

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE  
AMENDING TITLE 17 OF THE SAN JOSE MUNICIPAL  
CODE TO AMEND BY ADDING A PART 12 TO CHAPTER  
17.23 REGARDING TENANT PROTECTION AND  
LIMITING CAUSES FOR EVICTION FOR CERTAIN  
TENANTS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Chapter 17.23 of Title 17 of the San José Municipal Code is hereby amended by adding a Part to be numbered and entitled and to read as follows:

**Part 12**

**Tenant Protection Ordinance**

**17.23.1200 Title**

This Part shall be known as the “Tenant Protection Ordinance.”

**17.23.1205 Policy and Purposes Declaration**

The purposes of this Part 12 are to promote stability and fairness within the residential rental market in the City, thereby serving the public peace, health, safety, and public welfare. This Part is intended to enable tenants in the City to participate in the petition process provided in Parts 1-9 of this Chapter 17.23, (“Apartment Rent Ordinance”), request correction of code violations and necessary repairs, and exercise their rights under local, state, and federal laws without fear of retaliation. This Part 12 regulates landlord and tenant relations by promoting fair dealings between landlords and tenants in recognition of the importance of residential housing and the landlord-tenant relationship as components of a healthy, safe, and vibrant city. The rights and

obligations created by this Part 12 for landlords and tenants are created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents and are in addition to any rights and obligations under state and federal law.

### **17.23.1210 Definitions**

In addition to the definitions provided in Chapter 17.23, Parts 2 and 9, for purpose of this Part 12 the following terms are defined as follows:

- A. "Director" means the Director of the Housing Department or the Director's designee.
- B. "Enrolled Tenant" means the Tenants, and their Tenant Household, who have received Full Enrollment, or Limited Term Enrollment in Good Cause Protections.
- C. "Enrollment Term" means the time period during which a Tenant, and the entire Tenant Household, is entitled to Good Cause Protections. The Enrollment Term shall be determined pursuant to Section 17.23.1220.
- D. "Full Enrollment" means the Tenant, and the entire Tenant Household, are granted Good Cause Protections that commence as described in subsection C of Section 17.23.1220 and end two (2) years after resolution of the event triggering enrollment, unless the Good Cause Protections are either extended or terminated.
- E. "Good Cause Protections" means those protections afforded to a Tenant Household under Section 17.23.1230.
- F. "Guesthouse" shall have the meaning provided in Sections 20.200.470 and 20.200.480.

- G. “Guest Room” shall have the meaning provided in Section 20.200.460.
- H. “Habitual” shall have the meaning provided in regulations adopted by the City Manager for administration of this Part.
- I. “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.
- J. “Limited Term Enrollment” means the Tenant, and the entire Tenant Household, are granted Good Cause Protections that commence as described in subsection A of Section 17.23.1220 and end six (6) months after resolution of the event triggering enrollment as described in subsection B of Section 17.23.1220, unless the Good Cause Protections are extended or terminated.
- K. “Material Code Violation” shall have the meaning provided in the regulations adopted by the City Manager for administration of this Part.
- L. “Necessary Repair or Replacement” shall have the meaning provided in the regulations adopted by the City Manager for administration of this Part.
- M. “Notice of Satisfaction” means the notice from a Landlord, on a form approved by the Director, informing both a Tenant Household and the Director that the Landlord believes a Material Code Violation and/or Necessary Repair or Replacement has been resolved in accordance with Section 17.23.1220.
- N. “Notice of Termination” means the notice informing a Tenant Household of the termination of its tenancy in accordance with California Civil Code section 1946.1 and California Code of Civil Procedure section 1162, as amended. Each Notice of Termination delivered to an Enrolled Tenant or to a Tenant Household residing in a Rent Stabilized Unit must use the form approved by the Director, and the

Landlord must deliver a copy of such notice to the Director in accordance with Section 17.23.1240.

- O. "Rent Stabilized Units" means Rental Units that are subject to the City's Apartment Rent Ordinance provided in Chapter 17.23, which includes rooms or accommodations occupied for thirty (30) days or more in a Guesthouse and units in any Multiple Dwelling building for which a certificate of occupancy was received on or prior to September 7, 1979, as those terms are defined in Sections 20.200.340, 20.200.470, and 20.200.480 of the San José Municipal Code.
- P. "Rental Unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, and which household pays Rent for the use and occupancy for periods in excess of seven days whether or not the residential use is a conforming use permitted under the San José Municipal Code. For purposes of this Part 12, Rental Unit includes Guest Rooms in any Guesthouse.
- Q. "Tenant" means a residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of a Rental Unit.
- R. "Tenant Household" means one or more Tenant(s) who occupy any individual Rental Unit, including each dependent of any Tenant whose primary residence is the Rental Unit.

**17.23.1215 Scope; Regulations**

A. Subject to any exceptions, additions, and clarifications included in regulations that may be adopted by the City Manager for administration of this Part, this Part applies to the following:

1. Rent Stabilized Units;
2. Rental Units in any Multiple Dwelling as defined in Chapter 20.200 of Title 20, excepting permitted hotels and motels;
3. Guest Rooms in any Guesthouse; and
4. Structures or parts of a structure that are being rented as a home, residence, or sleeping place, where the use as a home, residence, or sleeping place is not authorized, permitted, or otherwise approved by the City.

B. The City Manager may adopt regulations for the administration and implementation of this Part. The Director of Housing, with the approval of the City Attorney, may adopt forms and notices to facilitate the administration and implementation of this Part.

**17.23.1220 Qualification for Enrollment**

Tenants, and the entire Tenant Household, shall qualify for Limited Term Enrollment and/or Full Enrollment for the specified Enrollment Term(s) as provided in this Section. Qualification for Limited Term Enrollment and/or Full Enrollment may be appealed by a Landlord pursuant to subsection A of Section 17.23.1225 within ten (10) days after the Tenant and the Tenant Household have become entitled to Limited Term Enrollment or Full Enrollment status, as applicable.

A. Limited Term Enrollment; Commencement. A Tenant, and the entire Tenant Household, are entitled to Limited Term Enrollment immediately upon the occurrence of one of the following events, provided that the Tenant has not had their entitlement to enrollment terminated after a successful Landlord appeal under subsections A.3 through A.5 of Section 17.23.1225 three (3) or more times within the last three (3) years:

1. Tenant files a complaint with Code Enforcement for a Material Code Violation.
2. Tenant requests the Landlord provide a Necessary Repair or Replacement for the Rental Unit or the building in which the Rental Unit is located and informs the Director of the request. For purposes of this subsection, a Tenant may inform the Director in a writing via online submission, email, or other method of communication identified in the regulations adopted by the City Manager, and accompanied by photographs (if applicable) documenting the Necessary Repair or Replacement.
3. Tenant files a lawsuit or complaint alleging violation of state or federal fair housing laws by the Landlord with a court or the administrative agency with jurisdiction over handling such claims. For purposes of this subsection, fair housing laws include but are not limited to the Federal Fair Housing Act, as amended, the Federal Americans with Disabilities Act, as amended, the Age Discrimination Act, as amended, the California Fair Employment and Housing Act (California Government Code Section 12900 – 12996, as amended), and the Unruh Civil Rights Act (California Civil Code Section 51, as amended).
4. Unregistered Unit. Until January 1, 2020, a Tenant Household in a Rent Stabilized Unit is entitled to Limited Term Enrollment if that unit is not in

compliance with any registration requirement imposed under the Apartment Rent Ordinance.

B. Limited Term Enrollment, Term. Limited Term Enrollment for Good Cause Protections shall terminate upon the earlier of: six (6) months after resolution of the issue underlying the complaint or request identified in cl subsection A.1 through A.3 of Section 17.23.1220 or the Tenant's voluntary vacation of the Rental Unit. For purposes of subsection A or B of Section 17.23.1220, complaints and requests are resolved when one of the following events has occurred:

1. If a Tenant made a request for a Necessary Repair or Replacement, it was completed by the Landlord and the Landlord provides a Notice of Satisfaction on a form approved by the City to both the Director and the Tenant within thirty (30) days from the date of the Landlord's receipt of the Tenant's request then the Necessary Repair or Replacement is presumed to be resolved. If a Notice of Satisfaction is not delivered to both the Director and the Tenant within thirty (30) days from the date of the Landlord's receipt of the Tenant's request, then the Limited Term Enrollment of the Tenant and the entire Tenant Household shall be extended to Full Enrollment in accordance with subsection C of Section 17.23.1220. The Tenant may contest the Notice of Satisfaction and appeal the presumption of resolution within ten (10) days of the Tenant's receipt of the Notice of Satisfaction on the grounds that the repair was not completed or was completed incorrectly under subsection B of Section 17.23.1225.
2. If Code Enforcement does not find a Material Code Violation when an inspection is conducted, then the complaint or request is resolved.

3. If the Tenant complaint of violation of state or federal fair housing laws is dismissed by the court or administrative agency with jurisdiction over the matter or a lawsuit is resolved, including through a negotiated agreement, then the complaint is resolved. Provided, the regulations adopted for this Part may specify additional circumstances under which the complaint is considered resolved.
- C. Full Enrollment. A Tenant, and the entire Tenant Household, residing in a Rental Unit where any of the following conditions exist are entitled to Full Enrollment commencing with the existence of a condition defined in this subsection and continuing until the earlier of or the Tenant's voluntary vacation of the Rental Unit or two (2) years after resolution of that condition.
1. Material Code Violation. A Tenant Household is entitled to Good Cause Protections commencing with the existence of a Material Code Violation identified by Code Enforcement in a City-initiated inspection or as the result of a complaint from a City Department of a violation of Title 24 in the Rental Unit or structure containing the Rental Unit. Good Cause Protections shall continue for two (2) years after resolution of the Material Code Violation. For purposes of this subsection, resolution shall mean the Material Code Violation was fixed, repaired, or otherwise addressed to the satisfaction of Code Enforcement and the code compliance case status is "Closed" with respect to the Material Code Violations.
  2. Petition, Opposition Statement, or Claim of Violation. A Tenant Household in a Rent Stabilized Unit is entitled to Good Cause Protections commencing with the submission of a petition, opposition statement, or claim of violation of the Apartment Rent Ordinance (Chapter 17.23) by a member of the Tenant Household, so long as that petition, opposition statement, or claim is accepted for any administrative review process

under the Apartment Rent Ordinance (Chapter 17.23). For purposes of this subsection, resolution shall mean the issuance of a final administrative decision on the issue(s) underlying the petition, opposition statement, or claim.

3. Warrant After Landlord Refusal to Allow Inspection. A Tenant Household is entitled to Good Cause Protections commencing when a City official or personnel obtains a warrant for inspection after a Landlord has refused to allow a City official or personnel designated by the City to inspect a structure containing a Rental Unit. For purposes of this subsection, inspections shall include but are not limited to fire and life safety inspections, and Code Enforcement inspections. If no Material Code Violation or Necessary Repair or Replacement is identified following an inspection of the Rental Unit or structure containing a Rental Unit, Good Cause Protections shall continue for two (2) years after the City is allowed access to the structure for such inspection. If a Material Code Violation or Necessary Repair or Replacement is identified during the inspection, then the affected Tenant Household shall be entitled to Good Cause Protections for two (2) years after the resolution of the Material Code Violation or Necessary Repair or Replacement to the City's satisfaction.
4. Court or Administrative Order. A Tenant Household in a building containing a Rental Unit that is the subject of a court order, injunction or other administrative action related to a violation of the Housing Code (Chapter 17.20), Fire Code (Chapter 17.12), or Building Code (Chapter 17.04) is entitled to Good Cause Protections. The Good Cause Protections shall commence when a Tenant or the City files a case or claim, shall continue throughout the pendency of the case or claim, and shall conclude two (2) years after final judgement regarding the claim is issued, or in the event of an injunction, after the injunction is dismissed.

5. Ellis Act. A Tenant Household is entitled to Good Cause Protections commencing twelve (12) months prior to delivery by an Owner to the City of a Notice of Intent to Withdraw under Part 11 of Chapter 17.23 (the “Ellis Act Ordinance”) As an Enrolled Tenant, the Tenant Household is entitled to all applicable benefits under the Ellis Act Ordinance including but not limited to Relocation Assistance and the Right to Return, regardless of the actual Enrollment status of a Tenant Household upon termination of tenancy. The Good Cause Protections shall continue until the building is withdrawn from the residential rental market in accordance with Ellis Act Ordinance, or for two (2) years after revocation of a Notice of Intent to Withdraw.
6. Unregistered Unit. Effective January 1, 2020, a Tenant Household in a Rent Stabilized Unit is entitled to Good Cause Protections if that unit is not in compliance with any registration requirement imposed under the Apartment Rent Ordinance.
7. Violation of City Short Term Rental Ordinance. A Tenant Household in a building containing a Rent Stabilized Unit that has been rented for Incidental Transient Use (as defined in Part 2.5 of Chapter 20.80 of Title 20) within the past year in violation of the limitations in Part 2.5 of Chapter 20.80 of Title 20.
8. Unpermitted Units. A Tenant Household in a Rental Unit that is not a conforming use permitted by the San José Municipal Code is entitled to Good Cause Protections commencing with the creation of the tenancy and continuing until two years after the unit has been permitted.

**17.23.1225 Appeals of Enrollment Status or Completion of Repair**

- A. A Landlord may petition the Director to appeal the Tenant's entitlement to Limited Term Enrollment, Full Enrollment, or both. Such petition shall be brought, if at all, no later than ten (10) days after the Tenant and the Tenant Household have become entitled to Limited Term Enrollment or Full Enrollment status, as applicable. To have grounds for a petition, a Landlord must assert one or more of the following in writing and support the assertion with substantial evidence:
1. The Necessary Repair or Replacement was completed within thirty (30) days, in which case the Tenant and the Tenant Household shall not be entitled to Full Enrollment. A petition claiming completion within thirty (30) days may be reviewed and a decision issued by the Director based on written materials provided by the Landlord and Tenant Household.
  2. The Necessary Repair or Replacement could not be completed within thirty (30) days but the Landlord began meaningful repair or replacement activities and is diligently pursuing completion of the Necessary Repair or Replacement, in which case the Tenant and the Tenant Household shall not be entitled to Full Enrollment, but may have Limited Term Enrollment extended until six months after the Necessary Repair or Replacement is completed and a Notice of Satisfaction is delivered to the City and the Tenant. A petition claiming diligent pursuit of a Necessary Repair or Replacement may be reviewed and a decision issued by the Director based on written materials provided by the Landlord and Tenant Household.
  3. The Necessary Repair or Replacement was necessitated by the willful misconduct or grossly negligent acts of the Tenant or Tenant Household. If, after a hearing, the Director determines that the Necessary Repair or Replacement was necessitated by the willful misconduct or grossly negligent acts of the Tenant or Tenant Household then the Tenant and the

Tenant Household shall not be entitled to Limited Term Enrollment or Full Enrollment.

4. The Tenant unreasonably refused access to the Rental Unit for purposes of pursuing or completing the Necessary Repair or Replacement or for an inspection by Code Enforcement, after written request for access was provided to the Tenant. If, after a hearing, the Director determines that the Tenant unreasonably refused access to the Rental Unit then the Tenant and the Tenant Household shall not be entitled to Full Enrollment.
  5. The Landlord has appealed the determination of the existence of the Material Code Violation(s) pursuant to Chapter 1.14 of Title 1 and the Landlord's appeal has been sustained.
- B. A Tenant may petition the Director to contest the Notice of Satisfaction and appeal the presumption of satisfaction. Such petition shall be brought, if at all, no later than ten (10) days after the Tenant and the Tenant Household have received the Notice of Satisfaction. To have grounds for a petition, a Tenant must assert either that the repair or replacement was not completed or that the repair or replacement was incorrectly completed and support the assertion with substantial evidence.
- C. Specific petition requirements and hearing procedures shall be set forth in the regulations adopted by the City Manager.

#### **17.23.1230 Good Cause Protections**

- A. A Landlord may not terminate the tenancy of Enrolled Tenants during the Enrollment Term unless the Landlord can demonstrate:

1. that the Landlord possesses a valid Residential Occupancy Permit under Title 17, Chapter 20 of the San José Municipal Code (if applicable); and
  2. that the Landlord served a Notice of Termination to the Tenant Household and delivered a copy of the Notice of Termination to the City in accordance with Section 17.23.1240 and California Civil Code Section 1946.1, as amended; and
  3. that on the date of service to the Tenant Household of the Notice of Termination, the Rental Unit to which the Notice of Termination applies is substantially in compliance with the following requirements:
    - a. The implied warranty of habitability, including but not limited to the requirements codified in California Civil Code sections 1941 through 1941.7, as amended, (unless the Landlord is terminating the tenancy in accordance with subsections A.7 or A.8 of Section 17.23.1230);
    - b. The Apartment Rent Ordinance (if applicable), including but not limited to the maximum rents allowed thereunder, as codified in Chapter 17.23; and
    - c. The Apartment Rent Ordinance (if applicable) Landlord/Rent Registry
  4. that the termination qualifies as a Good Cause Termination, as defined below.
- B. Good Cause Terminations. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as a "Good Cause Termination."

1. Nonpayment of Rent. After being provided with written notice of the identity and mailing address of the Landlord, and the amount of rent due, the Tenant has failed to pay rent to which the Landlord is legally entitled pursuant to any written or oral rental agreement and under the provisions of state or local law, unless the Tenant has withheld rent pursuant to applicable 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 days.
  
2. Material or Habitual Violation of the Tenancy.
  - a. The Tenant has failed to cure a violation of any material term of the rental agreement within a reasonable time after receiving written notice from the Landlord of the alleged violation or has committed Habitual violations of the rental agreement, but only if either clause (i) or (ii) applies:
    - i. The demand to cure is based on terms that are legal and have been accepted in writing by the Tenant or made part of the rental agreement; or
    - ii. The demand to cure is based on terms that were accepted by the Tenant or made part of the rental agreement after the initial creation of the tenancy, so long as the Landlord first notified the Tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement.

- b. The following potential violations of a tenancy can never be considered material or Habitual violations:
  - i. An obligation to surrender possession on proper notice as required by law.
  - ii. An obligation to limit occupancy when the additional Tenant(s) who join the Tenant Household are any of the following: a dependent child or foster child, the spouse or domestic partner, parent, brother, or sister of a Tenant; so long as the total number of adult Tenants in the unit does not exceed the greater of either the number of individuals authorized in the rental agreement or the number permitted by the City under subsection B of Section 17.20.270. The Landlord has the right to approve or disapprove a prospective additional Tenant who is not a dependent child or foster child, spouse or domestic partner, parent, brother, or sister of a Tenant, provided that the approval is not unreasonably withheld.
3. Substantial Damage to the Rental Unit. The Tenant, after written notice to cease and a reasonable time to cure, causes substantial damage to the Rental Unit, or common area of the structure or rental complex containing the Rental Unit beyond normal wear and tear, and refuses, after written notice, to pay the reasonable costs of repairing such damage and to cease engaging in the conduct identified in the notice to cease.
4. Refusal to Agree to a Like or New Rental Agreement. Upon expiration of a prior rental agreement the Tenant has refused to agree to a new rental agreement that contains provisions that are substantially identical to the

prior rental agreement, and that complies with local, state and federal laws.

5. Nuisance Behavior. The Tenant, after written notice to cease, continues to be so disorderly or to cause such a nuisance as to destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit. Such nuisance or disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit, and may be further defined in the regulations adopted by the City Manager.
6. Refusing Access to the Unit. The Tenant, after written notice to cease and a reasonable time to cure, continues to refuse the Landlord reasonable access to the Rental Unit, so long as the Landlord is not abusing the right of access under California Civil Code Section 1954, as amended.
7. Unapproved Holdover Subtenant. The Tenant holding over at the end of the term of the oral or written rental agreement is a subtenant who was not approved by the Landlord.
8. Substantial Rehabilitation of the Unit. The Landlord after having obtained all necessary permits from the City, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes and laws affecting the health and safety of Tenants of the building, provided that:
  - a. The repairs costs not less than the product of ten (10) times the amount of the monthly rent times the number of Rental Units upon which such work is performed. For purposes of this subsection ,

the monthly rent for each Rental Unit shall be the average of the preceding twelve-month period; and

- b. The repairs necessitate the relocation of the Tenant Household because the work will render the Rental Unit uninhabitable for a period of not less than thirty (30) calendar days; and
  - c. The Landlord gives advance notice to the Tenant of the ability to reoccupy the unit upon completion of the repairs at the same rent charged to the Tenant before the Tenant vacated the unit or, if requested by Tenant, the right of first refusal to any comparable vacant Rental Unit at comparable rent owned by the Landlord. Notwithstanding Section 17.23.1220, in either circumstance the Tenant's enrollment under this Part 12 of Chapter 17.23 shall continue in the new Rental Unit despite a change in location; and
  - d. In the event the Landlord files a petition under the Apartment Rent Ordinance within six (6) months following the completion of the work, the Tenant shall be party to such proceeding as if he or she were still in possession, unless the Landlord shall submit with such application a written waiver by the Tenant of his or her right to reoccupy the premises pursuant to this subsection; and
  - e. The Landlord shall have provided relocation assistance as required by subsection C of Section 17.23.1230, below.
9. Ellis Act Removal. The Owner as defined in the Ellis Act Ordinance seeks in good faith to recover possession of the Rental Unit to remove the building in which the Rental Unit is located permanently from the residential rental market under the Ellis Act and, having complied in full with the Ellis Act and Ellis Act Ordinance, including the provision of

relocation assistance as required by subsection C of Section 17.23.1230, below.

10. Owner Move-In. The Owner seeks in good faith, honest intent, and without ulterior motive to recover possession for: (a) the Owner's own use and occupancy as the Owner's principal residence for a period of at least 36 consecutive months commencing within three months of vacancy; or (b) the principal residence of the Owner's spouse, domestic partner, parent(s), child or children, brother(s), or sister(s) for a period of at least 36 consecutive months and commencing within three months of vacancy, so long as the Rental Unit for the Owner's authorized family member is located in the same building as the Owner's principal residence and no other unit in the building is vacant. For purposes of this subsection, "Owner" means a fee owner of at least a fifty (50) percent interest in the property. It shall be a rebuttable presumption that the Owner has acted in bad faith if the Owner or the Owner's qualified relative for whom the Tenant was evicted does not move into the Rental Unit within three months from the date of the Tenant's surrender of possession of the premises or occupy said unit as his/her principal residence for a period of at least thirty-six (36) consecutive months. The Owner shall have provided relocation assistance as required by subsection C of Section 17.23.1230, below.
11. Order to Vacate. The Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a court or governmental agency's order to vacate, order to comply, order to abate, or any other City enforcement action or order that necessitates the vacating of the building in which the Rental Unit is located as a result of a violation of the San Jose Municipal Code or any other provision of law. The Landlord shall

have provided relocation assistance as required by subsection C of Section 17.23.1230, below.

12. Vacation of Unpermitted Unit. The Landlord seeks in good faith to recover possession of an Unpermitted Unit in order to end the unpermitted use. The Landlord shall have provided relocation assistance as required by subsection C.3 of Section 17.23.1230, below.

C. Relocation Assistance\_

1. Enrolled Tenants who receive a Notice of Termination that relies on subsections B.8) or B.10 of Section 17.23.1030 as the good cause rationale to terminate the tenancy must receive, and the Landlord must provide, the following relocation assistance to the Tenant Household. The relocation assistance must be provided to the Tenant Household concurrent with delivery of the Notice of Termination to the Tenant Household.
  - a. Relocation Assistance. An amount equal to the Base Assistance provided for in the Ellis Act Ordinance, as set by resolution of the City Council.
  - b. Refund of Security Deposit. Owner must refund to the Tenant Household any security deposit paid by the Tenant Household, provided, however, that the Owner may withhold any properly itemized deductions from the security deposit pursuant to California Civil Code section 1950.5, as amended.
2. Enrolled Tenants who receive a Notice of Termination that relies on subsection B.9 of Section 17.23.1230 as the good cause rationale to

terminate the tenancy must have received, and the Landlord must have provided, Relocation Assistance as defined in the Ellis Act Ordinance.

3. Enrolled Tenants who receive a Notice of Termination that relies on subsection B.11 or B.12 of Section 17.23.1230 as the good cause rationale to terminate the tenancy must receive, and the Landlord must provide, Relocation Assistance as defined in Part 11 of Chapter 17.20, or if the unit is unpermitted, an amount equal to the Base Assistance provided for in the Ellis Act Ordinance, as set by resolution of the City Council.

#### **17.23.1240 Notice of Termination to the Tenant and City**

- A. The Notice of Termination provided to Enrolled Tenants must contain the reason for the termination of tenancy in accordance with subsection B of Section 17.23.1230 on a form approved by the Director.
- B. A Landlord must provide the City with a true and accurate copy of any Notice of Termination provided to an Enrolled Tenant.

#### **17.23.1250 Anti-Retaliation Protections**

- A. No Landlord may threaten to bring, or bring, an action to recover possession, cause the Tenant to quit the Rental Unit involuntarily, serve any notice to quit or Notice of Termination, reduce any housing services, or increase the rent where the Landlord's intent is retaliation against the Tenant for the Tenant's assertion or exercise of rights under this Chapter 17.23.
- B. Any such retaliation shall be a defense to an action to recover possession, or it may serve as the basis for an affirmative action by the Tenant for actual and punitive damages and injunctive relief. In an action by or against a Tenant, evidence of the assertion or exercise by the Tenant of rights under this Chapter

17.23 within six months prior to the alleged act of retaliation shall create a rebuttable presumption that the Landlord's act was retaliatory. For purposes of this subsection, "rebuttable presumption" means that the Court must find the existence of the fact presumed unless and until its nonexistence is proven by a preponderance of the evidence. A Tenant may assert retaliation affirmatively or as a defense to the Landlord's action without the aid of the rebuttable presumption regardless of the period of time which has elapsed between the Tenant's assertion or exercise of rights under this Chapter 17.23 and the alleged act of retaliation.

**17.23.1260 Affirmative Defense to Eviction; Penalties and Remedies**

- A. Affirmative Defense. Each Landlord that seeks to terminate a tenancy of an Enrolled Tenant must comply with this Part 12 of Chapter 17.23. Non-compliance with any applicable component of this Part 12 shall constitute an affirmative defense for an Enrolled Tenant against any unlawful detainer action under California Code of Civil Procedure section 1161, as amended.
- B. Criminal Penalties. Any Landlord found by a court of competent jurisdiction to be guilty of violating any provision or failing to comply with any requirements of this Part shall be guilty of a misdemeanor punishable by up to a \$500 fine for a first offense and up to a \$1000 fine for any subsequent offenses.
- C. Civil Remedies.
  - 1. Any Landlord that fail(s) to comply with this Part 12 may be subject to civil proceedings for displacement of Tenant(s) initiated by the City or the Tenant Household for actual and exemplary damages.
  - 2. Whoever is found to have violated this Part shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable

attorneys' fees. Treble damages shall be awarded for a Landlord's willful failure to comply with the obligations established under this Part.

3. Nothing herein 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 said Landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk