

ORDINANCE NO. 18-07

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAYWARD AMENDING SECTION 19 OF THE CITY OF HAYWARD RESIDENTIAL RENT STABILIZATION ORDINANCE CLARIFYING THE APPLICABILITY OF SECTION 19 TO UNITS THAT ARE CURRENTLY RENT CONTROLLED AND WHICH WERE PREVIOUSLY RENT CONTROLLED PURSUANT TO THE ORDINANCE

THE CITY COUNCIL OF THE CITY OF HAYWARD hereby ordains as follows:

**SECTION 1. Findings.**

- A. Pursuant to Article XI, Section 7 of the California Constitution and Government Code Section 36937, the City of Hayward ("City") may make and enforce all regulations and ordinances using its police powers. Further, pursuant to the City Charter, Section 617, the Council may declare an ordinance to be necessary as an emergency measure for preserving the public peace, health and safety.
- B. The City has one of the least affordable housing markets in California and the United States, which exacerbates the City's shortage of decent, safe, affordable, and sanitary rental housing.
- C. Renters occupy about 47.6 percent of the City's housing stock and 57 percent of renters are cost burdened under the federal definition, meaning they spend more than 30 percent of their income on housing.
- D. Through the City's Fall 2017 and Winter 2018 Community Outreach on Housing, the City received extensive public testimony about the scarcity of rental units, no fault evictions, and the need for just cause protections.
- E. Given the housing cost burden faced by many City residents, excessive rental increases threaten the public health, safety, and welfare of City residents, including seniors, those on fixed incomes, those with low and moderate-income levels, and those with other special needs to the extent that such persons may be forced to choose between paying rent and providing food, clothing, and medical care for themselves and their families.
- F. Housing insecurity, excessive rent increases, and no fault evictions could result in homelessness and displacement of low-income families.

G. In 1983, the City Council for the City of Hayward first adopted the City of Hayward Residential Rent Stabilization Ordinance (Ordinance). The purpose of the Ordinance includes, but is not limited to, stabilizing rent increases for certain tenant and assuring efficient landlords a fair return on their property.

H. The City currently regulates rent increases and evictions for residential housing covered under its Rent Stabilization Ordinance.

I. Of the approximately 22,237 rental units in Hayward, at most 14,941 units were originally covered under the City's Rent Stabilization Ordinance, approximately 5,435 single family residents would be exempt from the rent increase limitations of the ordinance and only approximately 1,000 to 1,600 units remain subject to the City's regulations on rent increases.

J. Section 8 of the City's Rent Stabilization Ordinance currently permits landlords, upon satisfaction of prescribed conditions, to decontrol a rental unit covered under the Ordinance and thereafter to increase any initial rent and any subsequent rent increase beyond the Ordinance's five percent (5%) per annum maximum.

K. Section 19 (Eviction for Cause) of the Ordinance applies to units under the rent control program. Currently, there is ambiguity as to whether Section 19 applies to units that were previously rent controlled, but have been decontrolled pursuant to Section 8 of the Ordinance

L. Consistent with Council interpretation, it has been the practice of City staff to apply the provisions of Section 18 and 19 to rental units that are currently rent controlled and were previously rent controlled under the Ordinance.

M. The City Council of Hayward desires to clarify to both landlords and tenant that the provisions and 19 (Eviction for Cause) apply to rental units that are currently rent controlled and were previously rent controlled under the Ordinance.

N. Based upon the above-described facts and circumstances, and for these same reasons, the City Council finds that this ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and therefore it may be introduced and adopted at the same meeting and shall take effect immediately if passed by at least five (5) affirmative votes.

## **SECTION 2. Provisions.**

Upon the effective date of this ordinance, Section 19 of the City of Hayward Residential Rent Stabilization Ordinance is hereby amended to read as follows:

**SECTION 19. EVICTION FOR CAUSE.**

(a) **Cause for Eviction.** No landlord shall be entitled to recover possession of a rental unit covered by the terms of this Ordinance, including units that were decontrolled pursuant to Section 8 of this Ordinance, unless the landlord shows the existence of one of the following grounds:

- (1) The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under the provisions of state or local law, unless the tenant has withheld rent pursuant to applicable law.
- (2) The tenant has continued, after written notice to cease, to substantially violate any of the material terms of the rental agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the tenant or made part of the rental agreement.
- (3) The tenant has willfully caused or allowed substantial damage to the premises beyond normal wear and tear and has refused, after written notice, to pay the reasonable costs of repairing such damage and cease damaging said premises.
- (4) The tenant has refused to agree to a new rental agreement upon expiration of a prior rental agreement, but only where the new rental agreement contains provisions that are substantially identical to the prior rental agreement, and is not inconsistent with local, state, and federal laws.
- (5) The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants or occupants of the premises.
- (6) The tenant has, after written notice to cease, refused the landlord access to the unit as required by state or local law.
- (7) The landlord, after having obtained all necessary permits from the City of Hayward, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes and laws affecting the health and safety of tenants of the building or where necessary under an outstanding notice of code violations affecting the health and safety of tenants of the building, and where such repairs cannot be completed while the tenant resides on the premises. Where the landlord recovers possession under this subsection, the tenant must be given the right of first refusal to re-occupy the unit upon completion of the required work.

(8) The landlord, after having obtained all necessary permits from the City of Hayward, seeks in good faith to recover possession of the rental units, to remove the rental unit from the market by demolition.

(9) The landlord seeks in good faith to recover possession for his or her own use or occupancy as his or her principal residence, or for the use and occupancy as a principal residential by the landlord's spouse or domestic partner or by the landlord's or the landlord's spouse's child, parents, brother, sister, grandparents, or grandchildren. For the purposes of this subsection, the term landlord shall be defined as the owner of record holding at least a fifty-one percent (51%) interest in the property and shall not include a lessor, sublessor, or agent of the owner of record. The landlord may not recover possession under this subsection if a comparable unit is already vacant and available in the property.

(10) A landlord or lessor seeks in good faith to recover possession of the rental unit for his or her occupancy as a principal residence and has the right to recover possession of the unit for his or her occupancy as a principal residence under an existing rental agreement with the current tenants.

(11) The tenant is convicted of using the rental unit for any illegal purpose.

(12) The tenant has used or allowed the use of the rental unit, or any other area owned or controlled by the landlord, for the manufacture, sale, distribution, possession, or use of a controlled substance as defined in state law.

(13) The tenant has continued, after written notice to cease, to violate legal and reasonable written rules and regulations generally applicable to all tenancies within the premises provided that such terms have been accepted in writing by the tenant.

(14) The lawful termination of the tenant's employment by the landlord, where such employment was an express condition of, or consideration for, the tenancy under a written rental agreement, the notice of termination is given as provided in Section 1946 of the California Civil Code.

(15) The tenant has threatened, either verbally or in writing, to commit a crime which would result in death or great bodily harm to a tenant, guest, manager, owner, or other person on the premises, for which a report has been filed with the Hayward Police Department.

(b) **Form of Notice.** A landlord's failure to specify either one or more grounds for eviction authorized by state or federal law or good cause as listed above in subsections 1 through 15 in the notice of termination or the notice to quit and in the complaint for possession shall be a defense of any action for possession of a rental unit covered by the terms of this ordinance.

**SECTION 3. 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 4. Effective Date and Publication.**

This ordinance shall take effect immediately following its adoption. The City Clerk shall publish a notice indicating the adoption of the emergency ordinance, including the title; subject matter index; the date, time, and place of its introduction and adoption, and the vote thereon, within one week after the emergency ordinance is adopted.

**SECTION 5. Environmental Determination.**

The City Council finds that the adoption and implementation of this Ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061 (b)(3) in that the City Council finds there is no possibility that the implementation of this Ordinance may have significant effects on the environment.

INTRODUCED at a special meeting of the City Council of the City of Hayward, held the 29<sup>th</sup> day of May, 2018, by Council Member Márquez.

ADOPTED at a special meeting of the City Council of the City of Hayward, held the 29<sup>th</sup> day of May, 2018, by the following votes of members of said City Council.


AYES: COUNCIL MEMBERS: Zermeño, Márquez, Mendall, Peixoto, Lamnin, Salinas

MAYOR: Halliday

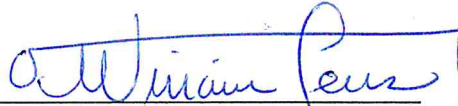
NOES: COUNCIL MEMBERS: None

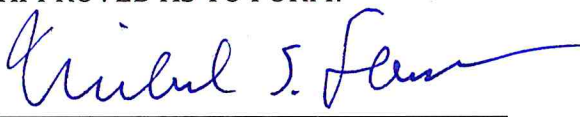
ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED:   
Mayor of the City of Hayward

DATE: May 30, 2018

ATTEST:   
City Clerk of the City of Hayward

APPROVED AS TO FORM:  
  
City Attorney of the City of Hayward