

**CITY OF SAN MATEO
ORDINANCE NO. 2019-12**

An Emergency Ordinance of the City Council of the City of San Mateo Approving Just Cause Eviction Protections.

WHEREAS, The “Tenant Protection Act of 2019” (“AB 1482”) was enacted by the Legislature on September 11, 2019 and signed by the Governor on October 8, 2019; and

WHEREAS, effective January 1, 2020, AB 1482 will add provisions to California landlord tenant law requiring just cause for evictions and imposing limits on rent increases; and

WHEREAS, the City Council, pursuant to its police powers, has broad authority to maintain the public peace, health, safety, and general welfare of its community and to preserve the quality of life for its residents; and

WHEREAS, housing instability threatens the public peace, health, safety, and general welfare 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; and

WHEREAS, eviction creates particular hardships for individuals and households of limited means, given the shortage of housing, particularly affordable housing, within the City of San Mateo and San Francisco Bay Area region generally; and

WHEREAS, as AB 1482 does not go into effect until January 1, 2020, landlords could seek to evict tenants without cause in order to implement rent increases that would not otherwise be possible after the effective date; and

WHEREAS, the City desires to prohibit evictions without just cause during this transition period; and

WHEREAS, the City Council finds and determines that regulating the relations between residential landlords and tenants will increase certainty and fairness within the residential rental market in the City and thereby serve the public peace, health, safety, and general welfare; and

WHEREAS, San Mateo City Charter Section 2.16 authorizes the adoption of an emergency ordinance to preserve the public peace, health, safety, general welfare, where there is a declaration of the reasons for urgent action and the ordinance is adopted by four-fifths (4/5) of the Council; and

WHEREAS, An emergency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, safety, or welfare, as failure to adopt this emergency ordinance could result in the displacement of the City’s residents and community members.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN MATEO ORDAINS AS FOLLOWS:

Section 1. Incorporation of Recitals. The City Council finds that the foregoing recitals and administrative report presented with this ordinance are true and correct and are incorporated in this ordinance by this reference and adopted as findings of the City Council.

Section 2. Findings. The City Council hereby finds, determines and declares that this emergency ordinance, adopted pursuant to San Mateo City Charter Section 2.16, is necessary because:

(a) Housing, particularly affordable housing, is difficult to procure in the San Francisco Bay Area and in San Mateo. Evictions without just cause occurring in advance of the effectiveness of AB 1482 destabilize the housing market and can result in the loss of affordable housing.

(b) For the immediate preservation of the public peace, health, safety, and general welfare the City Council finds that it is necessary to adopt an ordinance regulating just cause evictions, for all reasons set forth in the recitals.

(c) Without the imposition of this ordinance, evictions without cause may result in the displacement of residential tenants who would be forced to find new housing in a ever-more expensive housing market before a non-emergency ordinance or AB 1482 would become effective, and would significantly increase the risk of residential tenants becoming homeless.

(d) There is a current and immediate threat to the public peace, health, safety, and general welfare of the City and its community due in part to the adoption of AB 1482 which increases the risk of tenant displacement prior to the effective date of the bill, thereby necessitating the immediate enactment of this emergency ordinance in order to ensure that tenant are not turned out of their homes without just cause.

Section 3. Urgent Need. Based on the foregoing recitals and findings, all of which are deemed true and correct, this ordinance is urgently needed for the immediate preservation of the public peace, health, safety, or welfare. This ordinance shall take effect immediately upon adoption in accordance with the provisions set forth in San Mateo City Charter Section 2.16.

Section 4. Just Cause Eviction Protections.

(a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for twelve (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 twenty-four (24) months, then this section 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 twelve (12) months or more.

(2) One or more tenants have continuously and lawfully occupied the residential real property for twenty-four (24) months or more.

(b) For the purposes of this section, “just cause” includes either of the following:

(1) At-fault just cause, which is 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 three (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 four (4) of Section 1161 of the California Code of Civil Procedure.

(D) Committing waste as described in paragraph four (4) of Section 1161 of the California Code of Civil Procedure.

(E) The tenant had a written lease that terminated on or after November 5, 2019, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal or the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section 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 four (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 four (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 one (1) of Section 1161 of the California Code of Civil Procedure.

(K) When the tenant fails to deliver possession of the residential 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 five (5) of Section 1161 of the California Code of Civil Procedure.

(2) No-fault just cause, which includes any of the following:

(A) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.

(B) Withdrawal of the residential real property from the rental market.

(C) Compliance with order to vacate.

(i) 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.

(ii) 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 clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph three (3) of subdivision (d).

(D) Demolition or substantial remodel.

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

(ii) For the purposes of this subparagraph, "substantially remodel" means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least thirty (30) days. 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 rehabilitation.

(c) 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 violation to the tenant with an opportunity to cure the violation pursuant to paragraph three (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 (3-day) notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) Rental assistance or waiver of rent.

(1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause description in paragraph two (2) of subdivision (b), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph three (3) below.

(B) Waive, in writing, the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant 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 month of the tenancy as provided in subparagraph (B) of paragraph one (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(3)

(A) The amount of relocation assistance or rent waiver shall be equal to one (1) month of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy. Any relocation assistance shall be provided within fifteen (15) calendar days of service of the notice.

(B) 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 subdivision shall be recoverable as damages in an action to recover possession.

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

(4) An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

(e) This section shall not apply to the following types of residential real properties 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 California Health and Safety Code, or an adult residential facility, as defined in Chapter six (6) of Division six (6) of Title twenty-two (22) of the Manual of Policies and Procedures published by the California State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades one (1) to twelve (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 (2) 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 occupies 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 fifteen (15) years.

(8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that the following applies:

(A) 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.

(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 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.

(f) The provisions of this section shall apply to all residential rental units not specified as exempt from its requirements, where a notice to vacate or quit any such rental unit has been served within the 4th quarter of 2019, from October 1, 2019 to December 31, 2019.

(g) Any waiver of the rights under this section shall be void as contrary to public policy.

(h) For the purposes of this section, the following definitions shall apply:

(1) "Owner" and "residential real property" shall have the same meaning as those terms are defined in California Civil Code Section 1954.51.

(2) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

Section 5. Enforcement. An owner's failure to comply with any requirement of this ordinance, is a complete affirmative defense in an unlawful detainer or other action brought by the owner to recover possession of the rental unit.

Section 6. Effectiveness. This emergency ordinance shall remain in effect through December 31, 2019. On January 1, 2020, this ordinance shall be repealed and shall be of no further force and effect.

Section 7. Environmental determination. In accordance with California Environmental Quality Act guidelines section 15061(b)(3), adoption of this emergency ordinance is exempt from the provisions of the California Environmental Quality Act because there is no possibility that the implementation of this ordinance may have significant effects on the environment. This ordinance will apply tenant protections to existing residential units for a limited period of time.

Section 8. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it should have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 9. Publication. This ordinance shall be published in the official city newspaper in accordance with Section 2.16 of the City Charter.

Section 10. Legislative history and effective date. This ordinance was adopted on November 4, 2019 and shall be effective immediately.

The foregoing ordinance was adopted by the City Council of the City of San Mateo, State of California by the following vote:

AYES: Council Members Bonilla, Papan, Goethals and Rodriguez

NOES: None

ABSENT: Council Vacancy

ATTEST:

/s/Patrice M. Olds

Patrice M. Olds, City Clerk

/s/Diane Papan

Diane Papan, Mayor