

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
ADOPTING AN UNCODIFIED ORDINANCE TO IMMEDIATELY IMPLEMENT THE
TENANT PROTECTION ACT OF 2019 (AB 1482) TO PROVIDE JUST CAUSE EVICTION
PROTECTIONS IN THE CITY OF DALY CITY UNTIL DECEMBER 31, 2019

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DALY CITY DOES
ORDAIN AS FOLLOWS:

WHEREAS, 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; and

WHEREAS, eviction creates particular hardships for individuals and households of limited means, given the shortage of affordable housing within the City of Daly City and the region generally; and

WHEREAS, the "Tenant Protection Act of 2019" (Assembly Bill 1482) was approved by the Legislature on September 11, 2019 and signed by the Governor on October 8, 2019;

WHEREAS, effective January 1, 2020 the "Tenant Protection Act of 2019" will provide limits on rent increases and eviction protections to approximately 8 million tenants in the State of California, thousands of whom live in the City of Daly City; and

WHEREAS, the City of Daly City currently does not regulate the reasons for evictions from residential rental housing; and

WHEREAS, Legal Aid Society of San Mateo County (LASSMC), a nonprofit agency funded by the City of Daly City to provide counseling and advocacy to low-income tenants, routinely collects and reports data to City staff regarding eviction activity in the City; and

WHEREAS, LASSMC has reported a more than 200% increase in the number of "no cause" notices of termination reported to the agency by Daly City tenants in the 30 days since the September 11, 2019 passage of the Tenant Protection Act of 2019; at least 15 Daly City tenant households have reported to LASSMC receipt of a 60-day notice of termination without cause, in contrast to the typical average rate of 4.9 households per month; and

WHEREAS, increased reports of at least 10 "no cause" eviction notices have been made to community organizers with Faith In Action; and

WHEREAS, the notices of termination without cause served upon these tenants are of the type that would be impermissible in many instances under the just cause for eviction protections

of the Tenant Protection Act of 2019, but the notices are due to expire prior to the January 1, 2020 effective date of the new protections; and

WHEREAS, data collected by LASSMC from eviction activity reported to the agency by tenants in Daly City show that families with children are disproportionately represented in the population of tenants who are served with no cause terminations of tenancy; in the past 20 months, 43 out of 100 such termination notices were served to households with children (43%), but only 28.6% of households in Daly City are families with children, according to the 2010 Census; and

WHEREAS, extensive research studies on the impacts of eviction have demonstrated tenants facing eviction are more likely to report poor health, high blood pressure, depression, anxiety, and psychological distress; in particular, children who experience displacement from their home are likely to suffer academic setbacks, mental health issues, and emotional problems; and

WHEREAS, certain aspects of public peace, health, and safety are not adequately protected due to the current lack of regulation of the reason for evictions from residential rental housing in the City of Daly City; and

WHEREAS, in light of the numerous concerns noted herein, including, but not limited to, the current and immediate threat to the public peace, health, and safety of the City's residents and the adverse impacts that would result from no cause evictions within the City and displacement of City residents, the City Council declares this urgency measure is necessary to preserve the public peace, health, and safety of the community by adopting this urgency ordinance in order to prevent further evictions of tenants without cause prior to the effective date of the Tenant Protection Act of 2019; and

WHEREAS, there is a risk that landlords could seek to evict tenants on rent increases would apply to all rent increases on or after March 15, 2019, but the prohibitions on evictions without just cause would not into effect until January 1, 2020; and

WHEREAS, there is a risk that landlords could seek to evict tenants without just 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 desires to prohibit such eviction without just cause during such 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 and safety; and

WHEREAS, staff discussions, testimony, and documentary evidence presented in a public forum support the basis of the findings and actions set forth in this ordinance; and

WHEREAS, for reasons set forth above, this ordinance is declared by the City Council to be necessary for immediate preservation of the public peace, health, and safety, and the recitals above taken together constitute the City Council's statements of the reasons constituting such necessity and urgency; and

WHEREAS, adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guideline Section 15183 (Action Consistent with the General Plan and Zoning); Section 15378; and Section 15061(b)(3) (No Significant Environmental Impact);

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

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this ordinance.

SECTION 2. Without the imposition of this Urgency Ordinance, evictions without just cause may result in the displacement of residential tenants who would be forced to find new housing in a rapidly expensive housing market before a non-urgency ordinance or AB 1482 would become effective and would significantly increase the risk of residential tenants becoming homeless.

SECTION 3. There is a current and immediate threat to public peace, health and safety of the City and its community due in part to the adoption of AB 1482 which increases the risk of evictions without just cause prior to the effective date of such bill, thereby necessitating the immediate enactment of this Urgency Ordinance in order to ensure that tenants are not turned out of their homes without just cause.

SECTION 4. 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, and safety. This Urgency Ordinance shall take effect immediately upon adoption in accordance with the provisions set forth in Government Code Section 36937.

SECTION 5. Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 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 24 months, then this subdivision 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 12 months or more.

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

a. For purposes of this section, “just cause” includes either of the following:

i. At-fault just cause, which is any of the following:

1. Default in the payment of rent.

2. A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the 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.

3. Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
4. Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
5. The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of 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.
6. 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 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.
7. Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
8. The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of this code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.
9. Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
10. 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 Code of Civil Procedure.
11. 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 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 (5) of Section 1161 of the Code of Civil Procedure.

ii. No-fault just cause, which includes any of the following:

1. Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.
2. For leases entered into on or after July 1, 2020, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or their spouse, domestic partner, children, grandchildren,

parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).

3. Withdrawal of the residential real property from the rental market.
4. The owner complying with any of the following:
 - a. An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.
 - b. An order issued by a government agency or court to vacate the residential real property.
 - c. A local ordinance that necessitates vacating the residential real property.
 - d. 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 (3) of subdivision (d).
5. Intent to demolish or to substantially remodel the residential real property.
 - a. For 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 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.
 - b. 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 (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit

without an opportunity to cure may thereafter be served to terminate the tenancy.

- iii. 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 described in paragraph (2) of subdivision (b), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:
 - 1. Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph (iii).
 - 2. Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.
 - 3. 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 (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.
- iv. The amount of relocation assistance or rent waiver shall be equal to one 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 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 subdivision shall be credited against any other relocation assistance required by any other law.
- d. 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:
 - i. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.
 - ii. Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Civil Code 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.

- iii. Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
 - iv. Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.
 - v. 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.
 - vi. 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.
 - vii. Housing that has been issued a certificate of occupancy within the previous 15 years.
 - viii. Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:
 - ix. The owner is not any of the following:
 - 1. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.
 - 2. A corporation.
 - 3. A limited liability company in which at least one member is a corporation
- f. The tenants have been provided written notice that the residential property is exempt from this section using the following statement: "This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."
- i. For a tenancy existing before October 28, 2019, the notice required under clause may, but is not required to, be provided in the rental agreement.
 - ii. For any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.
 - iii. Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).

- g. 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.
- h. An owner of residential real property subject to this section shall provide notice to the tenant as follows:
 - i. For any tenancy commenced or renewed on or after July 1, 2020, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.
 - ii. For a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.
 - iii. The notification or lease provision shall be in no less than 12-point type, and shall include the following:

“California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.”

The provision of the notice shall be subject to Civil Code Section 1632. "From effective date of this urgency ordinance and continuing until such time as the Tenant Protection Act of 2019 becomes effective, no landlord shall be entitled to recover possession of a rental unit covered by the terms of this ordinance unless said landlord has served a prior notice stating "just cause," and proven the existence of "just cause" as defined below (section 3), while this urgency is in effect.

SECTION 6. Effective Date. This Ordinance is hereby declared to be an urgency Ordinance and is adopted under the provisions of the Government Code of the State of California, Section 36937, subsection (b) thereof, and is to take effect immediately. This Ordinance shall remain in effect until Civil Code Section 1946.2, as enacted by AB 1482 becomes effective. On the day that Civil Code Section 1946.2 becomes effective, this Ordinance shall be repealed and shall be of no further force and effect.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Daly City declares that it would have adopted each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 8. Environmental Assessment. The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption Classes 1, 4, 5, 7, 8, 9, and or 21 of the CEQA Guidelines (Title 14, *California Code of Regulations*, Sections 15301-15329).

SECTION 8. Publication. The Mayor shall sign this ordinance and the City Clerk shall attest and certify to the passage and adoption of it, and within fifteen (15) days, publish once in a newspaper of general circulation circulated within the City of Daly City. The City Clerk shall post at City Hall a copy of the full text of this Ordinance in accordance with Government Code Section 65858 and 75090.

The foregoing urgency ordinance was introduced and duly adopted by a four-fifths vote of the City Council of the City of Daly City at a special meeting of the City Council, held on the _____ day of _____, 2019, by the following vote:

AYES, Councilmembers: _____

NOES, Councilmembers: _____

Absent, Councilmembers: _____

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

MAYOR OF THE CITY OF DALY CITY

