

ORDINANCE NO. 2437

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, ADDING CHAPTER 9.70 TO TITLE 9 OF THE MONTEBELLO MUNICIPAL CODE FOR THE COLLECTION OF EVICTION DATA IN THE CITY OF MONTEBELLO

RECITALS

WHEREAS, the City of Montebello is a general law city under California Government Code Section 34102; and

WHEREAS, Article XI, Section 7 of the California Constitution provides that the City of Montebello ("City") may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City Council finds that landlord and tenant relations must be regulated to promote fair dealings between landlords and tenants in recognition of the importance of residential housing and the landlord-tenant relationship as a component of a healthy, safe, and vibrant city; and

WHEREAS, the City of Montebello, with direction from the City Council, has developed goals, objectives, policies, and action programs that directly address the City's housing needs; and

WHEREAS, the rights and obligations created by this Ordinance for landlords and tenants are created pursuant to the City's general police power to protect the health, safety, and welfare of its residents and are in addition to any rights and obligations under state and federal law; and

WHEREAS, according to the 2019 U.S. Census American Community Survey ("Survey"), 56.8% of Montebello households are renters; and

WHEREAS, the Survey also found that out of all the rental households in the City of Montebello, 58.3% are rent-burdened, spending 30% or more of household income on housing; and

WHEREAS, the City requires an immediate means to monitor and address unintended consequences of the State of California's Tenant Protection Act of 2019, as well as the detrimental effects to the renter population from the COVID-19 pandemic; and

WHEREAS, the City Council finds and determines that, without such data, it will be unable to assess and address the City's urgent needs in light of the COVID-19 pandemic including but not limited to, Montebello residents' vulnerabilities with respect to housing instability, risks of displacement, and homelessness.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council for the City of Montebello finds and declares the foregoing are true and correct, and incorporates said recitals fully into this Ordinance as substantive findings.

SECTION 2. Chapter 9.70, "Rental Property," is hereby added to the Montebello Municipal Code as follows:

Chapter 9.70 – Rental Property

9.70.010	Title
9.70.020	Purpose
9.70.030	Definitions
9.70.040	Termination of Residential Tenancy
9.70.050	Proof of Compliance
9.70.060	Violations

9.70.010 Title

This chapter shall be known as the Eviction Data Collection Ordinance of the City.

9.70.020 Purpose

This chapter is enacted for the purpose of collecting data regarding residential evictions in the City, in an effort to help the City better understand rental housing and its impacts on renters. The data collected by this ordinance may be used by the City to develop and implement additional ordinances or policies regarding residential housing.

9.70.030 Definitions

Wherever they appear in this Chapter, the following defined terms shall have the meanings provided in this section, unless it is apparent from their context that a different meaning is intended:

1. "City" means the City of Montebello.
2. "Housing Services" means all services provided by the Landlord related to the use or occupancy of a Rental Unit, including but not limited to, insurance, repairs, replacement, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, recreational areas and/or pools, janitorial service, refuse removal, furnishings, parking, storage, and security services.
3. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive Rent of the use and occupancy of any Rental Unit or portion thereof, and the representative, agent, or successor of such owner, lessor, or sublessor. For

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purposes of this chapter, a Landlord does not include an individual whose primary residence is the same Rental Unit as the Tenant.

4. "Notice of Termination" means the written notice from a Landlord to a Tenant informing the Tenant of the termination of its tenancy in accordance with California Civil Code Section 1946.1 and California Code of Civil Procedure Section 1162, as amended.
5. "Rent(s)" is the sum of all periodic payments and all nonmonetary consideration demanded or received by a Landlord from a Tenant for the use or occupancy of a Rental Unit, including tenant's access to and use of Housing Services. Rent includes without limitation, the fair market value of goods accepted, labor performed, or services rendered.
6. "Rental Unit(s)" means any dwelling units as defined in California Civil Code section 1940, subsection (c), including joint living and work quarters, located in the City and used or occupied in consideration of payment of Rent. This definition applies to any dwelling space that is actually used for residential purposes, whether or not the residential use is legally permitted, including live workspaces, mobile homes rented by the owner of a mobile home to a Tenant, and accessory dwelling units. For purposes of compliance with this Chapter, Rental Unit does not mean any dwelling unit in which the Landlord or any member of his/her immediate family occupies one of the dwelling units on the property containing the Rental Unit and it is necessary for the Landlord or any member of his/her immediate family to use either a bathroom or kitchen facility common with the Tenant.
7. "Tenant" means a person entitled, by written or oral agreement, or by sufferance, to the use or occupancy of any Rental Unit.

9.70.040 Termination of Residential Tenancy

No Landlord may terminate a residential tenancy of a Tenant occupying a Rental Unit, recover possession of a Rental Unit or otherwise endeavor to recover possession of a Rental Unit in the City unless the Landlord can demonstrate all of the following:

1. The Landlord served a written Notice of Termination on the Tenant, in accordance with California Civil Code Section 1162, setting forth the reason for termination of the tenancy; and
2. The Landlord has not accepted and will not accept Rent or any other consideration in return for the continued use of the Rental Unit beyond the term of the terminated tenancy in compliance with California Civil Code sections 1945, 1946, and 1946.1; and
3. The Landlord has submitted to the City of Montebello, c/o Housing Division, 1600 W. Beverly Blvd., Montebello, CA 90640 via certified mail return receipt requested within five (5) calendar days after service on the Tenant, a true and accurate copy

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of the Notice of Termination, with proof of such service on the Tenant(s) attached.

- a. Evidence of proof of service may include receipt of delivery of the notice by the Tenant or a sworn statement by the landlord executed under penalty of perjury under the laws of the State of California that confirms service of the Notice of Termination to the Tenant.
- b. Landlord shall maintain proof of service to the City as evidence that Landlord has complied with this subsection (3) of Section 9.70.040.

9.70.050 Proof of Compliance

The City will accept copies of all Notices of Termination received in accordance with Section 9.70.040 and, upon written request of a Tenant who verifies residency in the Rental Unit that is the subject of the Notice of Termination, and/or upon the written request of the Landlord who submitted the Notice of Termination, will endeavor to provide confirmation to the requesting party that such Notice of Termination was received; however, the City assumes no responsibility for errors or omissions in its response, and the City's response or lack thereof shall in no way create a City duty, impose an obligation on the City with respect to the requirements of this chapter, or otherwise lead to legal or equitable liability on behalf of the City.

9.70.60 Violations

1. A Tenant may challenge the validity of a Landlord's legal action to terminate a Tenancy based on a Landlord's failure to comply with any or all of the requirements included in subsections (1) through (3) of Section 9.70.040, including the Landlord's failure to provide the City with a true and accurate copy of the Notice of Termination with proof of service. This failure will invalidate, nullify and avoid the effect of a notice of termination. If a Notice of Termination is invalidated, the Tenant will be entitled to costs and reasonable attorneys fees to invalidate the Notice of Termination.
2. In a suit for unlawful detainer, a Landlord's failure to comply with any or all of the requirements included in subsections (1) through (3) of Section 9.70.040, including the Landlord's failure to provide the City with a true and accurate copy of the Notice of Termination with proof of service, shall constitute an affirmative defense.

SECTION 3. 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. (Cal. Code Regs., tit.14, § 15378, subd. (a)). Further, this Ordinance is exempt from CEQA as there is no possibility that it or its implementation would have a significant negative effect on the environment. (Cal. Code Regs., tit.14, § 15061, subd. (b)(3)).

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SECTION 4. Any provision of the Montebello Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

SECTION 5. If any part of this Ordinance, or its application to any individual, entity, or circumstance, is held to be invalid, the remainder of the Ordinance, including the application of provisions to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 6. The Ordinance is intended to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the Montebello Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 7. This Ordinance shall become effective thirty (30) days after adoption.

SECTION 8. The City Clerk shall certify to the adoption of this Ordinance causing it to be posted as required by law.

APPROVED AND ADOPTED 28th day of April 2021.

Kimberly A. Cobos-Cawthorne, Mayor

ATTEST:

Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

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I HEREBY CERTIFY that the foregoing Ordinance 2437 was introduced at the regular meeting of the City Council on the 14th day of April 2021, and was adopted by the City Council of the City of Montebello at its meeting held on the 28th day of April 2021 by the following vote:

AYES: Peralta, Jimenez, Melendez, Torres, Cobos-Cawthorne

NOES: None

ABSENT: None

ABSTAIN: None

Christopher Jimenez, City Clerk