

ORDINANCE NO. 4444

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA, ADDING CHAPTER 44 TO THE SANTA BARBARA COUNTY CODE, SUPPLEMENTING THE PROVISIONS OF STATE LAW GOVERNING THE RIGHTS AND DUTIES OF LANDLORDS AND TENANTS OF RESIDENTIAL PROPERTY IN THE COUNTY OF SANTA BARBARA

SECTION I

Section 44-1, Article I, Chapter 44 of the Santa Barbara County Code is added to read as follows:

Sec. 44-1 Legislative Intent.

The purpose of this chapter is to supplement the provisions of state law governing the rights and duties of landlords and tenants of residential property in the County of Santa Barbara.

SECTION II

Section 44-2, Article I, Chapter 44 of the Santa Barbara County Code is added to read as follows:

Sec. 44-2 Relocation Payments for Residential Household.

(1) Findings

- (a) The County of Santa Barbara is experiencing a rapid reduction of the supply of rental housing available to low and moderate-income residents. Rents have been increasing rapidly and vacancies in rental housing are at historically low levels, making it increasingly difficult for residents, especially those with low incomes, to locate affordable rental housing.
- (b) Several rental units and rooms in Santa Barbara County have been found to have severe code violations, which threaten the safety of the residents and require the units or rooms to be vacated to allow for extensive repairs.
- (c) The relocation payment obligations imposed on property owners by this chapter partially mitigate the financial hardships faced by displaced resident households. They also have the additional purpose of encouraging Owners to maintain their properties in habitable condition. The level of payments provided in this chapter are similar to those provided to resident households relocated as a result of government sponsored rehabilitation programs in other locales and reflect the actual relocation costs likely to be incurred by displaced households.

(2) Purpose

The purpose of this Section is to alleviate hardships associated with resident household relocations by requiring owners to make payments to residential resident households displaced as a result of the issuance of a citation for a code violation, by which such citation results in the determination by code enforcement authorities that the resident household must vacate the premises in order to facilitate the correction of code violations, and to protect the health, safety, and welfare of the people of Santa Barbara County.

(3) Definitions.

- (a) “Relocation” means the required and permanent vacating of a rental unit or room by a resident household as a result of repairs required to bring the property into Code compliance.
- (b) “Code enforcement or code enforcement activity” means an activity or activities initiated by an authorized agent of the County of Santa Barbara to ascertain the conditions of a building and requiring the owner to make necessary repairs to bring the property into compliance with applicable building and housing codes that threaten health and safety of Residents.
- (c) “Building official” means one employed by or authorized by the County of Santa Barbara who has the authority to render a decision with respect to a code violation, issue a citation, and order a notice and order to the property owner.
- (d) “Rental unit” means a structure or that part of a structure which is used as a place of permanent or customary and usual abode of a resident household including but not limited to single-family residences and units of multiplexes and apartment buildings.
- (e) “Room” means a room in a hotel or boarding house occupied by a resident for at least fourteen (14) consecutive days or a rented room in a private dwelling.
- (f) “Resident household” means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under the rental agreement (written or oral), and includes those persons who are considered to be residents under the California Civil Code. Resident household shall not include the owner of a dwelling unit or members of the owner’s immediate family.

- (g) “Property owner” means a person, persons, landlord, corporation, or any entity holding all or any part of the legal title to a property or their agent, successors or assigns.
 - (h) “Rental agreement” means all oral or written agreements between the Property owner and Resident household, which establishes or modifies the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a Rental unit or room.
 - (i) "Building code violation” means a violation of a state or local housing or Building code which poses a serious threat to the health and safety of the resident household.
- (4) Any tenant who is displaced or subject to displacement from a residential rental unit as a result of an order to vacate or an order requiring the vacation of a residential unit by a local enforcement agency as a result of a violation so extensive and of such a nature that the immediate health and safety of the residents is endangered, shall be entitled to receive relocation benefits from the owner as specified in this chapter. The local enforcement agency shall determine the eligibility of tenants for benefits pursuant to this chapter.
- (5) Payment of the relocation benefits shall be made as follows:
- (a) In the event the owner does not provide alternative housing pursuant to this Section, the relocation benefits required by this chapter shall be paid to the tenant within 10 days after the date that the order to vacate is first mailed to the owner or agent and posted on the premises, or at least 20 days prior to the vacation date set forth in the order to vacate, whichever occurs later.
 - (b) If there are fewer than 10 days between the first posting and mailing of the order to vacate and the vacation date, the relocation benefits shall be paid by the owner or designated agent to the tenant within 24 hours after the notice is posted and mailed. The local enforcement agency shall attempt to provide telephonic or written notice to the owner to notify the owner that the benefits are payable immediately. Failure to provide the notice as specified in this section shall not relieve the owner of any obligations imposed by this chapter.
 - (c) If a tenant is entitled to relocation benefits pursuant to Section IV, the local enforcement agency shall provide either telephonic or written notice to the tenant of his or her entitlement to the benefits. Written notice may be satisfied by posting a written notice on the premises stating that tenants may be entitled to relocation benefits.

- (d) The relocation payment shall be made available by the owner or designated agent to one tenant household in each residential unit and shall be a sum equal to three months of the established fair market rent for the area as determined by the Department of Housing and Urban Development pursuant to Section 1437f of Title 42 of the United States Code. In addition, the relocation payment shall include an amount, as determined by the local enforcement agency, sufficient for utility service deposits. The relocation benefits shall be paid by the owner or designated agent in addition to the return, as required by law, of any security deposit held by the owner. The relocation benefits shall be payable on a per residential unit basis.
- (e) Any owner who does not make timely payment as specified herein shall be liable to the tenant for an amount equal to one and one-half times the relocation benefits payable pursuant to this chapter.
- (f) Subdivision (e) shall not apply when relocation benefits are payable fewer than 10 days after the date the order to vacate is first mailed and posted on the premises, if the owner makes the payment no later than 10 days after the order is first mailed and posted.

(6) Eligibility For Relocation Assistance.

- (a) If after code enforcement activities, a code violation is determined, a resident household may be considered eligible for relocation payments described under VI below, if the owner is cited for a code violation pursuant to any state or local building or housing code, and the code enforcement official determines that the resident household occupying the rental unit or room must vacate the premises in order to effectuate the correction of the code violation.
- (b) Exception: A Resident Household shall not be eligible for relocation assistance and payments under the following conditions:
 - (i) The resident household is offered the right to return to the rehabilitated unit upon clearance by the appropriate code enforcement official. The resident household may still assert its rights and remedies under the law to recover its losses and damages for the period in which it was required to vacate the premises; or
 - (ii) The property owner provides a replacement dwelling of comparable size and appurtenances to the resident household; or

- (iii) The tenant has caused or substantially contributed to the condition giving rise to the order to vacate, as determined by the local enforcement agency, nor shall any relocation benefits be payable to a tenant if any guest or invitee of the tenant has caused or substantially contributed to the condition giving rise to the order to vacate, as determined by the local enforcement agency. The local enforcement agency shall make the determination whether a tenant, tenant's guest, or invitee caused or substantially contributed to the condition, giving rise to the order to vacate at the same time that the order to vacate the tenants is made.
- (iv) An owner shall not be liable for relocation payments if the unit or structure becomes unsafe or hazardous as the result of a natural disaster or act of God.
- (v) An owner shall not be liable to make any payment as prescribed by this section if the local enforcement agency does not provide for an appeals process for the order of the violation cited.
- (vi) An owner shall not be liable if the dwelling unit is operated as an emergency or temporary shelter for homeless persons (whether such persons have assigned rooms or beds, and regardless of duration of stay by any occupant) by a nonprofit organization or public agency owning, leasing, or managing such dwelling unit; or
- (vii) An owner shall not be liable for relocation benefits or if the resident household is in default in payment of rent, unless rent is being lawfully withheld by the residents.

(7) Notice To Owner

The Treasurer-Tax Collector for the County of Santa Barbara shall enclose a written notice in the annual property tax statements, advising owners of the provisions of this Section. Failure of owners to receive notice does not exempt owners from compliance.

(8) Private Right of Action

Any person or organization aggrieved by a violation of any provision of this Section shall have the right to file an action for injunctive relief and/or damages. Attorney fees and costs shall be awarded to the prevailing party in any such action. These remedies shall be in addition to those provided by any other law.

SECTION III

Section 44-3, Article I, Chapter 44 of the Santa Barbara County Code is added to read as follows:

Sec. 44-3 Report of Notice to Quit.

(1) Findings and Purposes

The Board of Supervisors finds and determines that, in order to effectively study the number of Notices to Quit which are given to tenants in the County of Santa Barbara for reasons other than failure to pay rent, it is necessary that landlords who issue such notices to quit to tenants send reports of such notices to quit to the County. The Board of Supervisors finds that the requirement for such reports would not materially affect a landlord's ability to regain possession of the leased property pursuant to California law.

(2) Definitions

"Landlord and rental unit," when used in this chapter, shall be construed as defined herein. Other words and phrases used herein shall have the meaning stated elsewhere in this Code.

- (a) "Landlord." An owner, lessor, or sublessor (including any person, firm, corporation, partnership, or other entity) who receives or is entitled to receive rent for the use of any rental unit, or the agent, representative or successor of any of the foregoing.
- (b) "Rental unit." A dwelling unit, as defined herein, rented or offered for rent for living or dwelling purposes, the land and buildings appurtenant thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities. This term shall include a dwelling unit in a condominium or similar project. The term shall not include:
 - (i) Housing accommodations in hotels and boarding houses, provided that at such time as an accommodation has been occupied by one or more of the same tenants for sixty (60) days or more, such accommodation shall become a rental unit subject to the provisions of this chapter.
 - (ii) A dwelling unit in a nonprofit or limited equity stock cooperative while occupied by a shareholder tenant of the stock cooperative.

- (iii) Housing accommodations in any hospital; state licensed community care facility; convent, monastery, extended medical care facility; asylum; fraternity or sorority house; or housing accommodations owned, operated or managed by an institution of higher education, a high school, or an elementary school for occupancy by its students or teachers.
- (iv) Housing accommodations which a governmental agency, or authority owns, operates, or manages, or as to which rental or mortgage assistance is paid pursuant to 24 CFR 882 ("HUD section 8 Federal rent subsidy program") or a similar federal rental assistance program.
- (v) Housing accommodations operated by an organization exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code provided that the gross income derived therefrom does not constitute unrelated business income as defined in Section 512 of the Internal Revenue Code, or a nonprofit public benefit corporation under California Corporations Code Section 5110 et seq., whose principal purpose is to provide low or moderate income housing.

(3) Notices to Quit

- (a) Prior to or at the same time as the written notice of the landlord's intention to terminate the tenancy required by Code of Civil Procedure Section 1161 is served on the tenant of a rental unit, the landlord shall file with the County Clerk an executed statement in the form provided by the County.
- (b) The completed forms shall be maintained by the County Clerk, Housing and Community Development Department or other designated County office and shall not be made available to any person except a person whose name appears on the form until 60 days after filing with the Clerk by the landlord.
- (c) Notwithstanding subdivision (a) of this subsection no filing shall be required for notices to pay rent or quit.

(4) Enforcement

In any action by a landlord to recover possession of a rental unit, the tenant may raise as an affirmative defense any failure by the landlord to comply with the requirements of this section. Such defect may be cured by the filing of the required notice with the County Clerk. Failure of the landlord to comply with the terms of this section shall constitute an infraction, for which a fine of \$50 shall be assessed for each violation.

PASSED AND ADOPTED this 19th day of February 2002, by the following vote:

AYES: Supervisor Schwartz, Supervisor Rose, Supervisor Marshall

NOES: Supervisor Gray, Supervisor Urbanske

ABSTAIN: None

ABSENT: None

Gail Marshall
Chair, Board of Supervisors

ATTEST:

MICHAEL F. BROWN
CLERK OF THE BOARD

By Robert Cohen
Deputy

APPROVED AS TO FORM:

STEPHEN SHANE STARK
COUNTY COUNSEL

By Clare H. MacDonald
Assistant County Counsel