

**ORDINANCE NO. 3705**  
**ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS**  
**ADDING COUNTY OF MARIN CODE OF ORDINANCES CHAPTER 5.100,**  
**REQUIRING CAUSE TO TERMINATE A RESIDENTIAL TENANCY**

**SECTION I: LEGISLATIVE FINDINGS**

**WHEREAS**, over 67,000 people permanently reside in the unincorporated area within Marin County, which population is projected to grow by approximately 10,000 additional residents by 2040, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

**WHEREAS**, over thirty percent of the 26,000 households that reside in unincorporated Marin rent their homes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

**WHEREAS**, it is estimated that over 2,000 households residing in unincorporated Marin have extremely low incomes, which is defined as earning approximately thirty percent of the area median income, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

**WHEREAS**, approximately fifty-six percent of renters in 2010 were estimated to be overpaying for rental housing, which is defined as paying more than thirty percent of household income as rent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

**WHEREAS**, between 2001 and 2013 home values increased significantly more than area incomes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

**WHEREAS**, between 2004 and 2013 rental prices increased approximately thirteen percent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

**WHEREAS**, there is a shortage of rental housing, including multi-family, single-family, second units, and Single Room Occupancy (SRO) units, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

**WHEREAS**, increasing rental prices combined with the constrained supply of rental housing in the County can result in displacement of County residents beyond the County and region if a household's tenancy is terminated without a cause, with impacts particularly affecting low- and moderate-income households; and

**WHEREAS**, a 2018 research project by the California Housing Partnership and U.C. Berkeley's Urban Displacement Project regarding Rising Housing Costs and Re-segregation showed that displaced households experienced greater housing costs after

displacement, whether they moved within their county of origin, to a new county in the Bay Area, within the region, or out of state;<sup>1</sup> and

**WHEREAS**, the County's Rental Housing Survey released in 2015 received more than 800 tenant responses, and found that 372 (45 percent) were concerned with insecurity and instability of their rental home, and 59 percent of all respondents were worried about rent increases and/or evictions; and

**WHEREAS**, 1,296 unlawful detainer actions were filed in Marin County between 2014 and 2016, which indicates over 400 unlawful detainer actions may be filed each year;<sup>2</sup> and

**WHEREAS**, unlawful detainer actions filed with the courts do not account for the terminations of tenancy, notices to quit, and other actions that can result in the displacement of County residents generally, and which particularly impact members of protected classes in Marin County; and

**WHEREAS**, for the past approximately three years, the Board of Supervisors has been considering a slate of policy options to preserve housing affordability and prevent displacement, and has taken action to implement several measures in furtherance of these goals based in part on recommendations from an ad hoc Affordable Housing Subcommittee of the Board; and

**WHEREAS**, the Board of Supervisors discussed just cause for eviction policies during seven workshops, held in October and December 2015, February 2016, August and December 2017, and in June and September 2018; and

**WHEREAS**, the Community Advisory Group and Steering Committee for the County's ongoing Assessment of Fair Housing identified just cause for eviction policies as one priority recommendation to promote fair housing after extensive community engagement process reaching over 1,400 people from all areas of the County; and

**WHEREAS**, just cause for eviction policies continue to allow landlords to terminate tenancies and evict tenants based on a tenant's failure to pay rent or illegal activities, a landlord's desire to withdraw the property from the rental market, and other specified reasons, while providing tenants with more stability and security; and

**WHEREAS**, just cause for eviction policies advance fair housing policy by: increasing transparency and reducing the chance that a termination of tenancy or eviction is motivated by unlawful discrimination or retaliation; specifically protecting existing

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<sup>1</sup> Zuk, M., & Chapple, K. (2018). Urban Displacement Project. Retrieved from <http://www.urbandisplacement.org/research#section-132>. Published research only for San Francisco, Alameda, and Contra-Costa Counties, but presented at Non-Profit Housing Conference applied to Bay Area generally.

<sup>2</sup> Research from Anti-Eviction Mapping Projection and Tenants Together (May 2018). Retrieved from <https://www.antievictionmap.com/evictions#/unlawful-detainer-evictions-california-20142016>.

tenants who are statistically more likely to be members of protected classes than homeowners in Marin County due to historical housing policies; and

**WHEREAS**, on September 11, 2018, the Board of Supervisors held a workshop and received public testimony on Just Cause for Eviction policies and directed staff to develop a Just Cause Ordinance, with further direction from the Affordable Housing Subcommittee of the Board; and

**WHEREAS**, the Board of Supervisors has identified six specific causes for which a tenancy may be terminated that balance the needs of property owners, market conditions, and protections for the renter population in the unincorporated area of the County; and

**WHEREAS**, the Board of Supervisors conducted duly and properly noticed public hearings on December 4 and December 18, 2018 regarding an ordinance requiring cause to terminate a residential tenancy; and

**WHEREAS**, the Board of Supervisors finds and determines that regulating the reasons for terminating a tenancy between certain residential landlords and residential tenants will increase certainty and fairness within the residential rental market in the County and thereby serve the public peace, health, safety, and public welfare; and

**WHEREAS**, Chapter 5.100 is adopted and added to the County of Marin Code of Ordinances pursuant to the County's police powers, afforded by the state constitution and state law, to protect the health, safety, and welfare of the public.

## **SECTION II: ACTION**

The Marin County Board of Supervisors ordains as follows: Ordinance No. 3705 is hereby adopted and Chapter 5.100 Requiring Cause to Terminate a Residential Tenancy shall be codified in the Marin County Code of Ordinances in the form attached as Exhibit "A" to Marin County Ordinance No. 3705.

## **SECTION III: CEQA DETERMINATION**

The Board of Supervisors finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment, in that this ordinance applies residential tenant protection measures to existing residential units in unincorporated areas of Marin County, which is solely an administrative process resulting in no physical changes to the environment. Accordingly, this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures.

**SECTION IV: SEVERABILITY**

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

**SECTION V: EFFECTIVE DATE AND PUBLICATION**

This Ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same, in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

**SECTION VI: VOTE**

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on this 18<sup>th</sup> day of December 2018 by the following vote:

AYES: SUPERVISORS Dennis Rodoni, Katie Rice, Judy Arnold, Kathrin Sears,  
Damon Connolly

NOES: NONE

ABSENT: NONE

  
\_\_\_\_\_  
DAMON CONNOLLY, PRESIDENT  
MARIN COUNTY BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
Matthew H. Hymel  
Clerk of the Board of Supervisors

**EXHIBIT "A" TO MARIN COUNTY ORDINANCE NO. 3705**  
**Marin County Code of Ordinances Chapter 5.100**  
**Requiring Cause to Terminate a Residential Tenancy**

**Section: 5.100.010 Purpose and intent.**

- (a) It is the purpose and intent of this Chapter to increase certainty and fairness in the residential rental market within unincorporated Marin County in order to promote the health, safety, and general welfare of residents and property owners within the County. This Chapter regulates the reason(s) for and defines certain minimum term(s) under which certain residential tenancies may be terminated by Landlords of rental Dwelling Units located within unincorporated Marin County.
- (b) The CDA Director has the authority to issue interpretations of and regulations to implement this Chapter, including the publication of form notices and other documents. All forms and notices called for to facilitate the administration and implementation of this Chapter shall be adopted by the CDA Director, with approval by the County Counsel, and included in the Guidelines.

**Section: 5.100.020 Applicability.**

- (a) General Application. Except as provided in Section 5.100.020(b) below, the provisions of this Chapter 5.100 shall apply to all properties in unincorporated Marin County that contain at least three: (1) Dwelling Units which contain a separate bathroom, kitchen, and living area in a multifamily or multipurpose dwelling; (2) Dwelling Units in Single Room Occupancy residential structures; or (3) units in a structure that is being used for residential uses whether or not the residential use is a conforming use permitted under the Marin County Code of Ordinances, which is hired, rented, or leased to a household within the meaning of California Civil Code section 1940. This definition applies to any dwelling space that is actually used for residential purposes, including live-work spaces, whether or not the residential use is legally permitted.
- (b) Exceptions. Notwithstanding anything to the contrary above, the provisions of this Chapter 5.100 shall not apply to the following types of Dwelling Units:
  - (1) Any Dwelling Unit for which one of the following is true: (A) the Dwelling Unit is owned or operated by any government agency; or (B) the Rent is directly subsidized by a government agency such that the Tenant's portion of the Rent does not exceed 30% of household income; or
  - (2) Any Dwelling Unit located in a development where no fewer than forty-nine percent (49%) of the Dwelling Units are subject to legally binding restrictions enforceable against and/or governing such units that limit the Rent to no

more than an affordable rent, as such term is defined in California Health & Safety Code Section 50053; or

- (3) Any residential accessory dwelling unit or junior accessory dwelling unit, each as defined in Marin County Development Code Chapter 22.56; or
- (4) Any Dwelling Unit occupied by a Tenant employed by the Landlord for the purpose of managing the property.

**Section: 5.100.030 Definitions.**

For the purpose of this Chapter, the following words and phrases shall mean:

- (a) "County" means the County of Marin.
- (b) "CDA Director" means the County of Marin Community Development Agency Director or his or her designee unless otherwise specified.
- (c) "Dwelling Unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household as defined in California Civil Code section 1940 and the Marin County Code.
- (d) "For Cause" termination has the meaning provided in subsection (b) of Section 5.100.040.
- (e) "Guidelines" means any written regulations for the administration and implementation of this Chapter adopted by the CDA Director.
- (f) "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive Rent for the use and occupancy of any Dwelling Unit or portion thereof.
- (g) "No Fault" termination has the meaning provided in subsection (c) of Section 5.100.040.
- (h) "Notice of Termination" means a written notice that includes all of the components identified in Section 5.100.050.
- (i) "Primary Residence" means a Dwelling Unit that an owner occupies as a primary residence, as evidenced by the Dwelling Unit qualifying for a homeowner's property tax exemption.
- (j) "Rent" means the consideration, including any funds, labor, bonus, benefit, or gratuity, demanded or received by a Landlord for or in connection with the use and occupancy of a Dwelling Unit and the Housing Services provided therewith, or for the assignment of a rental agreement for a Dwelling Unit.

- (k) "Tenant" means a person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a Dwelling Unit.
- (l) "Tenant Household" means all Tenant(s) who occupy any individual Dwelling Unit, and each minor child, dependent, spouse or registered domestic partner of any Tenant whose primary residence is the Dwelling Unit.

**Section: 5.100.040 Cause required to terminate tenancy.**

- (a) Prerequisites to terminate. No Landlord may terminate a residential tenancy of a Dwelling Unit unless the Landlord can demonstrate:
  - (1) the Landlord possesses a valid Business License in accordance with Chapter 5.54 of the County Code; and
  - (2) the Landlord has previously provided the Tenant with the Notice of Tenant Rights as required by County Code Section 5.95.080, or can otherwise demonstrate timely, good faith substantial compliance with the noticing requirements listed herein; and
  - (3) the Landlord served a Notice of Termination to the Tenant, in the form required by County Code Section 5.100.050, and that the Landlord delivered a true and accurate copy of the Notice of Termination to the CDA Director within ten (10) calendar days of delivery to the Tenant(s); and
  - (4) the Landlord has not accepted and will not accept rent or any other consideration in return for the continued use of the Dwelling Unit beyond the term of the terminated tenancy in compliance with California Civil Code sections 1945, 1946, and 1946.1; and
  - (5) the termination qualifies as a For Cause or No Fault termination, as defined in this Section; and
  - (6) for all Notices of Termination served to the Tenant after June 1, 2019, the Landlord must have registered the Dwelling Unit in accordance with Section 5.100.080 of this Chapter; and
  - (7) the Landlord has complied with the requirements listed in Section 5.100.090 of this Chapter.
- (b) For Cause Terminations. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as "For Cause." Nothing in this section shall abrogate the protections afforded to survivors of violence consistent with the California Code of Civil Procedure Section 1161.3, as amended, and the Violence Against Women Act, Public Law 102-322, as amended.

- (1) Failure to Pay Rent. Tenant failed to pay Rent within three days of receiving written notice from the Landlord demanding payment as provided in subsection 2 of California Code of Civil Procedure section 1161.
- (2) Breach of Rental Contract. Tenant violated a material term of the rental agreement as provided in subsection 3 of California Code of Civil Procedure section 1161.
- (3) Tenant Illegal Activities. Tenant has been convicted for using the Dwelling Unit for an illegal purpose as provided in subsection 4 of California Code of Civil Procedure section 1161, including but not limited to the unlawful distribution of a controlled substance as contemplated by California Civil Code section 3486, the unlawful use, manufacture, or possession of weapons and ammunition as contemplated by California Civil Code section 3485, or for of a serious crime or violent felony as defined by applicable law, which occurred during the tenancy and within 1,000 feet of the Dwelling Unit. For purposes of this subsection, Tenant Household, after receiving a written notice, may cure the violation by removing, and demonstrating such removal, of the offending Tenant.
- (4) Threat of Violent Crime. 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 that includes the unit or to the Landlord, 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.
- (5) Nuisance Behavior. The Tenant, after written notice to cease and the passage of a reasonable period of time to abate or cure, continues to be so disorderly or to cause such a nuisance as to destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Dwelling Unit. Such nuisance or disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Dwelling Unit, or the creation or maintenance of a dangerous or unsanitary condition in violation of applicable local, state, and Federal law, and may be further defined in the regulations adopted by the Community Development Director.



- (6) Notwithstanding the limitations of California Code of Civil Procedure Section 1161.3, as amended, act or acts constituting domestic violence or sexual assault or stalking against the Tenant or a member of Tenant's household cannot form the substantial basis of a For Cause reason to terminate the tenancy of the victim of such acts. A member of a Tenant household may raise such facts as an affirmative defense to an action terminating the tenancy.
- (c) No Fault Terminations. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as "No Fault."
- (1) Landlord Will Permanently Remove Unit from Rental Market. Landlord will imminently demolish the Dwelling Unit or otherwise permanently remove the Dwelling Unit from any residential rental use or purpose, in accordance with California Government Code sections 7060 – 7060.7.
  - (2) Landlord Will Move in to Dwelling Unit. Landlord, or one of Landlord's parents or children, intends to move into and reside in the Dwelling Unit as his, her, or their Primary Residence. The Dwelling Unit must be occupied as the Primary Residence within three months of the Tenant household vacating the Dwelling Unit, and the Dwelling Unit must continue to be occupied as the Primary Residence for at least one year.
  - (3) Substantial Rehabilitation for Health and Safety. Landlord has obtained permits to undertake substantial repairs to the Dwelling Unit that cannot be completed while the Dwelling Unit is occupied. To qualify, such substantial repairs must be for the primary purpose of bringing the Dwelling Unit into compliance with applicable health and safety codes.
- (d) Buy-Out Agreements. Nothing in this Chapter shall expand or limit a Landlord and Tenant's ability to negotiate or agree to end a tenancy voluntarily in exchange for money or other consideration.

**Section: 5.100.050 Notice of Termination.**

- (a) Contents of Notice of Termination. In addition to any information required by state or federal law, each Notice of Termination subject to this Chapter must include the following information.
- (1) The name and address of the Landlord where the Landlord will accept service of process; and
  - (2) The location of the Dwelling Unit; and

- (3) The total length of the notice prior to termination of tenancy (expressed as number of days from delivery of notice until the anticipated final date of tenancy); and
  - (4) The intended final date of occupancy under the tenancy; and
  - (5) The monthly Rent applicable to the tenancy upon delivery of the Notice, and, if applicable, the date on which the final monthly Rent is due; and
  - (6) The beginning date of the tenancy and monthly Rent applicable at that time; and
  - (7) One applicable cause for which the tenancy will be terminated, in accordance with Section 5.100.040.
- (b) Language of Notice of Termination. If the Tenant's rental agreement was negotiated in a language other than English, then the Landlord is obligated to provide an accurate translation of the Notice of Termination in the language in which the rental agreement was negotiated.
- (c) Delivery of Notice. Each Notice of Termination must be delivered to the Tenant Household in accordance with Civil Code sections 1946 and 1946.1, as applicable.
- (d) Copy of Notice to County. Landlords must provide a copy of the Notice of Termination to the Community Development Agency within ten days of delivery to the Tenant(s). In the event that the Landlord has identified a breach of a rental contract as a cause for the Termination as provided in Section 5.100.040(b)(2), the Landlord must attach a copy of the applicable rental agreement or contract to the Notice of Termination when submitting the Notice of Termination to the County. Notices of Termination may be submitted via the County's website for such Notices or as otherwise specified in the Guidelines.

**Section: 5.100.060 Extended notice for certain No Fault terminations.**

Each Tenant household whose tenancy is terminated pursuant to subsection (c)(1) of Section 5.100.040 (Landlord will permanently remove unit from rental market) must receive notice of the termination at least one hundred twenty (120) days prior to the intended final date of occupancy under the tenancy.

**Section: 5.100.070 Civil remedies.**

- (a) Affirmative Defense. A Landlord's failure to comply with this Chapter, including but not limited to the identification of an applicable cause for termination described in Section 5.100.040 and delivery of a completed Notice of Termination in accordance with Section 5.100.050, shall be an affirmative defense to an unlawful detainer action by Landlord.

- (b) Civil Liability. Whenever a Landlord attempts to prevent a tenant from acquiring any rights under this chapter, retaliates against a Tenant or Tenant Household for the exercise of any rights under this chapter, or engages in activities prohibited under this chapter, the Tenant, Tenant Household, or the County may institute a civil proceeding for money damages or injunctive relief, or both. This section creates a private right of action to enforce all terms, rights, and obligations under this chapter. Whoever is found to have violated this chapter shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable attorneys' fees, and whatever other relief the court deems appropriate. In the case of an award of damages, said award may be trebled if the trier of fact finds that the Landlord acted in knowing violation, reckless disregard, or otherwise willfully failed to comply with this chapter.
- (c) Authorization of County to Enforce the Ordinance. The County shall have the right and authority, but not the obligation, to enforce provisions of this chapter to bring actions for injunctive relief on behalf of the County or on behalf of Tenants or Tenant Households seeking compliance by Landlords with this chapter or through administrative remedy or citation.
- (d) Civil Action to Determine Liability. Any Tenant may bring a civil action to determine the applicability of this chapter to the tenancy.
- (e) Other Private Rights of Action. Nothing herein shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to said Landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

**Section: 5.100.080 Rental Dwelling Unit registry.**

No later than June 1, 2019, and on or before January 1 of each year thereafter, each person or entity seeking to Rent or lease one or more Dwelling Units on properties that are subject to the provisions of this Chapter to a residential Tenant must register their unit(s), using forms provided by the County. Each addition to the registry must include, at a minimum, the following information provided under penalty of perjury and certified to be true as of November 1 of the preceding year:

- (a) the name, address, and phone number of the person(s) that own the Dwelling Unit to be rented, if other than a natural person then the name of the entity and the name and address of the designated agent for service of process; and
- (b) the address of each Dwelling Unit for rent or lease; and
- (c) the number of bedrooms in each Dwelling Unit for rent or lease; and

- (d) the amount and date of the monthly Rent received for each Dwelling Unit, identifying whether the monthly Rent includes specified utilities (water/sewer, refuse/recycle, natural gas, electricity, etc.); and
- (e) the occupancy status of each Dwelling Unit (e.g. vacant or occupied); and
- (f) the address of all other Dwelling Units owned in the County; and
- (g) the Business License number applicable to each above-referenced Dwelling Unit in accordance with Chapter 5.54 of the County Code.

**Section: 5.100.090 Compliance with other local regulations**

In addition to the requirements of this Chapter, properties subject to the provisions of this Chapter shall also comply with all other applicable regulations, including but not necessarily limited to maintaining a valid business license and a valid Permit to Operate from Marin County Environmental Health Services Division.

**Section: 5.100.100 Severability.**

The provisions of this Chapter are declared to be severable. If for any reason, any section, paragraph, clause, or phrase of this Chapter or the application thereof to any person, entity, or circumstance is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

**Section: 5.100.110 Ordinance review.**

This Chapter shall be reviewed by the Board of Supervisors no later than January 18, 2021, at which time the Board of Supervisors may consider revisions to this Chapter.