

ORDINANCE NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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AN ORDINANCE ADOPTING A NEW CHAPTER [] OF TITLE [] OF THE SAN MATEO COUNTY ORDINANCE CODE TO PROVIDE TENANT PROTECTIONS

The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

SECTION 1. Findings.

The Board of Supervisors finds and determines that:

(a)

SECTION 2. A new Chapter [] is hereby adopted to be numbered and entitled and to read as follows:

Chapter [] – Tenant Protection Ordinance

[].100 - Definitions.

- (a) “County” means the County of San Mateo.
- (b) “Covered Rental Unit” means a Dwelling Unit, as defined below, that is in the unincorporated County. This definition shall not include the following: (1) transient and tourist hotel occupancy as defined in subdivision (b) of section 1940 of the 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 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; (3) dormitories owned and operated by an institution of higher education or a school serving any grade levels between kindergarten and grades 1 to 12, inclusive; (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 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 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; (7)

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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.

- (c) “Department” means the County’s Department of Housing.
- (d) “Dwelling Unit” means a dwelling unit, as defined under California Civil Code section 1940 subsection (c), including joint living and work quarters, that is 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-work spaces, mobile homes rented by the owner to a Tenant, and any accessory dwelling unit in the unincorporated areas of the County.
- (e) “Ellis Act” means California Government Code sections 7060 – 7060.7.
- (f) “Housing Services” means all services provided by the Landlord related to the use of occupancy of a Dwelling Unit, including water, heat, utilities, painting, elevator service, refuse removal, janitorial service, maintenance repairs, replacement, recreational areas (including pools), laundry facilities, furnishings, storage space and/or parking (including one or more automobiles), security services, insurance, and the payment of property taxes. The term “Housing Services” shall not include legal fees or mortgage payments, whether for principal, interest, or both, bonuses of any nature paid to employees, penalties, fees, damages, or interest assessed or awarded for violations of this Chapter or any other law, or any expenses for which the Landlord has been reimbursed by any security deposit, insurance, settlement, judgment for damages, or any other method.
- (g) “Landlord” means an owner, lessor, sublessor, or any other person entitled to offer any Dwelling Unit for Rent or entitled to receive Rent for the use and occupancy of a Dwelling Unit, and the agent, representative, or successor of any of the foregoing.
- (h) “Landlord’s Family Member” means a Landlord’s parent, child, spouse or registered domestic partner, grandparent, grandchild, aunt or uncle who is at least sixty-two (62) years of age, or other dependent over which the Landlord has guardianship, the spouse or registered domestic partner’s parent, child, grandparent, grandchild, aunt or uncle who is at least sixty-two (62) years of age, and other dependent over which the Landlord’s spouse or domestic partner has guardianship.

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- (i) “Rent” means the consideration paid for the use or occupancy of a Dwelling Unit or for Housing Services provided, or both, but does not include any of the following, each of which shall be separately listed and identified in the Rental Agreement:
 - a. Security deposits;
 - b. User fees for services or facilities which may be utilized at the option of the Tenant and are expressly not included as Rent in the Rental Agreement;
 - c. Utility charges for those Dwelling Units that are billed separately whether or not the Dwelling Units are individually metered;
 - d. Any rent discounts, incentives, concessions, or credits offered by the Landlord.
- (j) “Rental Agreement” means a lease or other oral or written agreement between the Landlord and Tenant establishing the terms and conditions of the Tenancy.
- (k) “Retaliation” means take adverse action against a Tenant in response to Tenant’s exercise of rights under this Chapter or under any other state or federal tenant protection laws.
- (l) “State” means the State of California.
- (m) “Tenancy” means the legal right of a Tenant or any other occupant who took possession of a Dwelling Unit for the use of occupancy of that Dwelling Unit, including the use of the Housing Service provided by the Landlord, subject to the terms of the Rental Agreement. This includes a lease or a sublease.
- (n) “Tenant” means a tenant, subtenant, lessee, sublessee, or any other person entitled under the terms of a Rental Agreement to the use of occupancy of any Dwelling Unit.

[.110 – Applicability of Chapter; Relation to other Laws.

This Chapter shall apply to all Landlords, Tenants, and Rental Agreements within the unincorporated areas of the County, unless otherwise exempted by State law or the provisions of this Chapter. Nothing in this Chapter shall be interpreted to limit remedies and rights Tenant’s have pursuant to federal, State, or other local laws.

[.120 Landlord Requirements Regarding Notice

- (a) Notwithstanding any other provision of law, when a Landlord is required by law to provide a Tenant with notice, the Landlord shall provide the notice in the primary

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language of the Tenant receiving notice, if such language is known to the Landlord. If the Tenant's primary language is not known to the Landlord, the Landlord shall provide the required notice in English, Spanish, Chinese (in both Simplified and Traditional script), Tagalog, and any other language(s) spoken by more than five percent (5%) of the population of San Mateo County consistent with language access requirements set forth by Section 203 of the Voting Rights Act of 1965, which required languages will be published on the Department's webpage. The Department shall publish for Landlord's use templates of required notice documents in the languages noted in this Section.

- (b) Where a Tenant has requested to the Landlord in writing that the Landlord provide the Tenant with notices in writing, through email, or through text message, the Landlord must provide notice in the requested manner unless the Landlord has good cause for providing such notice by other means.

[**.120 – Retaliatory Eviction and Anti-Harassment.**

(a) Retaliatory Eviction.

- (1) If the main intent of the Landlord in terminating a Tenancy or refusing to renew a Tenancy is to Retaliate against a Tenant, and if the Tenant is not in default as to the payment of Rent, then the Landlord may not terminate the Tenancy or refuse to renew the Tenancy or cause the Tenant to quit involuntarily.

- (2) A Tenant may assert Retaliation affirmatively or as a defense to the Landlord's action.

- (3) Retaliation against a Tenant because of the Tenant's exercise of rights under this Chapter is prohibited. A court may consider the protections afforded by this Chapter in evaluating a claim of Retaliation.

- (b) Anti-Harassment. No Landlord, or any other person, acting as a principal or agent, offering a Dwelling Unit for Rent, or any contractor, subcontractor or employee of the Landlord shall, with respect to property used as a Dwelling Unit under any Rental Agreement or other Tenancy or estate at will, however created, do any of the following:

- (1) Interrupt, terminate, or fail to provide Housing Services required by an applicable Rental Agreement or by federal, State, County, or local housing, health, or safety laws, or threaten to do so, or violate or threaten to violate California Civil Code section 789.3.

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- (2) Take any of the following actions in bad faith to cause the Tenant to vacate the premises:
- A. Fail to begin repairs and maintenance with due diligence as required by an applicable Rental Agreement or by federal, State, or local laws;
 - B. Fail to exercise due diligence in performing and completing repairs and maintenance once undertaken;
 - C. Fail to follow appropriate industry repair, containment, or remediation protocols designed to minimize exposure to noise, dust, lead, paint, mold asbestos, or other building materials with potentially harmful health impacts;
 - D. Conduct elective renovation or construction of the Dwelling Unit without the prior written consent of the Tenant;
 - E. Refuse to acknowledge or accept receipt of a Tenant's lawful Rent payment as set forth in an applicable Rental Agreement, by usual practice of the parties, or in a notice to pay Rent or quit;
 - F. Refuse to cash or process a Rent check or other form of acceptable Rent payment for over thirty (30) days after it is tendered;
 - G. Fail to maintain a current address for delivery of Rent payments;
 - H. Violate a Tenant's right to privacy by, without limitation, requesting information regarding residence or citizenship status, protected class status, or social security number, except as required by law; for the purposes of obtaining information regarding the qualification of the Tenancy, the Tenant may provide, and the Landlord shall not refuse, an Individual Taxpayer Identification Number (ITIN) rather than a social security number;
 - A. Release information protected by the Tenant's right to privacy except as required or authorized by law; or
 - B. Request or demand an unreasonable amount of information from the Tenant in response to a request for reasonable accommodation.
- (3) Abuse the right of access into a Dwelling Unit as established by California Civil Code section 1954 or other applicable law. This includes entries for inspections that are not related to necessary repairs or services; or are used to collect evidence against the Tenant or otherwise beyond the scope of a lawful entry; entries or demands for entry at times outside of normal business hours, unless for health and safety reasons or if the Tenant agrees

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otherwise; entries contrary to the Tenant's reasonable request to change the date or time of entry; photographing or otherwise recording portions of a Dwelling Unit that are beyond the scope of lawful entry or inspection; and misrepresenting the reasons for accessing a Dwelling Unit.

- (4) Influence or attempt to influence a Tenant to vacate a Dwelling Unit through fraud, misrepresentation, intimidation, or coercion, which shall include threatening to report a Tenant to the United States Department of Homeland Security.
- (5) Threaten the Tenant, by word or gesture, with physical harm. This includes words used during in-person conversations, through social media postings or messages, or other communications.
- (6) Violate any law which prohibits discrimination based on race, gender, sexual preferences, sexual orientation, ethnic background, nationality, religion, age, parenthood, marriage, pregnancy, disability, human immunodeficiency virus (HIV) / acquired immune deficiency syndrome (AIDS), occupancy by a minor child, or source of income.
- (7) Take action to terminate any Tenancy including service of any notice to quit or other eviction notice or bring any action to recover possession of a Dwelling Unit based upon allegations which the Landlord has no reasonable cause to believe to be true or upon a legal theory which is untenable under the facts known to the Landlord. No Landlord shall be liable under this Subsection for bringing an action to recover possession unless and until the Tenant has obtained a favorable termination of that action and a specific finding is made in the action that Landlord has violated this Subsection.
- (8) Remove from the Dwelling Unit personal property, furnishings, or any other items without the prior written consent of the Tenant, except when done pursuant to enforcement of a legal termination of the Tenancy.
- (9) Provide false written or verbal information regarding any federal, State, County, or local Tenant protections, including mischaracterizing the nature or effect of a notice to quit or other eviction notice. False information includes, without limitation, requesting or demanding a Tenant do the following:
 - A. Sign a new Rental Agreement not in the Tenancy's primary language if:
 - i. The Rental Agreement negotiations were conducted in the Tenant's primary language; or
 - ii. The existing Rental Agreement is in the Tenant's primary language; or

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- iii. The Landlord is otherwise aware that the new Rental Agreement is not in the Tenant's primary language.
 - B. Enter into a Rent repayment plan if the Landlord states, misrepresents, suggests, or implies that the Tenant should or must do so to take advantage of Tenant protection laws that do not in fact require such plans.
- (10) Offer payments to:
- A. Tenant to vacate more than once in six (6) months, after the Tenant has notified the Landlord in writing that the Tenant does not desire to receive further offers of payments to vacate; or
 - B. Attempt to coerce the Tenant to vacate accompanied with threats or intimidation. This shall not include settlement offers in pending eviction actions made in good faith and not accompanied with threats or intimidation.
- (11) Interfere with a Tenant's right to quiet use and enjoyment of a Dwelling Unit as that right is defined by law.
- (12) Remove a Housing Service for the purpose of causing the Tenant to vacate the Dwelling Unit.
- (13) Interfere with the right of Tenants to (A) organize as Tenants and engage in concerted activities with other Tenants for the purpose of mutual aid and protection; (B) provide property access to Tenant organizers, advocates, or representatives working with or on behalf of Tenants living at a property; (C) convene Tenant or Tenant organization meetings in an appropriate space accessible to Tenants under the terms of their Rental Agreement; or (D) distribute and post literature informing other Tenants of their rights and of opportunities to involve themselves in their project in common areas, including lobby areas and bulletin boards.

[**.130 – Just Cause Required To Terminate Tenancy**

- (a) The provisions of this Section shall be limited to Covered Rental Units.
- (b) No Landlord shall terminate a Tenancy of an occupied Covered Rental Unit, unless the Landlord can demonstrate a Just Cause termination.
- (c) When terminating a Tenancy for Just Cause, a Landlord must comply with all of the following:

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- (1) The Landlord must serve written notice in accordance with California Civil Code section 1946 through 1946.5 and the provisions of this Chapter, to the Tenant that states, in addition to any information required by federal or State law, the Landlord will terminate the Tenancy, and indicates at least one Just Cause reason for the termination; and
- (2) The Landlord has not accepted and will not accept Rent or any other consideration in return for the continued use of the Covered Rental Unit beyond the term of the terminated Tenancy in compliance with California Civil Code 1945 through 1946.5; and
- (3) The Landlord has submitted to the Department, within five (5) days after service of the notice of termination on the Tenant, a true and accurate copy of the Landlord's written notice of termination, and proof of such service, signed under penalty of perjury, on the Tenant. The Landlord shall maintain proof of service to the Department as evidence that the Landlord has complied with this Section.
- (4) A Landlord who is unable to show a Just Cause reason to terminate a Tenancy must instead pursue one of the following options:
 - A. Renew the Rental Agreement. At the conclusion of a term of Tenancy under a Rental Agreement, a Landlord may offer to renew the Rental Agreement, under substantially similar material terms, including, but not limited to amenities, services, facilities, and term of the Tenancy.
 - B. Permit the Tenancy to Continue. At the conclusion of a term of Tenancy under a Rental Agreement, a Landlord may permit the Tenancy to continue in accordance with California Civil Code section 1945.
 - C. Notwithstanding the foregoing, nothing in this Chapter limits the amount of rent a Landlord could require in a new Rental Agreement pursuant to applicable federal, State, or local law. .
- (d) Just Cause Terminations. No Landlord shall take action to terminate any Tenancy in a Covered Rental Unit, including but not limited to making a demand for possession of a Rental Unit, threatening to terminate a Tenancy verbally or in writing, serving any notice to quit or other eviction notice, or bringing any action to recover possession or be granted recovery of possession of a Rental Unit unless the Landlord is able to prove the existence of one of the following grounds. Just Cause terminations are classified as either "For-Fault" or "No-Fault."
 - (1) For-Fault Just Cause Terminations shall consist of the following:

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- A. Failure to Pay Rent. Tenant failed to pay rent to which the Landlord is legally entitled pursuant to the Rental Agreement and under the provisions of State or local law and said failure has continued after service on the Tenant of a written notice setting forth the amount of Rent then due and requiring it to be paid, within a period, specified in the notice, of not less than three (3) days.
 - B. Violation of a Material Term of the Rental Agreement. Tenant has continued to substantially violate any material term of the Rental Agreement as provided in California Code of Civil Procedure section 1161, subdivision (3), after written notice to cease, and did not cure such violation within ten (10) days after receiving written notice from Landlord of such violation. For the purposes of this Section, the following shall not qualify as a violation of a material term of the Rental Agreement:
 - i. Violation of new terms added to an existing Rental Agreement, unless expressly consented to in writing by the Tenant;
 - ii. Adding additional occupants to an existing Tenancy if the number of occupants does not exceed the maximum number of occupants under State or local laws.
 - C. Tenant creates a nuisance or uses the Covered Rental Unit for an illegal purpose as provided in California Code of Civil Procedure section 1161 subsection (4).
 - D. Failure to Sign a Substantially Similar Lease. Upon the expiration of a prior Rental Agreement, the Tenant has refused to agree to a new written Rental Agreement that is substantially identical to the prior written Rental Agreement and which comports with all applicable federal, State, and local laws.
 - E. Households Exceeding Income Limits in Government Regulated Units. A Landlord may discontinue future renewals of a Rental Agreement if the Tenant's household income exceeds the income limits for a Covered Rental Unit with rents that are controlled or regulated by any government unit, agency, or authority pursuant to a regulatory agreement or other recorded encumbrance that limits use and occupancy of the Unit by a Tenant household with specified incomes. The Landlord must provide one-year written notice to discontinue future renewals of the Rental Agreement based solely on the certified Tenant household income.
- (2) No-Fault Just Cause Terminations shall consist of the following:

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- A. Landlord or Landlord's Family Member Occupancy. A Landlord who owns a Covered Rental Unit and seeks in good faith to recover possession of said Unit for the Landlord or Landlord's Family Member's own use and occupancy as the Landlord's or Landlord's Family Member's principal residence. The Landlord shall demonstrate good faith if the Landlord or the Landlord's Family Member moves into the Unit within sixty (60) days after the Tenant has vacated the Unit and thereafter occupies said Unit as a principal residence for at least three (3) years, unless Landlord provides evidence of extenuating circumstances. A Landlord demonstrates bad faith by moving into a Unit occupied by a Tenant when one or more similar, vacant Units are available on the same property as the Tenant-occupied Unit.
- i. Landlord must provide the Tenant with at least sixty (60) days' written notice that the Landlord intends to terminate the tenancy pursuant to this Subsection.
 - ii. Landlord must separately disclose to the Department the name(s) of the eligible individual(s) who will occupy the Unit upon the termination of the existing Tenancy. The Department may thereafter obtain written verification of residency from Landlord or Landlord's Family Member for three years after termination of the Tenancy.
 - iii. To evict for Landlord or Landlord's Family Member occupancy, the Landlord must be a natural person and possess legal title to at least fifty percent (50%) of the Unit or be a trustee of a trust that owns the Unit or beneficiary with an interest of at least fifty percent (50%) in a trust that owns the Unit. If two persons purchase a duplex and each own fifty percent (50%) of the building, each may evict a Tenant under this Section.
 - iv. A Landlord with less than one hundred percent (100%) ownership interest in a property may occupy only one Unit on that property. A Landlord with one hundred percent (100%) ownership interest in a property may occupy up to two (2) Units on that property.
 - v. In the following circumstances, the Landlord may only terminate a Tenancy under this Section if the Landlord or Landlord's Family Member who will reside in the Unit is similarly situated, as follows, to the Tenant or Tenant's household members who are being displaced:

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1. If the Tenant or one of the Tenant's household members is at least sixty-two (62) years of age or older, then the Landlord or the Landlord's Family Member who will reside in the Unit must also be sixty-two (62) years of age or older;
2. If the Tenant or one of the Tenant's household members is a person with a disability who has a physical or mental impairment that limits one or more of the person's major life activities within the meaning of the California Fair Housing and Employment Act pursuant to California Government Code section 12926, then the Landlord or the Landlord's Family Member who will reside in the Unit must also be a person with a disability;
3. If the Tenant or one of the Tenant's household members has a terminal illness as verified by their medical care provider, then the Landlord or the Landlord's Family Member who will reside in the Unit must also have a terminal illness as verified by their medical care provider; or
4. If the Tenant is a low-income household (low-income household whose income does not exceed the qualifying limits for lower income households as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, or as otherwise defined in California Health and Safety Code section 50079.5), then the Landlord or the Landlord's Family Member who will reside in the Unit must also be a low-income household.
5. If the Tenant or one of the Tenant's household members is pregnant as verified by their medical care provider, then the Landlord or the Landlord's Family Member who will reside in the Unit must also be pregnant as verified by their medical care provider.

vi. Tenant's Right of First Return.

1. Return Within Three (3) Years. If a Landlord or Landlord's Family Member ceases occupation of the Unit within three (3) years after the final date of Tenancy, the Landlord must, within 30 days of Landlord or Landlord's Family Member ceasing

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occupation of the Unit, provide the Tenant displaced from the Unit written notice of the first right to return to rent the same Unit at the Rent previously charged plus any annual Rent increase allowed pursuant to applicable law, which written notice must be provided on a form approved by the Department and delivered to the Tenant. Prior to, or contemporaneous with, the Landlord providing the Tenant notice of termination of the Tenancy pursuant to this Section, the Landlord must request contact information from the Tenant and specify that such information is for the purpose of contacting the Tenant to offer the Tenant the right of first return.

2. Rent to New Tenant. If a Landlord or Landlord's Family Member ceases occupation of the Unit, and the recovered Unit is offered for Rent to a Tenant who was not the displaced Tenant, the new Tenant is entitled to Rent the Unit at the Rent previously charged to the displaced Tenant plus any annual Rent increases allowed pursuant to applicable law.

B. Withdrawal of Covered Rental Units from Rental Market. A Landlord may seek to withdraw Covered Rental Units from the residential rental market pursuant to the Ellis Act, subject to the following conditions and requirements:

- i. The Landlord complies with all provisions of the Ellis Act, unless otherwise indicated in this Section.
- ii. Not less than one hundred and twenty (120) days from the date the Landlord intends to withdraw all the Units in the building or structure from the residential rental market, and after completion of all required proceedings, if any, the Landlord shall provide written notice of intent to withdraw the Units to the Department on a form approved by the Department.
- iii. Not less than one hundred and twenty (120) days from the date the Landlord intends to withdraw a Covered Rental Unit from the Rental Market, the Landlord shall provide each Tenant to be displaced with a written notice of termination that contains the following information:
 1. A description of the Tenant's rights to relocation assistance and right of first return if

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the Landlord returns the Unit to the residential rental market;

2. A notice that a Tenant who is sixty-two (62) years of age or older, a Tenant who is disabled, or a Tenant or member of the Tenant's household who is pregnant, and who has lived in their Unit for at least one (1) year prior to the Landlord providing notice of intent to terminate the tenancy shall have their Tenancy extended to one (1) year from the date of such notice, provided that the Tenant gives written notice to the Landlord of their request for such an extension.
- iv. The following Tenants who have resided in the Covered Rental Unit for at least one (1) year prior to the Landlord's notice of termination to withdraw the Unit in a building or structure from the residential rental market, and within thirty (30) days after receiving notice of termination, may submit a written request to the Landlord to receive an extension of one (1) year from the Tenant's date of notice:
1. A Tenant who is at least sixty-two (62) years of age; or
 2. A Tenant with a disability who has a physical or mental impairment that limits one or more of a person's major life activities within the meaning of the California Fair Housing and Employment Act pursuant to California Government Code section 12926.
- v. Covered Rental Units Re-Offered for Rent.
1. A Tenant may resume their Tenancy in the Unit if a Landlord returns the Units to the residential rental market within two (2) years after the effective date of the withdrawal.
 - a. The Landlord must, within 30 days of returning a Tenant's Unit to the residential rental market, provide the

Tenant the notice to renew their Tenancy in a form approved by the Department and delivered through certified mail return receipt requested. Any Tenant displaced from a Unit may request the right of first return from the Landlord within thirty (30) days of receiving notice from the Landlord of the Landlord's intent to return the Unit to the residential rental market. Prior to, or contemporaneous with, the Landlord providing the Tenant notice of termination of the Tenancy pursuant to this Section, the Landlord must request contact information from the Tenant and specify that such information is for the purpose of contacting the Tenant to offer the Tenant the right of first return

- b. The displaced Tenant is entitled to Rent the same Unit at the Rent previously charged to the Tenant plus any annual Rent increased permitted pursuant to applicable law.
 - c. A Landlord who re-offers a withdrawn Unit for Rent within two (2) years of withdrawal from the Rental Market shall be liable to any Tenant who was displaced by the withdrawal for actual damages. Nothing in this subsection precludes a Tenant from pursuing any alternative remedy available under the law.
 - d. The County Attorney may institute a civil proceeding against any Landlord who violates this subsection.
2. A Tenant may, subject to the following provisions, return to the Unit if a Landlord returns the Unit to the residential rental market

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more than two (2) years but up to five (5) years after the effective date of withdrawal.

- a. The Landlord must, within 30 days of returning a Tenant's Unit to the residential rental market, provide the Tenant the notice to renew their Tenancy in a form approved by the Department and delivered through a certified mail return receipt requested. Any Tenant displaced from a Unit may request the right of first return from the Landlord within thirty (30) days of receiving notice from the Landlord of the Landlord's intent to return the Units to the residential rental market. Prior to, or contemporaneous with, the Landlord providing the Tenant notice of termination of the Tenancy pursuant to this Section, the Landlord must request contact information from the Tenant and specify that such information is for the purpose of contacting the Tenant to offer the Tenant the right of first return
- b. A Tenant of a Unit is entitled to receive notice of the right of first return to rent the same Unit at the Rent previously charged plus any annual Rent increases allowed pursuant to applicable law.
- c. A Landlord shall be liable to any Tenant who was displaced from their Unit for failure to comply with this subsection, for damages in an amount which does not exceed the contract rent for six (6) months, the payment of which shall not be construed to extinguish the Landlord's obligation to comply with this subsection.

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- d. The County Attorney may institute a civil proceeding against any Landlord who violates this subsection.
- 3. A Tenant may return to the Unit if a Landlord returns the Units to the residential rental market more than five (5) years but less than ten (10) years after the effective date of withdrawal.
 - a. The Landlord must, within 30 days of returning a Tenant's Unit to the residential rental market, provide the Tenant the notice to renew their Tenancy in a form approved by the Department and delivered through a certified mail return receipt requested. Any Tenant displaced from a Unit may request the right of first return from the Landlord within thirty (30) days of receiving notice from the Landlord of the Landlord's intent to return the Units to the residential rental market. Prior to, or contemporaneous with, the Landlord providing the Tenant notice of termination of the Tenancy pursuant to this Section, the Landlord must request contact information from the Tenant and specify that such information is for the purpose of contacting the Tenant to offer the Tenant the right of first return
 - b. Landlord shall be liable to any Tenant who was displaced from their Unit for failure to comply with this subsection, for actual damages in an amount which does not exceed the contract rent for six (6) months, and the payment of which shall not be construed to extinguish the Landlord's obligation to comply with this subsection.

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- c. The County Attorney may institute a civil proceeding against any Landlord who violates this subsection.
- vi. Recording of Memorandum. The Landlord shall record a memorandum, on a County-approved form, with the County's Assessor-County Clerk-Recorder-Chief Elections Officer encumbering the property where the Unit(s) is located no sooner than forty (40) days after providing notice to the Department of the Landlord's intent to withdraw the Unit(s) from the residential rental market.
 - 1. The memorandum must be executed by the Landlord(s).
 - 2. The memorandum shall set forth the names of the Landlord(s) of the residential rental property, summarize the obligations of the Landlord, and any successor in interest to the Landlord, and include a statement of the Tenant's right to receive notice of the first right to return to Rent the Unit returned to the residential rental market.
 - 3. The memorandum must encumber the property for ten (10) years from the date of the Landlord's notice of intent to the Department to withdraw the Unit(s) from the residential rental market.
 - 4. The Landlord shall deliver to the Department a conformed copy of the recorded memorandum within ninety (90) days after filing notice of intent to the Department to withdraw the Unit(s) from the residential rental market.
- vii. Government Agency or Court Order.
 - 1. The Landlord shall comply with any of the following:
 - 1. An order issued by a government agency or court relating to the habitability that necessitates vacating the Unit;

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2. An order issued by a government agency or court to vacate the Unit; or

3. A local ordinance that necessitates vacating the Unit.

2. 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 for the need to vacate under this subsection, the Tenant shall not be entitled to relocation assistance as otherwise provided in this Chapter.

C. Demolition. A Landlord, after having obtained all necessary permits from the County and acting in good faith, may withdraw Covered Rental Units from the residential rental market by demolition of the Unit(s).

(3) Fees. The County may establish fees for all costs incurred by the County in connection with enforcement of the regulations set forth in this Chapter related to Landlords' recovery of possession of Units or withdrawal of Units from the residential rental market. The fees shall be paid to the County prior to the Landlord's notice to a Tenant to recover possession or to withdraw the Unit from the residential rental market. Failure to pay the fees prior to service of the notice to the Tenants shall invalidate such notice.

(4) All No-Fault Just Cause terminations of Tenancy are eligible for relocation assistance as set forth in this Chapter.

[**.140 – Relocation Assistance For No-Fault Terminations.**

(a) For a Tenancy for which Just Cause is required to terminate the tenancy pursuant to this Chapter, if the Landlord of residential real property issues a termination notice based on a no-fault just cause described in this Chapter, the Landlord shall, regardless of the Tenant's income, do each of the following:

(1) Notify the Tenant of the Tenant's right to relocation assistance pursuant to this section.

(2) Assist the Tenant to relocate by providing direct payment to Tenant of an amount equal to three times the currently monthly United States Department of Housing and Urban Development (HUD) Fair Market Rent for a unit of comparable size and type to the Covered Rental Unit from which the Tenant is displaced as a result of the Just Cause termination, plus a payment not to exceed one thousand dollars

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(\$1,000) for actual moving costs and related expenses incurred by the Tenant household and substantiated by reasonably probative documentation. In addition, the Tenant household is entitled to a refund and/or accounting for any security deposit held by the property owner pursuant to California Civil Code Section 1950.5. For the purposes of this chapter, "HUD Fair Market Rent" means the amount specified in the schedule of Fair Market Rents for existing housing published by the U.S. Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, applicable to the County of San Mateo.

- (b) The Landlord's failure to strictly comply with this subdivision shall render the notice of termination void.
- (c) If a Tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance provided pursuant to this Section shall be recoverable by the Landlord as damages in an action to recover possession.
- (d) The relocation assistance required by this Section shall be credited against any other relocation assistance required by any other applicable law.
- (e) The County, in its sole discretion and subject to funding availability, may make any of the payments required of a Landlord under this Section. Such payments shall continue to be an obligation of the Landlord and shall be reimbursed by the Landlord to the County. The County may consider making such payments in its own discretion or if a Tenant makes a written request to the Department following a Landlord's failure to pay the required payments within sixty (60) days following the Tenant's vacation of the Covered Rental Unit. Prior to any County payment to a Tenant, the Director shall make a determination regarding the eligibility of the Tenant for relocation payments. The Department will make reasonable efforts to contact a representative of the Landlord prior to making the determination or authorizing the County's payment. However, failure to give prior notice to the Landlord shall not relieve the Landlord of any obligations under this Section.
- (f) When the County makes any relocation payments that are the responsibility of the Landlord under this Section, the County shall bill the Landlord for the amount of payment, plus any administrative and other direct and/or indirect costs that it would not have incurred but for the failure of the Landlord to make the required payment. The County Executive, in consultation with the County Attorney, shall have the discretion to reduce the amount of any required reimbursement from a Landlord to the County in cases where the factual and legal circumstances

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warrant such a reduction. The Landlord shall reimburse the County within five (5) days of receipt of billing from the County. If the Landlord does not make full and timely payment to the County, the County is entitled to recover an additional amount equal to the sum of one-half the amount paid by the County on the Landlord's behalf, but not to exceed ten thousand dollars (\$10,000.00), as a penalty for failure to make timely payment. The County may also record a lien on the subject property with the County Recorder and shall provide notice of such lien to the Landlord and to the County Assessor. The form of such lien and the manner of enforcement and collection shall be as authorized by state or local law. Alternatively, the County may include the unreimbursed amount in any other lien placed on the property by the County to secure payment of enforcement costs. Notwithstanding the above, the intent of this Section is to place primary responsibility for making relocation payments to displaced Tenants on those Landlords who evicted Tenants for no-fault reasons, and nothing in this section is intended to relieve or release any such Landlord from this responsibility.

[**.150 – Affirmative Defenses For No-Fault Eviction During School Year.**

- (a) It shall be a defense to no-fault Just Cause eviction pursuant to section [**.130(c)(2)** if all of the following conditions are met: (1) a child under the age of 18 or an educator resides in the Unit; (2) the child or educator is a Tenant in the Unit or has a custodial or family relationship with a Tenant in the Unit; (3) the Tenant has resided in the unit for 12-months or more; and (4) the effective date of the notice of termination of Tenancy falls during the school year.
- (b) This section shall not apply where the Landlord is seeking to temporarily evict or temporarily sever housing services in order to perform necessary repairs or work pursuant to applicable law.
- (c) A Tenant who claims to be a member of the class protected from eviction pursuant to this section shall, within 30 days of personal service by the Landlord of either a written request, or, at the Landlord's option, a notice of no-fault termination of Tenancy under **section [.130(c)(2)**, submit to the Landlord a written statement with reasonably probative documentation establishing the conditions required by section [**.150(a)** above.
 - 1. The Landlord's written request or notice shall contain a warning that a Tenant's failure to submit a written statement and reasonably probative documentation within the 30-day period shall be deemed an admission that the Tenant is not protected from eviction pursuant to this section.

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2. A Tenant's failure to submit a statement and reasonably probative documentation within the 30-day period shall be deemed an admission that the Tenant is not protected from eviction pursuant to this Section.
 3. No civil or criminal liability under this Chapter shall be imposed upon a Landlord for either requesting or challenging a Tenant's claim of protected status pursuant to this section.
- (d) For the purposes of this section [].150, the following terms have the following meanings:
1. "Custodial relationship" means, with respect to a child and a tenant, that the Tenant is a legal guardian of the child, or has a court-recognized caregiver authorization affidavit for the child, or has provided full-time custodial care of the child pursuant to an agreement with the child's legal guardian or court-recognized caregiver and has been providing that care for at least one year or half of the child's lifetime, whichever is less.
 2. "Educator" means any person who works at a school in the County of San Mateo as an employee or independent contractor of the school or of the governing body that has jurisdiction over the school, including, without limitation, all teachers, classroom aides, administrators, administrative staff, counselors, social workers, psychologists, school nurses, speech pathologists, custodians, security guards, cafeteria workers, community relations specialists, child welfare and attendance liaisons, and learning support consultants.
 3. "Family relationship" means that the person is the parent, grandparent, brother, sister, aunt, or uncle of the child or educator, or the spouse or domestic partner of such relations.
 4. "School", as used in this Chapter, means any state-licensed child-care center, state-licensed family day care, and/or any public, private, or parochial institution that provides educational instruction for students in any or all of the grades from kindergarten through twelfth grade.
 5. "School year" means the first day of instruction for the Fall Semester through the last day of instruction for the Spring Semester, as posted on the website of any School District or the website of any private or parochial School, operating within the County of San Mateo.

Prohibition On Considering Prospective Tenants' Criminal History.

[].170 – Purpose and Definitions.

- (a) The purpose of this section is to provide formerly arrested and/or incarcerated individuals with a fair opportunity to obtain rental housing in the County's unincorporated areas.
- (b) This Section shall only apply to Covered Rental Units.
- (c) Definitions. The following definitions shall govern the interpretation and application of this section:

"Adverse Action" shall mean to evict from, fail or refuse to rent or lease Covered Rental Unitsto an individual, or fail or refuse to continue to rent or lease real property to an individual, or fail or refuse to add a household member to an existing lease, or to reduce any tenant subsidy. The "Adverse Action" must relate to real property located in the unincorporated area of San Mateo County.

"Applicant" means any person considered for, who requests to be considered for, or who intends to request to be considered for tenancy within a Covered Rental Unit.

"Arrest" shall mean a record from any jurisdiction that does not result in a conviction and includes information indicating that a person has been questioned apprehended taken into custody or detained, or held for investigation, by a law enforcement, police, or prosecutorial agency and/or charged with, indicted, or tried and acquitted for any felony, misdemeanor or other criminal offense.

"Background Check Report" shall mean any criminal history report, including but not limited to those produced by the California Department of Justice, the Federal Bureau of Investigation, other law enforcement or police agencies, or courts, or by any consumer reporting agency or business, employment screening agency or business, or tenant screening agency or business.

"Conditional Offer" means an offer to rent or lease a Covered Rental Unit to an Applicant that is:

- (A) Contingent on the Housing Provider's subsequent inquiry into the Applicant's criminal record; or
- (B) Contingent on any other eligibility criteria that the Housing Provider may utilize.

"Conviction" shall mean a record from any jurisdiction that includes information indicating that a person has been convicted of a felony or misdemeanor; provided that

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the conviction is one for which the person has been placed on probation, fined, imprisoned, or paroled.

"Housing Provider" shall mean an entity that owns, master leases, or develops Covered Rental Units in the unincorporated area of the County. "Housing Provider" also includes owners and developers of below market rate housing in the unincorporated area of the County. Any agent, such as a property management company, that makes tenancy decisions on behalf of the above-described entities shall also be considered a Housing Provider.

"Inquire" shall mean any direct or indirect conduct intended to gather information from or about an applicant, candidate, potential applicant or candidate, or employee, using any mode of communication, including but not limited to application forms, interviews, and background check reports.

"Pending Criminal Accusation" shall mean an existing accusation that an individual has committed a crime, lodged by a law enforcement agency through an indictment, information, complaint, or other formal charge.

"Covered Rental Unit" shall have the same meaning as provided in [.100.

[.190 – Inquires into Certain Arrests, Accusations, and Convictions.

(a) A Housing Provider may not make an inquiry about or consider a previous Arrest of the Applicant if the Arrest did not result in a Conviction.

(b) When considering to rent or lease a Covered Unit to an Applicant, a Housing Provider may make either an offer or a Conditional Offer.

(1) Before making a Conditional Offer, a Housing Provider may not make an inquiry about or require an Applicant to disclose or reveal a Pending Criminal Accusation or Criminal Conviction.

(2) Notwithstanding paragraph (1) of this subsection, a Housing Provider may have an Applicant complete and sign all required documentation authorizing the Housing Provider to perform an inquiry or any other check related to the eligibility criteria the Housing Provider may use in deciding whether to rent or lease to an Applicant.

(c) (1) Before accepting an application fee, a Housing Provider must disclose, in writing, to the Applicant:

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- (A) The eligibility criteria, including the financial, employment, criminal, and rental history criteria, used in deciding whether to rent or lease to the applicant; and
 - (B) A statement that the Applicant may provide evidence demonstrating inaccuracies within the Applicant's criminal record or evidence of rehabilitation or other mitigating factors.
- (d) After making a Conditional Offer, a Housing Provider may only consider a Pending Criminal Accusation or Criminal Conviction that has occurred within the past 7 years when the Pending Criminal Accusation or Criminal Conviction is for one or more of the following crimes:
- (1) Felonies identified in [subdivision \(c\) of Section 1192.7](#) of, or [subdivision \(c\) of Section 667.5 of, the California Penal Code](#).
 - (2) Making, drawing, or uttering check, draft, or order with intent to defraud under section 476 of the California Penal Code;
 - (3) Attempt to commit a crime, if the attempt is to commit a crime listed in this subsection;
 - (4) Conspiracy to commit a crime, if the conspiracy is to commit a crime listed in this subsection;
 - (5) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, [Sections 181, 210.5, 236, 236.1,](#) and [4503 of the California Penal Code](#);
 - (6) Sexual abuse as specified in, but not limited to, Section 243.4 of the California Penal Code;
 - (7) Theft under section 484 *et. seq.* of the California Penal Code;
 - (8) Insurance fraud under section 550 of the California Penal Code;
 - (9) Forgery under section 470 of the California Penal Code;
- (e) (1) A Housing Provider may withdraw a Conditional Offer based on an Applicant's Pending Criminal Accusation or a Criminal Conviction that has

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occurred within the past 7 years under subsection (d) of this section only if the Housing Provider determines, on balance, that the withdrawal achieves a substantial, legitimate, nondiscriminatory interest.

(2) The Housing Provider's determination of such an interest must be reasonable in light of the following factors:

- (A) The nature and severity of the criminal offense or alleged criminal offense, in the case of a Pending Criminal Accusation;
- (B) The age of the Applicant at the time of the occurrence of the criminal offense or alleged criminal offense, in the case of a Pending Criminal Accusation;
- (C) The time which has elapsed since the occurrence of the criminal offense or alleged criminal offense, in the case of a Pending Criminal Accusation;
- (D) Any information produced by the Applicant, or produced on the Applicant's behalf, in regard to the Applicant's rehabilitation and good conduct since the occurrence of the criminal offense or alleged criminal offense, in the case of a Pending Criminal Accusation;
- (E) The degree to which the criminal offense or alleged criminal offense, in the case of a Pending Criminal Accusation, if it reoccurred, would negatively impact the safety of the Housing Provider's other tenants or property; and
- (F) Whether the criminal offense or alleged criminal offense, in the case of a Pending Criminal Accusation occurred on or was connected to property that was rented or leased by the Applicant.

(f) (1) If a Housing Provider withdraws a Conditional Offer, the Housing Provider shall provide the Applicant with written notification that includes, with specificity, the reason or reasons for the withdrawal of the Conditional Offer.

(2)(A) The Applicant may request, within twenty (20) days after the Housing Provider's notice of the withdrawal, that the Housing Provider afford the Applicant a copy of all information that the Housing Provider relied upon in considering whether to rent a Covered Rental Unit to the Applicant, including criminal records.

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(B) A Housing Provider shall provide the information requested under subparagraph (A) of this paragraph, free of charge, within ten (10) days after receipt of a timely request.

(g) Nothing in this section shall be construed to allow a Housing Provider to make an inquiry about or require an Applicant to disclose or reveal a Pending Criminal Accusation or Criminal Conviction, or an adjudication of delinquency, of an individual under 18 years of age who will reside in the Covered Rental Unit.

[].200 – Retaliation Prohibited.

In addition to section [], the following provisions regarding retaliation shall apply:

- (a) It shall be unlawful for a Housing Provider, or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under Section [].190.
- (b) It shall be unlawful for a Housing Provider to interrupt, terminate, or fail or refuse to initiate or conduct a transaction involving the rental or lease of a Covered Unit, including falsely representing that a Covered Unit is not available for rental or lease, or otherwise take Adverse Action against an Applicant in retaliation for exercising rights protected under Section [].190. Such rights include, but are not limited to:
 - (1) the right to file a complaint or inform any person about any Housing Provider's alleged violation of Section [].190;
 - (2) the right to inform any person about a Housing Provider's alleged violation of Section [].190;
 - (3) the right to cooperate with the County or other persons in the investigation or enforcement of any alleged violation of Section [].190;
 - (4) the right to oppose any policy, practice, or act that is unlawful under Section [].190; or
 - (5) the right to inform any person of his or her rights under Section [].190.
- (c) The anti-retaliation protections in this Section [].200 shall apply to any person who mistakenly but in good faith alleges violations of Section [].190.

- (d) Taking Adverse Action against a person within 90 days of the exercise of one or more of the rights described in this Section [].200 shall give rise to a rebuttable presumption that such Adverse Action was taken in retaliation for the exercise of those rights.

[].210 – Recordkeeping and Confidentiality.

Housing Providers shall maintain any written record of any Criminal History obtained for any Applicant for Housing for a period of three (3) years. To the maximum extent permitted by law, and information obtained regarding an Applicant's Criminal History shall be kept confidential. Nothing herein shall prohibit a Housing Provider from complying with a request by the County to provide records for purposes of enforcing the requirements of this chapter.

Remedies and Enforcement

[].220 – Remedies.

(a). Civil Action. Any aggrieved person, or the County, may enforce the provisions of this Chapter by means of a civil action. The burden of proof in such cases shall be preponderance of the evidence. Any person who violates the provisions of this Chapter shall be liable to each party injured by such violation for actual damages sustained by such person, costs and reasonable attorney's fees as determined by the court. A Landlord who violates any provisions of this Chapter and causes damages to a Tenant or a member of the Tenant's household who, at the time of such violation, is sixty-two (62) years of age or older or over, or pregnant or disabled as verified by a medical provider, shall be liable to such person for treble damages. In addition, the court may award punitive damages in a proper case as defined by Civil Code section 3294.

(b). Defense to Action to Recover Possession. Failure of a Landlord to comply with any of the provisions of this Chapter shall provide the Tenant with an affirmative defense in any legal action brought by the Landlord to recover possession of the Dwelling Unit (i.e., an unlawful detainer action).

(c). Defense to Action to Collect Rent. Failure of a Landlord to comply with any of the provisions of this Chapter shall provide the Tenant with an affirmative defense or counterclaim, if available, in any legal action brought by the Landlord to collect rent.

(d). Injunctive Relief. Any person who commits, or proposes to commit, an act, or engages in any pattern and practice in violation of this Chapter may be enjoined therefrom by any court of competent jurisdiction. Any action for injunctive relief under this Chapter may be brought by the County, by any aggrieved person, by other law enforcement agencies, by the district attorney or

by any person or entity which will fairly and adequately represent the interests of a protected class under state or federal law. An aggrieved Tenant may seek injunctive relief on his or her own behalf to enjoin the landlord's violation of this Chapter.

(f). Remedies are Nonexclusive. Remedies provided in this section are in addition to any other existing legal remedies and are not intended to be exclusive of each other or any other existing legal remedies.

[].230 – Severability

If any provision of this Chapter or the application of such provision to any person or entity or in any circumstances shall be held invalid, the remainder of this Chapter, or the application of such provision to person or entity or in circumstances other than those as to which it is held invalid, shall not be affected thereby.

SOURCES

1. []