

INTRODUCED BY CITY ATTORNEY
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OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

**ORDINANCE REPEALING THE EVICTION FOR NUISANCE AND
ILLEGAL ACTIVITY ORDINANCE (OAKLAND MUNICIPAL CODE
CHAPTER 8.23) IN ITS ENTIRETY**

WHEREAS, in 2004 the City Council adopted Ordinance No. 12592 C.M.S., the Eviction for Nuisance and Illegal Activity Ordinance (“Nuisance Eviction Ordinance”) for the purpose of establishing a procedure whereby rental property owners could be required to evict tenants accused of committing drug, weapon, or gang-related illegal activity on the premises; and

WHEREAS, the Nuisance Eviction Ordinance allows the City to impose fines on owners who fail to evict tenants accused of engaging in proscribed conduct on the premises and further allows landlords to assign the right to evict their tenants to the City Attorney; and

WHEREAS, in 2014, the City Council adopted Ordinance No. 13260 C.M.S., amending the Nuisance Eviction Ordinance to increase the range of conduct that could give rise to a required nuisance eviction to include gambling, sex-work, and illegal possession of ammunition, among other conduct; and

WHEREAS, by the year 2020, 104 municipalities in California had policies similar to the Nuisance Eviction Ordinance. These policies, known as “crime-free housing policies,” encourage or require landlords to evict tenants for alleged criminal conduct committed on or near the premises by anyone associated with the household including guests; and

WHEREAS, in 2014, the City of Oakland agreed to participate in the Unlawful Detainer Pilot Program, a program created by the California State Legislature in 1998, originally applicable only to the City of Los Angeles. Participating cities agree to implement crime free housing policies allowing City Attorneys to file evictions actions in the name of the people against tenants accused of committing or allowing criminal conduct on or near the premises. Participating cities also agree to provide periodic reports to the state program for the purpose of evaluating the efficacy of the such policies; and

WHEREAS, a 2020 analysis in the Hastings Journal of Crime and Punishment found that between 2008 and 2016, African-American tenants made up the majority of tenants who were served notices under Oakland’s Nuisance Eviction Ordinance¹; and

¹ Ethan Silverstein, Life Liberty, and Rental Property: Oakland’s Nuisance Eviction Program. Hastings Journal of Crime and Punishment, Volume 1, Number 1, Winter 2020, Article 5

WHEREAS, an analysis conducted by the Los Angeles Times reviewing five years of eviction data (2015 through 2019) for Los Angeles, Long Beach, Oakland, and Sacramento, found that nearly 80% of the tenants targeted for eviction under their crime-free housing laws were non-white²; and

WHEREAS, as study published by the RAND Corporation in 2023 found no statistically meaningful relationship between crime-free housing policies and crime rates, but a strong relationship between such policies and increased evictions in minority and low-income neighborhoods³; and

WHEREAS, in April 2023, California State Attorney General Rob Bonta issued guidance to all Cities and Counties in California urging them to review and reconsider their crime-free housing policies; and

WHEREAS, in August 2024 the Civil Rights Division of the United States Department of Justice, called on local governments to evaluate their crime-free or nuisance housing programs based on DOJ guidance stating that such programs can violate the Fair Housing Act, Title VI of the Civil Rights Act of 1964, the Americans' with Disabilities Act, and the Violence Against Women Act; and

WHEREAS, the Nuisance Eviction Ordinance was intended to decrease crime and increase neighborhood safety; and

WHEREAS, the City has no evidence that the Nuisance Eviction Ordinance has reduced crime or increased safety; and

WHEREAS, in 2023, the California State Legislature adopted, and Governor Gavin Newsom signed into the law Assembly Bill 1418, making California the first state in the country to prohibit local governments from implementing or enforcing policies that require or encourage a landlord to evict a tenant because of the tenant's unlawful conduct or arrest, or penalize a landlord for failure to do so; and

WHEREAS, Assembly Bill 1418, which became effective on January 1, 2024 and is codified at Government Code 53165.1, preempts Oakland's Nuisance Eviction Ordinance and prohibits enforcement of the Ordinance;

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

SECTION 1. Recitals: The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and an integral part of the Council's decision to enact this legislation, and hereby adopts and incorporates them into this Ordinance.

² <https://www.latimes.com/homeless-housing/story/2020-11-19/california-housing-policies-hurt-black-latino-renters>;

³ https://www.rand.org/pubs/research_reports/RRA2689-1.html; An Evaluation of Crime Free Housing Policies, RAND Corporation, 2023,

SECTION 2. Repeal of Oakland Municipal Code Chapter 8.23 The Eviction for Nuisance and Illegal Activity Ordinance. The City Council hereby repeals Chapter 8.23, of Title 8 of the Oakland Municipal Code, the Eviction for Nuisance and Illegal Activity Ordinance. Chapter 8.23 shall be stricken from the Oakland Municipal Code in its entirety.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 4. California Environmental Quality Act Compliance. The legislation contains no provisions modifying the physical design, development, or construction of residential or nonresidential structures. Accordingly, it can be seen with certainty that there is no possibility that it: (1) may have a significant effect on the environment and/or (2) would result in any physical changes to the environment. As a result, this action is exempt from the CEQA pursuant to the following CEQA Guidelines, taken together and each as a separate and independent basis: Section 15301 (existing facilities), Section 15378 (regulatory actions), Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), and Section 15061(b)(3) (no significant environmental impact).

SECTION 5. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE REPEALING THE EVICTION FOR NUISANCE AND ILLEGAL ACTIVITY ORDINANCE (OAKLAND MUNICIPAL CODE CHAPTER 8.23) IN ITS ENTIRETY

Adoption of this Ordinance would repeal Oakland's Eviction for Nuisance and Illegal Activity Ordinance, Oakland Municipal Code 8.23, which provides that the City may require Landlords to evict tenants for specified illegal activity. The Ordinance is no longer enforceable due to changes in state law. Effective January 1, 2024, the Ordinance is preempted by Government Code 53165.1.