

ORDINANCE NO. 2019-05

AN ORDINANCE ADDING CHAPTER 5.80 TO TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE MARINA MUNICIPAL CODE TO TEMPORARILY PROHIBIT NO-FAULT EVICTIONS IN THE CITY OF MARINA THROUGH DECEMBER 31, 2019, FOR RESIDENTIAL REAL PROPERTY ISSUED A CERTIFICATE OF OCCUPANCY PRIOR TO DECEMBER 3, 2004.

WHEREAS, the City of Marina is experiencing a crisis of homelessness and displacement of renters; and

WHEREAS, the California legislature passed the Tenant Protection Act of 2019, Assembly Bill 1482 (“AB 1482”), an act adding and repealing Sections 1946.2, 1947.12, and 1947.13 of the California Civil Code, effective beginning January 1, 2020, which prohibits evictions without “just cause” and owners of residential rental property from increasing rents each year more than 5 percent plus the percentage change in the cost of living or 10 percent, whichever is lower; and

WHEREAS, AB 1482 will provide renter protections to approximately 2,000 households in the City of Marina that are not protected by the State of California’s “Mobilehome Residency Law” (CA Civil Code §798 et seq.) ; and

WHEREAS, in advance of the implementation of AB 1482, no-fault eviction notices and threats of eviction have surged; and

WHEREAS, the City Council wishes to protect renters from no-fault evictions through December 31, 2019, in advance of AB 1482’s effective date, to prevent further homelessness and displacement.

WHEREAS, the City Council intends that this Ordinance apply retroactively to a notice to terminate a tenancy issued prior to the Ordinance’s effective date where the period of notice has not expired and the tenant remains in possession.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARINA HEREBY ORDAINS AS FOLLOWS:

Section 1. A new Chapter 5.80 is added to Title 5 of the Marina Municipal Code to read as follows:

“CHAPTER 5.80

TEMPORARY PROHIBITION OF NO-FAULT EVICTIONS

Sections:

- 5.80.010 Purpose.
- 5.80.020 Definitions.
- 5.80.030 Prohibition on Evictions.
- 5.80.040 Application.
- 5.80.050 Severability.
- 5.80.060 Effective Date and Expiration Date.

5.80.010. PURPOSE.

On October 8, 2019, Assembly Bill 1482 (“AB 1482”), the Tenant Protections Act of 2019, was passed to address a key cause of California’s affordable housing crisis by preventing rent gouging and arbitrary evictions. AB 1482 becomes effective on January 1, 2020.

The City of Marina is experiencing a housing affordability crisis, which is driving homelessness and displacement of residents. 46.7% of the City’s renters are rent burdened, paying over 30 percent of their income on rent. 22.3% of renters are severely rent burdened, paying over 50 percent of their income on rent. Although approximately 400 mobile home rental units in the City of Marina are regulated by the City’s Mobile Home Rent Stabilization Ordinance and the State’s Mobilehome Residency Law (CA Civil Code §798 et seq.), which protects renters from extraordinary rent increases and arbitrary evictions, no similar renter protections presently exist for the approximately 2,000 households in the City that will be covered by AB 1482 beginning on January 1, 2020.

Rapidly escalating real estate values provide an incentive to landlords to evict long-term, lower-income tenants, without cause, to raise rents and attract wealthier tenants, before AB 1482 becomes effective. To prevent tenants in non-mobile home units from experiencing a surge of no-fault eviction notices and threats of eviction, it is imperative that the City implement temporary strategies to keep people housed.

This article will temporarily prohibit no-fault evictions through December 31, 2019, for residential real property that will be covered by AB 1482 beginning on January 1, 2020.

5.80.020 DEFINITIONS.

The following words and phrases, whenever used in this article, shall be construed as defined in this section.

Owner. The term “owner” is any person, acting as principal or through an agent, offering residential real property for rent, and includes a predecessor in interest to the owner.

Residential real property. The term “residential real property” is any dwelling or unit that is intended or used for human habitation.

5.80.030 PROHIBITION ON EVICTIONS.

A. Through December 31, 2019, the owner of residential rental property shall not terminate a lawful tenancy without at-fault just cause, unless the termination is required to comply with an order issued by a government agency or court necessitating vacating the residential real property or to comport with due process, federal, or state law, 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 article may be asserted as an affirmative defense in an unlawful detainer action. An owner’s failure to comply with this article does not constitute a criminal offense. This section does not in any way adversely affect or abrogate the rights of tenants under the Mobile Home Rent Stabilization Ordinance.

B. At-fault just cause is the following:

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 against the 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 an unlawful purpose 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. This article shall not apply to any of the following residential real property or residential circumstances:

1. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.
2. Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined 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 the owner is not any of the following:
 - (a) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.
 - (b) A corporation.
 - (c) 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 defined 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 defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

5.80.040 APPLICATION.

This article shall apply to tenancies where the tenant remains in possession and the eviction lawsuit has not been adjudicated.

5.80.050 SEVERABILITY.

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions, and to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted this article and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

5.80.060. EFFECTIVE DATE AND EXPIRATION DATE. This ordinance shall take effect immediately following its adoption. This Ordinance shall terminate and be of no further effect at midnight on December 31st, 2019. “

Section 2. Environmental Determination. The City Council finds that the adoption and implementation of this Ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)(3) in that the City Council finds there is no possibility that the implementation of this Ordinance may have significant effects on the environment.

Section 3. Urgency Clause. The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: the City of Marina would suffer potentially irreversible displacement of tenants resulting from no-fault evictions during the period before AB 1482 becomes effective. The Council, therefore, adopts this ordinance to become effective upon publication pursuant to California Government Code § 36934.

Section 4. Posting of Ordinance. Immediately after the passage of this ordinance, the City Clerk shall cause it to be posted in the three public places designated by resolution of the City Council.

THE FOREGOING ORDINANCE was passed and adopted as an urgency measure at a regular meeting of the City Council of the City of Marina duly held on the 17th day of December 2019, by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk