

ORDINANCE NO. 893
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
PROVIDING FOR DISPLACEMENT PAYMENTS FOR RESIDENTIAL HOUSEHOLDS

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. FINDINGS. The Board of Supervisors finds that several residential rental units in the unincorporated areas of Riverside County have severe code violations, which threaten the safety of the residents and require the units to be vacated to allow for extensive repairs and remediation. Residential households displaced as a result of severe code violations suffer a financial burden and the threat of homelessness because of the acute lack of resources available for locating and securing suitable replacement housing. The displacement payment obligations imposed on property owners by this ordinance will partially mitigate the financial hardships faced by displaced residential households. Furthermore, these displacement payment obligations have the additional purpose of encouraging owners to maintain their properties in a habitable condition and in compliance with all applicable codes.

Section 2. PURPOSE. The purpose of this ordinance is to alleviate hardships associated with residential household displacements by requiring owners to make payments to residential households displaced as a result of a determination by enforcement agency authorities that the residential unit is unsafe for habitability by the residents and to implement the administrative procedures set forth in Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.

Section 3. AUTHORITY. This ordinance is adopted pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code which provides that local enforcement agencies shall determine eligibility for payments to displaced tenants and shall implement an administrative appeals procedure for owners found liable for such payments. This ordinance is also authorized by Health and Safety Code section 17975.7 which provides that the remedies under Article 2.5 are not exclusive.

Section 4. EXEMPTIONS. The following exemptions shall apply in the application of this ordinance:

- a. No owner shall be liable to any residential household or County agency for displacement payments if the residential household or any one of its members caused or substantially contributed to the condition giving rise to the order to vacate, nor shall any displacement payments be payable to a residential household if any guest or invitee of the residential household has caused or substantially contributed to the condition giving rise to the order to vacate.
- b. No owner shall be liable to any residential household or County agency for displacement payments if the unit or structure became unsafe or hazardous as the result of a fire, flood, earthquake, or other event beyond the control of the owner, and the owner did not cause or contribute to the condition.

- c. No owner shall be liable to any residential household or County agency for displacement payments provided the owner provides a habitable replacement residential unit of comparable size and appurtenances to the vacated residential unit and provided the owner pays all costs associated with moving the residential household to the replacement unit.
- d. No owner shall be liable to any residential household or County agency for displacement payments if the residential household is in default in payment of rent, unless rent is being lawfully withheld by the residential household.
- e. No owner shall be liable to any residential household or County agency for displacement payments if the vacated 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 unit.
- f. No public entity, as defined in Government Code Section 7260, holding all or any part of the legal title to a residential unit occupied by a residential household otherwise subject to this ordinance, shall be liable for displacement payments.

Section 5. DEFINITIONS. As used in this ordinance, the following terms shall have the following meanings:

- a. County Agency. Any agency, department, division, or political subdivision of the County of Riverside or under the authority of the County of Riverside Board of Supervisors, or the Board of Supervisors sitting as the directors of said agency.
- b. Enforcement Agency. Any County of Riverside department or division, including its director or the director's designees, authorized to ascertain the condition of a residential unit and to issue notices requiring owners to bring such units into compliance with applicable building and housing codes that threaten the health and safety of residential households.
- c. Owner. Any 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. "Owner" does not include a residential household as defined herein, or any member thereof, that holds legal title to the residential unit in which they reside.
- d. Displacement. The required vacating of a residential unit by a residential household as a result of an order to vacate or an order requiring the vacation of a residential unit by the enforcement agency.
- e. Residential Unit. A structure or that part of a structure which is used as a place of permanent or customary and usual abode of a residential household, including but not limited to a room in a single family home, hotel or motel, rooming house or apartment, single family home, mobile home or mobile home space, trailer

or trailer space. "Residential unit" does not include any unit occupied pursuant to an innkeeper-guest relationship.

- f. Residential Household. Any person or group of people, whether related or unrelated, entitled to occupy a residential unit or portion of real property primarily for living or dwelling purposes under a written or oral rental agreement as tenants, subtenants, lessees or sublessees, including such persons' personal property that is a normally and customarily contained within the residential unit. "Residential household" does not include the owner of a residential unit or members of the owner's immediate family, except as provided in Section 9 of this ordinance.

Section 6. ENTITLEMENT TO DISPLACEMENT PAYMENTS. Any residential household that is displaced or subject to displacement from a residential unit as a result of an order to vacate or an order requiring the vacation of a residential unit by the enforcement agency as a result of a violation so extensive and of such a nature that the immediate health and safety of the residents is endangered, shall be entitled to receive displacement payments from the owner.

Section 7. CONTENTS AND SERVICE OF ORDER TO VACATE. At the time of the service of an order to vacate, the enforcement agency shall determine if any residential household subject to the order may be entitled to displacement payments. The determination of entitlement to displacement payments, or the reason that any residential household may not be entitled to displacement payments, shall accompany the order to vacate. The order to vacate shall also include, or be accompanied by, a summary of the provisions of this ordinance and an itemized accounting of the displacement payment due to the residential household. Failure to provide such summary or itemized accounting shall not relieve any person of the obligations imposed by this ordinance.

Section 8. DISPLACEMENT PAYMENT. The amount of the displacement payment due to the residential household shall be determined as follows:

- a. The displacement payment shall be made available by the owner to the eligible residential household in an amount equal to two months of the periodically established Fair Market Rent for the Riverside-San Bernardino-Ontario, California Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development pursuant to Section 1437f of Title 42 of the United States Code. The Fair Market Rent for residential households shall be the amount established according to the number of unit bedrooms, except in cases in which the residential household owns the residential unit as set forth in Section 9 of this ordinance, in which case the Fair Market Rent shall be the amount established for manufactured home spaces. In addition, the displacement payment shall include an amount, as determined by the enforcement agency, sufficient for utility service deposits. The displacement payment shall be paid by the owner in addition to the return, as required by law, of any security deposits held by the owner. The displacement payment shall be payable on a per residential household basis.

- b. The displacement payment shall also include the fixed residential moving cost established by the Federal Highway Administration as set forth in Section 24.302 of Title 49 of the Code of Federal Regulations.

Section 9. ADDITIONAL DISPLACEMENT PAYMENT FOR MOVEABLE RESIDENTIAL UNITS ON RENTED REAL PROPERTY. In the case of an order to vacate a portion of real property in which the residential household, or any member thereof, hold legal title to a moveable residential unit on the owner's real property, the displacement payment shall include the reasonable cost of moving the residential household's residential unit to a comparable portion of real property within the County of Riverside, provided such residential unit is not subject to an order to vacate or otherwise not habitable or not moveable as determined by the enforcement agency. If such residential unit is not habitable or not moveable and was allowed by the owner to be placed upon the real property without the owner complying with all applicable land use laws and regulations, then the owner shall reimburse the residential household for the fair market value of the residential unit. If such residential unit is not habitable or not moveable, and if the owner is in compliance with all applicable land use laws for the placing of the residential unit on the owner's real property, then the owner shall not be liable for reimbursing the residential household for any portion of the value of residential unit. An owner's obligation to provide a displacement payment to a residential household that is required to vacate a portion of real property due to the owner's conduct, as determined by the enforcement agency, is limited only to the extent provided by this section.

Section 10. TIMING OF DISPLACEMENT PAYMENT.

- a. The displacement payment required by this ordinance shall be paid by the owner to the residential household within ten (10) days after the date that the order to vacate is first mailed to the owner 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.
- b. If there are fewer than ten (10) days between the first posting and mailing of the order to vacate and the vacation date, the displacement payment shall be paid by the owner to the residential household within twenty-four (24) hours after the notice is posted and mailed. The enforcement agency shall attempt to provide telephonic or written notice to the owner to notify the owner that the benefits are payable immediately. Failure to provide the notice as specified in this section shall not relieve the owner of any obligations imposed by this ordinance.
- c. Any owner who does not make a timely payment shall be liable to the residential household for an amount 1½ times the

displacement payments payable pursuant to Section 8 of this ordinance. No penalty shall apply when displacement payments are payable fewer than ten (10) days after the date the order to vacate is first mailed and posted, if the owner makes payment no later than ten (10) days after the order is first mailed and posted.

Section 11. DISCRETIONARY DISPLACEMENT PAYMENT BY COUNTY AGENCY.

Any County agency may, at its discretion, advance displacement payments to displaced residential households, and shall be entitled to recovery of any advanced displacement payments. The enforcement agency shall be entitled to recover on any County agency's behalf all displacement payments that were due and payable to the residential household by the owner as determined by the enforcement agency and were actually paid by the County agency. The enforcement agency shall also be entitled to recover from the owner an additional amount equal to the sum of one-half the amount so paid, but not to exceed ten thousand dollars (\$10,000), as a penalty for failure to make timely payment to the displaced residential household, and the County's actual costs, including direct and indirect costs, of administering the provision of displacement payments to the displaced residential household. Any amounts paid by the County agency and any applicable penalties and actual costs may also be placed as a lien against the property by the enforcement agency by recording the lien in the County Recorder's office. Prior to instituting any action to collect from the owner any displacement payments paid pursuant to this section, or to impose a lien therefor, the enforcement agency shall send to the owner by first-class mail, postage prepaid, at the owner's address as shown on the last equalized assessment roll, an itemized accounting of all payments paid by any County agency to the residential household, and any penalties or costs the enforcement agency is seeking to recover on the County agency's behalf. Nothing herein shall be construed as requiring the County or any County agency to pay any displacement payments to any residential household, or assume any obligation, requirement, or duty of the owner. Further, nothing herein shall be construed as limiting the County's remedies for recovering any advanced displacement payments.

Section 12. APPEAL OF DETERMINATION OF DISPLACEMENT PAYMENTS.

- a. If the owner contends that not all of the payments deemed chargeable to the owner by the enforcement agency on the grounds that the intended or actual recipients were not displaced residential households, no displacement payments were payable pursuant to this ordinance, or on other grounds, the owner shall be entitled to an administrative hearing before the enforcement agency's director or director's designee by submitting a written appeal to the director of the enforcement agency within twenty (20) days after receipt by the owner of an itemized accounting of displacement payments due the residential household or reimbursement due the County for advance displacement payments paid by any County agency to the residential household, including any costs and penalties provided herein. After providing at least ten (10) days written notice to the owner, the enforcement agency's director or director's designee shall hold the administrative hearing for the purpose of determining

the amount chargeable to the owner, including penalties and costs, if any. Notice may be delivered in person or may be mailed to the address listed by the owner in the request for hearing. In determining the validity of any displacement payments, penalties or costs chargeable to the owner, the director or director's designee shall consider whether the violations that led to the order to vacate were created by, or are the responsibility of, the owner and shall also consider those exceptions set forth in Section 4 of this ordinance. In conducting the hearing, the director or director's designee shall not be limited by the technical rules of evidence. The decision of the director or the director's designee shall be in writing and include notice of a right to appeal the decision to the Board of Supervisors.

- b. The decision of the director or the director's designee may be appealed by filing a written notice of appeal with the enforcement agency within ten (10) days after mailing the decision. The appeal shall be heard by the Board of Supervisors which may affirm, amend or reverse the decision and may take any other action deemed appropriate. The enforcement agency's director or the director's designee shall give written notice of the time and the place of the hearing to the appellant. In conducting the hearing, the Board of Supervisors shall not be limited by the technical rules of evidence.
- c. The final decision of the Board of Supervisors shall be subject to Section 1094.5 of the Code of Civil Procedure. If the owner fails to obtain a more favorable decision than that set forth in the itemized accounting, the owner shall be liable to the enforcement agency for the costs of the administrative hearing and appeal, not to exceed five thousand dollars (\$5,000). The failure to receive the itemized accounting shall not relieve the owner of any obligation under this ordinance.

Section 13. TIME FOR OWNER TO REIMBURSE COUNTY FOR DISCRETIONARY DISPLACEMENT PAYMENTS. If there are fewer than ten (10) days between the first posting and mailing of the order to vacate and the vacation date, and if the County advances displacement payments to any residential household, prior to the expiration of the 10-day period, the owner shall not be required to reimburse the enforcement agency for a charge identified on the itemized accounting if the owner contests the charge within twenty (20) days after the itemized accounting is mailed to the owner. The owner shall pay any charges that were the subject of the appeal within thirty (30) days after an adverse decision by the enforcement agency on the appeal is mailed to the owner. In all other cases, the owner shall pay any charge identified on the itemized accounting within thirty (30) days after the itemized accounting is mailed to the owner.

Section 14. PRIVATE RIGHT OF ACTION. Any person who is a member of a residential household who is entitled to displacement payments from an owner under this ordinance shall have the right to file an action for injunctive relief and/or damages against the owner. 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.

Section 15. SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 16. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

Adopted: 893 Item 3.11 of 03/16/2010 (Eff: 04/15/2010)