rental market, which is also facing the same market pressures.

- (i) The rental housing situation has a detrimental effect on the health, safety, and welfare of substantial numbers of renters in the City, creating particular hardship for senior citizens, persons with disabilities, persons on fixed incomes and other vulnerable tenants.
- (j) Rising housing costs are causing overcrowding within dwelling units, which degrades residents' health and quality of life. In Pomona, according to the American Community Survey 5-year estimates in 2016, 27% of rental housing is overcrowded (more than one occupant per room), and 10% is severely overcrowded (more than 1.5 occupants per room).
- (k) Rising housing costs are pushing low-income workers out of the city, forcing them to drive further to work, which is bad for the environment and for their own quality of life.
- (l) Rising housing costs are forcing extended families apart, disrupting social support systems that promote the welfare of children, the elderly and the disabled and forcing people to rely more on already-over-stretched government services.
- (m) Evictions and displacement impose an especially high burden on school-aged children and their families, including increased absences from school and other educational disruption that can have long-lasting effects.
- (n) High rental costs also make it increasingly difficult, if not impossible, for rental households to become first-time homeowners, a fact recognized by the California Legislature.
- (o) Coupled with high student debt and a lack of new affordable housing construction, potential new homeowners are being priced out of the homeowners' market in Pomona altogether. Instead of welcoming back young professionals and new families into the Pomona community, they are increasingly priced out of the community from which they came and to which they hope to contribute again.
- (p) In alignment with Pomona's Mission and Core Values, protecting low-

income residents and their homes protects economic and cultural diversity within the City, which is necessary for the city's stability. Pomona's residents need access to skilled and unskilled laborers as well as professionals for the community to be as self-sufficient and stable as possible.

- (q) Landlords have greater incentives to induce tenants in rent-stabilized units to move out. In jurisdictions with rent stabilization ordinances, many landlords offer cash buyouts in exchange for tenants vacating rental units. Many of these buyout negotiations are not conducted at arms-length and landlords sometimes employ high-pressure tactics or intimidation to induce tenants to sign agreements. Legislation is needed to promote fairness in buyout negotiations and agreements by requiring landlords to provide tenants with a statement of rights and allowing tenants to rescind a buyout agreement within 30 days to provide tenants sufficient time to seek advice.
- (r) Tenants who are evicted in Pomona are forced to incur substantial costs to relocate to new housing. These costs include, but are not limited to, move-in costs to a new apartment, actual moving costs, new utility hookups, payment for temporary housing while new permanent housing is sought, and lost work time seeking housing. Tenants who find acceptable new housing commonly must pay first and last month's rent plus a security deposit equal to one month's rent. No-fault evictions without adequate relocation benefits impose a great hardship on the health and well-being of all evicted tenants, but the impacts are particularly severe for long-time tenants and those who are most vulnerable—i.e., those who are low-income, elderly, disabled, or who have minor children.
- (s) Residents of the City of Pomona began expressing their concerns to the City Council regarding rising rents and displacement in December 2017. Community groups in Pomona also began hosting educational forums on rent control and just cause eviction protections in January 2017. It was foreseeable that rent control and just cause eviction protections were being considered in Pomona, thus making it reasonable to conclude that landlords would increase rents to levels they otherwise would not have in anticipation of imminent regulation.
- (t) The City of Pomona currently does not regulate, with respect to residential housing, rental amounts, rent increases, or evictions.

Sec. 20-3. – Definitions.

Unless further defined elsewhere in this Article, the following words or phrases as used in this Article shall have the following meanings:

- (a) Annual General Adjustment. The Annual General Adjustment is the percentage by which the Rent for existing tenancies in Covered Rental Units may be increased each year, subject to the limitations of this Chapter.
- (b) Base Rent. The Base Rent is the reference point from which the lawful Rent shall be determined and adjusted in accordance with this Chapter.
 - (1) *Tenancies commencing on or before December 31, 2017*. The Base Rent for tenancies that commenced on or before December 31, 2017 shall be the Rent in effect on December 31, 2017.
 - (2) *Tenancies commencing after December 31, 2017*. The Base Rent for tenancies that commenced after December 31, 2017 shall be the initial rental rate charged upon initial occupancy, provided that amount is not a violation of this Chapter or any provision of state law. The term “initial rental rate” means only the amount of Rent actually paid by the Tenant for the initial term of the tenancy.
- (c) Buyout Agreement. A written agreement where a Landlord pays a Tenant money or offers a Tenant other consideration to voluntarily vacate a Rental Unit.
- (d) Buyout Offer. An offer, written or oral, by a Landlord to a Tenant to pay money or other consideration to vacate a Rental Unit.
- (e) Covered Rental Unit. All Rental Units not specifically exempted under Section 20-4 (a) (Exemptions, Fully Exempt) or Article II (Homeowner protections) herein.
- (f) City Council. The term “City Council” refers to the City Council of the City of Pomona.
- (g) Disabled. A person with a disability. The term “disability” is defined in California Government Code Section 12955.3.
- (h) Fair Return. A Fair Return shall be determined by using the maintenance of net operating income (MNOI) standard as outlined in Section 20-58 herein.
- (i) Hearing Officer. An official appointed by the Rent Board to conduct an investigation or administrative hearing pursuant to this Chapter.
- (j) Housing Services. Housing Services include, but are not limited to, repairs, maintenance, painting, providing light, hot and cold water, elevator service,

window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, Utility Charges that are paid by the Landlord, refuse removal, furnishings, telephone, parking, the right to have a specified number of occupants, and any other benefit, privilege, arrangement or facility provided or contracted for in connection with the use or occupancy of any Rental Unit. Housing Services to a Rental Unit shall include a proportionate part of services provided to common facilities of the building in which the Rental Unit is contained.

- (k) Individual Rent Adjustment. An adjustment to the otherwise lawful Rent that is authorized by a Hearing Officer or the Rent Board pursuant to this Chapter.
- (l) Landlord. An owner, lessor, sublessor or any other person entitled to receive Rent for the use and occupancy of any Rental Unit, or an agent, representative, predecessor, or successor of any of the foregoing.
- (m) Petition. A petition for an Individual Rent Adjustment pursuant to this Chapter.
- (n) Primary Residence. The occupant's usual place of return. To classify a unit as an occupant's Primary Residence does not require that the occupant be physically present in the unit at all times or continuously, but does require that the unit be the occupant's usual place of return. Factors that are indicative of Primary Residence include but are not limited to:
 - (1) The occupant carries on basic living activities at the subject premises for extended periods;
 - (2) The subject premises are listed with public agencies, including but not limited to federal, state and local taxing authorities, as the occupant's primary residence;
 - (3) Utility Charges and other charges and fees associated with usage of the structure are billed to and paid by the occupant at the subject premises;
 - (4) The occupant does not file for a homeowner's tax exemption for any different property;
 - (5) The occupant is not registered to vote at any other location; and
 - (6) Ownership is held in the name of the occupant claiming Primary Residence and not held by a Limited Liability Corporation or other

corporate or business entity structure.

- (o) Property. All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.
- (p) Qualified Tenant. Any tenant who satisfies any of the following criteria on the date of service of the written notice of termination described in California Civil Code Section 1946: has attained age 62; is handicapped as defined in Section 50072 of the California Health and Safe Code; is disabled as defined in Title 42 United States Code § 423; has a developmental disability as defined in California Welfare and Institutions Code Section 4512; is a child with a disability as defined in Title 20 United States Code § 1401(3); or is a person residing with and on whom is legally dependent (as determined for federal income tax purposes) one or more minor children.
- (q) Recognized Tenant Organization. Any group of Tenants residing in Rental Units in the same building or in different buildings operated by the same management company, agent or Landlord, who choose to be so designated. This shall also include any other at-large organization that represents the interests of Tenants.
- (r) Relocation Assistance. Financial assistance in the amounts set forth in Section 20-10 (a) or amounts set forth by the Rent Board pursuant to Section 20-10 (b).
- (s) Rent. All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord under a Rental Housing Agreement concerning the use or occupancy of a Rental Unit and premises and attendant Housing Services, including all payment and consideration demanded or paid for parking, Utility Charges, pets, furniture, and/or subletting.
- (t) Rent Board. The term “Rent Board” refers to the Pomona Rental Housing Board established by this Chapter.
- (u) Rental Housing Agreement. An agreement, oral, written, or implied, between a Landlord and Tenant for use or occupancy of a Rental Unit and for Housing Services. For the purposes of this Chapter, the terms “Rental Housing Agreement” and “Lease” are interchangeable.
- (v) Rental Housing Fee. The fee described in Section 20-50 herein.
- (w) Rental Unit. Any building, structure, or part thereof, or land appurtenant

thereto, or any other rental property rented or offered for rent for residential purposes, whether or not the unit possesses a valid Certificate of Occupancy for use as rental housing, together with all Housing Services connected with use or occupancy of such Property, such as common areas and recreational facilities held out for use by the Tenant.

- (x) Security Deposit. Any payment, fee, deposit, or charge as defined in Section 1950.5 of the California Civil Code.
- (y) Single-Family Home. A detached building containing a single residential dwelling unit separately alienable from any other dwelling unit.
- (z) Tenant. A tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a Rental Housing Agreement or this Chapter to the use or occupancy of any Rental Unit.
- (aa) Utility Charges. Any charges for gas, electricity, water, garbage, sewer, telephone, cable, internet, or other service relating to the use and occupancy of a Rental Unit.
- (bb) Written Notice to Cease. A written notice provided by a Landlord that gives a Tenant an opportunity to cure an alleged violation or problem prior to initiating legal proceedings to terminate tenancy. Any Written Notice to Cease must:
 - (1) Provide the Tenant a reasonable period to cure the alleged violation or problem;
 - (2) Inform the Tenant that failure to cure may result in the initiation of eviction proceedings;
 - (3) Inform the Tenant of the right to request a reasonable accommodation;
 - (4) Inform the Tenant of the contact number for the Rent Board;
 - (5) Include a specific statement of the reasons for the Written Notice to Cease with specific facts to permit a determination of the date, place, witnesses and circumstances concerning the reason for the eviction; and
 - (6) Where a breach of Lease is alleged, inform the Tenant what Lease provision has been breached and what the Tenant must do in order to cure the breach.

Sec. 20-4. – Exemptions.

- (a) Fully exempt. The following Rental Units are exempt from all provisions of this Chapter:
- (1) Units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented primarily to transient guests for a period of fewer than thirty (30) days;
 - (2) Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education;
 - (3) Rental Units owned or operated or managed by a not-for-profit organization pursuant to a tax credit program;
 - (4) Rental Units which a government unit, agency or authority owns, operates, or manages, or in which government-subsidized Tenants reside, if applicable federal or state law or administrative regulation specifically exempt such units from municipal rent control;
 - (5) Rental Units additionally exempted pursuant to Article II (Homeowner protections).
- (b) Partially exempt, i.e., exempt from rent stabilization. The following Rental Units are exempt from Articles IV, V, and VI of this Chapter (regarding stabilization of Rents) and from Article IX (regarding Petitions for Individual Rent Adjustment), but are not exempt from Article III (Tenant protections) and Article VII (Tenant buyout notification program):
- (1) For twenty (20) years from issuance of its first certificate of occupancy, any Rental Unit that is not a single-family home and that is issued its first certificate of occupancy after the effective date of this Chapter. After the twenty years, such Rental Units shall no longer be exempt from Articles IV, V, VI and IX of this Chapter;
 - (2) To the extent required by state law, Rental Units exempt from rent control pursuant to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.52. *et seq.*). Where rent restrictions are permitted by state law, the Rental Board may issue rules and regulations to govern the restrictions on Rental Units identified in this paragraph.

ARTICLE II. – HOMEOWNER PROTECTIONS

Homeownership is of great importance to the residents of the City of Pomona. In addition to the Rental Units exempted in Section 20-4(a) of this Chapter, and notwithstanding any other provision of this Chapter, the following Rental Units are also exempt from all provisions of this Chapter:

Sec. 20-5. – Certain single-family homes and accessory dwelling units exempt.

- (a) A homeowner whose Primary Residence is in the City of Pomona may submit to the Rent Board, for approval for exemption, either one single-family home or one accessory dwelling unit that is not a Rental Unit at the time of submission, which shall be approved and thereafter exempt from this Chapter if, and only for so long as, the following conditions are met:
 - (1) The homeowner is a natural person, or a group of two or more natural persons, whose Primary Residence is in the City of Pomona, who has (or have) an ownership interest of at least fifty percent (50%) in the home or unit, and who obtained written permission to seek exemption for the home or unit from everyone else that has an ownership interest in it;
 - (2) No one with an ownership interest in the home or unit has an ownership interest in any other home or unit that is exempt from this Chapter under this Section.
- (b) Notwithstanding the foregoing, when a Rental Unit that has been exempt under Section 20-5 (a) transfers ownership through foreclosure, Section 20-9 herein applies.

Sec. 20-6. – Temporary rentals allowed.

A homeowner who is the Primary Resident of a single-family home may create a temporary tenancy in their primary residence that is exempt from this Chapter. The temporary Tenant must be provided, in writing at the inception of the tenancy, the length of the tenancy and a statement that the tenancy may be terminated at the end of the temporary tenancy and relocation assistance shall not be provided. This Section only applies to tenancies that last no more than twelve (12) consecutive months.

Sec. 20-7. – Renting of a room unregulated.

The tenancy where the Tenant shares a bathroom or kitchen with the

homeowner shall be exempt from this Chapter if the home is the Primary Residence of the homeowner.

ARTICLE III. – TENANT PROTECTIONS

Sec. 20-8. – Just cause for eviction protections.

No Landlord shall take action to terminate any tenancy, or endeavor to recover possession of a Rental Unit, including but not limited to making a demand for possession of a Rental Unit, threatening to terminate a tenancy orally or in writing, serving any Written Notice to Cease or other eviction notice, or bringing any action to recover possession, or be granted recovery of possession of a Rental Unit unless at least one of the following conditions exists:

- (a) Failure to pay rent. The Tenant has failed, after receiving a Written Notice to Cease, to pay the Rent to which the Landlord is legally entitled under the Rental Housing Agreement, this Chapter, state, and any other local law. This condition does not include a failure to pay any separately charged fees.
- (b) Breach of lease.
 - (1) A breach of lease occurs if the Tenant has, after receiving a Written Notice to Cease, continued to substantially violate any of the material terms of the Rental Housing Agreement, other than a violation based on the following terms or any terms elaborated in regulations established by the Rent Board:
 - (A) The obligation to surrender possession upon proper notice; or
 - (B) The obligation to limit occupancy, provided that the additional Tenant who joins the occupants of the unit thereby exceeding the limits on occupancy set forth in the Rental Housing Agreement is either the first or second dependent child to join the existing tenancy of a Tenant of record, the sole additional adult Tenant, or is a replacement Tenant who moved in after an approved Tenant vacated the Rental Unit. For purposes of this paragraph, multiple births shall be considered as one child. The Landlord, however, has the right to approve or reasonably disapprove the prospective additional or replacement Tenant, who is not a minor dependent child, provided that the approval is not unreasonably withheld. If the Landlord fails to respond to the Tenant in writing with a description of valid reasons for the denial of the request within 14 days of receipt of the Tenant's

written request, the Tenant's request shall be deemed approved by the Landlord; or

(C) A change in the terms of the tenancy that is not the result of an express written agreement signed by both parties. The Tenant must knowingly consent, without threat or coercion, to each change in the terms of the tenancy. A Landlord is not required to obtain a Tenant's written consent to a change in the terms of the tenancy if the change in the terms of the tenancy is authorized by this Chapter, or if the Landlord is required to change the terms of the tenancy pursuant to federal, state, or local law. Nothing in this paragraph shall exempt a Landlord from providing legally required notice of a change in the terms of the tenancy.

(2) *Protections for children, families, and other vulnerable Tenants.* The protections in subparagraph (b)(1)(B) herein shall be considered minimum protections. The Rent Board shall enact regulations that, to the extent permissible under law, promote stability for school-aged children and further protect families, people with disabilities, and the elderly from disruptive eviction.

(c) Nuisance. The Tenant is committing or permitting to exist a nuisance in, or is causing damage to, the Rental Unit or to the unit's appurtenances, or to the common areas of the Property containing the Rental Unit, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the Property or within a 1,000-foot radius extending from the boundary line of the Property.

The term "nuisance" as used in this subsection includes, but is not limited to, any gang-related crime, violent crime, unlawful weapon or ammunition crime or threat of violent crime, illegal drug activity, any documented activity commonly associated with illegal drug dealing, such as complaints of noise, steady traffic day and night to a particular unit, barricaded units, possession of weapons, or drug loitering as defined in California Health and Safety Code Section 11532. For purposes of this subsection, gang-related crime is any crime motivated by gang membership in which the perpetrator, victim or intended victim is a known member of a gang. Violent crime is any crime which involves use of a gun, a deadly weapon or serious bodily injury and for which a police report has been completed. A violent crime under this subsection shall not include a crime that is committed against a person residing in the same Rental Unit as the person committing the crime. Unlawful weapon or ammunition crime is the illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale,

sale, furnishing, or giving away of ammunition or any weapon listed in subsection (c)(1)-(5) of Section 3485 of the California Civil Code.

Threat of violent crime is any statement made by a Tenant, or at his or her request, by his or her agent to any person who is on the Property or to the owner of the Property, 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. Such a threat includes any statement made verbally, in writing, or by means of an electronic communication device and regarding which a police report has been completed. A threat of violent crime under this subsection shall not include a crime that is committed against a person who is residing in the same Rental Unit as the person making the threat. Immediate family means any spouse, whether by marriage or not, parent, child, any person related by consanguinity of affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household. Electronic communication device includes but is not limited to, telephones, cellular telephones, video recorders, fax machines, or pagers. Electronic communications has the same meaning as the term is defined in subsection 12 of Section 2510 of Title 18 of the United States Code, except that electronic communication for purposes of this definition shall not be limited to electronic communication that affects interstate or foreign commerce.

Illegal drug activity is clear and convincing evidence of a violation of any of the provisions of Chapter 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400) of the California Health and Safety Code.

This subsection (c) shall be interpreted in a manner that accords with and furthers Division 2 of Article VIII of Chapter 30 of the Pomona City Code, the Eviction Program for Drug- or Gang-related Activities.

- (d) Illegal purpose. The Tenant is using, or permitting a Rental Unit, the common areas of the Property containing the Rental Unit, or an area within a 1,000 foot radius from the boundary line of the Property to be used for any illegal purpose.

The term “illegal purpose” as used in this subsection includes, but is not limited to, clear and convincing evidence of violations of any of the provisions of Division 10, Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400) of the California Health and Safety Code, and does not include the use of housing accommodations lacking a legal approved use or which have been cited for occupancy or other housing code violations.

This subsection (d) shall be interpreted in a manner that accords with and furthers Division 2 of Article VIII of Chapter 30 of the Pomona City Code, the Eviction Program for Drug- or Gang-related Activities.

- (e) Refusal to execute new lease. The Tenant, who had a Rental Housing Agreement which terminated on or after the effective date of this Chapter, has refused, after written request or demand by the Landlord, to execute a written extension or renewal thereof for a further term of like duration with terms which are materially the same as in the previous Agreement and provided that such terms do not conflict with any provision of this Chapter or any other provision of law.
- (f) Failure to give access. The Tenant, after service of proper notice, has refused the Landlord reasonable access to the Rental Unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by law, or for the purpose of showing the Rental Unit to any prospective purchaser or mortgagee. The notice shall inform the Tenant that if they are unable to comply based on a disability-related reason, they have the right to request a reasonable adjustment or change in the Landlord’s policies or practices to accommodate the Tenant’s disability.
- (g) Subtenant in sole possession. The person in possession of the Rental Unit at the end of a lease term is a subtenant in sole possession, not approved by the Landlord.
- (h) Owner move-in. The Landlord seeks, after providing written notice to the Tenant pursuant to state law, to recover possession of the Rental Unit in good faith for use and occupancy as a Primary Residence by the Landlord, or the Landlord’s spouse, domestic partner, children, grandchildren, parents or grandparents.
 - (1) As used in subsection (h) herein, Landlord shall only include a Landlord that is a natural person and has at least a fifty percent (50%) recorded ownership interest in the Property.
 - (2) No eviction may take place under this subsection if the same Landlord

or enumerated relative already occupies a unit on the Property, or if a vacancy already exists on the Property. If a comparable unit does become vacant and available before the recovery of possession, the Landlord shall rescind the notice to vacate and dismiss any action filed to recover possession of the Rental Unit.

- (3) Any notice terminating tenancy pursuant to this subsection shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit and the rights pursuant to subparagraph (5) herein.
- (4) The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within sixty (60) days after the Tenant vacates and to occupy the Rental Unit as a Primary Residence for at least thirty-six (36) consecutive months. The Rent Board may adopt regulations governing the determination of good faith.
- (5) If the Landlord or relative specified on the notice terminating tenancy fails to occupy the Rental Unit within sixty (60) days after the Tenant vacates, the Landlord shall:
 - (A) Offer the Rental Unit to the Tenant who vacated it at the same Rent in effect when the Tenant vacated; and
 - (B) Pay to said Tenant all reasonable expenses incurred in moving to and from the Rental Unit.
- (6) *Eviction protection for elderly or disabled Tenant.* A Landlord may not evict a Tenant pursuant to Subsection (h) herein if the Tenant (A) has resided in the Rental Unit for at least five (5) years and is either at least sixty-two (62) years old or Disabled; or (B) is certified as being terminally ill by the Tenant's treating physician. Notwithstanding the above, a Landlord may evict a Tenant who qualifies for the exemption herein if the Landlord or enumerated relative who will occupy the Rental Unit also meets the criteria for this exemption and no other units are available.
- (7) Notwithstanding subparagraph (6) herein, at all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is Disabled and another unit in Pomona is necessary to accommodate the person's disability.
- (i) Necessary and substantial repairs requiring temporary vacancy. The Landlord, after having obtained all necessary permits from the City of

Pomona, and having provided written notice to the Tenant, seeks in good faith to undertake substantial repairs that are necessary to bring the Rental Unit into compliance with applicable codes and laws affecting the health and safety of Tenants of the building, provided that:

- (1) The repairs necessitate that the Tenant vacate the Rental Unit because the work will render the Rental Unit uninhabitable for a period of not less than thirty (30) days;
 - (2) The Landlord gives advance notice to the Tenant of the right to elect between:
 - (A) The right of first refusal to any comparable vacant Rental Unit owned by the Landlord at the same Rent, if such comparable vacant unit exists; or
 - (B) The first right of return to reoccupy the Rental Unit upon completion of the repairs at the same Rent charged to the Tenant before the Tenant temporarily vacated the Rental Unit.
 - (3) In the event that the Tenant elects subsection (i)(2)(A) above, i.e., to move into a comparable vacant Rental Unit at the same Rent, the Tenant is not eligible for any Relocation Assistance pursuant to Section 20-10 herein, however the length of tenancy shall continue to be calculated from the date the Tenant first entered into a Rental Housing Agreement at the Property.
 - (4) In the event the Landlord files a Petition for Individual Rent Adjustment within six (6) months following the completion of the work, the Tenant shall be party to such proceeding as if he or she were still in possession, unless the Landlord submits with such Petition a written waiver by the Tenant of his or her right to reoccupy the Rental Unit pursuant to this subsection.
- (j) Withdrawal of the unit permanently from rental market. To the extent California Government Code Section 7060 *et seq.*, requires this Chapter to permit the Landlord to withdraw all Rental Units of an entire Property from the rental market, the Landlord may seek in good faith to recover possession of such Rental Units. The Landlord first must have filed the requisite documents with the Rent Board initiating the procedure for withdrawing Rental Units from rent or lease under California Government Code Section 7060 *et. seq.* and all regulations passed by the Rent Board, with the intention of completing the withdrawal process and going out of the rental business or demolition of the Property. If demolition is the

purpose of the withdrawal, then the Landlord must have received all needed permits from the City of Pomona before serving any notices terminating a tenancy based on Subsection (j) herein. Tenants shall be entitled to a minimum of 120-day notice or 1 year in the case Tenants are defined as senior or Disabled. Notice times may be increased by regulations if state law allows for additional time. The Rent Board or the City may further restrict or remove the ability of a Landlord to utilize this paragraph in the event the state law is amended.

- (k) Government order. 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, order to comply, order to abate, or any other order that necessitates the vacating of the building housing the Rental Unit as a result of a violation of the Pomona City Code or any other provision of law.

Sec. 20-9. – Tenant protections during foreclosure.

Notwithstanding anything to the contrary in Section 20-4 or Article II herein, a Landlord who obtains title through foreclosure to Property containing Rental Units subject to this Chapter may bring an action to recover possession of the Rental Unit from a Tenant whose tenancy commenced on or before the date that the Landlord obtained title, only upon the grounds set forth in this Section 6. To recover possession of the Rental Unit from a Tenant, the Landlord must comply with all the requirements and provisions of this Article, including, without limitation, the payment of Relocation Assistance required pursuant to the provisions of Section 20-10.

Sec. 20-10. – Relocation Assistance.

A Landlord seeking to recover possession under Section 20-8 (h), (i), (j), or (k) herein shall provide Relocation Assistance to affected Tenant households. The Landlord shall notify the affected Tenants of their rights under this subsection, if any, at the time of service of the notice to quit.

- (a) Relocation Assistance shall initially be provided to the Tenant(s) in a Rental Unit as follows:
 - (1) If all the Tenants have lived in the Rental Unit for fewer than three years and at least one of them is a Qualified Tenant, the amount is \$12,000. If all the Tenants have lived in the Rental Unit for fewer than three years and none of them is a Qualified Tenant, the amount is \$6,000. If at least one of the Tenants is a Qualified Tenant who has lived in the Rental Unit for more than three years, the amount is \$16,000. If at least one of the Tenants, but no Qualified Tenant, has

lived in the Rental Unit for more than three years, the amount is \$8,000. If the household income of the Rental Unit is at or below the Low Income Limit for the Los Angeles-Long Beach-Glendale Area, as adjusted for household size, as defined by the U.S. Department of Housing and Urban Development, regardless of length of tenancy, the amount is \$16,000 if at least one of the Tenants is a Qualified Tenant, or \$8,000 if none is a Qualified Tenant. These amounts shall increase annually by the percentage increase in the annual Consumer Price Index described in Section 20-25 (a)(2).

(A) The entire amount shall be paid to a Tenant who is the only Tenant in the Rental Unit.

(B) If two or more Tenants occupy the Rental Unit, then each Tenant shall be paid an equal pro-rata share of the Relocation Assistance.

(C) If more than one amount applies to the Rental Unit, the Landlord shall pay the higher amount for the Rental Unit.

(2) Tenants who claim eligibility based on their income shall file a statement with the Rent Board verifying their income on a form prescribed by the Rent Board. The form shall be delivered to the Tenant by the Landlord together with the notice seeking recovery of possession. Requests for a hearing to appeal a decision regarding a Tenant's Relocation Assistance eligibility, including disputes about eligibility for higher Relocation Assistance based on a Tenant's income, age, length of tenancy, family status and/or disability status, must be filed in writing on the form prescribed by the Rent Board and received by the Rent Board within fifteen (15) calendar days of the date of the Rent Board's notification of its decision regarding Relocation Assistance.

(b) The Rent Board shall issue rules and regulations to effectuate this Section including but not limited to rules and regulations setting forth the procedures for establishing the amount of Relocation Assistance applicable to any given Tenant household, and for the reasonably timely payment of any applicable Relocation Assistance. In no event shall the amount of Relocation Assistance be less than the amount provided for in California Health and Safety Code Section 17975.2. The Relocation Assistance shall be paid to any Tenant who vacates the Rental Unit no later than the time he or she vacates the Rental Unit.

Sec. 20-11. – Right of return and first right of refusal.

All Tenants whose tenancy is terminated on a basis enumerated in Section 20-8 (h), (i), (j), or (k) herein shall, to the maximum extent permitted by state law, have the first right of refusal to return to the Rental Unit if that Rental Unit is returned to the market by the Landlord or successor Landlord. Rent for the Rental Unit shall, to the maximum extent permitted by state law, be the Rent lawfully paid by the Tenant at the time the Landlord gave notice of termination based upon Section 20-8 (h), (i), (j), or (k) herein.

Sec. 20-12. – Required notice for withdrawal of Rental Units from rental housing and regulation of property on re-offer of rent or lease after withdrawal.

Within 180 days of the first meeting of the Rent Board, the Rent Board shall adopt regulations, in the manner specified by California Government Code Section 7060.5, that implement all the provisions set forth in California Government Code Section 7060 *et seq.* Such regulations shall be updated from time to time to ensure consistency with California Government Code Section 7060 *et seq.* and to ensure that the maximum protections authorized by law are afforded to Tenants of Rental Units.

Sec. 20-13. – Posting of notice.

For every Property containing Rental Units subject to this Chapter, the Landlord shall post a notice on a form prepared and authorized by the Rent Board, providing information about the existence of this Chapter. Notice must be posted in a conspicuous location in the lobby of the Property, near a mailbox used by all Tenants, or in or near a public entrance to the Property. The notice shall be written in English and Spanish, and in any other languages as required by the Rent Board.

Sec. 20-14. – Security Deposits.

No Landlord shall increase a security or other deposit originally required from a Tenant as a condition of continued occupancy of a Rental Unit subject to this Chapter. Landlords shall pay interest annually on all Security Deposits held for at least one year for his or her Tenants. The interest rate to be paid on Security Deposits shall be set annually by the Rent Board every September. A Tenant shall be given the unpaid accrued interest in the form of either a direct payment or a credit against the Tenant's Rent.

Sec. 20-15. – Retaliation is barred.

No Landlord may threaten to bring, or bring, an action to recover possession,

cause the Tenant to quit the unit involuntarily, serve any Written Notice to Cease or notice of termination of tenancy, decrease any services or increase the Rent where the Landlord's dominant motive is retaliation against the Tenant for the Tenant's assertion or exercise of rights under this Chapter. Such retaliation shall be a defense to an action to recover possession, or it may serve as the basis for an affirmative action by the Tenant for actual and punitive damages and injunctive relief. A Tenant may assert retaliation affirmatively or as a defense to the Landlord's action regardless of the period of time which has elapsed between the Tenant's assertion or exercise of rights under this Chapter and the alleged act of retaliation. The Rent Board may address retaliation issues further in its rules and regulations consistent with the intent of this subsection to prevent unlawful retaliation. The Rent Board shall maintain records of complaints received regarding violations of this Chapter, and shall, upon request, make certified copies available to Tenants of records of complaints initiated by Tenants regarding their Rental Units.

Sec. 20-16. – Harassment is prohibited.

No Landlord may threaten to bring, or bring, an action to recover possession, cause the Tenant to quit the Rental Unit involuntarily, serve any Written Notice to Cease or notice of termination of tenancy, decrease any services, refuse to accept or acknowledge receipt of a Tenant's lawful Rent pursuant to this Chapter, or interfere with the Tenant's quiet enjoyment of the Rental Unit and common areas as part of an attempt to increase the Rent above the maximum allowable Rent permitted under this Chapter, either by obtaining such excessive Rent from the Tenant or by creating a vacancy and increasing the Rent to a new Tenant. Such harassment shall be a defense to an action to recover possession, or it may serve as the basis for an affirmative action by the Tenant for actual and punitive damages and injunctive relief. The Rent Board may address harassment issues further in its rules and regulations consistent with the intent of this subsection to prevent unlawful harassment.

Sec. 20-17. – Notice to specify basis for termination.

Any notice purporting to terminate tenancy on any of the bases specified in this Article must state with specificity the basis on which the Landlord seeks to terminate the tenancy.

Sec. 20-18. – Notice of the existence of this Chapter required at commencement of tenancy.

The Landlord of any Covered Rental Unit is required to comply with the following notice requirements at the commencement of any tenancy:

- (a) On or before the date of commencement of a tenancy, the Landlord must give the Tenant a written notice in a form prescribed by the Rent Board which must include the following information:
 - (1) The existence and scope of this Chapter, including all Tenant protections; and
 - (2) The Tenant's right to Petition against certain Rent increases.
- (b) The Landlord must give the initial notice to the Tenant in the language that was used to negotiate the terms of the tenancy.
- (c) Upon Tenant's request, the Landlord must provide the Tenant with a copy of this Chapter.

Sec. 20-19. – Landlord compliance with this Chapter.

In any action brought to recover possession of a Rental Unit subject to this Chapter, the Landlord shall allege compliance with this Chapter.

Sec. 20-20. – Filing termination notices with the Rent Board.

The Landlord shall file with the Rent Board a copy of any notice terminating tenancy, including a Written Notice to Cease, within three (3) business days after serving the notice on the Tenant.

Sec. 20-21. – Non-waivability.

Any provision of a Rental Housing Agreement, whether oral or written, that purports to waive any provision of this Chapter established for the benefit of the Tenant, shall be deemed to be against public policy and shall be void.

Sec. 20-22. – Failure to comply.

A Landlord's failure to comply with any requirement of this Article, including without limitation the failure to file any of the required notices with the Rent Board, is a complete affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit.

ARTICLE IV. – STABILIZATION OF RENTS

Sec. 20-23. – Rents stabilized.

Upon the effective date of this Chapter, no Landlord shall charge Rent for a Covered Rental Unit in an amount that exceeds the sum of the Base Rent plus any lawful Rent increases actually implemented pursuant to this Chapter.

Sec. 20-24. – Rent increases regulated.

No Landlord shall increase Rent for a Covered Rental Unit except as authorized by this Chapter. Rent increases shall be limited to those permitted by Article V (Rent Increases Pursuant to Annual General Adjustment) and Article IX (Petitions for Individual Rent Adjustment). A Landlord may set the initial Rent for a new tenancy pursuant to Article VI (Initial Rents for New Tenancies).

ARTICLE V. – RENT INCREASES PURSUANT TO ANNUAL GENERAL ADJUSTMENT

Sec. 20-25. – Annual General Adjustment.

No later than June 30th each year, the Rent Board shall announce the amount of the Annual General Adjustment, which shall be effective as of September 1st of that year. The Annual General Adjustment is the percentage by which the Rent for existing tenancies in Covered Rental Units may be increased each year, subject to the limitations of this Chapter.

- (a) The Annual General Adjustment shall be equal to the percentage increase in the annual average Consumer Price Index (CPI) for the twelve-month period ending as of March of the current year multiplied by the “indexing ratio,” rounded to the nearest one-quarter of a percent. The “indexing ratio” shall initially be 80%. The Rent Board may adopt a different “indexing ratio” to achieve the purposes of this Chapter, but in no event shall it be greater than 100%. Notwithstanding this paragraph, the first Annual General Adjustment shall be calculated in accordance with subsection (c) of this Section.

- (1) For example, had this Chapter been in effect in 2017, the Annual General Adjustment announced by June 30, 2017 and effective as of September 1, 2017 would have been calculated as follows: The sum of the 12 CPIs from April 2015 to March 2016 \div 12 = 246.081; The sum of the 12 CPIs from April 2016 to March 2027 \div 12 = 250.794; $((250.794 - 246.081) \div 246.081) \times 100 =$ the percentage increase in the annual

average CPI for the twelve-month period ending as of March 2017 = $1.92\% \times \text{the "indexing ratio" (80\%)} = 1.54\%$, which, rounded to the nearest one-quarter of a percent = 1.50% = the Annual General Adjustment.

- (2) The CPI to be used for calculations in this Section is All Items, All Urban Consumers, Los Angeles-Long Beach-Anaheim Area, not seasonally adjusted, Base Period 1982-84=100, or any successor designation of that index that may later be adopted by the U.S. Department of Labor, Bureau of Labor Statistics.
- (b) Subsection (a) of this Section notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%) or more than five percent (5%).
- (c) The Rent Board's first announcement of an Annual General Adjustment shall be made no later than June 30, 2019. Accordingly, the first Rent increase that a Landlord may impose pursuant to this Article shall not take effect prior to September 1, 2019. The first Annual General Adjustment shall be equal to the percentage change in the CPI from October 2017 to March 2019 multiplied by 80% and rounded to the nearest one-quarter of a percent. I.e., $((\text{the CPI of March 2019} - \text{the CPI of October 2017}) \div \text{the CPI of October 2017}) \times 100$ and rounded to the nearest one-quarter of a percent = the first Annual General Adjustment that shall be effective as of September 1, 2019.

Sec. 20-26. – One Rent increase per year.

No more than one Rent increase per twelve-month period may be imposed on a Tenant.

Sec. 20-27. – Notice of Rent increase required.

Allowable Rent increases pursuant to the Annual General Adjustment shall become effective only after the Landlord provides written notice to the Tenant in the manner prescribed by law, with at least thirty (30) days advance written notice.

Sec. 20-28. – Required notice to increase Rent or change other terms of tenancy.

As part of any notice to increase Rent or change any terms of tenancy, a Landlord must include:

- (a) Notice of the existence of this Chapter; and

- (b) The right to Petition against any Rent increase in excess of the Annual Rent Adjustment unless such Rent increase is pursuant to a decision granting a Petition.
- (c) No Rent increase shall take effect until the requirements of this subsection have been met.

Sec. 20-29. – Conditions under which Rent increase not permitted.

No Rent increase shall be effective if the Landlord:

- (a) Has failed to substantially comply with all provisions of this Chapter and all rules and regulations promulgated by the Rent Board; or
- (b) Has failed to maintain the Rental Unit in compliance with California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10; or
- (c) Has failed to make repairs ordered by a Hearing Officer, the Rent Board, or the City of Pomona.

ARTICLE VI. – INITIAL RENTS FOR NEW TENANCIES

Sec. 20-30. – Setting of initial Rents without restriction.

To the extent required by state law, Landlords may set the initial Rent for new Tenants without regulation by this Chapter.

Sec. 20-31. – Restrictions on initial Rent for new tenancies.

To the maximum extent permitted by state law, the initial Rent for new tenancies in shall be subject to the restrictions of this Chapter. The Rent Board shall issue rules and regulations to govern the restrictions on the initial Rent for new tenancies where such restrictions are permitted by state law.

Sec. 20-32. – Rent increases after setting an initial Rent.

After the Landlord sets an initial Rent pursuant to this section, the Landlord may only increase the Rent in accordance with this Chapter. The Landlord may not increase Rent based on cost increases, capital improvements, or other circumstances that arose before the new tenancy began.

ARTICLE VII. – TENANT BUYOUT NOTIFICATION PROGRAM

Sec. 20-33. – Purpose.

The Tenant Buyout Notification Program provides for regulation, monitoring and enforcement of voluntary vacancies of Rental Units subject to this Chapter occurring pursuant to a Buyout Agreement. To promote fairness during buyout negotiations and agreements, this section requires Tenants be informed of their rights under this Chapter before executing a Buyout Agreement. The Rent Board may promulgate regulations to implement this section.

Sec. 20-34. – Disclosure notice.

Before making a Buyout Offer, the Landlord shall provide the Tenant(s) with a notice which shall be written in the primary language of the Tenant on a form prepared and authorized by the Rent Board, which shall be dated and signed by the Landlord and the Tenant(s).

Sec. 20-35. – Buyout Agreement requirements.

- (a) Every Buyout Agreement shall be written in the primary language of the Tenant and state in a minimum of 12-point bold type above the Tenant signature line as follows:

"You, (Tenant name), may cancel this Buyout Agreement any time up to 30 days after all parties have signed this Agreement without any obligation or penalty."

- (b) Every Buyout Agreement shall advise the Tenant that he/she/they have the right:
- (1) Not to enter into a Buyout Agreement;
 - (2) To consult an attorney and/or the Rent Board before signing the Buyout Agreement; and
 - (3) To cancel the Buyout Agreement at any time up to 30 days after all parties have signed it.
- (c) Every Buyout Agreement shall be signed and dated by the Landlord and Tenant.
- (d) A copy of the fully executed Buyout Agreement shall be given to the Tenant.

Sec. 20-36. – Cancellation of Buyout Agreement.

- (a) A Tenant shall have the right to cancel a Buyout Agreement for any reason for up to 30 days after execution by the Landlord and the Tenant without any financial obligation or penalty.
- (b) Whenever the notice required pursuant to this section and/or the Buyout Agreement does not conform to the requirements of this section or Rent Board regulations, the Tenant shall have the right to cancel the Buyout Agreement through the applicable statute of limitations period.

Sec. 20-37. – Filing executed disclosure notice and Buyout Agreement.

The Landlord shall file with the Rent Board copies of the notice required pursuant to Section 20-34 signed by the Tenant and the Landlord and the Buyout Agreement within 60 days of execution of the Buyout Agreement.

Sec. 20-38. – Affirmative defense.

A violation of this Article may be asserted as an affirmative defense in an unlawful detainer action.

Sec. 20-39. – Private right of action.

A Tenant may bring a private right of action against a Landlord who violates a provision of this Article and recover damages and a penalty of \$1,000.

ARTICLE VIII. – POMONA RENTAL HOUSING BOARD

Sec. 20-40. – Created.

There is created the Pomona Rental Housing Board (“Rent Board”), which shall function and perform such duties as set forth in this Article.

Sec. 20-41. – Appointment, composition, and eligibility.

The Rent Board shall be comprised of seven (7) Pomona residents who submitted applications pursuant to Section 20-42, who are appointed by the City Council in accordance with Section 801 of Article VIII of the Pomona City Charter. Of the seven members of the Rent Board, at least two (2) shall be Tenants, and no more than two (2) may be residential rental property owners, property managers, realtors, or developers of market rate housing. Members of the Rent Board must be in compliance with this Chapter and all other local, state and federal laws

regulating the provision of housing. Annually, the Rent Board shall elect one of its members to serve as chairperson.

Sec. 20-42. – Application.

Applicants for membership on the Rental Board shall submit an application to the City Council. The application shall be made on a form provided by the City Manager or designee, and shall include a verified statement under penalty of perjury of the applicant's interests and dealings in real property, including but not limited to, ownership, trusteeship, sale, or management, and investment in, or association with, partnerships, corporations, joint ventures, and syndicates engaged in ownership, sale, or management of real property during the 3 years immediately prior to the applicant's application. If the applicant is a residential rental property owner or property manager, or developer of market rate housing, the application shall also include a verified statement under penalty of perjury that the applicant has been in compliance with this Chapter and all other local, state and federal laws regulating the provision of housing during the three (3) years immediately prior to the applicant's application. This documentation shall be made available to the public.

Sec. 20-43. – Powers and duties.

The Rent Board shall have the following powers and duties:

- (a) Set Rents at fair and equitable levels to achieve the purposes of this Chapter. Notwithstanding any other provision of this Chapter, the Rent Board shall have the authority to adopt regulations authorizing Rent increases and/or adjustments required by state or federal law.
- (b) Establish rules and regulations for administration and enforcement of this Chapter.
- (c) Determine and publicize the Annual General Adjustment pursuant to this Chapter.
- (d) Appoint Hearing Officers to conduct hearings on Petitions for Individual Rent Adjustment pursuant to this Chapter.
- (e) Adjudicate Petitions pursuant to this Chapter and issue decisions with orders for appropriate relief pursuant to this Chapter.
- (f) Establish procedures and timelines for hearings on Petitions, including determining the timelines and procedures for appeals to the Rent Board.

- (g) Administer oaths and affirmations and subpoena witnesses and relevant documents.
- (h) Establish a budget for the reasonable and necessary implementation of the provisions of this Chapter, including without limitation the hiring of necessary staff, and charge fees as set forth herein in an amount sufficient to support that budget. The budget may include expenditures to advance the policies herein.
- (i) Administer the withdrawal process for the removal of Rental Units from the rental housing market.
- (j) Hold public hearings.
- (k) Conduct studies, surveys, investigations, and hearings, and obtain information to further the purposes of this Chapter.
- (l) Report annually to the City Council on the status of Rental Units subject to this Chapter. Reports shall be made available to the public and include, but not be limited to: (1) a summary of the numbers of Written Notices to Cease served pursuant to this Chapter, including the bases upon which they were served, (2) a summary of any and all Petitions submitted to and/or decided by a Hearing Officer and/or the Rent Board pursuant to this Chapter, including the bases on which the Petitions were submitted and the determinations on the Petitions, (3) a summary of all evictions pursuant to Section 20-8 (j), and (4) Buyout Agreements pursuant to Article VII.
- (m) Publicize through reasonable and appropriate means the provisions of this Chapter, including without limitation the rights and responsibilities of Landlords and Tenants.
- (n) Establish a schedule of penalties that may be imposed for noncompliance with this Chapter or with rules and regulations promulgated under this Chapter.
- (o) Pursue civil remedies as provided by this Chapter in courts of appropriate jurisdiction.
- (p) Intervene as an interested party in any litigation brought before a court of appropriate jurisdiction by a Landlord or Tenant with respect to Rental Units subject to this Chapter.
- (q) Any other duties necessary to administer and enforce this Chapter.

Sec. 20-44. – Rules and regulations.

The Rent Board shall issue and follow such rules and regulations as will further the purposes of the Chapter.

Sec. 20-45. – Meetings.

The Rent Board shall hold regularly scheduled meetings as necessary to ensure the performance of its duties under this Chapter. All regular and special meetings shall be called and conducted in accordance with state law.

Sec. 20-46. – Quorum.

Four board members shall constitute a quorum for the Rent Board.

Sec. 20-47. – Voting.

The affirmative vote of four (4) Rent Board members is required for a decision, including on all motions, regulations, and orders of the Rent Board.

Sec. 20-48. – Compensation.

Notwithstanding Section 2-524 of the Pomona City Code, each Rent Board member shall receive for every meeting attended \$75.00. In no event shall any board member receive in any 12-month period more than \$3,600.00 for meeting attendance. The City Council may, from time to time, increase the compensation of the Rent Board members.

Sec. 20-49. – Financing.

The Rent Board shall finance its reasonable and necessary expenses, including without limitation engaging any staff as necessary to ensure implementation of this Chapter, by charging Landlords an annual Rental Housing Fee as set forth herein, in amounts deemed reasonable by the Rent Board in accordance with applicable law. The Rent Board is also empowered to request and receive funding when and if necessary from any available source including the City for its reasonable and necessary expenses.

Sec. 20-50. – Rental Housing Fee.

All Landlords shall pay a Rental Housing Fee on an annual basis. The first Rent Board convened after the effective date of this Chapter shall determine the amount of the Rental Housing Fee. The amount of the Rental Housing Fee may differ between Rental Units subject to the entirety of this Chapter and those that are

partially exempt. The Rent Board may adjust the amount of the Rental Housing Fee at its discretion to ensure full funding of its reasonable and necessary expenses, in accordance with all applicable law.

- (a) Pass-Through to Tenants. The amount of the Rental Housing Fee, if any, that a Landlord may pass through to a Tenant is determined by the Rent Board. If the Rent Board determines that part of the Rental Housing Fee may be passed through to Tenants, the pass-through must be in the form of a Rent surcharge prorated over a 12-month period. The portion of the Rental Housing Fee that may be passed through to a Tenant shall not exceed 50%. No fee may be passed through if it has not actually been paid by the owner.
- (b) No Pass-Through for Section 8 Tenants. No portion of the Rental Housing Fee may be passed through to Tenants whose tenancy is governed by a Section 8 Housing Choice Voucher Program contract. The Landlord does not have to pay the Rent Board the portion of Rental Housing Fee that the Landlord could pass through to the Tenant but for this subparagraph.

Sec. 20-51. – City to advance initial funds.

During the initial implementation of this Chapter, the City shall advance all necessary funds to ensure the effective implementation of this Chapter, until the Rent Board has collected Rental Housing Fees sufficient to support the implementation of this Chapter. After the Rental Housing Fee has been collected, the City may seek from the Rent Board a reimbursement of any funds that the City advanced.

Sec. 20-52. – Integrity and autonomy of the Rent Board.

The Rent Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Chapter independently from the City Council, City Manager, and City Attorney, except by request of the Rent Board. The Rent Board may request the services of the City Attorney, who shall provide them pursuant to Section 703 of the Charter.

Sec. 20-53. – Rent Board legal work.

The Rent Board may, in its sole discretion, and without approval of the City Council, retain private attorneys and/or staff attorneys to furnish legal advice or representation.

Sec. 20-54. – Conforming regulations.

If any portion of this Chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Rent Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Chapter to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to the matters addressed in this Chapter.

Sec. 20-55. – Conflict of interest.

A Rent Board member shall not necessarily be disqualified from exercising any of his or her powers and duties on the grounds of a conflict of interest solely on the basis of his or her status as a residential rental property owner, property manager, realtor, developer, or Tenant. However, a Board member shall be disqualified from ruling on a Petition if the Board member is either the Landlord of the Property or a Tenant residing in the Property that is involved in the Petition. The provisions of the Political Reform Act, California Government Code Sections 87100 *et seq.* shall apply.

Sec. 20-56. – Initial appointment and interim authority for implementation.

Each City Councilmember who was elected at the same election at which this Chapter was created shall appoint a member to the initial Rent Board pursuant to Section 801(a) of the Charter and this Chapter within sixty (60) days of assuming office. Each other City Councilmember shall appoint a member to the initial Rent Board pursuant to Section 801(c) of the Charter and this Chapter within sixty (60) days of the effective date of this Chapter. During the period of time, if any, from the effective date of this Chapter until the establishment of the Rent Board, the City Council shall enforce the terms of this Chapter, assuming the powers and duties of the Rent Board on an interim basis and making available public guidance to those affected by its provisions.

ARTICLE IX. – PETITIONS FOR INDIVIDUAL RENT ADJUSTMENT

Sec. 20-57. – In general.

A Landlord or a Tenant may—in accordance with the standards set forth in this Article, and using the procedures set forth in Section 20-60 herein and implementing regulations—file a Petition with the Rent Board seeking adjustment, either upward or downward, of the Rent for any given tenancy. A Petition shall be

on a form provided by the Rent Board and, if made by the Landlord, shall include a declaration under penalty of perjury by the Landlord that the Covered Rental Unit at issue complies with all requirements of this Chapter and that the Landlord is in compliance with all requirements of this Chapter.

Sec. 20-58. – Petition for upward adjustment—fair return.

To effectuate the purposes of this Chapter and the requirements of law, a Landlord may file a Petition for an upward adjustment of the Rent to ensure a fair return. It is the intent of this Chapter that individual upward adjustments in Rent be granted only when the Landlord demonstrates that such adjustments are necessary to provide the Landlord with a fair return. The Rent Board may promulgate regulations to further govern Petitions filed pursuant to this Section in accordance with law and the purposes of this Chapter.

- (a) Prerequisites. No upward adjustment of Rent shall be authorized by a Hearing Officer or the Rent Board under this subsection if the Landlord:
 - (1) Has continued to fail to comply, after order of the Rent Board or other authority, with any provisions of this Chapter or orders or regulations issued thereunder; or
 - (2) Has failed to maintain the Covered Rental Unit in compliance with California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10.
- (b) Fair return. A fair return shall be determined by using the maintenance of net operating income (MNOI) standard as follows:
 - (1) *Presumption of fair base year net operating income*. It shall be presumed that the net operating income received by the Landlord in the base year provided a fair return.
 - (2) *Fair Return*. A Landlord has the right to obtain a Fair Return, which is a net operating income equal to the base year net operating income adjusted by a “percentage” of the percentage increase in the annual Consumer Price Index (CPI) since the base year. It shall be presumed that this standard provides a fair return. The “percentage” shall be 80% unless the Rent Board adopts a different “percentage” to achieve the purposes of this Chapter. In no event shall the “percentage” be greater than 100%.
 - (A) The CPI used in all calculations in this Section shall be All Items, All Urban Consumers, Los Angeles-Long Beach-Anaheim

Area, not seasonally adjusted, Base Period 1982-84=100 (or any successor designation of that index that may later be adopted) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics.

- (3) *Base year, typically.* For the purposes of making Fair Return determinations pursuant to this Section, unless subsection (b)(4) below applies, the calendar year 2017 is the base year. Unless subsection (b)(4) below applies, the base year CPI shall be 256.210.
- (4) *Base Year, subsequent Petitions.* In the event that a determination of the allowable Rent is made pursuant to this Section, if a subsequent Petition is filed, the base year shall be the year that was considered as the “current year” in the prior Petition.
- (5) *Current year.* The “current year” shall be the calendar year preceding the year in which the Petition is filed. The “current year CPI” shall be the annual CPI for the current year.
- (6) *Adjustment of base year net operating income.* Landlords or Tenants may present evidence to rebut the presumption that the base year net operating income provided a fair return. Grounds for rebuttal of the presumption shall be based on at least one of the following findings:
 - (A) *Exceptional expenses in the base year.* The Landlord’s operating expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses in order that the base year operating expenses reflect average expenses for the property over a reasonable period of time. The following factors shall be considered in making such a finding:
 - (i) Extraordinary amounts were expended for necessary maintenance and repairs.
 - (ii) Maintenance and repair expenditures were exceptionally low so as to cause inadequate maintenance or significant deterioration in the quality of services provided.
 - (iii) Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.
 - (B) *Exceptional circumstances in the base year.* The gross income

during the base year was disproportionately low due to exceptional circumstances. In such instances, adjustments may be made in calculating base year gross rental income consistent with the purposes of this Chapter. The following factors shall be considered in making such a finding:

- (i) Whether the gross income during the base year was lower than it might have been because some residents were charged reduced Rent.
- (ii) Whether the gross income during the base year was significantly lower than normal because of the destruction of the premises and/or temporary eviction for construction or repairs.
- (iii) The pattern of Rent increases in the years prior to the base year and whether those increases reflected increases in the CPI.
- (iv) Base year Rents were disproportionately low in comparison to the base year Rents of other Rental Units in the City.
- (v) Other exceptional circumstances.

(7) *Calculation of net operating income.* Net operating income shall be calculated by subtracting operating expenses from gross rental income.

(A) Gross rental income shall include gross scheduled rental income at one hundred percent (100%) occupancy plus all other income or consideration received or receivable in connection with the use or occupancy of the Rental Unit(s), except as provided in subsection (b)(7)(A)(ii) below.

- (i) For any Rental Unit that was vacant during part of the current year, the rent for the time it was vacant shall be calculated on the basis of the Rent at which it was next rented after the vacancy. For any Rental Unit that is vacant at the time that gross rental income is calculated: the rent for the time it has been vacant shall be calculated on the basis of the average rent for comparable Rental Units on the Property that had vacancy increases within the current year or the two years prior to the current year; but if there are no such units on the Property the

rent shall be calculated on the basis of the average rent for comparable Rental Units in Pomona that have recently had vacancy increases.

- (ii) Gross rental income shall not include: Utility Charges for sub-metered gas, electricity or water; Charges for refuse disposal, sewer service and/or other services that are either provided solely on a cost pass-through basis and/or are regulated by state or local law; charges for laundry services; storage charges.

(B) Operating expenses shall include:

- (i) Reasonable costs of operation and maintenance (including property insurance).
- (ii) Management expenses. It shall be presumed that management expenses have increased between the base year and the current year by the percentage increase in Rents or the CPI, whichever is greater, unless the level of management services has either increased or decreased significantly between the base year and the current year. This presumption shall also be applied in the event that management expenses changed from owner management to management by a third party or vice versa.
- (iii) Utility costs, except for a utility service where the consideration of the income associated with the provision of the utility service is regulated by state law and consideration of the costs associated with the provision of the utility service is preempted by state law, and except for a utility service where the income associated with the provision of the utility is not included in gross rental income because it is recouped from the Tenants on a cost pass-through basis.
- (iv) Real property taxes, subject to the limitation that property taxes attributable to an assessment in a year other than the base year or current year shall not be considered in calculating base year and/or current year operating expenses.
- (v) License, registration, and other public fees required by law to the extent these expenses are not otherwise paid or

reimbursed by Tenants.

- (vi) Landlord-performed labor compensated at reasonable hourly rates. However, no Landlord-performed labor shall be included as an operating expense unless the Landlord submits documentation showing the date, time, and nature of the work performed. There shall be a maximum allowed under this provision of five percent (5%) of gross rental income unless the Landlord shows greater services were performed for the benefit of the Tenants. The Rent Board may adopt regulations to establish the reasonable hourly rate(s) that will be presumed to apply to Landlord-performed labor.
- (vii) Reasonable attorneys' fees, expenses, and/or costs incurred in connection with: successful good faith attempts to recover Rents owing; successful, good faith unlawful detainer actions not in derogation of applicable law; legal work necessary in dealings with respect to the normal operation of the Property; and the successful pursuit of rights under or in relationship to this Chapter and/or regulations adopted pursuant to this Chapter, including the pursuit of successful Petitions.

To the extent that included attorneys' fees, expenses, and/or costs are not annually reoccurring and are substantial, they shall be amortized over a five-year period, unless the Rent Board adopts a different amortization period that it concludes is more reasonable. At the end of the amortization period, the Rent shall be decreased by any amount it was increased because of the application of this provision.

- (viii) The amortized costs of capital improvements plus an interest allowance to cover the amortization of those costs. For purposes of this Section, a capital improvement shall be any improvement to a Rental Unit or Rental Units that has a useful life of more than one year and a direct cost per affected Rental Unit equal to or greater than \$250 (unless the Rent Board adopts a different amount), and that materially adds to the value of the Property, appreciably prolongs the life of the Rental Unit(s), or adapts the Rental Unit(s) to new use.

Included capital improvement costs shall be subject to the following conditions:

- (I) The amortization period shall be in conformance with a schedule adopted by the Rent Board unless it is determined that an alternate period is justified based on evidence presented in a hearing. In no event shall the amortization period be less than thirty-six (36) months. At the end of the amortization period, the Rent shall be decreased by any amount it was increased because of the application of this provision.
- (II) The costs do not include costs incurred to bring the Rental Unit(s) into compliance with a provision of the Pomona City Code or state law where the original installation of the improvement was not in compliance with the Pomona City Code or state law.
- (III) The costs, less any insurance proceeds or other applicable recovery, are averaged on a per unit basis for each Rental Unit actually benefited by the improvement.
- (IV) The costs do not include any additional costs incurred for property damage or deterioration that resulted from any unreasonable delay in undertaking or completing any repair or improvement.
- (ix) An interest allowance on the cost of amortized expenses. The allowance shall be the "interest rate" on the cost of the amortized expense. The "interest rate" shall be the "average rate" for thirty-year fixed rate mortgages plus a percentage. That percentage shall be two percent (2%) unless the Rent Board adopts a different percentage that it believes is more reasonable. The "average rate" shall be the rate that, as of the date of the initial submission of the Petition, Freddie Mac last published in its weekly Primary Mortgage Market Survey (PMMS). In the event that this index is no longer published, the Rent Board shall designate by regulation an index which the Rent Board deems most comparable to the PMMS, and it shall

be used.

(C) Operating expenses shall *not* include:

- (i) Mortgage principal or interest payments or other debt service costs and costs of obtaining financing.
- (ii) Any penalties, fees or interest assessed or awarded for violation of any provision of this Chapter or of any other provision of law.
- (iii) Land lease expenses.
- (iv) Political contributions and payments to organizations which are substantially devoted to legislative lobbying purposes.
- (v) Depreciation.
- (vi) Any expenses for which the Landlord has been reimbursed by any utility rebate or discount, Security Deposit, insurance settlement, judgment for damages, settlement, or any other method or device.
- (vii) Unreasonable increases in expenses since the base year.
- (viii) Expenses associated with the provision of master-metered gas and electricity services.
- (ix) Expenses which are attributable to unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements. (For example, if a roof replacement is unreasonably delayed, the full cost of the roof replacement would be included in operating expenses, but if water damage occurred as a result of unreasonable delays in repairing or replacing the roof, it would not be reasonable to include the cost of repairing the water damage.)

(D) Adjustments to an operating expense may be made in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses and determining a Fair Return. Base year and/or current year

operating expenses may be averaged with other expense levels for other years, or amortized, or adjusted by the CPI, or adjusted to reflect levels that are normal for comparable residential Rental Units, or may otherwise be adjusted. If the claimed operating expense levels are exceptionally high compared to prior expense levels and/or industry standards, the Landlord shall have the burden of proof of demonstrating that they are reasonable and/or reflect recurring expense levels. Expenses which are exceptional and reasonable shall be amortized in order to achieve the objectives of this Section. Grounds for such adjustments include, but are not limited to:

- (i) An expense item for a particular year that is not representative.
 - (ii) The base year expense is not a reasonable projection of average past expenditures for that item in the years immediately preceding or following the base year.
 - (iii) The current year expense is not a reasonable projection of expenditures for that item in recent years or of future expenditures for that item.
 - (iv) A particular expense exceeds the normal industry or other comparable standard for the area.
 - (v) A base year expense is exceptionally low by industry standards and/or on an inflation-adjusted basis is exceptionally low relative to current year expenses although the level or type of service has not changed significantly.
 - (vi) An increase in maintenance or management expenses is disproportionate to the percentage increase in the CPI, while the level of services has not changed significantly and/or is not justified by special circumstances.
- (E) If the Landlord does not have base year operating expense data, it shall be presumed that operating expenses increased by the percentage increase in the CPI between the base year and the current year. This presumption is subject to the exception that specific operating expenses shall be adjusted by other amounts when alternate percentage adjustments are supported by a preponderance of evidence (such as data on changes in the rates

of particular utilities or limitations on increases in property taxes).

- (8) *Rent increases for periods preceding date that a Landlord implemented Rent increases pursuant to this Section.* In the event that the period for determining the allowable Rent increase pursuant to this section exceeds 120 days, the Landlord may recover increases that would have been permitted if the Rent increase decision had been made within 120 days. The allowance for these increases may be amortized or may be factored into the prospective allowable increase in order to avoid undue hardship on the Tenants.
- (9) *Impact of vacancy decontrol on rent increases based on capital improvements.* If a Rental Unit becomes vacant during the pendency of a schedule that provides for the expiration of increases for capital improvements, and the Rental Unit qualifies for a vacancy increase pursuant to Civil Code section 1954.53, the capital improvements schedule shall immediately terminate.
- (10) *Conditional Rent increase for anticipated, necessary capital improvements.* In order to encourage necessary capital improvements, a Landlord may include in a Petition a request for a conditional Rent increase based upon anticipated future expenses for necessary capital improvements. The purpose of this procedure is to permit Landlords to seek advanced authorization for future Rent increases based upon anticipated, necessary capital improvements. Such a request should only be made for anticipated expenses that the Landlord intends to incur during the twelve-month period following the date of a final decision in which the conditional increase is granted. This procedure shall not be used for anticipated expenses for ordinary repairs and maintenance.
- (A) If the conditional Rent increase is granted in whole or in part, the Rent increase shall be postponed until such time as the capital improvements are made and an addendum authorizing implementation of the increases is issued.
- (i) No addendum authorizing implementation of the increase shall be issued unless the capital improvements are completed within twelve months from the date of the final decision in which the conditional Rent increase was granted, unless the Landlord obtains an addendum that extends the time period to complete the capital improvements for just cause.

(B) Any Rental Unit which received a vacancy rent increase pursuant to Civil Code section 1954.53 within the two years prior to a Petition that includes a request for a conditional Rent increase shall be ineligible for a Rent increase for the portion of any upward Rent adjustment based on the cost of anticipated, necessary capital improvements.

- (c) Limits to annual upward Rent adjustments. Notwithstanding any other provisions of this Section, the Rent Board shall protect Tenants from substantial rent increases that are not affordable, and that may force Tenants to vacate their homes, resulting in consequences contrary to the purposes of this Chapter, namely, to maintain the diversity of the Pomona community, to preserve the public peace, health and safety, and to advance the housing policies of the City with regard to low- and fixed-income persons, minorities, students, people with disabilities, and seniors. The Rent Board shall establish regulations to limit the annual impact of Rent increases allowed by this Section. If the amount of a Rent increase granted under this Section exceeds the limit, the portion in excess shall be deferred and may be implemented in subsequent years, along with an appropriate interest allowance.
- (d) Relationship of upward Individual Rent Adjustment to Annual General Adjustment. Any determination made pursuant to this Section shall take into account the extent of any Rent increases based upon the Annual General Adjustment that the Landlord may be implementing, or may otherwise be or become entitled to, and the Individual Rent Adjustment may be limited or conditioned accordingly.

If it is determined that the Landlord is not entitled to an Individual Rent Adjustment, the Landlord may implement Rent increases allowed by Article V of this Chapter.

- (e) Constitutional right to a fair return. It shall be presumed that the MNOI standard provides a fair return. No provision of this Chapter shall be applied to so as to prohibit the Rent Board from granting an Individual Rent Adjustment that is demonstrated by the Landlord to be necessary to meet constitutional fair return requirements.
- (f) Effective date of Individual Rent Adjustment. Rent increases authorized pursuant to this subsection shall become effective only after the Landlord provides the Tenant written notice of such Rent increase pursuant to state law and this Chapter.

Sec. 20-59. – Petition for downward adjustment.

- (a) Failure to maintain habitable premises. Failure to maintain a Covered Rental Unit in compliance with governing health and safety and building codes, including but not limited to California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10, constitutes an increase in Rent. A Tenant may file a Petition with the Rent Board to adjust the Rent downward based on a loss in rental value attributable to the Landlord's failure to maintain the Rental Unit in habitable condition. A Petition filed by a Tenant pursuant to this subsection must specify the conditions alleged to constitute the failure to maintain the Rental Unit in habitable condition and demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis for the Petition. A decision granting a downward Rent adjustment pursuant to this subsection shall remain in effect until the Rent Board determines that the Landlord has corrected the conditions warranting the decrease. The Rent Board shall, by regulation, establish procedures for making prompt compliance determinations.

- (b) Decrease in Housing Services or maintenance. A decrease in Housing Services or maintenance, or deterioration of a Covered Rental Unit beyond ordinary wear and tear, without a corresponding reduction in Rent, is considered an increase in Rent. A Tenant may file a Petition to adjust the Rent downward based on a loss in rental value attributable to a decrease in Housing Services or maintenance or deterioration of the Rental Unit. A Petition filed by a Tenant pursuant to this subsection must specify the conditions alleged to constitute deterioration beyond ordinary wear and tear, or a decrease in Housing Services or maintenance, and demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis for the Petition. A decision granting a downward Rent adjustment pursuant to this subsection shall remain in effect until the Rent Board determines that the Landlord has corrected the conditions warranting the decrease. The Rent Board shall, by regulation, establish procedures for making prompt compliance determinations.

- (c) Unlawful Rent. If a Landlord demands or retains Rent in excess of the lawful Rent pursuant to this Chapter, a Tenant may file a Petition to adjust the Rent to its lawful level. If such a Petition is granted, the Landlord shall be ordered to return any excessive Rent charged to the Tenant in violation of this Chapter.

Sec. 20-60. – Procedures for Petitions.

The Rent Board shall promulgate regulations regarding procedures for Petitions filed under this Chapter and to ensure that those procedures are not abused. Petitions shall be governed by such regulations and by the provisions of this Section.

- (a) Hearing Officer. A Hearing Officer appointed by the Rent Board shall conduct a hearing to act upon the Petition, and shall have the power to administer oaths and affirmations, and to render a final decision on the merits of the Petition, subject to the provisions of this Chapter.
- (b) Notice. The Rent Board shall notify the Landlord, if the Petition was filed by a Tenant, or the Tenant, if the Petition was filed by the Landlord, of the receipt of the Petition, and shall provide a copy thereof. The Rent Board or the Hearing Officer shall notify all parties as to the time, date, and place of any hearing regarding the Petition.
- (c) Prehearing notice and document exchange. Each party to a Petition shall provide to each other party sufficient advance notice of the relief the party is seeking, the alleged grounds for that relief, the documents the party intends to present, and witnesses the party may call. Each party to a Petition shall also provide to each other party, sufficiently in advance of the hearing, copies of the documents that the party intends to present at the hearing.
- (d) Developing the record. The Hearing Officer may require any party to a Petition to provide any documents, books, records, or papers deemed pertinent. If the Hearing Officer finds good cause to believe that a building or other inspection would assist in resolving the issues raised by the Petition, the Hearing Officer may conduct an inspection and/or request the City to conduct an inspection. The Tenant may request that the Hearing Officer order such an inspection prior to the date of the hearing. The parties to the hearing may be present during the inspection. All documents acquired pursuant to this subsection shall be made available, prior to the hearing if possible, to the parties.
- (e) Open hearings. All hearings conducted pursuant to this section shall be open to the public unless prohibited by state or federal law.
- (f) Right of assistance. All parties to a hearing conducted pursuant to this section may have assistance in presenting evidence and developing their position from attorneys, legal workers, Recognized Tenant Organization representatives, or any other persons designated by said parties.

- (g) Hearing record. The record of the hearing, or any part of one, shall be obtainable by any person for the reasonable cost of copying. All hearings shall be audio or video recorded, as ordered by the Hearing Officer, and any party to the Petition may receive a copy of the recording upon payment of a reasonable cost.
- (h) Quantum of proof and notice of decision. No Petition for Individual Rent Adjustment, whether upward or downward, shall be granted unless supported by a preponderance of the evidence. All parties to a hearing shall be sent a copy of the decision and, at the same time, notice of their right to appeal to the Rent Board and/or to seek judicial review. The decision shall include findings of fact and law upon which it is based.
- (i) Consolidation. Whether submitted by a Landlord or Tenant(s), all Petitions pertaining to Covered Rental Units at the same Property may be consolidated for hearing upon a showing of good cause.
- (j) Appeal. Any party aggrieved by the decision of the Hearing Officer may appeal to the full Rent Board for review. On appeal, the Rent Board shall affirm, reverse, or modify the decision of the Hearing Officer. Upon a showing of good cause, the Rent Board may hear additional testimony or receive additional evidence. The decision on appeal shall be based on the hearing record and any additional testimony or evidence received by the Rent Board.
- (k) Finality of decision. The decision of the Hearing Officer shall be the final decision of the Rent Board, unless an aggrieved party has timely sought an appeal to the Rent Board. The decision of the Rent Board on appeal shall be final unless an aggrieved party has timely sought judicial review pursuant to law.
- (l) Time for decision. A final decision on any Petition shall be made within a reasonable time.

ARTICLE X. – JUDICIAL REVIEW, RIGHTS TO ACTION, REMEDIES, DEFENSES, JURISDICTION

Sec. 20-61. – Judicial review.

A Landlord or Tenant aggrieved by any action or decision of the Rent Board may seek judicial review pursuant to state law and this Chapter and its implementing regulations. No action or decision by the Rent Board shall go into effect until any statutory deadline for initiating such review has expired.

Sec. 20-62. – Civil suit.

A Tenant may bring a civil suit in the courts of the State alleging that a Landlord has violated any of the provisions of this Chapter or the regulations promulgated hereunder, including that the Landlord has demanded, accepted, received, or retained a payment or payments in excess of the lawful Rent (including payments rendered excessive due to the Landlord's violation of the provisions pertaining to compliance with habitability standards and maintenance of Housing Services). No administrative procedure need be exhausted prior to filing suit pursuant to this subsection.

Sec. 20-63. – Rent Board or City Attorney enforcement action.

If the Tenant fails to bring a civil action or Petition to enforce the Tenant's rights under this Chapter, the Rent Board or the City Attorney may bring such an action and/or settle the claim on the Tenant's behalf. If the Rent Board or City Attorney brings such an action or undertakes to settle such a claim, the Tenant shall be provided the right to opt in or out of the action. In the case of an opt-in, the Tenant on whose behalf the Rent Board or City Attorney acts is barred from bringing a separate action against the Landlord in regard to the same violation, and the Rent Board or City Attorney shall be entitled to recuperate costs incurred from any monetary recovery from the Landlord, with the remainder to go to the Tenant. In the case of an opt-out, the Tenant shall retain all rights relating to his or her right to private action. The Rent Board or City Attorney may take other enforcement action as necessary to ensure compliance with this Chapter.

Sec. 20-64. – Enforcement and injunctive relief.

The Rent Board, City Attorney, Tenants, or Landlords may seek relief from the appropriate court in the jurisdiction where the affected Rental Unit is located to enforce any provision of this Article or its implementing regulations or to restrain or enjoin any violation of this Article and of the rules, regulations, orders, and decisions of the Rent Board.

Sec. 20-65. – Remedies.

- (a) Civil remedies. In a civil suit, a Landlord found to have violated this Chapter shall be liable to the Tenant for all actual damages, including but not limited to reimbursement of payments in excess of the lawful Rent. The court may adjust the Rent to the lawful amount. A prevailing Tenant in a civil action brought to enforce this Chapter shall be awarded reasonable attorneys' fees and costs as determined by the court. Additionally, upon a showing that the Landlord has acted willfully or with oppression, fraud, or malice, the Tenant shall be awarded treble damages.

- (b) Additional relief for Landlord’s violation of eviction rules. If it is shown that the intended action which the Landlord claims as grounds to recover possession under Section 20-8 (h), (i), (j), or (k) is not initiated within two (2) months after the Tenant vacates the Rental Unit, or it is shown that the Landlord's claimed intention was false or in bad faith, the Tenant shall be entitled to regain possession of the Rental Unit at same Rent that was lawfully in effect when the Tenant vacated, in addition to the relief described in subsection (a) above.

Sec. 20-66. – Defenses to actions to recover possession.

- (a) A Landlord's failure to comply with any of the provisions of this Chapter or regulations promulgated hereunder may be raised as an affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit. Any and all violations of this Chapter by the Landlord shall constitute such an affirmative defense, including but not limited to: the demand or retention of payment in excess of the lawful Rent; failure to serve any of the notices required pursuant to this Chapter on the Tenant or the Rent Board, or failure to conform such notices to the requirements of this Chapter; failure to pay the Rental Housing Fee; failure to pay any required Relocation Assistance; and a decrease in Housing Services or maintenance without a corresponding reduction in Rent. It is the intent of this Chapter to construe this subsection to the broadest extent permissible under the law to ensure maximum compliance with this Chapter and to avoid unlawful evictions.
- (b) Eviction protection for victims of domestic violence or sexual assault or stalking. It shall be a defense to an action for possession of a unit under Section 20-6 (c) or (d) if the trier of fact determines that:
- (1) The Tenant or the Tenant’s household member is a victim of an act or acts that constitute domestic violence or sexual assault or stalking; and
 - (2) The action for possession—which may, for example, include complaints of noise, disturbances, or repeated presence of police—is substantially based upon the act or acts constituting domestic violence or sexual assault or stalking against the Tenant or a Tenant’s household member.

Sec. 20-67. – Remedies not exclusive.

The remedies available in this Chapter are not exclusive and may be used cumulatively with any other remedies in this Chapter or otherwise available at law.

Sec. 20-68. – Jurisdiction.

The appropriate court in the jurisdiction in which the Rental Unit is located shall have jurisdiction over all actions brought under this Chapter.

ARTICLE XI. – GENERAL PROVISIONS.

Sec. 20-69. – Severability.

If any provision of this Chapter or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable. This Chapter shall be liberally construed to achieve the purposes of this Chapter and to preserve its validity.

Sec. 20-70. – Supersession.

This Chapter supersedes any conflicting provisions of a municipal ordinance covering the area of rents, evictions, relocation assistance, or other matters addressed herein. However, nothing in this Section shall be construed to restrict the authority of the City Council to enact complimentary or non-conflicting ordinances or to take other such actions within its powers, where such ordinances or actions comply with and uphold the terms and purposes of this Chapter.

Sec. 20-71. – Codification.

The City Clerk and the City Attorney shall take all steps necessary to ensure the proper and efficient codification of this Chapter into the Pomona City Code. This authority shall include making any necessary revisions to numbering, revising or substituting any references herein to other provisions of Pomona or state law, and similar non-substantive revisions. In exercising this authority, the City Clerk and City Attorney shall not alter the substantive provisions of this Chapter nor take any action that contradicts the terms and purposes of this Chapter.

Sec. 20-72. – Duty to defend.

The City Attorney shall take all steps necessary to zealously defend against any legal challenges to the validity of this Chapter. If the City Attorney is unable or unwilling to defend, an interested third party may intervene to defend. Any third party that defends this Chapter shall be entitled to court-awarded attorneys' fees and costs.

Sec. 20-73. – Majority approval, effective date, execution.

This Ordinance shall become valid and binding if approved by a majority of the voters voting thereon and, if so approved, shall go into effect ten (10) days after the vote is declared by the City Council. The Mayor and City Clerk are hereby authorized to execute this Ordinance to give evidence of its adoption by the voters.