

ORDINANCE NO. 19 -

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAYWARD AMENDING ORDINANCE 19-05 ON JUST CAUSE FOR TENANT EVICTIONS TO EXEMPT AFFORDABLE HOUSING CONVERSIONS PROJECTS

WHEREAS, the laws of the State of California and the Housing Element of the General Plan of the City of Hayward prohibit arbitrary discrimination by landlords;

WHEREAS, the right to occupancy of safe, decent, and sanitary housing is a human right;

WHEREAS, the City of Hayward's prolonged affordable housing crisis disproportionately impacts low income and working-class households, senior citizens, and residents whose first language is not English, and thereby increases homelessness and crime, harms neighborhood stability and cohesion, and damages business prospects for small businesses;

WHEREAS, recent state laws that eliminate limits on rent increases upon the vacation of rental units provide added economic incentive to evict tenants, such that the number of evictions without just cause has increased markedly in recent years;

WHEREAS, residential tenants, who constitute approximately 49 percent of the residents of Hayward, suffer great and serious hardship when forced to move from their homes;

WHEREAS, basic fairness requires that a landlord must not terminate the tenancy of a residential tenant without good, just, non-arbitrary, non-discriminatory reasons;

WHEREAS, the good cause eviction protections enacted in San Francisco, Berkeley, Oakland, and other California cities, have aided community stability and reduced urban problems associated with arbitrary disruption of stable households;

WHEREAS, the general welfare of all citizens Hayward would be enhanced if evictions without just cause were prohibited;

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and made a part of this ordinance.

Section 2. Title. Upon the effective date of this Ordinance, Section 5 of the Just Cause For Tenant Evictions Ordinance 19-05 is hereby amended as follows:

## Section 5. Applicability

The provisions of this Ordinance shall apply to all rental units in whole or in part, including where a notice to vacate/quit any such rental unit has been served as of the effective date of this Ordinance but where any such rental unit has not yet been vacated or an unlawful detainer judgment has not been issued as of the effective date of this Ordinance. However, this Ordinance shall not apply to the following types of rental units:

- A. Rental units exempted from Part 4, Title 4, Chapter 2 of the California Civil Code (CCC) by CCC § 1940(b), commonly known as, hotel, motel, residence club, or other facility when the transient occupancy is or would be subject to tax under Section 7280 of the Revenue and Taxation Code.
- B. Rental units in any hospital, skilled nursing facility, or health facility.
- C. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- D. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than 24 months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- E. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.
- F. A unit that is held in trust on behalf of a developmentally disabled individual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.

G. Affordable housing acquisition and rehabilitation development projects that receive a subsidy or funding from a federal, state or local agency for the purpose of substantially rehabilitating a property and converting the rental units to affordable rental housing subject to regulatory controls that impose rent limitations, including but limited to low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986. The exemption only applies in connection with, or related to a conversion, which includes such time as a an award of the subsidy or funding is made by the federal, state or local agency and to units that are not occupied by tenants meeting the eligibility requirements of the program under which such subsidy or funding is made.

#### Section 7. Severability.

Should any part of this Ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

#### Section 8. Non-Waiverability.

The provisions of this Ordinance may not be waived, and any term of any lease, contract, or other agreement which purports to waive or limit a tenant's substantive or procedural rights under this Ordinance are contrary to public policy, unenforceable, and void.

#### Section 9. CEQA.

Approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment.

#### Section 10. Effective Date.

In accordance with the provisions of Section 617 of the City Charter, this Ordinance shall become effective immediately upon adoption of five (5) or more votes.

#### Section 11. Publication.

In accordance with the provisions of Section 617 of the City Charter, a notice indicating its title; a subject matter index; the date of its introduction; and the date, time, and

place it will be considered for final adoption; and that copies of the full text thereof are available for examination by the public in the office of the City Clerk, shall be published once in a newspaper of general circulation within the City at least three days before the final adoption meeting date.

Furthermore, a similar notice indicating the adoption of an emergency ordinance and the vote thereon shall be published once within one week after its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_ day of \_\_\_\_, 2019, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_ day of \_\_\_\_, 2019, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward