

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ENACTING A TEMPORARY PROHIBITION ON NO FAULT EVICTIONS

County Counsel Summary

This urgency ordinance addresses the affordable housing crisis in the County of Monterey by temporarily prohibiting no-fault evictions until AB 1482 takes effect on January 1, 2020. This ordinance, with certain exceptions, prohibits an owner of residential real property from terminating a tenancy without just cause, which would require to be stated in the written notice to terminate tenancy when one or more tenants have continuously and lawfully occupied the residential real property for 12 months or more.

WHEREAS, on October 8, 2019, the California Governor signed into law Assembly Bill 1482, the Tenant Protection Act of 2019 (“AB 1482”), which in part addresses California’s affordable housing crisis by prohibiting evictions without “just cause,” otherwise known as “no-fault” evictions, and the raising of rents above a specified amount; and,

WHEREAS, AB 1482 will not become effective until January 1, 2020; and,

WHEREAS, Monterey County is informed that residents of other jurisdictions, including Santa Cruz County and its cities, and cities within Monterey County, are being subject to such no-fault evictions, and some of those jurisdictions have taken urgency measures to provide protection to their residents until AB 1482 becomes effective; and

WHEREAS, Monterey County is experiencing an affordable housing crisis; and,

WHEREAS, in light of the experience of other jurisdictions, prior to AB 1482’s effective date, Monterey County can expect that its residents in the unincorporated area will be subject to no-fault evictions that would otherwise violate AB 1482; and,

WHEREAS, such evictions present an immediate threat to the public peace, health and safety, as described in Government Code section 25123 (d) in that they will cause the displacement of residents and contribute to an increase in the homeless population in Monterey County; and,

WHEREAS, it is therefore necessary and appropriate for Monterey County to adopt an urgency ordinance to address the immediate threat to the public peace, health and safety that no-fault evictions will create prior to the effective date of AB 1482; NOW, THEREFORE,

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. Findings and purpose.

In order to address an immediate threat to the public peace, health and safety, this ordinance temporarily prohibits no-fault evictions through December 31, 2019, for residential real property that will otherwise be covered by AB 1482 beginning January 1, 2020.

SECTION 3. Applicability.

This ordinance applies, from its effective date until the effective date of AB 1482, to tenancies in the unincorporated area of the County of Monterey where the tenant remains in possession and the period of notice required under California Civil Code section 1946.1 has not expired.

SECTION 4. Definitions.

The following words and phrases shall have the following meanings when used in this ordinance:

- A. “Residential real property” means any dwelling or unit that is intended or used for human habitation.
- B. “Owner” means any person, acting as principal or through an agent, offering residential real property for rent, and includes a predecessor in interest to the owner.
- C. “Primary residence” shall mean a real residential property that an owner occupies as a primary residence, as evidenced by the residential real property qualifying for a homeowner’s property tax exemption.
- D. “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.
- E. “Tenant” shall mean any person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a residential real property.
- F. “County” means the County of Monterey.
- G. “State” means the State of California.

SECTION 5. Temporary prohibition on no-fault evictions.

- A. Until the effective date of AB 1482, after one or more tenants have continuously and lawfully occupied a residential real property for twelve (12) months or more,

the owner of residential real property shall not terminate the tenancy without at-fault just cause, which shall be stated in the written notice of termination of tenancy. This prohibition shall also apply to an owner's action that constitutes constructive eviction under California law. An owner's failure to comply with this article shall render any notice of termination of tenancy void. This section may be asserted as an affirmative defense in an unlawful detainer action. Terminations that are required to comply with an order issued by a government agency or court requiring that the residential real property be vacated, or comport with due process, federal, or state law, are exempted from this prohibition. An owner's failure to comply with this article does not constitute a criminal offense.

- B. If an owner can demonstrate any of the following circumstances with respect to a termination of tenancy, the termination will qualify as "at-fault just cause:"
- (1) Default in the payment of rent.
 - (2) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the California Code of Civil Procedure, including, but not limited to, violation of a provision of a lease after being issued a written notice to correct the violation.
 - (3) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
 - (4) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat as defined in subdivision (a) of Section 422 of the California Penal Code, on or off the residential real property, that is directed to any owner of the residential real property.
 - (5) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
 - (6) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the California Civil Code, and Sections 13113.7 and 17926.1 of the California Health and Safety Code.
 - (7) Using the premises for unlawful purposes as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
 - (8) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the California Code of Civil Procedure.

- (9) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the California Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the owner, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the California Code of Civil Procedure.
- C. If an owner can show any of the following circumstances related to a termination of tenancy, the termination will be exempt from the provisions of this ordinance:
- (1) Owner will imminently demolish the residential real property or otherwise permanently remove the real property from any residential use or purpose in accordance with California Government Code Sections 7060-7060.7.
 - (2) The owner, or one of the owner's parents, grandparents, grandchildren, children, spouse, domestic partner intend to move into and reside in the residential real property as his, her, or their primary residence. The residential real property must be occupied as the primary residence within three months of the tenant vacating the residence and continue to occupy the real residential property for at least one year.
 - (3) The need to make substantial repairs in order for a dwelling to be habitable and be in compliance with applicable health and safety codes, and that such repairs cannot be completed while the dwelling unit is occupied.
- D. This ordinance shall not apply to any of the following residential real property or residential circumstances:
- (1) Transient and tourist hotel occupancy as described in subdivision (b) of Civil Code section 1940.
 - (2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as described in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as described in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.
 - (3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
 - (4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

(5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

(6) A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

(7) Housing that has been issued a certificate of occupancy within the previous 15 years.

(8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as described in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as described in Section 50093 of the Health and Safety Code or comparable federal statutes.

SECTION 6. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. Effective date.

This ordinance shall take effect immediately as an urgency ordinance. This is based on the Board of Supervisors finding that this ordinance is adopted in compliance with Government

Code Section 25123, that it is necessary for the protection of the public peace, health and safety, and that it is necessary to prevent the County of Monterey from suffering potentially irreversible displacement of tenants resulting from no-fault evictions during the period before AB 1482 takes effect.

PASSED AND ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:
NOES:
ABSENT:

John M. Phillips, Chair,
Monterey County Board of Supervisors

A T T E S T :

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

LESLIE J. GIRARD
County Counsel