

**ORDINANCE NO. 1556**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS  
APPROVING JUST CAUSE EVICTION PROTECTIONS EFFECTIVE IMMEDIATELY  
UNTIL DECEMBER 31, 2019.**

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**WHEREAS**, the “Tenant Protection Act of 2019” (Assembly Bill (“AB”) 1482) was approved by the California Legislature on September 11, 2019 and signed into law by the Governor on October 8, 2019; and

**WHEREAS**, effective January 1, 2020 the Tenant Protection Act of 2019 codified as California Civil Code sections 1946.2 (Just Cause Eviction) and 1947.12 (Rent Caps) will provide eviction protections and limits on rent increases in the State of California; and

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

**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 housing, particularly affordable housing, within the city of San Carlos and the San Francisco Bay Area region generally; and

**WHEREAS**, the City Council has received several complaints regarding two tenants being evicted without just cause as defined in AB 1482; and

**WHEREAS**, as AB 1482 does not go into effect until January 1, 2020, landlords could seek to evict tenants without just cause that would not otherwise be possible after the effective date; 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**, Government Code section 36937(b) authorizes the adoption of an urgency ordinance to protect the public peace, health or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by four-fifths of the Council; and

**WHEREAS**, this urgency ordinance would essentially establish the rental protections that will go into effect on January 1, 2020 under AB 1482 immediately within the City of San Carlos to prohibit an owner of residential property (with specific exceptions) from terminating a tenancy without just cause; and

**WHEREAS**, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the avoidable displacement of the City's residents and community members.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN CARLOS DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Incorporation of Recitals.** The City Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

**SECTION 2. Findings.** The City Council hereby finds, determines and declares that this urgency ordinance adopted pursuant to California Government Code section 36937 is necessary because:

A. Housing, particularly affordable housing, is difficult to procure in the San Francisco Bay Area and in San Carlos. The rental increases and evictions without just cause occurring in advance of the effectiveness of AB 1482 destabilize the housing market and can result in the loss of affordable housing.

B. For the immediate preservation of the public peace, health, and safety, the City Council finds that it is necessary to adopt an ordinance regulating rental rate increase and just cause evictions, for all of the reasons set forth in the recitals above, which are hereby incorporated by reference.

C. There is a current and immediate threat to the 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 tenant displacement prior to the effective date of the law, thereby necessitating the immediate enactment of this urgency ordinance to ensure that tenants are not turned out of their homes without just cause.

**SECTION 3. Urgent Need.** Based on the foregoing recitals and findings, all of which are deemed true and correct, this ordinance is urgently needed for the immediate preservation of the public peace, health, and safety. This urgency ordinance shall take effect immediately upon adoption in accordance with the provisions set forth in Government Code section 36937.

**SECTION 4. Just Cause Eviction Protections.** The City Council of the City of San Carlos hereby adopts the Just Cause Eviction Protections provided in Exhibit A, attached hereto and incorporated by reference.

**SECTION 5. Enforcement.** An owner's failure to comply with any requirement of this ordinance, is a complete affirmative defense in an unlawful detainer or other action brought by the owner to recover possession of the rental unit. A tenant may bring a civil suit in the courts of the state alleging that an owner has violated any of the provisions of this ordinance.

**SECTION 6. Effectiveness of Ordinance.** This urgency ordinance shall remain in effect until December 31, 2019. On January 1, 2020, this ordinance shall be repealed and shall be of no further force and effect.

**SECTION 7. Compliance with CEQA.** The City Council finds that the adoption and implementation of this urgency ordinance are exempt from the provisions of the California

Environmental Quality Act ("CEQA") under CEQA Guidelines 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. The ordinance would apply residential tenant protection measures to existing residential units in San Carlos, which is solely an administrative process resulting in no physical changes to the environment.

**SECTION 8. Severability.** The City Council hereby declares every section, paragraph, sentence, cause and phrase of this ordinance is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

**SECTION 9. Publication.** The City Clerk is directed to cause this ordinance to be published in the manner required by law.

**THE FOREGOING URGENCY ORDINANCE** was introduced and adopted by the required 4/5<sup>th</sup> vote, effective immediately, at a regular meeting of the City Council of the City of San Carlos held on November 12, 2019, by the following vote:

<b>AYES, COUNCILMEMBERS:</b>	<u>COLLINS, MCDOWELL, PARMER-LOHAN, RAK, OLBERT</u>
<b>NOES, COUNCILMEMBERS:</b>	<u>NONE</u>
<b>ABSENT, COUNCILMEMBERS:</b>	<u>NONE</u>
<b>ABSTAIN, COUNCILMEMBERS:</b>	<u>NONE</u>

  
CITY CLERK of the City of San Carlos

APPROVED:



MAYOR of the City of San Carlos

Exhibit A: Just Cause Eviction Protections

## Exhibit A

### **JUST CAUSE EVICTION PROTECTIONS**

These just cause eviction protections of the urgency ordinance shall be known as the “Just Cause Eviction Protections.”

(a) 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 section shall only apply if either of the following are satisfied:

(1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.

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

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

(1) At-fault just cause, which is any of the following:

(A) Default in the payment of rent.

(B) A breach of a material term of the lease, as described in paragraph (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.

(C) 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.

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

(E) The tenant had a written lease that terminated on or after October 29, 2019, 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.

(F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.

(G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(H) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the Civil Code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.

(I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(J) 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.

(K) 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 Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.

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

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

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

(C) (i) The owner complying with any of the following:

(I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(II) An order issued by a government agency or court to vacate the residential real property.

(III) A local ordinance that necessitates vacating the residential real property.

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

(ii) 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.

(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (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.

(d)(1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph (2) of subdivision (b), the owner shall, regardless of the tenant's income, waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) 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.

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

(e) This section shall not apply to the following types of residential real properties or residential circumstances:

(1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the 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 kindergarten and grades 1 to 12, inclusive, school.

(4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

(5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two 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) Housing that has been issued a certificate of occupancy within the previous 15 years.

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

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the 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.

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

(g) For the purposes of this Chapter, the following definitions shall apply:

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

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

(h) The provisions of this section shall apply to all residential rental units not specified as exempt from its requirements, where a notice to vacate or quit any such rental unit has been served from October 8, 2019 to December 31, 2019.