



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Sharon L. Anderson, County Counsel  
Date: September 29, 2020

Subject: Urgency ordinance prohibiting certain residential and commercial evictions.

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**RECOMMENDATION(S):**

CONSIDER adopting Ordinance No. 2020-26, an urgency ordinance authorizing a temporary prohibition on certain "at-fault" evictions of residential tenants in Contra Costa County and continuing a temporary prohibition on certain evictions of small-business commercial tenants in Contra Costa County impacted by the COVID-19 pandemic, and related matters.

**FISCAL IMPACT:**

None.

**BACKGROUND:**

On August 31, 2020, Governor Newsom signed Assembly Bill 3088, the COVID-19 Tenant Relief Act of 2020 (the Act), which went into effect immediately. The Act authorizes local jurisdictions to amend existing urgency ordinances to continue prohibitions on certain types of residential evictions, including "at-fault" and "no-fault" just cause evictions.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

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Action of Board On: **09/29/2020** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

Contact: Mary Ann Mason, Chief  
Assistant County Counsel, (925)  
655-2200

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 29, 2020

David Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: David Twa, Clerk of the Board of Supervisors, David O. Livingston, Sheriff, Anna Roth, Director, Health Services, Kathy Gallagher, Director, Employment & Human Services

## BACKGROUND: (CONT'D)

On September 22, 2020, the Board of Supervisors adopted Ordinance No. 2020-25, an urgency ordinance that prohibits a landlord from terminating a residential tenancy for a "no-fault" reason; prohibits a landlord from terminating a residential tenancy on the basis that a tenant allowed an unauthorized occupant to live in the dwelling unit, if the occupant is the tenant's immediate family member living in the dwelling unit as a result of the COVID-19 pandemic; and prohibits a landlord from increasing rent on a residential real property. The Board also directed the County Counsel's Office to return to the Board on September 29, 2020, with an amended urgency ordinance that would amend Ordinance No. 2020-25 to authorize a temporary prohibition on certain "at-fault" evictions of residential tenants in Contra Costa County. "At-fault" and "no-fault" just cause evictions are specified in Civil Code section 1946.2. The Department of Conservation and Development will be returning to the Board on October 20, 2020, to address other types of tenant assistance.

### "At-fault" Residential Evictions.

The attached urgency ordinance, Ordinance No. 2020-26, amends Ordinance No. 2020-25 by adding a new subsection (c) to Section 3. The new subsection would prohibit a landlord from terminating a residential tenancy for any of the following "at-fault" reasons:

- (1) If a landlord provides a notice that requires a tenant to cure a breach of a material term of a lease, and the tenant refuses to correct the breach, the landlord would be prohibited from evicting the tenant.
- (2) If a tenant refuses to execute a written extension or renewal of a lease after a written demand from the landlord, the landlord would be prohibited from evicting the tenant, and the tenant would remain in the unit as a holdover tenant with a month-to-month tenancy.
- (3) If a landlord provides notice that the landlord needs to enter a unit for several reasons, including in case of emergency, to make repairs, to inspect a unit, or to install smoke alarms or carbon monoxide devices, and the tenant refuses to allow entry, the landlord would be prohibited from evicting the tenant.

### Prohibitions on Small-Business Commercial Evictions.

On September 23, 2020, the Governor issued Executive Order N-80-20, which extends, through March 31, 2021, the authority of local jurisdictions to suspend the evictions of commercial tenants for the non-payment of rent if the non-payment was a result of the

## COVID-19 pandemic.

As authorized by Executive Order N-80-20, this ordinance also authorizes a temporary prohibition on evictions of certain commercial tenants impacted by the COVID-19 pandemic. Specifically, a landlord of a small business commercial property is prohibited from terminating a tenancy for failure to pay rent if the tenant demonstrates that the failure to pay rent is directly related to a loss of income or out-of-pocket medical expenses associated with the COVID-19 pandemic. The tenant must provide documentation showing loss of income or out-of-pocket medical expenses. In addition, a landlord of a small business commercial property is prohibited from terminating a residential tenancy for any "no-fault" reason. These commercial tenant protections were previously included in the County's eviction protection ordinance but not in Ordinance No. 2020-25 to reflect that state authorization for this protection was scheduled to expire on September 30, 2020. This change to Ordinance 2020-26 extends those protections for commercial tenants.

Under this ordinance, a landlord of a small business commercial property may not charge or collect a late fee for unpaid rent due from a tenant who demonstrated substantial loss of income or substantial out-of-pocket medical expenses. This ordinance also establishes a grace period for small business commercial tenants to pay rent after the date it would otherwise be due, provided that the tenant follows the procedures specified in the ordinance. Under this ordinance, the grace period lasts through May 31, 2021.

### Ordinance Term.

The attached ordinance expires January 31, 2021, unless the Board shortens or extends its term. Under the Governor's latest executive order, the term of this ordinance could be extended to March 31, 2021.

### Applicability.

The regulations in the attached ordinance apply to cities within Contra Costa County and unincorporated Contra Costa County. Government Code section 8634 authorizes the Board of Supervisors to "promulgate countywide orders and regulations necessary to provide for the protection of life and property" during a local emergency. The California Attorney General has opined that when a county has declared a local emergency within its jurisdictional boundaries in an area that includes both unincorporated and incorporated territory, the county may adopt emergency rules and regulations pursuant to Government Code section 8634 that will be effective in both unincorporated and incorporated areas. (62 Ops.Cal.Atty.Gen. 701 (1979).) Under the attached ordinance, if the governing body of a city enacts an ordinance or adopts a regulation that governs the subject matter of this ordinance, that city ordinance or regulation will supersede the attached ordinance within that jurisdiction.

The underlined provisions of the attached ordinance show the differences between Ordinance No. 2020-25 and this ordinance.

#### CLERK'S ADDENDUM

**Speakers on commercial tenancy: no name given; no name given (2); Melvin Willis; Richmond business owner; Daly, small business owner; no name given; a landlord; a landlord (2); Richmond small business owner; Pete Lawrence, Clayton; Maria Franco; Patricia, Pittsburg;**

Speakers on residential tenancy: Blanca Rotano;; no name given; Bettia; Hector Malvido, Ensuring Opportunity Campaign; Marianna Moore, Ensuring Opportunity Campaign; name unknown; Melvin Willis; Jennifer Morales; no name; Alex *Worth*, East Bay Housing Organization; Karen Gremmer; Giovanni Dimitri; Rhea Hernandez; Nicole Zapata; Raul Vasquez; Kristi Laughlin; No Name Given; Christine Retzi; Gloria Scoggins, Deborah Ballinger, East Contra Community Alliance, Ed Wallers, Concord; Tina, Brentwood; Name Unknown; Jaime Alvarado, Richmond; Written commentary provided by (attached): Rhovy Lyn Antonio ,Vice President of Public Affairs, California Apartment Association.

The Board chose to consider the commercial and residential portions of the proposed ordinance separately: Extended the commercial protections for 60 days to November 30, 2020 with a 120 grace period for payment of back rent, ending March 31<sup>st</sup>, 2021; omitted section 4b “a landlord of commercial real property shall not terminate a tenancy "no fault cause for eviction”; and retained section E, which says through November 30, 2020, landlord may not charge or collect a late fee that would be through November 30<sup>th</sup> of 2020;

AYES: I, II, III, IV, V    NOES: None    ABSENT: None    ABSTAIN: None

**Directed no changes be made to the residential portions of the ordinance.**

AYES: I, II, III, IV, V    NOES: None    ABSENT: None    ABSTAIN: None

#### ATTACHMENTS

Ordinance No. 2020-26