

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA, AMENDING IN ITS ENTIRETY 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

Chapter 44 of the Santa Barbara County Code is being adopted and amended in its entirety. The Board of Supervisors of the County of Santa Barbara does ordain as follows:

SECTION I

Section 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 and to partially mitigate the financial hardships faced by resident households through payment of relocation benefits. This ordinance is not intended to create a substantive defense to a summary eviction or unlawful detainer proceeding.

SECTION II

Section 44-2, Relocation Benefits for Resident Households

(1) **Findings.**

(a) The County of Santa Barbara is experiencing a rapid reduction in 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 April 14, 2010 Santa Barbara County Final Report, "Evaluation of the Rights and Duties of Landlords and Tenants of Residential Property" identified that many resident households do not have the resources available to quickly relocate into quality housing, particularly in areas of high rent.

(d) In addition, when multiple resident households are forced to seek new housing simultaneously and rental units are removed from the housing market, it is increasingly difficult to locate affordable housing in an already overburdened rental housing market.

(e) Section 21-125 of the Santa Barbara County Code addresses relocation of existing tenants due to subdivision of existing buildings into condominiums, community apartment projects, or stock cooperatives. These conversions require the processing and approval of separate discretionary permits and relocation assistance can be addressed through that discretionary process.

(f) The relocation benefit obligations imposed on property owners by this Chapter partially mitigate the financial hardships faced by displaced resident households. The benefits are calculated to provide for the expected cost of locating new housing, including a security deposit and rent for the first and last month of the tenant's new lease. In the case of a health-related or safety-related code violation, 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 some other locales and reflect the actual relocation costs likely to be incurred.

(2) Purpose.

The purpose of this section is to alleviate hardships associated with resident household relocations by requiring owners to pay relocation benefits in specified circumstances that decrease the availability of rental housing, including "red tag" and "yellow tag" evictions for code violations, demolition, substantial alteration or rehabilitation resulting in a permanent reduction in the number of units, and changes in land use.

(3) Definitions.

(a) "Relocated" or "Relocation" means the required vacating of a resident household as a result of the following: 1) repairs required to bring a rental unit or room into health and safety Code compliance as determined by the Building Official; or, 2) in buildings of four (4) or more rental units in which an eligible relocation event occurs due to the demolition of any rental unit on the lot; the alteration or substantial rehabilitation of any structure on a lot that requires a permit from the County and permanently reduces the number of rental units on the lot; or the change of use of real property from a residential use to a nonresidential use.

(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 the 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, to issue a citation, and to 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 hotel or boarding house occupied by a resident for at least fourteen consecutive days or a rented room in a private dwelling.

(f) "Resident household" means all of the persons who are entitled to occupy one rental unit primarily for living or dwelling purposes under a rental agreement (written or oral), and includes those persons who are considered to be residents under the California Civil Code, but there shall only be one "resident household" per rental unit.

(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) "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.

(j) "Relocation benefits" means a sum equal to three months of the fair market rent for the area as determined by the Department of Housing and Urban Development pursuant to Section 1437f (c) (1) of Title 42 of the United States Code or \$7,000, whichever is greater.

(k) "Eligible relocation event" means the relocation of the greater of two (2) rental units or 10% of rental units in a 90-day period in a building with four (4) or more rental units. Where the calculation of 10% results in a percentage of a unit,

the number of units shall be rounded down (e.g. 2.5 units is rounded down to 2 units).

(l) “Fast-track permit processing” means expedited plan check and case review by the Planning and Development Department.

(4) Any resident household that is relocated or subject to relocation as defined at section 44-2(3)(a) of this Chapter shall be entitled to receive relocation benefits from the property owner. A property owner shall not be required to pay more than one set of relocation benefits per rental unit. There shall be a rebuttable presumption that this Chapter applies when relocation occurs within 90 days of the property owner obtaining permits for demolition of any rental unit on the lot; the alteration or substantial rehabilitation of any structure on a lot that requires a permit from the County and permanently reduces the number of rental units on the lot; or the change of use of real property from a residential use to a nonresidential use.

(5) When this Chapter requires property owners to pay relocation benefits, 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 resident household either: 1) within ten (10) days after the date that the Building Official’s order to vacate is first mailed to the owner or agent and posted on the premises, or at least twenty (20) days prior to the vacation date set forth in the order to vacate, whichever occurs later; or, within twenty (20) days of the property owner giving a resident household a notice to terminate lease under Civil Code section 1946 or notice to quit under Code of Civil Procedure section 1162.

(b) In the case of an order to vacate by the Building Official, if there are fewer than ten (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 property owner or designated agent to the resident household within twenty-four (24) hours after the notice is posted and mailed.

(c) In the case of an order to vacate by the Building Official, if a resident household is entitled to relocation benefits due to an order to vacate, the Building and Safety Division of the Planning and Development Department shall provide either telephonic or written notice to the resident household of his or her entitlement to the relocation benefits. Written notice may be satisfied by posting a written notice on the premises stating that resident households may be entitled to relocation benefits.

(d) The relocation benefits shall be made available by the property owner or designated agent to the resident household in each rental unit or room. The

relocation benefits shall be paid by the property owner or designated agent in addition to the return, as required by law, of any security deposit held by the property owner. The relocation benefits shall be payable on a per residential unit basis.

(e) Any property owner who does not make timely payment as specified herein shall be liable to the resident household for an amount equal to one and one-half times the relocation benefits payable pursuant to this Chapter.

(f) Subsection (e) shall not apply when the property owner makes the payment of relocation benefits no later than ten (10) days after the order is first mailed and posted.

(6) Exceptions for Eligibility For Relocation Benefits.

(a) A resident household shall not be eligible for relocation benefits under the following conditions:

(i) If 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) If the property owner provides a replacement rental unit of comparable size and appurtenances to the resident household. The replacement rental unit must be located within a (5) five mile radius of the original rental unit unless waived, in writing, by the resident household; or,

(iii) If the tenant, tenant's guest, or tenant's invitee has caused or substantially contributed to the condition giving rise to the order to vacate; or,

(iv) If the unit or structure becomes unsafe or hazardous as the result of a natural disaster or act of God; or,

(v) In the case of an order to vacate by the Building Official, if the Building and Safety Division of the Planning and Development Department does not provide for an appeals process for the order of the violation cited; or,

(vi) 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) If the resident household is in default in payment of rent, unless rent is being lawfully withheld by the residents.

(7) Administrative Fines

Any violation of this Chapter by a property owner shall be an infraction and shall subject the property owner to the following administrative fines:

(a) A fine not exceeding \$100.00 for a first violation;

(b) A fine not exceeding \$200.00 for a second violation of the same provision within a 12-month period; and,

(c) A fine not exceeding \$500.00 for each additional violation of the same provision within a 12-month period.

(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.

(9) Chapter Does Not Create Substantive Defenses

Nothing in this Chapter shall create a substantive defense in summary eviction or unlawful detainer proceedings.

SECTION III

Section 44-3 Incentive for Property Owners to Further Assist Resident Households

(1) Fast Track Permit Processing.

(a) A property owner is eligible to request fast track permit processing if:

(i) The property owner is required to pay relocation benefits pursuant to section 44-2(3)(a)(2) of this Chapter for one or more rental units; and,

(ii) The property owner has submitted a land use application on that rental unit or units to the County of Santa Barbara Planning and Development Department for the demolition of any rental unit on the lot; the alteration or substantial rehabilitation of any structure on a lot that requires a permit from the County and permanently reduces the number of rental units on the lot; or the change of use of real property from a residential use to a nonresidential use; and,

(iii) The property owner has provided the following to the County of Santa Barbara Housing and Community Development Department:

(a) A copy of a cancelled check evidencing payment of relocation benefits to all relocated resident households;

(b) A copy of a cancelled check evidencing refund of each resident household's security deposit within 21 days of date set for relocation; and,

(c) A copy of a notice to each residential household residing on the property provided by either personal delivery or certified mail at least 90 days prior to filing an application that contains at least the following information:

1) The name and contact information of the current property owner and property manager;

2) The approximate date on which the permit application is to be filed;

3) Notification that relocation benefits are available to the resident household under this Chapter; and

4) The resident household's right to request written notice from the County of Santa Barbara Planning and Development Department for each land use approval and public hearing, if applicable, regarding the land use application.

SECTION IV

Section 44-4 Effective Date, Operative Date, and Notice

(1) Effective Date

All amendments to this Chapter shall take effect and be in force thirty (30) days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in a newspaper of general circulation published in the County of Santa Barbara.

(2) Operative Date

All amendments to this Chapter shall be applied in a prospective manner, not retrospectively, and shall only apply to leases entered into, amended, held over, or extended after April 15, 2011. These ordinance amendments apply to month-to-month tenancies, including "hold-over" tenancies, after April 15, 2011.

(3) 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.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____ 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

COUNTY OF SANTA BARBARA
BOARD OF SUPERVISORS

By: _____
CHAIR, JANET WOLF

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:
DENNIS A. MARSHALL, COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO FORM:
ROBERT GEIS, AUDITOR CONTROLLER

By: _____
Deputy