

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 9 (LICENSES AND BUSINESS REGULATIONS) OF THE COSTA MESA MUNICIPAL CODE BY ADDING CHAPTER II (REGULATION OF CERTAIN BUSINESSES, ARTICLE 24 (JUST CAUSE RESIDENTIAL TENANT PROTECTIONS))

WHEREAS, The California Legislature adopted the Tenant Protection Act of 2019 (Civil Code section 1946.2, *et seq.*, the “Act”) which, as of January 1, 2020, provides “just cause” eviction protections to qualifying tenants of certain residential real property, and amended the Act pursuant to SB 567 in 2023 to add additional requirements to take effect on April 1, 2024; and

WHEREAS, The Act, in subsection (g)(1)(B) ((i)(1)(B) of Civil Code Section 1946.2 as amended), states that a local ordinance requiring “just cause” for landlords to terminate a residential tenancy is valid and will prevail over the Act so long as the just cause eviction protections in the local ordinance are consistent with the Act and, so long as the ordinance, as supported by binding legislative findings of the local government, is “more protective” than the Act by: further limiting the reasons for terminating a residential tenancy, providing for higher relocation assistance, or providing additional tenant protections that are not otherwise prohibited by law; and

WHEREAS, The City of Costa Mesa (“City”) is a California General Law city with broad “police powers” vested in municipalities by California’s Constitution, pursuant to which the City may make and enforce laws necessary to protect and preserve the health, safety, and general welfare of its residents; and

WHEREAS, Pursuant to this broad authority and express authorization in the Act, the City Council for the City of Costa Mesa (“City Council”) finds it necessary and appropriate to adopt a local ordinance establishing “just cause” eviction protections that are both consistent with the just cause projections of the Act and “more protective” than the Act in specified circumstances; and

WHEREAS, Based upon all matters presented to it in connection with its consideration of this ordinance, the City Council finds and declares that the legislative findings and declarations made herein are true, correct, and binding, and that all legal prerequisites to the adoption of this ordinance have been duly performed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 9 (LICENSES AND BUSINESS REGULATIONS) of the Costa Mesa Municipal Code is hereby amended by adding Chapter II (REGULATION OF CERTAIN BUSINESSES, ARTICLE 24 (JUST CAUSE RESIDENTIAL TENANT PROTECTIONS)) to read as follows:

CHAPTER II

ARTICLE 24.

JUST CAUSE RESIDENTIAL TENANT PROTECTIONS.

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Section 9-400

Findings and Purpose.

In compliance with subdivision (g)(1)(B) of California Civil Code Section 1946.2 ((i)(1)(B) of section 1946.2 of the California Civil Code effective April 1, 2024), the City Council for the City of Costa Mesa finds and declares that:

A. The provisions of this Article requiring “just cause” for termination of a residential tenancy are consistent with Section 1946.2 of the Civil Code; and

B. The provisions of this Article are more protective than Section 1946.2 of the Civil Code by providing for higher relocation assistance and the imposition of civil penalties in specified circumstances, and by including additional tenant protections that are not prohibited by any other provision of law.

Section 9-401

Definitions.

In addition to the terms and phrases otherwise defined in this Article, the following terms shall have the meaning given:

“Fair Market Rent” shall mean the Department of Housing and Urban Development Final Fair Market Rents Documentation System for the Santa Ana-Anaheim-Irvine, CA HUD Metro FMR Area, FMRs for All Bedroom Sizes, for the fiscal year in which the action is taken.

“Owner” includes any person, acting as principal or through an agent, having the right to offer residential real property for rent, and includes a predecessor in interest to the owner, except that this term does not include the owner or operator of a mobile home park, or the owner of a mobile home or his or her agent.

“Residential real property” includes any dwelling or unit that is intended for human habitation.

“Tenancy” means the lawful occupation of residential real property and includes a lease or sublease, and “tenant” means an individual in lawful occupation of residential real property and includes a lease or sublease.

Section 9-402

Just Cause Required for Terminating a Residential Tenancy; Just Cause Defined.

A. Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied:

1. All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.
2. One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

B. For purposes of this Article, "just cause" includes either at-fault just cause or no-fault just cause:

1. "At-fault just cause" includes any of the following:
 - a. Default in the payment of rent.
 - b. 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 the lease after being issued a written notice to correct the violation.
 - c. 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.
 - d. Committing waste as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
 - e. The tenant had a written lease that terminated on or after January 1, 2020, or January 1, 2022, if the lease is for a tenancy in a mobilehome, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this Article or any other provision of law.
 - f. 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 at any owner or agent of the owner of the residential real property.
 - g. 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.
 - h. 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.

i. Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.

j. The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or licensee as described in paragraph (1) of Section 1161 of the California Code of Civil Procedure.

k. 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 landlord, 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.

2. "No-fault just cause" includes any of the following:

a.(i) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents for a minimum of 12 continuous months as that person's primary residence.

(ii) For leases entered into on or after July 1, 2020, or July 1, 2022, if the lease is for a tenancy in a mobilehome, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or the owner's spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph e of paragraph B.1.

(iii) This subparagraph does not apply if the intended occupant occupies a rental unit on the property or if a vacancy of a similar unit already exists at the property.

(iv) The written notice terminating a tenancy for a just cause pursuant to this subparagraph shall contain the name or names and relationship to the owner of the intended occupant. The written notice shall additionally include notification that the tenant may request proof that the intended occupant is an owner or related to the owner as defined in subclause (ii) of clause (viii). The proof shall be provided upon request and may include an operating agreement and other non-public documents.

(v) Clause (i) applies only if the intended occupant moves into the rental unit within 90 days after the tenant vacates and occupies the rental unit as a primary residence for at least 12 consecutive months.

(vi) (I) If the intended occupant fails to occupy the rental unit within 90 days after the tenant vacates or fails to occupy the rental unit as their primary residence for at least 12 consecutive months, the owner shall offer the unit to the tenant who vacated it at the same rent and lease terms in effect at the time the tenant vacated and shall reimburse the tenant for reasonable moving expenses incurred in excess of any relocation assistance that was paid to the tenant in connection with the written notice.

(II) If the intended occupant moves into the rental unit within 90 days after the tenant vacates, but dies before having occupied the rental unit as a primary residence for 12 months, as required by clause (vi), this will not be considered a failure to comply with this section or a material violation of this section by the owner as provided in section 9-408.

(vii) For a new tenancy by someone other than the "intended occupant" commenced during the time periods described in clause (v), the accommodations shall be offered and rented or leased at the lawful rent in effect at the time any notice of termination of tenancy is served.

(viii) As used in this subparagraph B.2.a:

(I) "Intended occupant" means the owner of the residential real property or the owner's spouse, domestic partner, child, grandchild, parent, or grandparent, as described in clause (i).

(II) "Owner" means any of the following:

(a) An owner who is a natural person that has at least a 25-percent recorded ownership interest in the property.

(b) An owner who is a natural person who has any recorded ownership interest in the property if 100 percent of the recorded ownership is divided among owners who are related to each other as sibling, spouse, domestic partner, child, parent, grandparent, or grandchild.

(c) An owner who is a natural person whose recorded interest in the property is owned through a limited liability company or partnership.

(III) For purposes of subclause (II), "natural person" includes any of the following:

(a) A natural person who is a settlor or beneficiary of a family trust.

(b) If the property is owned by a limited liability company or partnership, a natural person with a 25-percent ownership interest in the property.

(IV) "Family trust" means a revocable living trust or irrevocable trust in which the settlors and beneficiaries of the trust are persons who are related to each other as sibling, spouse, domestic partner, child, parent, grandparent, or grandchild.

(V) "Beneficial owner" means a natural person or family trust for whom, directly or indirectly and through any contract arrangement, understanding, relationship, or otherwise, and any of the following applies:

(a) The natural person exercises substantial control over a partnership or limited liability company.

(b) The natural person owns 25 percent or more of the equity interest of a partnership or limited liability company.

(c) The natural person receives substantial economic benefits from the assets of a partnership.

b. Withdrawal of the residential real property from the rental market.

c. The owner complying with any of the following:

(i) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(ii) An order issued by a government agency or court to vacate the residential real property.

(iii) A local ordinance that necessitates vacating the residential real property.

d.

(i) Intent to demolish or to substantially remodel the residential real property.

(ii) For purposes of this subparagraph, "substantially remodel" means either of the following that cannot be reasonably accomplished in a safe manner that allows the tenant to remain living in the place and that requires the tenant to vacate the residential real property for at least 30 consecutive days:

(I) The replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency.

(II) The abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws.

(iii) For purposes of this subparagraph, a tenant is not required to vacate the residential real property on any days where a tenant could continue living in the residential real property without violating health, safety, and habitability codes and laws. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial remodel.

(iv) A written notice terminating a tenancy for a just cause pursuant to this subparagraph shall include all of the following information:

(I) A statement informing the tenant of the owner's intent to demolish the property or substantially remodel the rental unit property.

(II) The following statement:

"If the substantial remodel of your unit or demolition of the property as described in this notice of termination is not commenced or completed, the owner must offer you the opportunity to re-rent your unit with a rental agreement containing the same terms as your most recent rental agreement with the owner at the rental rate that was in effect at the time you vacated. You must notify the owner within thirty (30) days of receipt of the offer to re-rent of your acceptance or rejection of the offer, and, if accepted, you must reoccupy the unit within thirty (30) days of notifying the owner of your acceptance of the offer."

(III) A description of the substantial remodel to be completed, the approximate expected duration of the substantial remodel, or if the property is to be demolished, the expected date by which the property will be demolished, together with one of the following:

(i) A copy of the permit or permits required to undertake the substantial remodel or demolition.

(ii) Only if a notice is issued pursuant to subclause (II) of clause (ii) and the remodel does not require any permit, a copy of the signed contract with the contractor hired by the owner to complete the substantial remodel, that reasonably details the work that will be undertaken to abate the hazardous materials as described in subclause (II) of clause (ii).

(IV) A notification that if the tenant is interested in reoccupying the rental unit following the substantial remodel, the tenant shall inform the owner of the tenant's interest in reoccupying the rental unit following the substantial remodel and provide to the owner the tenant's address, telephone number, and email address.

C. Before an owner of residential real property issues a notice to terminate a tenancy for no-fault just cause described in paragraph B.2.d of this section, the owner shall have obtained all necessary permits for the demolition or remodeling work from all applicable governmental agencies. In the case of a permit issued by the City, the permit issuance will be conditioned upon the owner providing a complete list of all tenants whose tenancies will be terminated in connection with the permitted work.

D. An owner of residential property who has issued a notice to terminate a tenancy for any no-fault just cause as provided in this Article shall provide notice in writing to the City of Costa Mesa, City Manager [or his or her designee], at 77 Fair Drive, Post Office Box 1200, Costa Mesa, California 92628-1200 within 72 hours of issuing the notice to terminate the tenancy to the tenant. The notice shall be provided using a form prepared by the City and available on its website.

Section 9-403

Notices to Terminate a Tenancy for Curable Lease Violations and No-Fault Just Cause.

A. Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the lease violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the California Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

B. If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall include written notice of the tenant's right to relocation assistance or rent waiver pursuant to Section 9-404 of this Article. If the owner elects to waive the rent for the final month(s) under paragraph A.2. of Section 9-404, the notice shall state the amount of rent waived and that no rent is due for the final month (or months) of the tenancy.

C. An owner's failure to strictly comply with section 9-402 or this section shall render the notice of termination void.

Section 9-404

Relocation Assistance; Specified Circumstances.

A. For a tenancy for which just cause is required to terminate the tenancy under paragraph A. of Section 9-402, if an owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph B.2 of Section 9-402 (no-fault just cause), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:

1. Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph C. of this section.

2. Waive in writing the payment of rent in an amount equal to that described in paragraph C. of this section prior to the rent becoming due.

B. If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant in the written termination notice of the tenant's right to relocation assistance or rent waiver pursuant to this section. If the owner elects to waive the rent for the final months of the tenancy as provided in subparagraph 2 of paragraph A, the notice shall state the amount of rent waived and that no rent is due for the final months of the tenancy as provided in paragraph C. of this section.

C. The amount of relocation assistance or rent waiver shall be equal to two times the Fair Market Rental rate for a unit of similar size, or two months of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy, whichever is greater, with any difference owing to the tenant within 15 calendar days of service of the Notice to Terminate the Tenancy.

D. Any relocation assistance required by this section shall be provided within 15 calendar days of service of the notice to terminate the tenancy.

E. If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this section shall be recoverable as damages in an action to recover possession.

F. Notwithstanding the provisions of this section, if it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under paragraph B.2.c of Section 9-402 (owner compliance with court or government order), the tenant shall not be entitled to relocation assistance or rent waiver.

G. The relocation assistance or rent waiver required by this section shall be credited against any other relocation assistance required by any other law.

H. An owner's failure to strictly comply with paragraphs A., B., C. and D. of this section shall render the notice of termination void.

Section 9-405

Notice to Tenants of California Limits on Rent Increases.

An owner of residential real property that is subject to this Article shall provide notice to the tenant as follows:

A. For any tenancy commenced or renewed on or after July 1, 2020, as an

addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

B. For a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.

C. The notification or lease provision shall be in no less than 12-point type and shall include the following:

"California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information."

D. For a tenancy commenced or renewed after December 15, 2023, the final sentence of the written notice tenant or lease provision shall read as follows: "See Section 1946.2 of the Civil Code and Title 9, Chapter II, Article 24 of the Costa Mesa Municipal Code for more information."

E. The provision of the notice shall be subject to Section 1632 of the California Civil Code.

F. An owner's failure to comply with any provision of this section shall render the written termination notice void.

Section 9-406

Exclusions from Article.

This Article shall not apply to the following types of residential real properties or residential circumstances:

A. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.

B. 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 California 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 California State Department of Social Services.

C. Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

D. Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

E. 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.

F. A property containing two separate dwelling units within a single structure 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, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

G. Housing that has been issued a certificate of occupancy within the previous 15 years.

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

1. 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.

(iv) Management of a mobilehome park, as defined in Section 798.2.

2.(i) The tenants have been provided written notice that the residential property is exempt from this Article using the following statement:

"This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."

(ii) (I) Except as provided in subclause (II), for a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(II) For a tenancy in a mobile home existing before July 1, 2022, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) (I) Except as provided in subclause (II), for any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(II) For any tenancy in a mobile home commenced or renewed on or after July 1, 2022, the notice required under clause (i) shall be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph e of paragraph 1 of subdivision B.

I. 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 California 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 California Health and Safety Code or comparable federal statutes.

J. This Article shall not apply to a homeowner of a mobile home, as defined in Section 798.9.

Section 9-407 Waiver of Rights Ineffective.

Any waiver of the rights under this Article shall be void as contrary to public policy.

Section 9-408 Violations and Enforcement.

A. An owner who attempts to recover possession of a rental unit in material violation of this Article shall be liable to the tenant in a civil action for all of the following:

1. Actual damages.
2. In the court's discretion, reasonable attorney's fees and costs.
3. Upon a showing that the owner has acted willfully or with oppression, fraud, or malice, up to three times the actual damages. An award may also be entered for punitive damages for the benefit of the tenant against the owner.

B. The Attorney General, in the name of the people of the State of California, and the city attorney in the name of the city, may seek injunctive relief based on violations of this section.

C. The City may enforce the provisions of this Article pursuant to Title 1, Chapter II of the Costa Mesa Municipal Code.

SECTION 2. CEQA. This ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a).) Further, the ordinance is exempt from CEQA because there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3).) The City Clerk may cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

SECTION 3. SEVERABILITY. The City Council declares that should any provision, section; paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this ordinance shall remain in full force and effect.

SECTION 4. This ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code section 36937.

SECTION 5. The City Clerk of the City of Costa Mesa shall certify to the passage of the ordinance and shall cause the same to be posted in the manner required by law.

PASSED AND ADOPTED this ____ day of _____ 2023, by the following called vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Mayor

ATTEST:

City Clerk

I, _____, City Clerk of the City of Costa Mesa, California, do hereby certify that the foregoing ordinance was introduced and passed at a regular meeting of the City Council of the City of Costa Mesa held on the ____ day of _____ 2023.

City Clerk