

ORDINANCE NO. 455U

AN ORDINANCE OF THE CITY OF MALIBU TEMPORARILY PROHIBITING NO-FAULT EVICTIONS THROUGH DECEMBER 31, 2019, FOR RESIDENTIAL REAL PROPERTY BUILT PRIOR TO JANUARY 1, 2005; DECLARING THE URGENCY THEREOF; AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Purpose.

- A. Housing instability threatens the public peace, health, and safety as eviction from one's home can lead to prolonged homelessness, increased residential mobility, loss of community, strain on household finances due to the necessity of paying rental application fees and security deposits, stress and anxiety experienced by those displaced, increased commute times and traffic impacts if displaced workers cannot find affordable housing within the City in which they work, and interruption of the education of children in the home.
- B. The City of Malibu has dealt directly with these issues, and in addition has faced significant displacement already as a result of the Woolsey Fire which destroyed structures on more than 473 properties in the City, resulting in devastation and displacement of members of the community.
- C. The California legislature passed the Tenant Protection Act of 2019, Assembly Bill 1482 ("AB 1482"), effective January 1, 2020, which prohibits evictions without "just cause" and prevents 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. It was passed to address a key cause of California's affordable housing crisis by preventing rent gouging and arbitrary evictions.
- D. There is risk that landlords could seek to evict tenants without cause during the period before AB 1482 goes into effect in order to implement rent increases that would not otherwise be possible, and the City has received reports that such evictions are occurring in the City.
- E. The City desires to prohibit such evictions without just cause during this period, and protect renters from no-fault evictions through December 31, 2019, to prevent further homelessness and displacement.
- F. The City of Malibu is experiencing a housing affordability crisis. A majority of the City's renters are rent burdened, paying an average of 36 percent of their income on rent. 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. Tenants have

already reported experiencing a surge of no-fault eviction notices and threats of eviction. Therefore, it is imperative that the City implement temporary strategies to keep people housed.

- G. It is urgent that the City Council provide these protections immediately, or homelessness and displacement will surge as a result of landlords' accelerating rush to evict tenants before AB 1482 takes effect.
- H. This Ordinance is adopted pursuant to the City's police powers, afforded by the State Constitution and State law to protect the peace, health, and safety of the public. This Ordinance 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.
- I. The Malibu City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City and finds urgency to approve this ordinance immediately based on the facts described herein, detailed in the staff report and received at the hearing on this item.

SECTION 2. Definitions.

As used in this Ordinance:

“Just cause” means:

1. Default payment in 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.

"Owner" means 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" means any dwelling or unit that is intended, or used, for human habitation for which a certificate of occupancy was issued prior to January 1, 2005.

SECTION 3. Prohibition on Evictions.

Through December 31, 2019, the owner of residential rental property shall not terminate a lawful tenancy without 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 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 Ordinance shall render any notice of termination of tenancy void. This Ordinance may be asserted as an affirmative defense in an unlawful detainer action. An owner's failure to comply with this Ordinance does not constitute a criminal offense. This section does not in any way adversely affect or abrogate the rights of tenants otherwise provided in California law or otherwise.

This Ordinance shall apply to tenancies where the tenant remains in possession and the period of notice required under California Civil Code section 1946.1 has not expired.

SECTION 4. Exemptions.

This Ordinance 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.

SECTION 5. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance. The City Council of the City of Malibu hereby declares that it would have adopted this uncodified Ordinance despite any partial invalidity of its provisions.

SECTION 6. Environmental Review.

The City Council finds that adoption and implementation of this Ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed Ordinance will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result.

The City Council also alternatively finds that the adoption and implementation of this Ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Malibu, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

SECTION 7. Urgency Declaration; Effective Date.

The City Council finds and declares that the adoption and implementation of this Ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer potentially irreversible displacement of tenants resulting from no-fault evictions during the period before AB 1482 becomes effective, including negative effects on the community, destabilizing housing, displacement of long-time tenants, loss of affordable housing, increased homelessness, and further harm to individuals already displaced by the effects of the Woolsey Fire. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

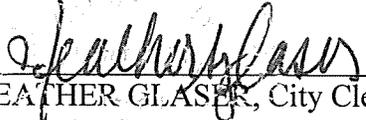
SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 12th day of November 2019.


KAREN FARRER, Mayor

ATTEST:


HEATHER GLASER, City Clerk
(seal)

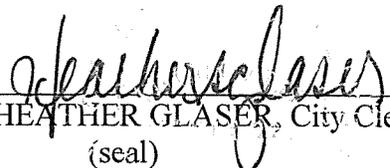
Date: November 12, 2019

APPROVED AS TO FORM:


CHRISTI HUGIN, City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 455U was passed and adopted at the Regular City Council meeting of November 12, 2019, by the following vote:

AYES: 5 Councilmembers: Mullen, Peak, Wagner, Pierson, Farrer
NOES: 0
ABSTAIN: 0
ABSENT: 0


HEATHER GLASER, City Clerk
(seal)