



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY REVISED

Sandra Rivera
Agency Director

Agenda Item _____ February 27, 2024

February 13, 2024

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Room 110
Hayward, California
94544-1215

Honorable Board of Supervisors
Administration Building
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Oakland, California 94612

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Dear Board Members:

www.acgov.org/cda

SUBJECT: FIRST READING OF UNINCORPORATED COUNTY JUST CAUSE FOR EVICTION ORDINANCE AND INCORPORATING BY REFERENCES PORTIONS OF CIVIL CODE SECTION 1946.2

RECOMMENDATION:

Adopt and approve a Just Cause for Eviction Ordinance for the Unincorporated Areas of Alameda County and incorporating by reference portions of Civil Code Section 1946.2.

BACKGROUND:

On February 6, 2024, (Item No. 46.2) your Board received an informational report on the Unincorporated County Just Cause for Eviction ordinance as well as the Unincorporated County Rental Housing Dispute Resolution ordinance. Before your Board today is the first reading of the Just Cause for Eviction Ordinance for the unincorporated areas of Alameda County. If passed today, when the item returns for a second reading following publication of notice for two consecutive weeks, a public hearing will be required prior to the incorporation by reference of provisions of state law.

As background, in 2018, your Board directed the Community Development Agency's (CDA's) Housing and Community Development Department (HCD) to investigate tenant protections in the Unincorporated area of Alameda County.

After hearings in 2021 and 2022 at the unincorporated Municipal Advisory Councils, and various Board Committees, on December 20, 2022 (Item No. 50), your Board approved a first reading of the Just Cause ordinance, among other tenant protection ordinances. At the ordinance's second reading on February 28, 2023 (Item No. 92), the motion to adopt the ordinance failed to receive sufficient votes, and your Board directed staff to return to the Unincorporated Services Committee for further discussion to determine if a consensus could be found between rental housing providers and tenants in the Unincorporated County

On June 28, 2023 (Item No. 1), the Unincorporated Services Committee determined that President Miley would spearhead stakeholder meetings regarding the Just Cause ordinance and return to your Board with revised versions of the ordinances. In response to expressed community support, President Miley facilitated discussions between parties in the fall regarding both a Just Cause ordinance and a mandatory mediation program in the form of a Rental Housing Dispute Resolution ordinance, also before your Board today.

In November and December of 2023, President Miley hosted two facilitated stakeholder meetings with representatives from rental housing providers and tenants. These meetings led to the development of the proposed Just Cause and Rental Housing Dispute Resolution ordinances for your Board's consideration at your February 6, 2024 meeting.

Just Cause

Just Cause for Eviction (Just Cause) ordinances provide a protective legal framework to govern when and how a landlord can evict a tenant. Historically, in jurisdictions with Just Cause ordinances, a tenant cannot be evicted unless a landlord can show one of the enumerated "just causes."

In 2019, the State of California passed AB 1482 (The Tenant Protection Act of 2019). This state law capped the amount that can be charged for annual rent increases annually and extended certain just cause evictions statewide by requiring "just cause" for termination of the lease for tenants who live in some properties, not all.

The proposed just cause ordinance (Exhibit A) adopts by reference the general just cause provisions in California Civil Code section 1946.2, as amended, while including several local provisions that are more protective than AB 1482. The State law does not include:

- protections for tenants who have lived in the unit for less than a year.
- relocation assistance of more than 1 month rent for no-fault evictions.
- and right of return to the unit in narrow circumstances.

The current version of the ordinance provides for these protections, makes the ordinance more protective than State law, and therefore allows for the adoption of a local ordinance to consistent with but more protective than AB 1482:

1. The proposed ordinance includes protections for tenants after they have occupied a rental unit for six months or at least one tenant has continuously and lawfully occupied a unit for twelve months. State law requires occupancy for 12 and 24 months, respectively.
2. The proposed ordinance includes relocation assistance for each tenant household subject to a no-fault eviction equal to 3 months of the current rent amount or three months of Fair Market Rent, whichever is higher. Households, which include a child under 18 years, an elderly tenant, a tenant who is disabled, or a low-income tenant, will also receive an additional month of relocation assistance payments. State law requires only one month of relocation assistance and does not provide additional assistance for these at-risk groups.

3. Tenants displaced due to no-fault eviction for owner move-in or substantial remodel will have the first right of refusal to return to the unit if the unit should be returned to the rental market within five years. For substantial remodels, the landlord must offer the tenant the opportunity to return to the unit with a rental agreement containing similar terms as the original agreement, subject to an increase in rent if needed to afford the owner a reasonable rate of return. The right of return under state law is narrow and applies only when the intended occupant fails to move into the rental unit within 90 days after the tenant vacates and does not occupy the unit as a primary residence for 12 consecutive months.

FINANCING:

There is no Net County Cost as a result of this action.

VISION 2026 GOAL:

The approval of this ordinance meets the 10X goal pathway of **Eliminate Homelessness** in support of our shared visions of **Safe and Livable Communities** and **Thriving and Resilient Populations**.

Very truly yours,

DocuSigned by:

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Sandra Rivera, Director
Community Development Agency

cc: Susan S. Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Melissa Wilk, Auditor-Controller
Peilin Chen, County Administrator's Office
Andrea L. Weddle, Office of the County Counsel
Caitlyn M. Gulyas, Office of the County Counsel
Lucy Romo, Community Development Agency

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 3.70 TO THE ALAMEDA COUNTY ORDINANCE CODE REGARDING JUST CAUSE FOR EVICTIONS IN THE UNINCORPORATED AREAS OF ALAMEDA COUNTY AND INCORPORATING BY REFERENCE CALIFORNIA CIVIL CODE SECTION 1946.2, EXCLUDING SUBDIVISIONS (G) OR (K) THEREOF, AS AMENDED, AND ESTABLISHING PENALTIES FOR VIOLATIONS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this ordinance:

- A. There is a shortage of decent, safe, affordable, and sanitary housing in the unincorporated areas of Alameda County.
- B. The prolonged affordable housing crisis in the unincorporated areas of Alameda County impacts low income and working-class households, senior citizens, people of color, immigrants, and people with disabilities, and thereby has a disproportionate impact on certain classes of people, and evictions without cause increases homelessness, crime, and harms neighborhood stability and cohesion.
- C. Residential tenants, who constitute over 50% of the residents of unincorporated areas of Alameda County, often suffer great and serious hardship when forced to move from their homes.
- D. Given the increased housing cost burden faced by many residents of the unincorporated areas of Alameda County, excessive rent increases threaten the public health, safety, and welfare of over 10,000 households, including seniors, people with disabilities, 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.
- E. According to the 2019 American Community Survey, 50% of tenant households are "rent-burdened households," meaning the household pays 30% or more of its income on housing costs and 27% of tenant household are "extremely rent-burdened households," meaning the household pays 50% or more of its income on housing costs.
- F. Given these concerns, including the current and immediate threat to the health, safety, and welfare of tenants residing in the unincorporated areas of Alameda County and the adverse impacts that would result from a substantial decrease of affordable housing within the unincorporated areas of Alameda County, the Board of Supervisors determines that it is in the interest of preserving the public health, safety and general welfare to enact this ordinance adopting more protective just cause eviction protections.
- G. California adopted AB 1482 enacting the Tenant Protection Act of 2019, effective January 2, 2020, and amended by SB 1371 (2021), AB 3088 (2021), AB 978 (2022), and SB 567 (2023). The Tenant Protection Act provided statewide just cause tenant protections and relocation assistance to many tenants in the state.
- H. The Tenant Protection Act, in California Civil Code Section 1946.2(g)(1)(B), authorizes a

local ordinance requiring just cause for termination of a residential tenancy to supplant the provisions of the statute if the local ordinance is “more protective.” To qualify as “more protective” the local ordinance must be consistent with Section 1946.2; it must further limit the reasons for termination, provide for higher relocation assistance amounts, or provide additional tenant protections not prohibited by other provision of law; and the local government must make a binding finding within the local ordinance that it is more protective.

I. This ordinance incorporates by reference those provisions of the Tenant Protection Act requiring just cause for eviction (Civil Code section 1946.2), with the exception of “more protective” local provisions including, for example, reduced tenancy eligibility from 12 to 6 months; increased mandatory relocation assistance for No-Fault Evictions, seniors, and disabled persons; heightened notice requirements for At-Fault Evictions; and expanded Tenants’ right of return following substantial remodel, and enhanced protections for families.

J. Other sections of the Tenant Protection Act place statewide limits on rental rate increases (Civil Code section 1947.22). Those sections are not affected or adopted by this ordinance.

K. It is the express intent of this Board that the adoption in this ordinance by reference of the Tenant Protection Act is to include both the Act as it now exists and as subsequently modified or amended (*Palermo v. Stockton Theaters, Inc.* (1948) 32 Cal. 2d 53; 70 Ops. Cal. Atty. Gen. 49, 53 (1987)).

SECTION II

Chapter 3.70 is hereby added to the Alameda County Ordinance Code and reads as follows:

Chapter 3.70 – JUST CAUSE EVICTION

3.70.010 Purpose, Incorporation of State Law, and Statutory Findings

- A. The purpose of this Chapter is to promote neighborhood and community stability, healthy housing, and affordability for tenants in the unincorporated areas of Alameda County by controlling arbitrary evictions, while providing landlords a fair and reasonable return on their investment.
- B. The Board of Supervisors hereby incorporates into this Chapter 3.70 by reference California Civil Code section 1946.2, as amended, as the County of Alameda Tenant Protection Act, excluding only subdivisions (g)(regarding local ordinance preemption) and (k)(sunset of current statute), as it now exists and as subsequently modified or amended, but with the additional local changes contained in this Chapter 3.70.
- C. The Board of Supervisors finds that: (i) the just cause for termination of a residential tenancy under this Chapter is consistent with Civil Code section 1946.2; (ii) this Chapter provides for greater tenant protections by reducing the tenancy eligibility from 12 to 6 months for a tenant and from 24 to 12 months for additional adult tenants, greater relocation assistance of three months for each Tenant Household and one additional month if a Tenant in the Tenant Household is under age 18, disabled, elderly or of lower income, expanded right of return to five years, increased protections for additional family occupants and the elderly, heightened notice requirements for At-Fault Evictions, and other additional tenant protections not prohibited by other provision of law; and (iii) this Chapter is more protective than the provisions

of Civil Code section 1946.2.

3.70.020 Director Authority to Establish Procedures, Implement and Enforce Program

Except as otherwise provided herein, the provisions of this Chapter shall be administered and enforced by the Director of the Housing and Community Development Department of the Community Development Agency or the Director's designee. The Director may adopt such rules, regulations, procedures, and forms as may be required to implement this Chapter.

3.70.030 Definitions

Unless the particular provision or the context otherwise requires, the following definitions shall govern the interpretation and application of this Chapter:

- A. "At-Fault Eviction" means evictions brought under Civil Code section 1946.2(b)(1), as amended.
- B. "Elderly Tenant" means a tenant who is 62 years of age or older.
- C. "Housing Department" means the Housing and Community Development Department of the County of Alameda.
- D. "Housing Director" means the director of the Housing Department or the director's designated representative, acting either directly or through their assigned deputies and employees.
- E. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Rental Unit, and the agent, representative, or successor of any of the foregoing.
- F. "No-Fault Eviction" means evictions brought under Civil Code section 1946.2(b)(2), as amended.
- G. "Reasonable Time to Cure" means not less than fourteen (14) calendar days after receipt of Warning Notice.
- H. "Rental Unit" means any unit in any real property (regardless of zoning status), including the land appurtenant thereto and spaces for mobile home dwelling units, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing-related services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant, including parking facilities.
- I. "Tenant" means a residential tenant, subtenant, lessee, sublessee, or other person entitled by written or oral rental agreement, or by sufferance, to the use or occupancy of a Rental Unit.
- J. "Tenant Household" means one or more Tenants who occupy an individual Rental Unit, including each dependent of a Tenant whose primary residence is the Rental Unit.

- K. "Termination Notice" shall have the meaning provided in Section 3.70.080.
- L. "Warning Notice" means the notice for an At-Fault Eviction described in Section 3.70.060. A Warning Notice must be delivered in writing to the Rental Unit. The notice shall include sufficient details allowing a reasonable person to comply with the notice. The notice shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice.

3.70.040 Applicability and Exemptions

- A. Applicability. The provisions of this Chapter shall apply to (1) all eligible Tenants who have rented a subject Rental Unit in the unincorporated area of Alameda County that is subject to this Chapter, and (2) to all Rental Units, in whole or in part, located in the unincorporated area of Alameda County, subject to the exemptions in paragraph B below.
- B. Exemptions. This Chapter shall not apply to the types of residential real properties and residential circumstances enumerated in Civil Code section 1946.2(e), as amended.
- C. This Chapter shall not apply to an unlawful detainer action solely for nonpayment of rent originally due from March 1, 2020 through June 30, 2022, to the extent prohibited by California Code of Civil Procedure Section 1179.05 or any successor statute.
- D. If a Landlord claims the Rental Unit is exempt from this Chapter based upon the provisions in this Section, the Landlord must list the applicable exemption in the Termination Notice.

3.70.050 Just Cause Protections

- A. After all tenants have continuously and lawfully occupied a Rental Unit for six (6) months or if any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied a Rental Unit for six (6) months, then if at least one (1) tenant has continuously and lawfully occupied a Rental Unit for twelve (12) months, ~~and as otherwise provided for in Civil Code section 1946.2(a) as amended,~~ a Landlord may not terminate the tenancy without just cause or take any action to terminate any tenancy, including 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, including by seeking the entry of an eviction judgment or by causing or permitting a writ of possession to be entered, unless the Landlord can demonstrate:
 - 1. That the Landlord served a Termination Notice to the Tenant and delivered a copy of the Termination Notice to the Housing and Community Development Department in accordance with Section 3.70.080; and
 - 2. That the termination qualifies as a just cause termination, whether At-Fault or No-Fault, in compliance with Civil Code section 1946.2(b), as amended, and this Chapter 3.70.
- B. In any action to recover possession of a Rental Unit pursuant to this Chapter, a Landlord must allege and prove that the Landlord seeks to recover possession of the unit with good faith.

3.70.060 Just Causes For Termination

- A. The only just causes for eviction pursuant to Section 3.70.050 shall be those enumerated in Civil Code section 1946.2(b), as amended.
- B. A landlord may only serve a Termination Notice for At-Fault Evictions if the Landlord has provided the Tenant a written Warning Notice and after fourteen days from services of the Warning Notice the Tenant fails to comply with the terms of the Warning Notice. The Warning Notice must contain sufficient details to allow a reasonable person to comply with the notice, include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice, and inform the Tenant that a failure to comply within fourteen days may result in the initiation of eviction proceedings. This Section shall not apply if a longer notice and cure period applies (for example, under the terms of the lease agreement between the parties); or if the Landlord is seeking to recover possession based on the Tenant causing or creating an imminent risk of physical harm to persons or property; or if the Landlord is seeking to recover possession based on the non-payment of rent.

3.70.070 Relocation Assistance Payments

- A. Each Tenant Household who receives a Termination Notice for a No-Fault Eviction, in addition to all rights under any other provision of law, shall be entitled to receive relocation assistance from the Landlord, in the amounts specified in paragraph C of this Section 3.70.070.
- B. A Landlord who pays relocation assistance, as required by this Section, in conjunction with a Termination Notice, is not obligated to pay subsequent relocation expenses for the same No-Fault Eviction under Section 3.70.060 for the same Rental Unit within 180 days of the notice that included the required relocation payment. The relocation assistance required by this Section 3.70.070 is separate from any security or other refundable deposits as defined in California Civil Code Section 1950.5. Further, payment or acceptance of relocation assistance shall not operate as a waiver of any rights a Tenant may have under law.
- C. A Landlord shall pay relocation assistance as follows:
 - 1. Each Tenant Household receiving a No-Fault Eviction Notice shall receive a sum equal to the value of three (3) months of the current rent amount, or three (3) months of Fair Market Rent for the size of the Rental Unit as established by the U.S. Department of Housing and Urban Development for the Oakland Fremont Alameda County Statistical Area, whichever is higher. The Landlord may elect to Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due, in lieu of a credit against the relocation assistance owed equal to one (1) month current value of rent. The remaining relocation assistance sum must be paid in accordance with Civil Code section 1946.2(d), as amended. In no case, however, shall the Landlord be obligated to provide more than twenty-eight thousand dollars (\$28,000) for each Tenant Household, unless this sum is less than one (1) month of current rent, in relocation assistance to all Tenants and members of the Tenant Household in the same Rental Unit under this paragraph C.1 and under paragraph C.2 below.
 - 2. In addition to the relocation assistance payment required by paragraph C.1, each

Tenant Household with at least one (1) Tenant and one (1) or more children under the age of eighteen (18) years, person who is disabled, Elderly Tenant, or person who is lower income, as defined by Health and Safety Code section 50079.5, shall be entitled to receive one (1) an additional relocation assistance payment of one month of the current rent, half of which shall be paid within fifteen (15) calendar days of the Landlord's receipt of written notice from the Tenant of entitlement to the additional relocation assistance payment along with supporting evidence of each claimed entitlement. Within thirty (30) days after notification to the Landlord of a claim of entitlement to additional relocation assistance payments because of disability (as defined by Government Code section 12926), age, lower income status or having minor children in the household, the Landlord shall give a Warning Notice to the Tenant of the claim for additional relocation assistance payments indicating whether or not the Landlord disputes the claim. Either party may initiate a legal action to resolve the dispute.

3.70.080 Notice Terminating Tenancy

- A. A Termination Notice means the notice informing a Tenant Household of the termination of its tenancy in accordance with this Section and California Civil Code Section 1946.1 (term not specified) or California Code of Civil Procedure Section 1161 (unlawful detainer).
- B. Termination Notices provided to Tenants must contain the following:
 - 1. The reason for the termination of tenancy in accordance with Section 3.70.060; and
 - 2. If the notice is for a No-Fault Eviction, an explanation of the right to and amount of relocation assistance payments pursuant to Section 3.70.070; and
 - 3. If the notice is for a No-Fault Eviction under Civil Code section 1946.2(b)(2)(D)(intent to substantially remodel), this statement:

“When the needed repairs are completed on your unit, the Landlord must offer you the opportunity to return to your unit with a rental agreement containing similar terms as your original agreement, subject to an increase in rent if needed to afford the owner a reasonable rate of return”,

and a description of the right of first refusal, a description of all repairs to be performed, and an estimate of the time required to complete the repairs and the date upon which it is expected that the Rental Unit will be ready for habitation; and
 - 4. If the Termination Notice is for an At-Fault Eviction, the notice must state specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reason for the eviction. All Warning Notices required for an At-Fault Eviction in Section 3.70.060, shall be attached to any corresponding Termination Notice.
- C. A copy of the Termination Notice issued to a Tenant shall be filed by the Landlord with the Housing Director within three (3) days after the service of the Termination Notice on the Tenant.

3.70.085 Rules, Regulations, Procedures and Forms

The Housing Director shall adopt reasonable rules, regulations, and forms as necessary to implement the procedures required in this Chapter.

3.70.090 Rental Units Withdrawn from the Rental Market

The Ellis Act (Government Code sections 7060, *et seq.*) governs a Landlords withdrawal of Rental Units from the rental market. This Chapter shall be interpreted and applied in a manner that does not conflict or interfere with the Ellis Act.

3.70.100 Additional Protections

- A. *Right of Return and First Right of Refusal.* All Tenants displaced based on termination of tenancy for a No-Fault Eviction under Civil Code section 1946.2(b)(2)(A) (owner move in) or Civil Code section 1946.2(b)(2)(D) (substantial remodel) shall have the first right of refusal to return to the unit if the Rental Unit should be returned to the rental market by the Landlord or a successor Landlord within five (5) years of displacement of the Tenant. All notices of termination of tenancy served under Civil Code section 1946.2(b)(2)(A) or Civil Code section 1946.2(b)(2)(D) shall state the current rent in effect at the time of termination of tenancy.
- B. *Protections for Families.* Notwithstanding any contrary provision in this Section, a Landlord shall not be permitted to recover possession of a Rental Unit as a result of the addition to the Rental Unit of a Tenant's child, parent, grandchild, grandparent, sibling, or spouse or domestic partner (as defined in California Family Code section 297) of such relatives, so long as the number of occupants does not exceed the maximum number of permitted occupants determined by applicable County building, housing or fire codes.
- C. *Retaliation Barred.* It shall be an affirmative defense to an action to recover possession of the Rental Unit that the eviction is knowingly or intentionally in retaliation for the Tenant reporting violations of this Chapter or other law, for exercising rights granted under this Chapter or other law, or for forming or participating in a Tenant organization.
 - 1. *Retaliatory Eviction.* It shall be unlawful for a Landlord to recover possession of a Rental Unit in retaliation of a Tenant exercising the Tenant's right to file a complaint with the County advising that a building, housing, nuisance Code or ordinance violation, or permit violation may exist on the property.
 - 2. *Rent Increase or other Retaliatory Actions.* The Landlord shall not engage in retaliatory conduct, such as improperly depriving the Tenant of use of the premises, decreasing services, or increasing the rent, or otherwise improperly interfering with the Tenants' rights under the lease agreement.
- D. *Protections for the Elderly.* A Landlord shall not refuse to rent or lease or otherwise deny to or withhold from any person any Rental Unit because the age of a prospective Elderly Tenant would result in the Tenant acquiring rights under this Chapter.

3.70.110 Fees

The Board of Supervisors may establish a fee for services under this Chapter for each Rental Unit to fund the reasonable regulatory and administrative enforcement costs of the Just Cause program, as permitted by law. This fee may be established under a separate ordinance or

resolution and assessed and collected with other similar fees (for example, a Rental Unit registration fee) from Landlords. The fee will be payable by the Landlord to the County. The Landlord may charge the Tenant up to one half (50%) of the fee on a reimbursement basis. While the Landlord may recover 50% of the fee from the Tenant, the fee is not “rent” and cannot form the basis of an eviction for non-payment.

3.70.120 Defenses and Remedies

- A. *Affirmative Defense.* Each Landlord that seeks to terminate a tenancy of a Tenant must comply with this Chapter. Failure to comply with an applicable provision of this Chapter may be asserted by a Tenant as a defense in an unlawful detainer action.
- B. *Civil Remedies.* Whenever a Landlord or anyone assisting a Landlord wrongfully recovers possession of a Rental Unit in violation of this Chapter, the Tenant or the County may institute a civil proceeding for injunctive relief, actual damages, and other relief deemed appropriate by the court or as provided for in Civil Code section 1946.2(h). Nothing in this Chapter is intended to limit the damages recoverable by any party through a private action.
- C. *Landlord Rights.* Nothing in this Chapter shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to the Landlord’s property.

3.70.130 Penalties

- A. Any Landlord who attempts to recover a Rental Unit in material violation of this Chapter 3.70 shall be liable to the Tenant in a civil action for the following:
 - 1. the actual damages sustained by the Tenant.
 - 2. in the court’s discretion, reasonable attorney’s fees and costs.
 - 3. upon a showing that the Landlord acted willfully or with oppression, fraud, or malice, up to three times the actual damages. An award may also be entered for punitive damages for the benefit of the Tenant.
- B. The county counsel may seek injunctive relief based on violations of this Chapter 3.7.

3.70.140 No Waiver

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

SECTION III

If any provision of this Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this end, the provisions of this Chapter are declared to be severable, and the Board of Supervisors hereby declares that it would have adopted this chapter and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION IV

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____ 20__, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

President of the Board of Supervisors

ATTEST:

Anika Campbell-Belton,
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Caitlyn M. Gulyas
Deputy County Counsel

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 3.70 TO THE ALAMEDA COUNTY ORDINANCE CODE REGARDING JUST CAUSE FOR EVICTIONS IN THE UNINCORPORATED AREAS OF ALAMEDA COUNTY AND INCORPORATING BY REFERENCE CALIFORNIA CIVIL CODE SECTION 1946.2, EXCLUDING SUBDIVISIONS (G) OR (K) THEREOF, AS AMENDED, AND ESTABLISHING PENALTIES FOR VIOLATIONS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this ordinance:

- A. There is a shortage of decent, safe, affordable, and sanitary housing in the unincorporated areas of Alameda County.
- B. The prolonged affordable housing crisis in the unincorporated areas of Alameda County impacts low income and working-class households, senior citizens, people of color, immigrants, and people with disabilities, and thereby has a disproportionate impact on certain classes of people, and evictions without cause increases homelessness, crime, and harms neighborhood stability and cohesion.
- C. Residential tenants, who constitute over 50% of the residents of unincorporated areas of Alameda County, often suffer great and serious hardship when forced to move from their homes.
- D. Given the increased housing cost burden faced by many residents of the unincorporated areas of Alameda County, excessive rent increases threaten the public health, safety, and welfare of over 10,000 households, including seniors, people with disabilities, 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.
- E. According to the 2019 American Community Survey, 50% of tenant households are "rent-burdened households," meaning the household pays 30% or more of its income on housing costs and 27% of tenant household are "extremely rent-burdened households," meaning the household pays 50% or more of its income on housing costs.
- F. Given these concerns, including the current and immediate threat to the health, safety, and welfare of tenants residing in the unincorporated areas of Alameda County and the adverse impacts that would result from a substantial decrease of affordable housing within the unincorporated areas of Alameda County, the Board of Supervisors determines that it is in the interest of preserving the public health, safety and general welfare to enact this ordinance adopting more protective just cause eviction protections.
- G. California adopted AB 1482 enacting the Tenant Protection Act of 2019, effective January 2, 2020, and amended by SB 1371 (2021), AB 3088 (2021), AB 978 (2022), and SB 567 (2023). The Tenant Protection Act provided statewide just cause tenant protections and relocation assistance to many tenants in the state.
- H. The Tenant Protection Act, in California Civil Code Section 1946.2(g)(1)(B), authorizes a local ordinance requiring just cause for termination of a residential tenancy to supplant the

provisions of the statute if the local ordinance is “more protective.” To qualify as “more protective” the local ordinance must be consistent with Section 1946.2; it must further limit the reasons for termination, provide for higher relocation assistance amounts, or provide additional tenant protections not prohibited by other provision of law; and the local government must make a binding finding within the local ordinance that it is more protective.

I. This ordinance incorporates by reference those provisions of the Tenant Protection Act requiring just cause for eviction (Civil Code section 1946.2), with the exception of “more protective” local provisions including, for example, reduced tenancy eligibility from 12 to 6 months; increased mandatory relocation assistance for No-Fault Evictions, seniors, and disabled persons; heightened notice requirements for At-Fault Evictions; and expanded Tenants’ right of return following substantial remodel, and enhanced protections for families.

J. Other sections of the Tenant Protection Act place statewide limits on rental rate increases (Civil Code section 1947.22). Those sections are not affected or adopted by this ordinance.

K. It is the express intent of this Board that the adoption in this ordinance by reference of the Tenant Protection Act is to include both the Act as it now exists and as subsequently modified or amended (*Palermo v. Stockton Theaters, Inc.* (1948) 32 Cal. 2d 53; 70 Ops. Cal. Atty. Gen. 49, 53 (1987)).

SECTION II

Chapter 3.70 is hereby added to the Alameda County Ordinance Code and reads as follows:

Chapter 3.70 – JUST CAUSE EVICTION

3.70.010 Purpose, Incorporation of State Law, and Statutory Findings

- A. The purpose of this Chapter is to promote neighborhood and community stability, healthy housing, and affordability for tenants in the unincorporated areas of Alameda County by controlling arbitrary evictions, while providing landlords a fair and reasonable return on their investment.
- B. The Board of Supervisors hereby incorporates into this Chapter 3.70 by reference California Civil Code section 1946.2, as amended, as the County of Alameda Tenant Protection Act, excluding only subdivisions (g)(regarding local ordinance preemption) and (k)(sunset of current statute), as it now exists and as subsequently modified or amended, but with the additional local changes contained in this Chapter 3.70.
- C. The Board of Supervisors finds that: (i) the just cause for termination of a residential tenancy under this Chapter is consistent with Civil Code section 1946.2; (ii) this Chapter provides for greater tenant protections by reducing the tenancy eligibility from 12 to 6 months for a tenant and from 24 to 12 months for additional adult tenants, greater relocation assistance of three months for each Tenant Household and one additional month if a Tenant in the Tenant Household is under age 18, disabled, elderly or of lower income, expanded right of return to five years, increased protections for additional family occupants and the elderly, heightened notice requirements for At-Fault Evictions, and other additional tenant protections not prohibited by other provision of law; and (iii) this Chapter is more protective than the provisions of Civil Code section 1946.2.

3.70.020 Director Authority to Establish Procedures, Implement and Enforce Program

Except as otherwise provided herein, the provisions of this Chapter shall be administered and enforced by the Director of the Housing and Community Development Department of the Community Development Agency or the Director's designee. The Director may adopt such rules, regulations, procedures, and forms as may be required to implement this Chapter.

3.70.030 Definitions

Unless the particular provision or the context otherwise requires, the following definitions shall govern the interpretation and application of this Chapter:

- A. "At-Fault Eviction" means evictions brought under Civil Code section 1946.2(b)(1), as amended.
- B. "Elderly Tenant" means a tenant who is 62 years of age or older.
- C. "Housing Department" means the Housing and Community Development Department of the County of Alameda.
- D. "Housing Director" means the director of the Housing Department or the director's designated representative, acting either directly or through their assigned deputies and employees.
- E. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Rental Unit, and the agent, representative, or successor of any of the foregoing.
- F. "No-Fault Eviction" means evictions brought under Civil Code section 1946.2(b)(2), as amended.
- G. "Reasonable Time to Cure" means not less than fourteen (14) calendar days after receipt of Warning Notice.
- H. "Rental Unit" means any unit in any real property (regardless of zoning status), including the land appurtenant thereto and spaces for mobile home dwelling units, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing-related services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant, including parking facilities.
- I. "Tenant" means a residential tenant, subtenant, lessee, sublessee, or other person entitled by written or oral rental agreement, or by sufferance, to the use or occupancy of a Rental Unit.
- J. "Tenant Household" means one or more Tenants who occupy an individual Rental Unit, including each dependent of a Tenant whose primary residence is the Rental Unit.
- K. "Termination Notice" shall have the meaning provided in Section 3.70.080.
- L. "Warning Notice" means the notice for an At-Fault Eviction described in Section 3.70.060. A Warning Notice must be delivered in writing to the Rental Unit. The notice shall include

sufficient details allowing a reasonable person to comply with the notice. The notice shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice.

3.70.040 Applicability and Exemptions

- A. Applicability. The provisions of this Chapter shall apply to (1) all eligible Tenants who have rented a subject Rental Unit in the unincorporated area of Alameda County that is subject to this Chapter, and (2) to all Rental Units, in whole or in part, located in the unincorporated area of Alameda County, subject to the exemptions in paragraph B below.
- B. Exemptions. This Chapter shall not apply to the types of residential real properties and residential circumstances enumerated in Civil Code section 1946.2(e), as amended.
- C. This Chapter shall not apply to an unlawful detainer action solely for nonpayment of rent originally due from March 1, 2020 through June 30, 2022, to the extent prohibited by California Code of Civil Procedure Section 1179.05 or any successor statute.
- D. If a Landlord claims the Rental Unit is exempt from this Chapter based upon the provisions in this Section, the Landlord must list the applicable exemption in the Termination Notice.

3.70.050 Just Cause Protections

- A. After a tenant has continuously and lawfully occupied a Rental Unit for six (6) months or if any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied a Rental Unit for six (6) months, then if at least one (1) tenant has continuously and lawfully occupied a Rental Unit for twelve (12) months, a Landlord may not terminate the tenancy without just cause or take action to terminate any tenancy, including making a demand for possession of a Rental Unit, threatening to terminate a tenancy verbally or in writing, serving notice to quit or other eviction notice, or bringing action to recover possession or be granted recovery of possession of a Rental Unit, including by seeking the entry of an eviction judgment or by causing or permitting a writ of possession to be entered, unless the Landlord can demonstrate:
 - 1. That the Landlord served a Termination Notice to the Tenant and delivered a copy of the Termination Notice to the Housing and Community Development Department in accordance with Section 3.70.080; and
 - 2. That the termination qualifies as a just cause termination, whether At-Fault or No-Fault, in compliance with Civil Code section 1946.2(b), as amended, and this Chapter 3.70.
- B. In any action to recover possession of a Rental Unit pursuant to this Chapter, a Landlord must allege and prove that the Landlord seeks to recover possession of the unit with good faith.

3.70.060 Just Causes For Termination

- A. The only just causes for eviction pursuant to Section 3.70.050 shall be those enumerated in Civil Code section 1946.2(b), as amended.

- B. A landlord may only serve a Termination Notice for At-Fault Evictions if the Landlord has provided the Tenant a written Warning Notice and after fourteen days from services of the Warning Notice the Tenant fails to comply with the terms of the Warning Notice. The Warning Notice must contain sufficient details to allow a reasonable person to comply with the notice, include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice, and inform the Tenant that a failure to comply within fourteen days may result in the initiation of eviction proceedings. This Section shall not apply if a longer notice and cure period applies (for example, under the terms of the lease agreement between the parties); or if the Landlord is seeking to recover possession based on the Tenant causing or creating an imminent risk of physical harm to persons or property; or if the Landlord is seeking to recover possession based on the non-payment of rent.

3.70.070 Relocation Assistance Payments

- A. Each Tenant Household receiving a Termination Notice for a No-Fault Eviction, in addition to all rights under any other provision of law, shall be entitled to receive relocation assistance from the Landlord, in the amounts specified in paragraph C of this Section 3.70.070.
- B. A Landlord who pays relocation assistance, as required by this Section, in conjunction with a Termination Notice, is not obligated to pay subsequent relocation expenses for the same No-Fault Eviction under Section 3.70.060 for the same Rental Unit within 180 days of the notice that included the required relocation payment. The relocation assistance required by this Section 3.70.070 is separate from any security or other refundable deposits as defined in California Civil Code Section 1950.5. Further, payment or acceptance of relocation assistance shall not operate as a waiver of any rights a Tenant may have under law.
- C. A Landlord shall pay relocation assistance as follows:
 - 1. Each Tenant Household receiving a No-Fault Eviction Notice shall receive a sum equal to the value of three (3) months of the current rent amount, or three (3) months of Fair Market Rent for the size of the Rental Unit as established by the U.S. Department of Housing and Urban Development for the Oakland Fremont Alameda County Statistical Area, whichever is higher. The Landlord may elect to Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due, in lieu of a credit against the relocation assistance owed equal to one (1) month current value of rent. The remaining relocation assistance sum must be paid in accordance with Civil Code section 1946.2(d), as amended. In no case, however, shall the Landlord be obligated to provide more than twenty-eight thousand dollars (\$28,000) for each Tenant Household, unless this sum is less than one (1) month of current rent, in relocation assistance to all Tenants and members of the Tenant Household in the same Rental Unit under this paragraph C.1 and under paragraph C.2 below.
 - 2. In addition to the relocation assistance payment required by paragraph C.1, each Tenant Household with at least one (1) Tenant and one (1) or more children under the age of eighteen (18) years, person who is disabled, Elderly Tenant, or person who is lower income, as defined by Health and Safety Code section 50079.5, shall be entitled to receive one (1) ~~an~~ additional relocation assistance payment of one month of the current rent, half of which shall be paid within fifteen (15) calendar days of the

Landlord's receipt of written notice from the Tenant of entitlement to the additional relocation assistance payment along with supporting evidence of each claimed entitlement. Within thirty (30) days after notification to the Landlord of a claim of entitlement to additional relocation assistance payments because of disability (as defined by Government Code section 12926), age, lower income status or having minor children in the household, the Landlord shall give a Warning Notice to the Tenant of the claim for additional relocation assistance payments indicating whether or not the Landlord disputes the claim. Either party may initiate a legal action to resolve the dispute.

3.70.080 Notice Terminating Tenancy

- A. A Termination Notice means the notice informing a Tenant Household of the termination of its tenancy in accordance with this Section and California Civil Code Section 1946.1 (term not specified) or California Code of Civil Procedure Section 1161 (unlawful detainer).
- B. Termination Notices provided to Tenants must contain the following:
 - 1. The reason for the termination of tenancy in accordance with Section 3.70.060; and
 - 2. If the notice is for a No-Fault Eviction, an explanation of the right to and amount of relocation assistance payments pursuant to Section 3.70.070; and
 - 3. If the notice is for a No-Fault Eviction under Civil Code section 1946.2(b)(2)(D)(intent to substantially remodel), this statement:

“When the needed repairs are completed on your unit, the Landlord must offer you the opportunity to return to your unit with a rental agreement containing similar terms as your original agreement, subject to an increase in rent if needed to afford the owner a reasonable rate of return”,

and a description of the right of first refusal, a description of all repairs to be performed, and an estimate of the time required to complete the repairs and the date upon which it is expected that the Rental Unit will be ready for habitation; and
 - 4. If the Termination Notice is for an At-Fault Eviction, the notice must state specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reason for the eviction. All Warning Notices required for an At-Fault Eviction in Section 3.70.060, shall be attached to any corresponding Termination Notice.
- C. A copy of the Termination Notice issued to a Tenant shall be filed by the Landlord with the Housing Director within three (3) days after the service of the Termination Notice on the Tenant.

3.70.085 Rules, Regulations, Procedures and Forms

The Housing Director shall adopt reasonable rules, regulations, and forms as necessary to implement the procedures required in this Chapter.

3.70.090 Rental Units Withdrawn from the Rental Market

The Ellis Act (Government Code sections 7060, *et seq.*) governs a Landlords withdrawal of Rental Units from the rental market. This Chapter shall be interpreted and applied in a manner that does not conflict or interfere with the Ellis Act.

3.70.100 Additional Protections

- A. *Right of Return and First Right of Refusal.* All Tenants displaced based on termination of tenancy for a No-Fault Eviction under Civil Code section 1946.2(b)(2)(A) (owner move in) or Civil Code section 1946.2(b)(2)(D) (substantial remodel) shall have the first right of refusal to return to the unit if the Rental Unit should be returned to the rental market by the Landlord or a successor Landlord within five (5) years of displacement of the Tenant. All notices of termination of tenancy served under Civil Code section 1946.2(b)(2)(A) or Civil Code section 1946.2(b)(2)(D) shall state the current rent in effect at the time of termination of tenancy.
- B. *Protections for Families.* Notwithstanding any contrary provision in this Section, a Landlord shall not be permitted to recover possession of a Rental Unit as a result of the addition to the Rental Unit of a Tenant's child, parent, grandchild, grandparent, sibling, or spouse or domestic partner (as defined in California Family Code section 297) of such relatives, so long as the number of occupants does not exceed the maximum number of permitted occupants determined by applicable County building, housing or fire codes.
- C. *Retaliation Barred.* It shall be an affirmative defense to an action to recover possession of the Rental Unit that the eviction is knowingly or intentionally in retaliation for the Tenant reporting violations of this Chapter or other law, for exercising rights granted under this Chapter or other law, or for forming or participating in a Tenant organization.
 - 1. *Retaliatory Eviction.* It shall be unlawful for a Landlord to recover possession of a Rental Unit in retaliation of a Tenant exercising the Tenant's right to file a complaint with the County advising that a building, housing, nuisance Code or ordinance violation, or permit violation may exist on the property.
 - 2. *Rent Increase or other Retaliatory Actions.* The Landlord shall not engage in retaliatory conduct, such as improperly depriving the Tenant of use of the premises, decreasing services, or increasing the rent, or otherwise improperly interfering with the Tenants' rights under the lease agreement.
- D. *Protections for the Elderly.* A Landlord shall not refuse to rent or lease or otherwise deny to or withhold from any person any Rental Unit because the age of a prospective Elderly Tenant would result in the Tenant acquiring rights under this Chapter.

3.70.110 Fees

The Board of Supervisors may establish a fee for services under this Chapter for each Rental Unit to fund the reasonable regulatory and administrative enforcement costs of the Just Cause program, as permitted by law. This fee may be established under a separate ordinance or resolution and assessed and collected with other similar fees (for example, a Rental Unit registration fee) from Landlords. The fee will be payable by the Landlord to the County. The Landlord may charge the Tenant up to one half (50%) of the fee on a reimbursement basis. While the Landlord may recover 50% of the fee from the Tenant, the fee is not "rent" and cannot form

the basis of an eviction for non-payment.

3.70.120 Defenses and Remedies

- A. *Affirmative Defense.* Each Landlord that seeks to terminate a tenancy of a Tenant must comply with this Chapter. Failure to comply with an applicable provision of this Chapter may be asserted by a Tenant as a defense in an unlawful detainer action.
- B. *Civil Remedies.* Whenever a Landlord or anyone assisting a Landlord wrongfully recovers possession of a Rental Unit in violation of this Chapter, the Tenant or the County may institute a civil proceeding for injunctive relief, actual damages, and other relief deemed appropriate by the court or as provided for in Civil Code section 1946.2(h). Nothing in this Chapter is intended to limit the damages recoverable by any party through a private action.
- C. *Landlord Rights.* Nothing in this Chapter shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to the Landlord's property.

3.70.130 Penalties

- A. Any Landlord who attempts to recover a Rental Unit in material violation of this Chapter 3.70 shall be liable to the Tenant in a civil action for the following:
 - 1. the actual damages sustained by the Tenant.
 - 2. in the court's discretion, reasonable attorney's fees and costs.
 - 3. upon a showing that the Landlord acted willfully or with oppression, fraud, or malice, up to three times the actual damages. An award may also be entered for punitive damages for the benefit of the Tenant.
- B. The county counsel may seek injunctive relief based on violations of this Chapter 3.7.

3.70.140 No Waiver

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

SECTION III

If any provision of this Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this end, the provisions of this Chapter are declared to be severable, and the Board of Supervisors hereby declares that it would have adopted this chapter and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION IV

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in a newspaper of general circulation

published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____ 20__, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

President of the Board of Supervisors

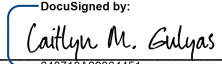
ATTEST:

Anika Campbell-Belton,
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By:  _____
Caitlyn M. Gulyas
Deputy County Counsel